



# 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,

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*Status: This is the original version (as it was originally enacted).*

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- (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).