



# Finance Act 2016

## 2016 CHAPTER 24

### PART 8

#### SDLT AND ATED

##### *Stamp duty land tax*

#### **127 SDLT: calculating tax on non-residential and mixed transactions**

- (1) Section 55 of FA 2003 (general rules on calculating the amount of stamp duty land tax chargeable) is amended in accordance with subsections (2) to (7).
- (2) In subsection (1) for “, (1C) and (2)” substitute “ and (1C) ”.
- (3) In subsection (1B)—
  - (a) omit the words from “the relevant land” to “and”,
  - (b) in Step 1—
    - (i) for “Table A” substitute “ the appropriate table ”,
    - (ii) for “that Table” substitute “ the appropriate table ”,
    - (iii) at the end insert—

““The “appropriate table” is—

- (a) Table A, if the relevant land consists entirely of residential property, and
- (b) Table B, if the relevant land consists of or includes land that is not residential property.”, and
- (c) after Table A insert—

“TABLE B: NON-RESIDENTIAL OR MIXED

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<i>Relevant consideration</i>	<i>Percentage</i>
So much as does not exceed £150,000	0%

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So much as exceeds £150,000 but does not exceed 2%  
£250,000

The remainder (if any) 5%”.

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(4) In subsection (1C)—

- (a) omit the words from “the relevant land” to “and” (in the first place it occurs),
- (b) in Step 1—
  - (i) for “Table A” substitute “ the appropriate table ”,
  - (ii) for “that Table” substitute “ the appropriate table ”,
  - (iii) at the end insert—

““The “appropriate table” is—

- (a) Table A, if the relevant land consists entirely of residential property, and
- (b) Table B, if the relevant land consists of or includes land that is not residential property.”

(5) Omit subsection (2).

(6) In subsection (3)—

- (a) in the words before paragraph (a), for “subsections (1B) and (2)” substitute “ subsection (1B) ”, and
- (b) in paragraph (b) omit “, subject as follows”.

(7) In subsection (4)—

- (a) in the words before paragraph (a), for the words from “subsections (1C)” to “linked transactions” substitute “ subsection (1C) ”, and
- (b) in paragraph (a) for “those” substitute “ the linked ”.

(8) Schedule 5 to FA 2003 (rules on calculating the amount of stamp duty land tax chargeable in respect of transactions for which the consideration consists of or includes rent) is amended in accordance with subsections (9) to (11).

(9) In paragraph 2(3) (calculation of tax chargeable in respect of rent) in Table B (bands and percentages for non-residential or mixed property) for the final entry substitute—

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“Over £150,000 but not over £5 million	1%
Over £5 million	2%”

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(10) In paragraph 9 (tax chargeable in respect of consideration other than rent: general), in sub-paragraph (1), omit “(but see paragraph 9A)”.

(11) Omit paragraph 9A (calculation of tax chargeable in respect of consideration other than rent: 0% band) and the cross-heading preceding it.

(12) The amendments made by this section have effect in relation to any land transaction of which the effective date is, or is after, 17 March 2016.

(13) But those amendments do not have effect in relation to a transaction if the purchaser so elects and either—

- (a) the transaction is effected in pursuance of a contract entered into and substantially performed before 17 March 2016, or

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- (b) the transaction is effected in pursuance of a contract entered into before that date and is not excluded by subsection (15).
- (14) An election under subsection (13)—
- (a) must be included in the land transaction return made in respect of the transaction or in an amendment of that return, and
  - (b) must comply with any requirements specified by the Commissioners for Her Majesty's Revenue and Customs as to its form or the manner of its inclusion.
- (15) A transaction effected in pursuance of a contract entered into before 17 March 2016 is excluded by this subsection if—
- (a) there is any variation of the contract, or assignment of rights under the contract, on or after 17 March 2016,
  - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  - (c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (16) In this section—
- “land transaction return”, in relation to a transaction, means the return under section 76 of FA 2003 in respect of that transaction;
  - “purchaser” has the same meaning as in Part 4 of that Act (see section 43(4) of that Act);
  - “substantially performed”, in relation to a contract, has the same meaning as in that Part (see section 44(5) of that Act).

