

Status: Point in time view as at 01/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 29

SCOTTISH TAX ON LAND TRANSACTIONS: CONSEQUENTIAL AMENDMENTS

PART 1

DISAPPLICATION OF STAMP DUTY LAND TAX TO SCOTLAND

Finance Act 1931

- 1 (1) Section 28 of the Finance Act 1931 (production to Commissioners of instruments transferring land) is amended as follows.
- (2) In subsection (3), omit “or” after paragraph (a) and after paragraph (b) insert “; or (c) to a Scottish transaction.”
- (3) After subsection (3) insert—
- “(3A) In subsection (3) “Scottish transaction” means the acquisition of—
- (a) an estate, interest, right or power in or over land in Scotland, or
 - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.”

Commencement Information

- 11** Sch. 3 para. 1 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

Finance Act 2003

- 2 The Finance Act 2003 is amended as follows.
- 3 Omit section 44(9A)(b) (application of provisions relating to missives of let etc).

Commencement Information

- 12** Sch. 3 para. 3 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 4 In section 48 (chargeable interests)—
- (a) in subsection (2)(c) omit “in England and Wales or Northern Ireland”;
 - (b) omit subsection (4);
 - (c) in subsection (5) for “the United Kingdom” substitute “England and Wales or Northern Ireland”.

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- I3** Sch. 3 para. 4 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 5 In section 55(5) (additional provisions determining amount of tax chargeable)—
- (a) omit the reference to section 75 and the word “and” preceding it;
 - (b) for “provide” substitute “provides”.

Commencement Information

- I4** Sch. 3 para. 5 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 6 In section 57AA (first-time buyers)—
- (a) in subsection (2)(b) after “under the law of” insert “Scotland or”;
 - (b) in subsection (2)(c) omit “72, 72A”.

Commencement Information

- I5** Sch. 3 para. 6 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 7 In section 60 (compulsory purchase facilitating development)—
- (a) in subsection (2)(a), omit “or Scotland”;
 - (b) omit subsection (5)(b).

Commencement Information

- I6** Sch. 3 para. 7 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 8 (1) Section 61 (compliance with planning obligations) is amended as follows.
- (2) Omit subsection (2)(b) (definition of planning obligation in Scotland).
- (3) In subsection (3) (public authorities)—
- (a) under the heading “Government”, omit the entry “The Scottish Ministers”;
 - (b) omit the heading “Local Government: Scotland” and the entry under that heading;
 - (c) omit the heading “Health: Scotland” and the entries under that heading;
 - (d) under the heading “Other planning authorities” omit paragraph (b) and the word “or” preceding it.

Commencement Information

- I7** Sch. 3 para. 8 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 9 Omit section 71A(10) (disapplication of section to Scotland).

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- I8** Sch. 3 para. 9 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

- 10 Omit sections 72 and 72A (alternative property finance in Scotland).

Commencement Information

- I9** Sch. 3 para. 10 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

- 11 In section 73 (alternative property finance: land sold and re-sold)—
(a) in subsection (2)(b) omit “, 72(1) or 72A(1)”;
(b) omit subsection (5)(b)(ii).

Commencement Information

- I10** Sch. 3 para. 11 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

- 12 (1) In section 73AB (arrangements to transfer control of financial institution)—
(a) in subsection (1) omit “, 72 or 72A”;
(b) in subsection (3), in the definition of “alternative finance arrangements” omit “, 72(1) or 72A(1)”.
(2) In the heading to that section, for “Sections 71A to 72A” substitute “Section 71A”.

Commencement Information

- I11** Sch. 3 para. 12 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

- 13 (1) Section 73B (exempt interests) is amended as follows.
(2) In subsection (1) omit “, 72(1)(a) or 72A(1)(a)”.
(3) In subsection (2)—
(a) in paragraph (a) omit “, 72(1)(b) or 72A(1)(b)”;
(b) in paragraph (b) omit “, 72(1)(c) or 72A(1)(c)”.
(4) In subsection (4)(b) omit “, 72(4) or 72A(4)”.

Commencement Information

- I12** Sch. 3 para. 13 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

- 14 In section 73CA (application of sections 71A to 73 to first-time buyers), in subsection (1) omit “, 72, 72A”.

