

These notes relate to the Land and Buildings Transaction Tax (Scotland) Act 2013 (asp 11) which received Royal Assent on 31 July 2013

LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Part 3 – Calculation of Tax and Reliefs

Amount of tax chargeable

Section 24 – Tax rates and tax bands

66. The Act does not set out the bands and rates for LBTT. These must be specified by the Scottish Ministers by order under section 24 (and in the case of leases, paragraph 3 of schedule 19). Ministers must specify a nil rate tax band and at least two other tax bands for non-lease transactions (and in the case of leases see the text under the schedule 19 heading in this document). To ensure that the tax is a progressive one, the percentage tax rate for each tax band must be higher than for the band below it. There must be tax bands and rates for both residential and non-residential property transactions.
67. The first order under this section will be subject to the affirmative procedure. Subsequent orders will be subject to a form of provisional affirmative procedure (see section 68)¹.
68. Defined terms used in this section:

“linked transaction”	section 57
“residential property”	section 59

¹ Provisional affirmative procedure is relatively common in UK tax legislation but is relatively uncommon in legislation enacted by the Scottish Parliament. The exact form of the procedure can vary but its essence is that statutory instruments can be made to come into force very quickly and neither the 28 day rule applicable to negative instruments nor the 40 day rule applicable to standard affirmative instruments will apply. The form of provisional affirmative procedure for the purposes of the Act is set out in section 68(4) and (6) – orders must be laid before the Scottish Parliament and they cease to have effect unless affirmed by resolution of the Parliament within 28 days.