

Amendment	Page	Line
SC 96	79	18
SC 97	79	37

Dawn Primarolo

(Bristol South – Lab)

**Amendment 96**

Clause 84, page 79, line 18 [Vol I], leave out from first ‘the’ to ‘all’ in line 19 and insert ‘lessor remains entitled immediately after the disposal to some or’.

**Amendment 97**

Clause 84, page 79, line 37 [Vol I], leave out from second ‘the’ to end of line 38 and insert ‘lessor remains entitled immediately after the disposal’.

**SUMMARY**

1. These amendments make changes to clause 84 of the Bill to ensure that it has the appropriate effect in all circumstances.

**DETAILS**

2. Clause 84 should ensure that an appropriate amount is brought into charge when a plant or machinery asset subject to a lease is sold and the seller retains the right to any part of the income from the lease. When this happens the asset is treated as sold for the consideration received plus the present value of the retained rentals.
3. As set out in the Bill the legislation does not give the right result if the seller has made an earlier disposal of any part of the income stream from the lease. These amendments correct this.
4. The clause introduces new section 228K. As drafted, the section applies when there is a sale of plant or machinery subject to a lease and the purchaser of the asset does not also become entitled to all of the rentals under the lease. Where part of the income stream has already been sold, the purchaser of the asset will clearly not

Amendment	Page	Line
SC 96	79	18
SC 97	79	37

become entitled to all of the rentals and the provision will be triggered.

5. Subsection (4) treats the present value of any part of the income stream that is not sold with the asset as if it were an amount of consideration received for the sale of the asset. This will include rentals that have already been sold so that the disposal value will include an amount calculated by reference to rental payments to which the seller no longer has any entitlement.
6. The amendment to section 228K(1)(c) focuses on the position of the seller and ensures that the provision is triggered when the lessor remains entitled to any of the rentals under the lease.
7. The amendment to section 228K(4)(b) ensures that the disposal value is calculated by reference only to those rentals retained by the lessor immediately after the disposal.
8. These two changes mean that when there has been an earlier disposal of part or all of the rental stream the clause operates appropriately.

### **BACKGROUND NOTE**

9. Clause 84 was published in draft on 5 December 2005 and the draft legislation was altered before inclusion in the Finance Bill, to take account of representations. This amendment is in response to a further representation.