## **128 SDLT: higher rates for additional dwellings etc**

- (1) FA 2003 is amended in accordance with subsections (2) to (4).
- (2) In section 55 (amount of tax chargeable: general) after subsection (4) insert—
  - “(4A) Schedule 4ZA (higher rates for additional dwellings and dwellings purchased by companies) modifies this section as it applies for the purpose of determining the amount of tax chargeable in respect of certain transactions involving major interests in dwellings.”
- (3) After Schedule 4 insert—

### “SCHEDULE 4ZA

#### STAMP DUTY LAND TAX: HIGHER RATES FOR ADDITIONAL DWELLINGS AND DWELLINGS PURCHASED BY COMPANIES

### PART 1

#### HIGHER RATES

- 1 (1) In its application for the purpose of determining the amount of tax chargeable in respect of a chargeable transaction which is a higher rates transaction,

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section 55 (amount of tax chargeable: general) has effect with the modification in sub-paragraph (2).

(2) In subsection (1B) of section 55, for Table A substitute—

“TABLE A: RESIDENTIAL

<i>Relevant consideration</i>	<i>Percentage</i>
So much as does not exceed £125,000	3%
So much as exceeds £125,000 but does not exceed £250,000	5%
So much as exceeds £250,000 but does not exceed £925,000	8%
So much as exceeds £925,000 but does not exceed £1,500,000	13%
The remainder (if any)	15%”

## PART 2

### MEANING OF “HIGHER RATES TRANSACTION”

#### *Meaning of “higher rates transaction” etc*

- 2 (1) This paragraph explains how to determine whether a chargeable transaction is a “higher rates transaction” for the purposes of paragraph 1.
- (2) In the case of a transaction where there is only one purchaser, determine whether the transaction falls within any of paragraphs 3 to 7; if it does fall within any of those paragraphs it is a “higher rates transaction” (otherwise it is not).
- (3) In the case of a transaction where there are two or more purchasers—
- (a) take one of the purchasers and determine, having regard to that purchaser only, whether the transaction falls within any of paragraphs 3 to 7, and
  - (b) do the same with each of the other purchasers.
- If the transaction falls within any of those paragraphs when having regard to any one of the purchasers it is a “higher rates transaction” (otherwise it is not).
- (4) For the purposes of this Schedule any term of years absolute or leasehold estate is not a “major interest” if its term does not exceed 7 years on the date of its grant.

#### *Single dwelling transactions*

- 3 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in a single dwelling (“the purchased dwelling”), and

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- (c) Conditions A to D are met.
- (2) Condition A is that the chargeable consideration for the transaction is £40,000 or more.
- (3) Condition B is that on the effective date of the transaction the purchased dwelling—
  - (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
  - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- (4) Condition C is that at the end of the day that is the effective date of the transaction—
  - (a) the purchaser has a major interest in a dwelling other than the purchased dwelling,
  - (b) that interest has a market value of £40,000 or more, and
  - (c) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.
- (5) Condition D is that the purchased dwelling is not a replacement for the purchaser's only or main residence.
- (6) For the purposes of sub-paragraph (5) the purchased dwelling is a replacement for the purchaser's only or main residence if—
  - (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intends the purchased dwelling to be the purchaser's only or main residence,
  - (b) in another land transaction (“the previous transaction”) whose effective date was during the period of three years ending with the effective date of the transaction concerned, the purchaser or the purchaser's spouse or civil partner at the time disposed of a major interest in another dwelling (“the sold dwelling”),
  - (c) at any time during that period of three years the sold dwelling was the purchaser's only or main residence, and
  - (d) at no time during the period beginning with the effective date of the previous transaction and ending with the effective date of the transaction concerned has the purchaser or the purchaser's spouse or civil partner acquired a major interest in any other dwelling with the intention of it being the purchaser's only or main residence.
- (7) For the purposes of sub-paragraph (5) the purchased dwelling may become a replacement for the purchaser's only or main residence if—
  - (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intended the purchased dwelling to be the purchaser's only or main residence,
  - (b) in another land transaction whose effective date is during the period of three years beginning with the day after the effective date of the transaction concerned, the purchaser or the purchaser's spouse or civil partner disposes of a major interest in another dwelling (“the sold dwelling”), and

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- (c) at any time during the period of three years ending with the effective date of the transaction concerned the sold dwelling was the purchaser's only or main residence.
- 4 A chargeable transaction falls within this paragraph if—
- (a) the purchaser is not an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in a single dwelling, and
  - (c) Conditions A and B in paragraph 3 are met.

