



# Land and Buildings Transaction Tax (Scotland) Act 2013

2013 asp 11

## PART 7

### GENERAL AND INTERPRETATION

#### *Interpretation*

#### **59 Meaning of “residential property”**

- (1) In this Act “residential property” means—
- (a) a building that is used or is suitable for use as a dwelling, or is in the process of being constructed or adapted for such use,
  - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or other structure on such land), or
  - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).
- (2) Accordingly, “non-residential property” means any property that is not residential property.
- (3) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—
- (a) residential accommodation for school pupils,
  - (b) residential accommodation for students, other than accommodation falling within subsection (4)(b),
  - (c) residential accommodation for members of the armed forces,
  - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (4).
- (4) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a hall of residence for students in further or higher education,

- (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (d) a hospital or hospice,
  - (e) a prison or similar establishment,
  - (f) a hotel or inn or similar establishment.
- (5) Where a building is used for a purpose specified in subsection (4), no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (6) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (3) and at least one of those specified in subsection (4)—
  - (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same paragraph, no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use,
  - (b) otherwise, the building is to be treated for those purposes as suitable for use as a dwelling.
- (7) In this section “building” includes part of a building.
- (8) Where six or more separate dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the purposes of this Act as it applies in relation to that transaction, those dwellings are treated as not being residential property.
- (9) The Scottish Ministers may, by order—
  - (a) amend subsections (3) and (4) so as to change or clarify the cases where use of a building is, or is not to be, use of a building as a dwelling for the purposes of subsection (1),
  - (b) amend or repeal subsection (8).

## **60      Meaning of “major interest” in land**

References in this Act to a “major interest” in land are to—

- (a) ownership of land, or
- (b) the tenant’s right over or interest in land subject to a lease.

## **61      Meaning of “subject-matter” and “main subject-matter”**

References in this Act to the subject-matter of a land transaction or a contract are to the chargeable interest acquired (the “main subject-matter”) by virtue of the transaction or contract, together with any interest or right pertaining to it that is acquired with it.

## **62      Meaning of “market value”**

For the purpose of this Act “market value” is to be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c.12) (see sections 272 to 274 of that Act).

**63 Meaning of “effective date” of a transaction**

- (1) Except as otherwise provided, the effective date of a land transaction for the purposes of this Act is—
- (a) the date of completion, or
  - (b) such alternative date as the Scottish Ministers may prescribe by regulations.
- (2) Other provision as to the effective date of certain land transactions is made by—
- (a) section 10(2) (substantial performance of contract without settlement),
  - (b) section 11(4) (substantial performance of contract requiring conveyance to third party),
  - (c) section 12(4) (options and rights of pre-emption), and
  - (d) paragraph 25(2) of schedule 19 (agreement for lease substantially performed etc.).

**64 Meaning of “completion”**

- (1) In this Act, “completion” means—
- (a) in relation to a lease, when it is executed by the parties or constituted by any means,
  - (b) in relation to any other transaction, the settlement of the transaction.
- (2) References to completion are to completion of the land transaction proposed, between the same parties, in substantial conformity with the contract.

**65 General interpretation**

In this Act—

- “acquisition relief” means relief under Part 3 of schedule 11,
- “charities relief” means relief under schedule 13,
- “company” means (except as otherwise expressly provided) a body corporate other than a partnership,
- “contract” includes any agreement,
- “conveyance” includes any instrument,
- “employee” includes an office-holder and related expressions have a corresponding meaning,
- “group relief” means relief under schedule 10,
- “jointly entitled” means entitled as joint owners or common owners,
- “land transaction return” means a return under section 29(1),
- “personal representatives”, in relation to a person, include that person’s executors,
- “reconstruction relief” means relief under Part 2 of schedule 11,
- “registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010 (asp 17),
- “the tax” means land and buildings transaction tax.

**66 Index of defined expressions**

Schedule 20 contains an index of expressions defined or otherwise explained in this Act.