

*These notes relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) which received Royal Assent on 24 March 2016*

# LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 1 – Land and buildings transaction tax: second homes etc.*

#### **Part 4 of schedule 2A – Certain types of buyer**

##### Paragraph 7 of schedule 2A – Trustees in certain trusts

45. Paragraph 7 concerns certain cases where the buyer is acting as a trustee of a settlement, which is a trust other than a bare trust. Currently for the purposes of LBTT, only the beneficiaries of bare trusts are treated as the buyer when a trustee enters into a land transaction. Paragraph 7 extends that treatment for the purposes of paragraph 2 of schedule 2A, so that certain other beneficiaries, namely those with substantial rights (rights to occupy a dwelling or right to income from it over a trust) are treated as the buyer in a chargeable transaction for the purpose of considering whether the conditions in paragraph 2(1)(c) and (cd) are met in relation to the transaction. Account also needs to be taken of paragraph 13 of schedule 2A which treats certain trust property as being owned by the beneficiary.
46. Interpretative provisions of the 2013 Act relevant to paragraph 7—

“buyer”	section 7
“chargeable transaction”	section 15
“dwelling”	Part 6 of schedule 5
“relevant interest”	paragraph 20(3) of schedule 2A
“settlement”	paragraph 20(1) of schedule 2A.