*Multiple dwelling transactions*

- 5 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
  - (c) at least two of the purchased dwellings meet conditions A, B and C.
- (2) A purchased dwelling meets condition A if the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the purchased dwelling is £40,000 or more.
- (3) A purchased dwelling meets condition B if on the effective date of the transaction the purchased dwelling—
- (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
  - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- (4) A purchased dwelling meets condition C if it is not subsidiary to any of the other purchased dwellings.
- (5) One of the purchased dwellings (“dwelling A”) is subsidiary to another of the purchased dwellings (“dwelling B”) if—
- (a) dwelling A is situated within the grounds of, or within the same building as, dwelling B, and
  - (b) the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to dwelling B is equal to, or greater than, two thirds of the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the following combined—
    - (i) dwelling A,
    - (ii) dwelling B, and
    - (iii) each of the other purchased dwellings (if any) which are situated within the grounds of, or within the same building as, dwelling B.
- 6 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”),
  - (c) only one of the purchased dwellings meets conditions A, B and C,

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- (d) the purchased dwelling which meets those conditions is not a replacement for the purchaser's only or main residence, and
  - (e) at the end of the day that is the effective date of the transaction—
    - (i) the purchaser has a major interest in a dwelling other than one of the purchased dwellings,
    - (ii) that interest has a market value of £40,000 or more, and
    - (iii) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.
- (2) Sub-paragraphs (2) to (5) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph.
- (3) Sub-paragraphs (6) and (7) of paragraph 3 apply for the purposes of sub-paragraph (1)(d) of this paragraph as they apply for the purposes of sub-paragraph (5) of that paragraph.
- 7 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is not an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
  - (c) at least one of the purchased dwellings meets conditions A and B.
- (2) Sub-paragraphs (2) and (3) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph.

### PART 3

#### SUPPLEMENTARY PROVISIONS

##### *Further provision in connection with paragraph 3(6) and (7)*

- 8 (1) This paragraph applies where by reason of paragraph 3(7) a chargeable transaction (“the transaction concerned”) ceases to be a higher rates transaction for the purposes of paragraph 1.
- (2) The land transaction (“the subsequent transaction”) by reference to which the condition in paragraph 3(7)(b) was met may not be taken into account for the purposes of paragraph 3(6)(b) in determining whether any other chargeable transaction is a higher rates transaction.
- (3) A land transaction return in respect of the transaction concerned may be amended, to take account of its ceasing to be a higher rates transaction, at any time within whichever of the following periods expires later—
- (a) the period of 3 months beginning within the effective date of the subsequent transaction, and
  - (b) the period of 12 months beginning with the filing date for the return.
- (4) Where a land transaction return in respect of the transaction concerned is amended to take account of its ceasing to be a higher rates transaction (and not for any other reason), paragraph 6(2A) of Schedule 10 (notice of amendment

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of return to be accompanied by the contract for the transaction etc) does not apply in relation to the amendment.

*Spouses and civil partners purchasing alone*

- 9 (1) Sub-paragraph (2) applies in relation to a chargeable transaction if—
- (a) the purchaser (or one of them) is married or in a civil partnership on the effective date,
  - (b) the purchaser and the purchaser's spouse or civil partner are living together on that date, and
  - (c) the purchaser's spouse or civil partner is not a purchaser in relation to the transaction.
- (2) The transaction is to be treated as being a higher rates transaction for the purposes of paragraph 1 if it would have been a higher rates transaction had the purchaser's spouse or civil partner been a purchaser.
- (3) Persons who are married to, or are civil partners of, each other are treated as living together for the purposes of this paragraph if they are so treated for the purposes of the Income Tax Acts (see section 1011 of the Income Tax Act 2007).

