

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Part 7 of schedule 2A – General provision

Paragraph 19 of schedule 2A – Power of Scottish Ministers to modify schedule

76. Paragraph 19 confers on the Scottish Ministers power to modify certain aspects of schedule 2A by order. Sub-paragraph (1) confers power to vary by order the 3% figure in paragraph 4(2) of schedule 2A. Any order is subject to the provisional affirmative procedure provided for in section 68(4) to (6A) of the 2013 Act¹.
77. Sub-paragraph (2) confers power to vary by order the £40,000 figures in paragraphs 2(1)(b), 3(1)(b) and 11(4). Any order is subject to the provisional affirmative procedure.
78. Sub-paragraph (3) confers power to make provision by order for or about relief from the additional amount, including provision adding, modifying or removing a relief. Any order under sub-paragraph (3) is subject to the affirmative procedure and may modify enactments other than schedule 2A.
79. Sub-paragraph (4) provides for regulation making power (subject to affirmative procedure) to modify—

Parts 2 and 4 (as regards partnerships and trusts, excepting paragraphs (2)(1)(b) and 3(1)(b) which are dealt with in paragraph 19(2));

Part 6 (except paragraph 11(4) which is dealt with in paragraph 19(2));

paragraph 20 (which sets out interpretative provisions).

Paragraph 20 of schedule 2A – Interpretation

80. Paragraph 20 sets out definitions for “bare trust”, “relevant consideration”, “settlement”, “dwelling” and “relevant interest”.

¹ The provisional affirmative procedure is one of the less common Parliamentary procedures – see the Delegated Powers and Law Reform Committee’s explanation at: http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/Guide_to_Scottish_Statutory_Instruments.pdf.