

EXPLANATORY NOTE

CLAUSE 116: MEANING OF “RESIDENTIAL PROPERTY”

SUMMARY

1. This clause defines the expression “residential property” which is used for the purposes of establishing the consideration thresholds at which rates change, and for the purposes of disadvantaged areas relief.

DETAILS OF THE CLAUSE

2. Subsection (1) provides the broad definition of residential property which is that a building or part of a building which is in use as a dwelling or suitable for use as a dwelling or is in the process of being constructed or adapted as a dwelling constitutes residential property. This includes any land which forms a part of that building, such as gardens or grounds and any outbuildings on that land. Subsection (1) is subject to subsection (7).

3. Subsection (2) lists certain types of building which are specifically defined as being used as a dwelling.

4. Subsection (3) lists certain types of building which are specifically defined as not being used as a dwelling.

5. Subsection (4) provides that where a building is in use for one of the purposes listed in subsection (3), there is no requirement to make an assessment of its suitability for use for any other purpose.

6. Subsection (5) provides a tie-breaker test for any building which cannot be defined by reference to the preceding subsections. This primarily relates to buildings which are not in use. It provides that where a building is not in use but is suitable for use for at least one of the purposes set out in subsection (2) and at least one of the purposes at subsection (3), the use for which it is most suitable will override. If the building is suitable for more than one use and all appear in one of subsections (2) or (3), there is no requirement to make any further assessment of its suitability for any other use. If the building has still not been defined by the tie-breaker, it will be treated as suitable for use as a dwelling.

7. Subsection (7) provides that a single transaction involving the transfer of a major interest in, or the grant of a lease over, six or more separate dwellings, will be treated as a transaction involving non-residential buildings.
8. Subsection (8) provides that the Treasury may, by order, add to, restrict or otherwise amend the classifications listed in subsections (2) and (3).

BACKGROUND

9. Clause 55 sets out the main rates and thresholds for stamp duty land tax. It is proposed that different thresholds apply for wholly residential property as opposed to wholly non-residential or mixed-use property.
10. Clause 57 and Schedule 4 provide for exemption from stamp duty land tax for certain transactions involving land in disadvantaged area. Broadly, the exemption applies to all transactions involving non-residential land and to all transactions involving residential land where the consideration does not exceed £150,000.

EXPLANATORY NOTE

CLAUSE 117: MEANING OF “MAJOR INTEREST” IN LAND

SUMMARY

1. This clause defines the expression “major interest” in land.
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DETAILS OF THE CLAUSE

2. Subsection (2) provides that in England and Wales the expression means any freehold or leasehold estate whether legal or equitable.
 3. Subsection (3) provides that in Scotland the expression means the interest of an owner of land or the right of a tenant over property subject to a lease.
 4. Subsection (4) provides that in Northern Ireland the expression means any freehold or leasehold estate, whether legal or equitable.
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BACKGROUND

5. This definition is new for the purposes of stamp duty land tax.

EXPLANATORY NOTE

CLAUSE 118: MEANING OF “MARKET VALUE”

SUMMARY

1. This clause defines “market value”.
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DETAILS OF THE CLAUSE

2. The clause defines “market value” with reference to sections 272 to 274 TCGA.
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BACKGROUND

3. The clause provides for a definition of “market value” that is used when valuing chargeable consideration.

EXPLANATORY NOTE

CLAUSE 119: MEANING OF “EFFECTIVE DATE” OF A TRANSACTION

SUMMARY

1. This clause sets out the definition of the “effective date” of a transaction. This date determines when liability to tax and reporting obligations arise.

DETAILS OF THE CLAUSE

2. Subsection (1) sets out the general rule that, except as otherwise provided, the effective date of a land transaction is when that land transaction is completed.
3. Subsection (2) cross-refers to the exceptions to the general rule.

BACKGROUND

4. The effective date is the date upon which the purchaser’s obligation to notify the land transaction and pay any stamp duty land tax arises.
5. Special rules apply for contracts that are substantially performed before completion and for the grant of options and rights of pre-emption. These are discussed above.
6. In most cases the effective date will be when the purchaser pays the price and acquires the interest in land, i.e. at completion/settlement.

EXPLANATORY NOTE

CLAUSE 120: MEANING OF “LEASE” AND RELATED EXPRESSIONS

SUMMARY

1. This clause defines “lease” and the related terms “definite term”, and “indefinite term”.

DETAILS OF THE CLAUSE

2. Subsection (1) defines “lease” for the purposes of the Part.
3. Subsection (2) defines “definite term” and “indefinite term”.
4. Subsection (3) provides that a lease for a fixed term and thereafter until determined is treated as a lease for a definite term. The end of the term is taken to be the earliest date at which the lease can be determined.
5. Subsection (4) applies references to a “surrender”, “assignment” or “reversion” of a lease to the equivalent expressions under Scottish law.