*Settlements and bare trusts*

- 10 (1) Sub-paragraph (3) applies in relation to a land transaction if—
- (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
  - (b) the purchaser (or one of them) is acting as trustee of a settlement, and
  - (c) under the terms of the settlement a beneficiary will be entitled to—
    - (i) occupy the dwelling or dwellings for life, or
    - (ii) income earned in respect of the dwelling or dwellings.
- (2) Sub-paragraph (3) also applies in relation to a land transaction if—
- (a) the main subject-matter of the transaction consists of a term of years absolute in a dwelling, and
  - (b) the purchaser (or one of them) is acting as a trustee of a bare trust.
- (3) Where this sub-paragraph applies in relation to a land transaction the beneficiary of the settlement or bare trust (rather than the trustee) is to be treated for the purposes of this Schedule as the purchaser (or as one of them).
- (4) Paragraphs 3(3) and 4 of Schedule 16 (trustees to be treated as the purchaser) have effect subject to sub-paragraph (3).
- 11 (1) Sub-paragraph (3) applies where—
- (a) a person is a beneficiary under a settlement,
  - (b) a major interest in a dwelling forms part of the trust property, and
  - (c) under the terms of the settlement, the beneficiary is entitled to—
    - (i) occupy the dwelling for life, or
    - (ii) income earned in respect of the dwelling.
- (2) Sub-paragraph (3) also applies where—
- (a) a person is a beneficiary under a bare trust, and



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- (b) a term of years absolute in a dwelling forms part of the trust property.
- (3) Where this sub-paragraph applies—
  - (a) the beneficiary is to be treated for the purposes of this Schedule as holding the interest in the dwelling, and
  - (b) if the trustee of the settlement or bare trust disposes of the interest, the beneficiary is to be treated for the purposes of this Schedule as having disposed of it.
- 12 (1) This paragraph applies where, by reason of paragraph 10 or 11 or paragraph 3(1) of Schedule 16, the child of a person (“P”) would (but for this paragraph) be treated for the purposes of this Schedule as—
  - (a) being the purchaser in relation to a land transaction,
  - (b) holding an interest in a dwelling, or
  - (c) having disposed of an interest in a dwelling.
- (2) Where this paragraph applies—
  - (a) P and any spouse or civil partner of P are to be treated for the purposes of this Schedule as being the purchaser, holding the interest or (as the case may be) having disposed of the interest, and
  - (b) the child is not to be so treated.
- (3) But sub-paragraph (2)(a) does not apply in relation to a spouse or civil partner of P if the two of them are not living together.
- (4) Sub-paragraph (3) of paragraph 9 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.
- (5) “Child” means a person under the age of 18.
- 13 (1) This paragraph applies in relation to a land transaction if—
  - (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
  - (b) the purchaser (or one of them) is acting as trustee of a settlement,
  - (c) that purchaser is an individual, and
  - (d) under the terms of the settlement a beneficiary is not entitled to—
    - (i) occupy the dwelling or dwellings for life, or
    - (ii) income earned in respect of the dwelling or dwellings.
- (2) In determining whether the transaction falls within paragraph 4 or paragraph 7—
  - (a) if the purchaser mentioned in sub-paragraph (1) is the only purchaser, ignore paragraph (a) of those paragraphs, and
  - (b) if that purchaser is not the only purchaser, ignore paragraph (a) of those paragraphs when having regard to that purchaser.

#### *Partnerships*

- 14 (1) Sub-paragraph (2) applies in relation to a chargeable transaction whose subject-matter consists of a major interest in one or more dwellings if—
  - (a) the purchaser (or one of them) is a partner in a partnership, but
  - (b) the purchaser does not enter into the transaction for the purposes of the partnership.

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- (2) For the purposes of determining whether the transaction falls within paragraph 3 or 6 any major interest in any other dwelling that is held by or on behalf of the partnership for the purposes of a trade carried on by the partnership is not to be treated as held by or on behalf of the purchaser.
- (3) Paragraph 2(1)(a) of Schedule 15 (chargeable interests held by partnerships treated as held by the partners) has effect subject to sub-paragraph (2).

*Alternative finance arrangements*

- 15 (1) This paragraph applies in relation to a chargeable transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.
- (2) The person (rather than the institution) is to be treated for the purposes of this Schedule as the purchaser in relation to the transaction.
- (3) In this paragraph—
  - “alternative finance arrangement” means an arrangement of a kind mentioned in section 71A(1) or 73(1);
  - “financial institution” has the meaning it has in those sections (see section 73BA);
  - “first transaction”, in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i).

