

BOARD OF INLAND REVENUE FINANCE BILL 2003
REPORT
NEW CLAUSE 10

**NEW CLAUSE 10: REGISTERED SOCIAL LANDLORDS:
TREATMENT OF CERTAIN LEASES GRANTED
BETWEEN 1ST JANUARY 1990 AND 27 MARCH 2000**

Mr Chancellor of the Exchequer

To move the following Clause:—

- ‘(1) This section applies to a lease in relation to which the following conditions are met—
- (a) it is a lease of a dwelling to one or more individuals;
 - (b) it is for an indefinite term or is terminable by notice of a month or less;
 - (c) it was executed on or after 1st January 1990 and before 28th March 2000;
 - (d) at the time it was executed the rate or average rate of the rent (whether reserved as a yearly rent or not) was £5,000 a year or less; and
 - (e) the landlord’s interest has at any time before 26th June 2003 been held by a registered social landlord.
- (2) A lease to which this section applies (whether or not presented for stamping) shall be treated—
- (a) for the purposes of section 14 of the Stamp Act 1891 (c. 39) (production of instrument in evidence) as it applies in relation to proceedings begun after the day on which this Act is passed, and
 - (b) for the purposes of section 17 of that Act (enrolment etc. of instrument) as it applies to any act done after that day,
- as if it had been duly stamped in accordance with the law in force at the time when it was executed.
- (3) If in the case of a lease to which this section applies the Commissioners are satisfied—
- (a) that the instrument was stamped on or before the day on which this Act is passed, and
 - (b) that stamp duty was charged in respect of it,
- they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) so charged.
- (4) Any such payment must be claimed before 1st January 2004.
- (5) Entitlement to a payment under subsection (3) is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.
- (6) For the purposes of section 10 of the Exchequer and Audit Departments Act 1866 (c. 39) (Commissioners to deduct repayments from gross revenues) any amount paid under subsection (3) above is a repayment.
- (7) This section shall be construed as one with the Stamp Act 1891 (c. 39).
- (8) The reference in subsection (1) above to the landlord’s interest being held by a “registered social landlord” is to its being held by a body that—
- (a) is registered in a register maintained under—

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- (i) Article 124 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)),
 - (ii) section 3(1) of the Housing Associations Act 1985 (c. 69),
 - (iii) Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)),
 - (iv) section 1(1) of the Housing Act 1996 (c. 52), or
 - (v) section 57 of the Housing (Scotland) Act 2001 (asp 10),
or
- (b) is a body corporate whose objects correspond to those of a housing association and which, pursuant to a contract with Scottish Homes, is registered in a register kept for the purposes by Scottish Homes.
- (9) Section 129 of this Act (relief for certain leases granted on or after 1st January 2000) does not apply to a lease to which this section applies.’.

EXPLANATORY NOTE

SUMMARY

1. This clause exempts from stamp duty indefinite leases of £5,000 or less entered into by Registered Social Landlords and their tenants. The exemption applies to leases executed on or after 1 January 1990 and before 28th March 2000 when the threshold on duty was increased to £5,000. Where stamp duty has already been paid on leases of this type, the duty will be repayable.

DETAILS OF THE CLAUSE

2. Subsection 1 defines the type of lease to which the exemption applies.
3. Subsection 2 states that whether or not this type of lease has been stamped for the purposes of section 14 of the Stamp Act 1891, where legal proceeding commence after Royal Assent, it will be treated as duly stamped. Similarly for the purposes of section 17 of the Stamp Act 1891, a lease of this type will be treated as duly stamped.
4. Subsection 3 provides for repayment of any stamp duty that was paid if the instrument was stamped prior to Royal Assent.

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5. Subsection 4 requires claims for repayments to be made by 1 January 2004.
6. Subsection 5 allows the Commissioners to set conditions in relation to the administration of the claims.
7. Subsection 6 specifies that payments under the clause shall be accounted for as repayments of tax.
8. Subsection 7 provides that the section is to be construed as one with the Stamp Act 1891
9. Subsection 8 defines registered social landlord as a social landlord in an appropriate register in relation to England and Wales and provides comparable definitions in Scotland and Northern Ireland.
10. Subsection 9 stipulates that relief available under section 129 of this Act does not apply to leases to which this clause applies.

BACKGROUND NOTE

11. This clause exempts indefinite leases between Registered Social Landlords and their tenants from stamp duty where the leases were entered into on or after 1st January 1990 but before 28th March 2000 and where the rent is no more than £5,000 per annum. Leases of this type entered into on or after 28th March 2000 already do not pay stamp duty where the rental is no more than £5,000.