BACKGROUND

6. The provision defines “lease” and other terms that are relevant to transactions involving leases.

EXPLANATORY NOTE

CLAUSE 121: MINOR DEFINITIONS

SUMMARY

1. This clause sets out the definitions of “assignment”, “completion”, “employee”, “jointly entitled”, “land”, “registered social landlord”, “standard security”, statutory provision” “surrender” and “tax” for the purposes of stamp duty land tax.

DETAILS OF THE CLAUSE

2. The clause sets out certain definitions as follows:
 3. “assignment” means “assignation” in Scotland.
 4. “completion” means “settlement” in Scotland.
 5. “employee” means office-holders (such as directors).
 6. “jointly entitled” means:
 - in England and Wales, beneficially entitled as joint tenants or tenants in common
 - in Scotland, entitled as joint owners or owners in common
 - in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners.
 7. “land” includes buildings and structures and land covered by water.
- “registered social landlord” means:
- in England and Wales, a body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996
 - in Scotland, a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001
 - in Northern Ireland, a body registered in the register maintained under article 14 of the Housing (Northern Ireland) Order 1992.

8. “standard security” has the meaning given to it by the Conveyancing and Feudal Reform (Scotland) Act 1970.
9. “statutory provision” includes provisions made by or under an Act of Parliament or Acts of the Scottish Parliament or Northern Irish legislation.
10. “surrender” means “renunciation” in Scotland
11. “tax” means stamp duty land tax except where the context otherwise requires (for example, clause 87).

BACKGROUND

12. The clause sets out certain miscellaneous definitions used for the tax.

EXPLANATORY NOTE

CLAUSE 122: INDEX OF DEFINED EXPRESSIONS

SUMMARY

1. This clause provides an index of defined expressions for Part 4.

DETAILS OF THE CLAUSE

2. The clause sets out an index of defined expressions used in the provisions relating to stamp duty land tax.

BACKGROUND

3. This clause is intended to help users of the legislation by providing an index to the various defined terms for stamp duty land tax used within Part 4.

EXPLANATORY NOTE

**CLAUSE 123 AND SCHEDULE 18: CONSEQUENTIAL
AMENDMENTS**

SUMMARY

1. This clause provides for Schedule 18 which makes some amendments to other legislation consequential to the introduction of stamp duty land tax. It also empowers the Treasury to make regulations introducing other consequential amendments and repeals.

DETAILS OF THE CLAUSE

2. Subsection 1 provides for Schedule 18, which makes certain amendments to other legislation consequential to the introduction of stamp duty land tax.
3. Subsection 2 provides that the Treasury may make regulations introducing other consequential amendments and repeals.
4. Subsection 3 provides that, in particular, such regulations may provide for reproducing in relation to stamp duty land tax the effect of current exemptions from stamp duty.

DETAILS OF THE SCHEDULE

5. Paragraph 1 inserts a reference to stamp duty land tax into section 1(1) of the Provisional Collection of Taxes Act 1968.
6. Paragraph 2 amends section 190(4) of the Inheritance Tax Act 1984, adding a reference to stamp duty land tax to an existing reference to stamp duty.
7. Paragraph 3 amends sections 209B(4), 213(11), 214(2) and 215(2) of ICTA, adding references to stamp duty land tax to current references to stamp duty. It also inserts a new subsection (1F) into section 827 of ICTA, providing that interest or penalties levied under stamp duty land tax legislation are not allowed as a deduction in computing income, profits or losses for tax purposes.

8. Paragraph 4 amends section 178(2) of the Finance Act 1989 to allow the Treasury to set rates of interest on unpaid tax, penalties and repayments of tax overpaid for stamp duty land tax purposes.
9. Paragraph 5 amends section 38(2) of the Taxation of Chargeable Gains Act 1992, adding a reference to stamp duty land tax to an existing reference to stamp duty.
10. Paragraph 6 amends section 277(3) of the Income Tax (Earnings and Pensions) Act 2003, adding a reference to stamp duty land tax to an existing reference to stamp duty.