*Major interests in dwellings inherited jointly*

- 16 (1) This paragraph applies where by virtue of an inheritance—
  - (a) a person (“P”) becomes jointly entitled with one or more other persons to a major interest in a dwelling, and
  - (b) P’s beneficial share in the interest does not exceed 50% (see sub-paragraph (4)).
- (2) P is not to be treated for the purposes of paragraph 3(4)(a) or 6(1)(e) as having the major interest at any time during the period of three years beginning with the date of the inheritance.
- (3) But if at any time during that period of three years P becomes the only person beneficially entitled to the whole of the interest or P’s beneficial share in the interest exceeds 50% P is, from that time, to be treated as having the major interest for the purposes of paragraph 3(4)(a) and 6(1)(e) (subject to any disposal by P).
- (4) P’s share in the interest exceeds 50% if—
  - (a) P is beneficially entitled as a tenant in common or coparcener to more than half the interest,
  - (b) P and P’s spouse or civil partner taken together are beneficially entitled as tenants in common or coparceners to more than half the interest, or
  - (c) P and P’s spouse or civil partner are beneficially entitled as joint tenants to the interest and there is no more than one other joint tenant who is so entitled.

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- (5) In this section “inheritance” means the acquisition of an interest in or towards satisfaction of an entitlement under or in relation to the will of a deceased person, or on the intestacy of a deceased person.

*Dwellings outside England, Wales and Northern Ireland*

- 17 (1) In the provisions of this Schedule specified in sub-paragraph (3), references to a “dwelling” include references to a dwelling situated in a country or territory outside England, Wales and Northern Ireland.
- (2) In the application of those provisions in relation to a dwelling situated in a country or territory outside England, Wales and Northern Ireland—
- (a) references to a “major interest” in the dwelling are to an equivalent interest in the dwelling under the law of that country or territory,
  - (b) references to persons being beneficially entitled as joint tenants, tenants in common or coparceners to an interest in the dwelling are to persons having an equivalent entitlement to the interest in the dwelling under the law of that country or territory,
  - (c) references to a “land transaction” in relation to the dwelling are to the acquisition of an interest in the dwelling under the law of that country or territory,
  - (d) references to the “effective date” of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired under the law of that country or territory,
  - (e) references to “inheritance” are to the acquisition of an interest from a deceased person's estate in accordance with the laws of that country or territory concerning the inheritance of property.
- (3) The provisions of this Schedule referred to in sub-paragraphs (1) and (2) are—
- (a) paragraph 3(4), (6)(b), (c) and (d) and (7)(b) and (c),
  - (b) paragraph 6(1)(e),
  - (c) paragraph 11,
  - (d) paragraph 14(2), and
  - (e) paragraph 16.
- (4) Where the child of a person (“P”) has an interest in a dwelling which is situated in a country or territory outside England, Wales and Northern Ireland, P and any spouse or civil partner of P are to be treated for the purposes of this Schedule as having that interest.
- (5) But sub-paragraph (4) does not apply in relation to a spouse or civil partner of P if the two of them are not living together.
- (6) Sub-paragraph (3) of paragraph 9 applies for the purposes of sub-paragraph (5) of this paragraph as it applies for the purposes of that paragraph.

*What counts as a dwelling*

- 18 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
- (2) A building or part of a building counts as a dwelling if—

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- (a) it is used or suitable for use as a single dwelling, or
  - (b) it is in the process of being constructed or adapted for such use.
- (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.
- (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.
- (5) The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
  - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
  - (c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5)—
- “contract” includes any agreement;
  - “relevant deeming provision” means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12A of Schedule 17A;
  - “substantially performed” has the same meaning as in section 44.
- (7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).
- (8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.

*Power to modify this Schedule*

- 19 (1) The Treasury may by regulations amend or otherwise modify this Schedule for the purpose of preventing certain chargeable transactions from being higher rates transactions for the purposes of paragraph 1.
- (2) The provision which may be included in regulations under this paragraph by reason of section 114(6)(c) includes incidental or consequential provision which may cause a chargeable transaction to be a higher rates transaction for the purposes of paragraph 1.”
- (4) In paragraph 5 of Schedule 6B (relief for transfers involving multiple dwellings) after sub-paragraph (6) insert—
- “(6A) In the application of sub-paragraph (1), account is to be taken of paragraph 1 of Schedule 4ZA if the relevant transaction is a higher rates transaction for the purposes of that paragraph.”
- (5) The amendments made by this section have effect in relation to any land transaction of which the effective date is, or is after, 1 April 2016.