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Commencement Information

I13 Sch. 3 para. 14 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

15 Omit section 75 (crofting community right to buy).

Commencement Information

I14 Sch. 3 para. 15 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

16 In section 75C (anti-avoidance: supplemental), in subsection (4) for “, 74 and 75” substitute “ and 74 ”.

Commencement Information

I15 Sch. 3 para. 16 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

17 In section 77 (notifiable transactions), in subsection (2)(a) omit “and 72A(7)”.

Commencement Information

I16 Sch. 3 para. 17 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

18 In section 79 (registration of land transactions etc)—

- (a) omit subsection (1)(b) (registration in Scotland);
- (b) in subsection (2)(c) omit “or 19(3)”;
- (c) in subsection (6) omit “(in Scotland, the Keeper of the Registers of Scotland)”.

Commencement Information

I17 Sch. 3 para. 18 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

19 In section 108 (linked transactions) after subsection (1) insert—

“(1A) A transaction is not a linked transaction if the land to which it relates is in Scotland.”

Commencement Information

I18 Sch. 3 para. 19 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

20 Omit section 117(3) (meaning of “major interest” in land in Scotland).

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Commencement Information

I19 Sch. 3 para. 20 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

21 In section 119(2) (provisions as to effective date of transaction), omit the reference to paragraph 19(3) of Schedule 17A.

Commencement Information

I20 Sch. 3 para. 21 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

22 In section 121 (minor definitions) omit—

- (a) the definition of “assignment”;
- (b) the definition of “completion”;
- (c) paragraph (b) of the definition of “jointly entitled”;
- (d) the definition of “standard security”;
- (e) the definition of “surrender”.

Commencement Information

I21 Sch. 3 para. 22 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

23 In section 122 (index of defined expressions) omit the entries relating to—

- (a) assignment (in Scotland);
- (b) completion (in Scotland);
- (c) standard security;
- (d) surrender (in Scotland).

Commencement Information

I22 Sch. 3 para. 23 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

24 (1) Schedule 4 (chargeable consideration) is amended as follows.

(2) In paragraph 8(1C), omit “in England and Wales and Northern Ireland”.

(3) Omit paragraph 10(2A)(c) (application of provisions relating to missives of let etc).

(4) Omit paragraph 17(5) (arrangements involving public or educational bodies).

Commencement Information

I23 Sch. 3 para. 24 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

25 (1) Schedule 10 (returns, etc) is amended as follows.

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- (2) In paragraph 7(1A) (correction of return by certain persons) omit paragraph (b).
- (3) In paragraph 45(2) (definition of “relevant tribunal”) omit paragraph (b).

Commencement Information

I24 Sch. 3 para. 25 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 26 (1) Schedule 15 (partnerships) is amended as follows.
- (2) In paragraph 12(2) omit “(or, in Scotland, as joint owners)” and “(or, in Scotland, as owners in common)”.
 - (3) In paragraph 20(2) omit “(or, in Scotland, as joint owners)” and “(or, in Scotland, as owners in common)”.

Commencement Information

I25 Sch. 3 para. 26 has effect as specified by [The Scotland Act 2012, Section 29 \(Disapplication of UK Stamp Duty Land Tax\) \(Appointed Day\) Order 2015 \(S.I. 2015/637\)](#), **art. 2**

- 27 (1) Schedule 17A (further provision relating to leases) is amended as follows.
- (2) In paragraph 1 (meaning of “lease”) for “In the application of this Part to England and Wales or Northern Ireland” substitute “ In this Part ”.
 - (3) In paragraph 4 (leases for indefinite term), in sub-paragraph (5)(b) omit “in England and Wales or Northern Ireland”.
 - (4) In paragraph 7 (variable or uncertain rent), omit sub-paragraph (4A)(c) and (d).
 - (5) In paragraph 10 (tenants' obligations etc that do not count as chargeable consideration), in sub-paragraph (1)(a) omit “(in Scotland, the leased premises)”.
 - (6) In paragraph 12A(1) (agreement for lease) omit “in England and Wales or Northern Ireland”.
 - (7) In paragraph 12B(1) (assignment of agreement for lease) omit “in England and Wales or Northern Ireland”.
 - (8) In paragraph 13 (increase of rent treated as grant of new lease: variation of lease in first five years), in sub-paragraph (2)(b) for “any of paragraphs (a) to (d)” substitute “ paragraph (a) or (b) ”.
 - ^{F1}(9)
 - (10) Omit paragraph 19 (provisions relating to leases in Scotland).

Textual Amendments

F1 Sch. 3 para. 27(9) repealed (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 41 para. 7(2)(b)**

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Commencement Information

- I26** Sch. 3 para. 27 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

Finance Act 2004

- 28 In section 298 of the Finance Act 2004 (stamp duty land tax: notification etc), omit subsection (3).

