
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provisions in respect of the introduction of land and buildings transaction tax (“LBTT”) in Scotland by the Land and Buildings Transaction Tax (Scotland) Act 2013 (“LBTT(S)A 2013”). LBTT will replace stamp duty land tax (“SDLT”) in Scotland. The legislation underpinning SDLT is contained in Part 4 of the Finance Act 2003. The date when LBTT becomes chargeable (“the commencement date”) will be set out in a commencement order made by Scottish Ministers under section 70(2) of the LBTT(S)A 2013. Commencement of LBTT will take place after SDLT has been dis-applied in Scotland, on a date to be appointed by order by the Treasury under section 29(4) of the Scotland Act 2012. This Order defines “the commencement date” by reference to the date appointed by that order.

Section 29(5) of that 2012 Act, makes particular provision for certain land transactions to which SDLT will continue to apply, namely a land transaction for which the contract for the transaction was entered into or was substantially performed prior to Royal Assent of that Act on 1st May 2012. Section 29(6) makes particular provision for certain land transactions to which SDLT will no longer apply. For instance, where there has been an assignation or sub-sale in a contract entered into prior to 1st May 2012, LBTT will apply to the assignation or sub-sale or substantial performance and/or completion of the assignation or sub-sale in the terms of the LBTT(S)A 2013 if it falls on or after the commencement date. This Order makes provision in respect of certain transactions that began under SDLT but have an effective date on or after commencement of LBTT.

Article 3 makes provision in respect of certain contracts entered into before 1st May 2012 for a land transaction under which the transaction is to be completed by a conveyance and section 29(6) of the Scotland Act 2012 applies because there has been an intervening event that dis-applies SDLT in respect of the land transaction where the effective date is on or after the commencement date.

Article 4 makes provision in respect of certain contracts entered into after 1st May 2012 but before the commencement date for a land transaction under which the transaction is to be completed by a conveyance and there is an effective date in relation to the transaction after the commencement date, but there was also substantial performance of the contract prior to the commencement date. Article 4 ensures that sections 9 and 10 of the LBTT(S)A 2013 apply to the completion of the land transaction if the effective date for the completion of the contract is on or after the commencement date.

Article 5 makes provision where alternative finance arrangements that give rise to a series of land transactions are entered into. It ensures that arrangements entered into prior to the commencement date will keep the relief (although instead from LBTT under schedule 7 to the LBTT(S)A 2013), despite the fact it was SDLT that would have been payable at that future date when the alternative finance arrangement was entered into.

Article 6 makes provision where alternative finance bonds that give rise to a series of land transactions are entered into. It ensures that bonds entered into prior to the commencement date will again keep the relief (although instead from LBTT under schedule 8 to the LBTT(S)A 2013), despite the fact it was SDLT that would have been payable at that future date when the alternative finance bond was entered into.

Article 7 makes provision to ensure that LBTT is payable in respect of a transfer of an interest in a partnership pursuant to earlier arrangements involving a land transaction under paragraph 17 of schedule 17 to the LBTT(S)A 2013 although the earlier land transaction was in fact prior to the commencement date.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 8 makes provision to ensure that LBTT is payable in respect of any withdrawal of money etc. from a partnership after the transfer of a chargeable interest under paragraph 18 of schedule 17 to the LBTT(S)A 2013 although the withdrawal of money etc. took place prior to the commencement date.

Article 9 ensures that step 1 of paragraph 26(1) of schedule 17 to the LBTT(S)A 2013 can apply notwithstanding the fact that the relevant date for the purposes of paragraph 26 was prior to the commencement date.

Article 10 ensures that the discount in respect of overlapping leases under paragraph 24 of schedule 19 to the LBTT(S)A 2013 can apply, notwithstanding that the old lease was entered into prior to the commencement date.

Article 11 makes provision for any lease with an effective date prior to the commencement date that was entitled to a relief under SDLT that was later withdrawn. Article 11 ensures that paragraph 27 of schedule 19 to the LBTT(S)A 2013 applies so that an assignment of such a lease on or after the commencement date is treated as a new lease for LBTT purposes.

Articles 12 and 13 provide that variations and extensions of leases that were initially granted prior to the commencement date are to be treated as grants of a new lease for LBTT purposes with schedule 19 to the LBTT(S)A 2013 applying.