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- (6) But those amendments do not have effect in relation to a transaction—
- (a) effected in pursuance of a contract entered into and substantially performed before 26 November 2015, or
  - (b) effected in pursuance of a contract entered into before that date and not excluded by subsection (7).
- (7) A transaction effected in pursuance of a contract entered into before 26 November 2015 is excluded by this subsection if—
- (a) there is any variation of the contract, or assignment of rights under the contract, on or after 26 November 2015,
  - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  - (c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (8) Subsection (9) applies in relation to a land transaction of which the effective date is or is before 26 November 2018.
- (9) In its application for the purpose of determining whether a land transaction to which this subsection applies is a higher rates transaction, paragraph 3(6) of Schedule 4ZA to FA 2003 has effect with the following modifications—
- (a) in paragraph (b) for “during the period of three years ending with” substitute “the same as or before”,
  - (b) in paragraph (c) for [<sup>F1</sup>the words from “during” to “paragraph (b)”] substitute “before the effective date of the transaction concerned”.
- (10) Paragraph 15 of Schedule 4ZA to FA 2003 does not apply in relation to a land transaction of which the effective date is, or is before, the date on which this Act is passed if the effect of its application would be that the transaction is a higher rates transaction for the purposes of paragraph 1 of that Schedule.

#### Textual Amendments

**F1** Words in s. 128(9)(b) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 15](#)

### 129 SDLT higher rate: land purchased for commercial use

- (1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended in accordance with subsections (2) to (4).
- (2) In paragraph 5—
- (a) in sub-paragraph (1)—
    - (i) after paragraph (a) insert—
      - “(aa) use as business premises for the purposes of a qualifying property rental business (other than one which gives rise to income consisting wholly or mainly of excluded rents);
      - (ab) use for the purposes of a relievable trade;”;

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(ii) for paragraph (b) substitute—

“(b) development or redevelopment and—

(i) resale in the course of a property development trade, or

(ii) exploitation falling within paragraph (a) or use falling within paragraph (aa) or (ab);”;

(b) in sub-paragraph (2), for “the dwelling” substitute “a dwelling on the land”;

(c) in sub-paragraph (3), at the appropriate place insert—

““relievable trade” means a trade that is run on a commercial basis and with a view to profit.”

(3) In paragraph 5G, in sub-paragraph (3)(c) for “the dwelling” substitute “any dwelling on the land”.

(4) In paragraph 6D(3)(b), for “the dwelling” substitute “any dwelling on the land concerned”.

(5) The amendments made by this section have effect in relation to any land transaction of which the effective date is on or after 1 April 2016.

### **130 SDLT higher rate: acquisition under regulated home reversion plan**

(1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended as follows.

(2) After paragraph 5C insert—

#### **5CA “Acquisition under a regulated home reversion plan**

(1) Paragraph 3 does not apply to a chargeable transaction if (and so far as) the purchaser—

(a) is an authorised plan provider, and

(b) acquires the subject-matter of the chargeable transaction as a plan provider.

(2) For the purposes of this paragraph the purchaser acquires the subject-matter of the chargeable transaction “as a plan provider” so far as the purchaser acquires it under a regulated home reversion plan which the purchaser enters into as plan provider.

(3) In this paragraph—

“authorised plan provider” means a person authorised under the Financial Services and Markets Act 2000 to carry on in the United Kingdom the regulated activity specified in article 63B(1) of the Regulated Activities Order (entering into regulated home reversion plan as plan provider);

“the Regulated Activities Order” means the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544);

“regulated home reversion plan” means an arrangement which is a regulated home reversion plan for the purposes of Chapter 15A of Part 2 of the Regulated Activities Order.

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- (4) In this section references to entering into a regulated home reversion plan “as plan provider” are to be interpreted as if the references were in the Regulated Activities Order.”
- (3) After paragraph 5I insert—
- “5IA
- (1) This paragraph applies where relief under paragraph 5CA (acquisition under a regulated home reversion plan) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction the purchaser holds the higher threshold interest otherwise than for the purposes of the regulated home reversion plan (as defined in paragraph 5CA).
- (3) But sub-paragraph (2) does not apply if—
- (a) after ceasing to hold the higher threshold interest for the purposes of the regulated home reversion plan, the purchaser sells the higher threshold interest without delay (except so far as delay is justified by commercial considerations or cannot be avoided), and
- (b) at no time when the higher threshold interest is held by the purchaser as mentioned in sub-paragraph (2) is the dwelling (or any part of the dwelling) occupied by a non-qualifying individual.
- (4) In this paragraph—
- “the dwelling” means the dwelling to which the relief under paragraph 5CA relates;
- “non-qualifying individual” is to be interpreted in accordance with paragraph 5A.”
- (4) The amendments made by this section have effect in relation to any land transaction of which the effective date is on or after 1 April 2016.