Commencement Information

- I27** Sch. 3 para. 28 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

Finance (No. 2) Act 2005

- 29 In section 47 of the Finance (No. 2) Act 2005 (e-conveyancing) omit—
(a) subsection (1);
(b) subsection (6)(b).

Commencement Information

- I28** Sch. 3 para. 29 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

Finance Act 2006

- 30 In Schedule 25 to the Finance Act 2006 (amendments of Schedule 17A to Finance Act 2003), omit paragraph 5.

Commencement Information

- I29** Sch. 3 para. 30 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), **art. 2**

Finance Act 2009

- 31 (1) Schedule 61 to the Finance Act 2009 (alternative finance investment bonds) is amended as follows.
(2) Paragraph 1 (interpretation) is amended as follows.
(3) In sub-paragraph (1)—
(a) before the definition of “HMRC” insert—
““effective date”, for a transaction relating to land in Scotland, is the date which would be the effective date (under section 119 of FA 2003) if Part 4 of FA 2003 applied to land in Scotland;”;
(b) omit the definition of “qualifying interest”.

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- ^{F2}(4)
- (5) Paragraph 5 (conditions for operation of relief) is amended as follows.
- (6) In sub-paragraph (6) (Condition D)—
- (a) after “Condition D” insert “ (which applies in the case of land in England and Wales or Northern Ireland) ”;
 - (b) omit paragraph (b).
- (7) In sub-paragraph (7) (charge or security for purposes of Condition D)—
- (a) omit “or security”;
 - (b) in paragraph (a) omit “, or a security ranking first granted over,”.
- (8) In paragraph 6(1)(a) (relief from stamp duty land tax) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (9) In paragraph 7 (withdrawal of relief in certain circumstances)—
- (a) in sub-paragraph (1) after “This paragraph applies if” insert “ paragraph 6 applies but ”;
 - (b) in sub-paragraph (2) after “This paragraph also applies if” insert “ paragraph 6 applies but ”.
- (10) In paragraph 9 (discharge of charge when conditions for relief met) omit “or security”.
- (11) In paragraph 11(2) (disapplication of CGT relief if charge not given) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (12) In paragraph 12(1)(b) (CGT relief on second transaction) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (13) In paragraph 18(5) and (6) (discharge of charge if original land replaced)—
- (a) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”;
 - (b) omit “or security”.
- (14) In paragraph 19(1) (HMRC to notify Registrar of discharge)—
- (a) omit “or security”;
 - (b) omit paragraph (b).

Textual Amendments

F2 Sch. 3 para. 31(4) omitted (with effect in accordance with s. 16(4)(5) of the amending Act) by virtue of Wales Act 2014 (c. 29), s. 29(2)(b)(3), Sch. 2 para. 16

Commencement Information

I30 Sch. 3 para. 31 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), art. 2

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Public Finance and Accountability (Scotland) Act 2000 (asp 1)

- 32 In section 9(1) of the Public Finance and Accountability (Scotland) Act 2000 (Keeper of the Registers of Scotland: financial arrangements) omit “(other than payments of stamp duty land tax)”.

Commencement Information

- I31** Sch. 3 para. 32 has effect as specified by The Scotland Act 2012, Section 29 (Disapplication of UK Stamp Duty Land Tax) (Appointed Day) Order 2015 (S.I. 2015/637), art. 2

PART 2

INFORMATION REGARDING SCOTTISH LAND TRANSACTIONS

- 33 In this Part of this Schedule—
“HMRC” means Her Majesty's Revenue and Customs;
“office-holder” means—
(a) a member of the Scottish Government, and
(b) the holder of an office in the Scottish Administration which is not a ministerial office (within the meaning of section 126(8) of the 1998 Act);
“relevant information” means information corresponding to any of the particulars which would be required under Schedule 2 to the Finance Act 1931, but for section 28(3)(c) of that Act;
“Scottish transaction” means the acquisition of—
(a) an estate, interest, right or power in or over land in Scotland, or
(b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- 34 (1) An office-holder must provide to HMRC such of the information falling within sub-paragraph (2) as HMRC may require.
(2) Information falls within this sub-paragraph if it is relevant information regarding Scottish transactions and is in the possession or under the control of the office-holder.
(3) Information is to be provided under sub-paragraph (1) in such form as HMRC may reasonably specify.
- 35 Information acquired by HMRC under paragraph 34 is to be treated, for the purposes of the Commissioners for Revenue and Customs Act 2005, as acquired in connection with a function of theirs.

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