BACKGROUND

11. This Clause and Schedule make a number of amendments to tax legislation consequential to the introduction of stamp duty land tax. The clause also gives the Treasury powers to make regulations introducing consequential amendments and repeals to other legislation. This will enable changes to be made to legislation enacted by other Government Departments which contains references to stamp duty, in particular where a current stamp duty relief needs to be replicated for stamp duty land tax and this cannot be achieved using the relief for statutory transfers between, to or from public bodies in Clause 66.

EXPLANATORY NOTE

**CLAUSE 124 AND SCHEDULE 19: COMMENCEMENT AND
TRANSITIONAL PROVISIONS**

SUMMARY

1. This clause provides for Schedule 19, which deals with commencement rules and transitional provisions for the introduction of stamp duty land tax.

DETAILS OF THE CLAUSE AND SCHEDULE

2. Clause 124 introduces Schedule 19.
3. Paragraph 1 states that the provisions relating to stamp duty land tax will come into force on the passing of the Finance Act. The paragraph introduces the remaining provisions of the Schedule, which determine which transactions are “SDLT transactions”, that is, chargeable to stamp duty land tax.
4. Paragraph 2 states that a transaction will not be an SDLT transaction unless its effective date is on or after the implementation date. The paragraph defines “implementation date”, which must be appointed by Treasury order.
5. Paragraph 3 states however that a transaction will not be an SDLT transaction if it is effected in pursuance to a contract entered into before the first relevant date, namely the day after Royal Assent. This does not apply if the contract is varied or assigned after the first relevant date, or if the transaction is effected in consequence of the exercise of an option.
6. Paragraph 4 creates a special rule for SDLT transactions which are completed by a conveyance on or after the implementation date but which are substantially performed before the implementation date. The effective date for such transactions will be the date of completion.
7. Paragraph 5 states where a transaction is subject to stamp duty land tax but the contract had ad valorem stamp duty paid on it, the amount of stamp duty land tax will be reduced by the stamp duty paid. The paragraph also confirms that where the availability of a relief under stamp duty land tax is dependent on the tax having been paid or payable on an earlier transaction, that requirement is satisfied if stamp duty was paid or payable on that transaction.

8. Paragraph 6 makes provision for certain contracts to be deemed to be duly stamped where stamp duty land tax is subsequently paid or relieved on the transaction. The paragraph then provides that the exclusion from the recovery of group relief or acquisition relief under section 111(1)(c) of the Finance Act 2002 or under section 113(1)(c) where the estate or interest in land held by the company when it leaves the group was re-acquired during the three year recovery period extends to cases where the charge on the re-acquisition was to stamp duty land tax.
9. Paragraph 7 makes provision for linked transactions where some of the transactions are within stamp duty and some are within stamp duty land tax. The paragraph makes available the relief in Schedule 9 for the transfer of the reversion under a shared ownership lease where stamp duty was paid on the original lease. It also provides for references to group relief in clause 54 to apply to the same relief claimed under the stamp duty legislation before the implementation date.
10. Paragraph 8 creates a special rule where a land transaction is entered into after implementation pursuant to an option acquired on or after 17 April 2003. Any consideration given for the grant of the option or its subsequent variation will be aggregated with the chargeable consideration for the subsequent transaction, with credit given for any stamp duty paid on the option or variation.
11. Paragraph 9 defines “contract” as including any agreement.

BACKGROUND

12. The clause and Schedule provide for the transitional provisions for stamp duty land tax. The provisions in this Part will come into effect at Royal Assent but as a general rule, the tax will only apply to transactions where the effective date is after the implementation date. In addition, the tax will not apply to a transaction giving effect to a contract entered into on or before Royal Assent unless such contract was varied, assigned or otherwise subsold after Royal Assent. The Schedule also contains other provisions dealing with the interaction of stamp duty and stamp duty land tax during the transitional period, and when the payment of one will lead to a credit for the other.
13. By bringing the provisions into effect on Royal Assent, it will be possible to use the regulation-making powers in advance of the implementation date.

EXPLANATORY NOTE

**CLAUSE 125 AND SCHEDULE 20: ABOLITION OF STAMP DUTY
EXCEPT ON INSTRUMENTS RELATING TO STOCK OR
MARKETABLE SECURITIES**

SUMMARY

1. This clause and Schedule abolish the stamp duty charge on documents transferring property other than stock or marketable securities and certain partnership transactions. It does not alter the duty payable on the issue of bearer instruments. The clause and Schedule will apply to instruments effecting transactions that are within the scope of stamp duty land tax, or are otherwise executed on or after the implementation date of stamp duty land tax.

DETAILS OF THE CLAUSE

2. Subsection 1 limits stamp duty chargeable under Schedule 13 of the Finance Act 1999 to instruments relating to stock or marketable securities.