### **131 SDLT higher rate: properties occupied by certain employees etc**

- (1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended as follows.
- (2) In paragraph 5D (dwellings for occupation by certain employees etc)—
- (a) in sub-paragraph (1), for “trade” substitute “business”;
- (b) in sub-paragraph (2)(b) for “trade” substitute “business”;
- (c) for sub-paragraph (4) substitute—
- “(4) Relievable business” means a trade or property rental business that is run on a commercial basis and with a view to profit.”
- (3) The heading before paragraph 5D becomes “*Dwellings for occupation by certain employees etc of a relievable business*”.
- (4) After paragraph 5E insert—

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### 5EA “Acquisition by management company of flat for occupation by caretaker

- (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a flat which—
  - (a) is one of at least three flats contained in the same premises, and
  - (b) is acquired by a tenants' management company for the purpose of making the flat available for use as caretaker accommodation.
- (2) For the purposes of this paragraph a tenants' management company makes a flat available for use “as caretaker accommodation” if it makes it available to an individual for use as living accommodation in connection with the individual's employment as caretaker of the premises.
- (3) In relation to the acquisition of a flat, a company is a “tenants' management company” if—
  - (a) the tenants of two or more other flats contained in the premises are members of the company, and
  - (b) the company owns, or it is intended that the company will acquire, the freehold of the premises;
 but a company which carries on a relievable business is not a tenants' management company.
- (4) In this paragraph “premises” means premises constituting the whole or part of a building.”

(5) After paragraph 5J insert—

- “5JA
- (1) This paragraph applies where relief under paragraph 5EA (acquisition by management company of flat for occupation by caretaker) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
  - (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction the purchaser holds the higher threshold interest otherwise than for the purpose of making the flat available for use as caretaker accommodation.
  - (3) For the purposes of this paragraph a tenants' management company makes a flat available for use “as caretaker accommodation” if it makes it available to an individual for use as living accommodation in connection with the individual's employment as caretaker of the premises.”
- (6) In paragraph 5E (meaning of “qualifying partner”, “qualifying employee” etc)—
- (a) in sub-paragraph (1) for “trade” substitute “ business ”;
  - (b) in sub-paragraph (2) for “qualifying trade” substitute “ relievable business ”;
  - (c) in sub-paragraph (4)—
    - (i) in the words before paragraph (a), for “trade” substitute “ relievable business ”;
    - (ii) in paragraph (a)(i), for “trade” substitute “ relievable business ”.



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- (7) In paragraph 5J (withdrawal of relief under paragraph 5D), in sub-paragraph (3)—
- (a) in paragraph (a), for the words from “trade” to the end substitute “relievable business”;
  - (b) in paragraph (c), for the words from “trade” to the end substitute “relievable business”.
- (8) In paragraph 6G (withdrawal of relief under paragraph 5D in cases involving alternative finance arrangements), in sub-paragraph (4)—
- (a) in paragraph (a), for “qualifying trade” substitute “relievable business”;
  - (b) in paragraph (c) for “trade” substitute “relievable business”.
- (9) In paragraph 9 (interpretation), at the appropriate place insert—
- ““relievable business” has the meaning given by paragraph 5D(4).”
- (10) The amendments made by this section have effect in relation to any land transaction of which the effective date is on or after 1 April 2016.

**132 SDLT: minor amendments of section 55 of FA 2003**

In section 55 of FA 2003 (general rules on calculating the amount of stamp duty land tax chargeable), in subsection (5)—

- (a) for “74(2) and (3)” substitute “74(1B)”, and
- (b) for “rate” substitute “amount”.

**133 SDLT: property authorised investment funds and co-ownership authorised contractual schemes**

Schedule 16 contains provision about—

- (a) the stamp duty land tax treatment of co-ownership authorised contractual schemes, and
- (b) relief from stamp duty land tax for certain acquisitions by such schemes and by property authorised investment funds.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)