3. Subsection 2 provides that stamp duty shall not be chargeable on property vested by Act or purchased under statutory power other than stock or marketable securities.

4. Subsection 3 provides for the clause to be construed as one with the Stamp Act 1891.

5. Subsection 4 states that the Schedule supplements this section and provides for consequential amendments and appeals.

6. Subsection 5(a) applies the section and schedule to land transactions that are within the scope of stamp duty land tax, including transactions that are exempt or qualify for relief from stamp duty land tax.

7. Subsection 5(b) applies the section and schedule to instruments not within Stamp Duty Land Tax that are executed on or after the implementation date for stamp duty land tax.

8. Subsection 6 defines land transactions for the purpose of subsection 5.

9. Subsection 7 states that the section and Schedule shall have effect subject to the provisions that provide for stamp duty to continue to apply to certain partnership transactions.

DETAILS OF THE SCHEDULE

10. Paragraph 1 provides that the consideration contained in an instrument that relates partly to the transfer on sale of stock or marketable securities, and partly to other property, shall be apportioned on a just and reasonable basis. Stamp duty will be charged only on the consideration attributable to stock or marketable securities.

11. Paragraph 2 amends section 58 Stamp Act 1891.

12. Subparagraph (1) provides that if property sold for a single consideration consists of stock or marketable securities and is conveyed in separate parts by different instruments, the consideration shall be apportioned on a just and reasonable basis.

13. Subparagraph (2) applies when property containing stock or marketable securities is purchased for one consideration by two or more connected persons, and is conveyed in parts by separate instruments. In such a case the consideration shall be apportioned on a just and reasonable basis and the consideration for each part of the property shall be shown on each instrument and charged to ad valorem stamp duty accordingly.

14. Subparagraph (3) provides that if the apportionment under subparagraphs 1 or 2 of section 58 has not been made on a just and reasonable basis, then stamp duty shall be chargeable as if the consideration had been apportioned on a just and reasonable basis.

15. Subparagraph (4) defines a "relevant person", and that whether people are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.

16. Paragraph 3 removes the expression "conveyance or transfer" and substitutes "transfer" in the enactments relating to stamp duty

17. Paragraph 4 makes consequential amendments to section 12 Finance Act 1895

18. Paragraph 5 makes consequential amendments to section 108 Finance Act 1990.

19. Paragraph 6 makes consequential amendments to Paragraph 1(2) Schedule 13 Finance Act 1999.

20. Paragraph 7 enables the Treasury to make regulations amending or repealing stamp duty or stamp duty reserve tax enactments following from the abolition of stamp duty except on instruments relating to stocks or marketable securities.

BACKGROUND

21. This clause and Schedule abolish the stamp duty charge on documents transferring property other than stock or marketable securities and certain partnership transactions. It does not alter the duty payable on the issue of bearer instruments. The clause and Schedule will apply to instruments effecting transactions that are within the scope of stamp duty land tax, or are otherwise executed

EXPLANATORY NOTE

**CLAUSE 126: CIRCUMSTANCES IN WHICH GROUP RELIEF
WITHDRAWN**

SUMMARY

1. This clause amends anti-avoidance provisions in section 111 and Schedule 34 to the Finance Act 2002. It provides for the period in which group relief can be withdrawn to be extended to three years, it closes a loophole in section 111 and Schedule 34 by providing for group relief to be withdrawn where another company holds the land on which group relief was claimed and that other company leaves the group as a consequence of the transferee company leaving, and it provides that market value must apply if group relief is not to be withdrawn when the land has been subsequently reacquired by the transferee.

DETAILS OF THE CLAUSE

2. Subsection (1) provides that section 111 of the Finance Act 2002 (stamp duty: withdrawal of group relief) is amended.
3. Subsection (2) substitutes three years for two years in section 111(1)(b) so that the recovery will apply where the transferee company leaves the group within three years of the date of the relevant instrument.
4. Subsection (3) amends section 111(1)(c) so that group relief is withdrawn if either the transferee company holds the relevant interest in land or another company (a “relevant associated company”) holds that interest. It also modifies the final words of the subsection so that it is clear that re-acquisition of land by a duly stamped instrument within the three year withdrawal period only prevents group relief being withdrawn where ad valorem duty is paid at the market value of the land which is reacquired.
5. Subsection (4) amends section 111(3) so as to refer to the “transferee company” and any “relevant associated company”.
6. Subsection (5) inserts a new section 111(4A) which defines “relevant associated company” as a company which is a member of the same group as

the transferee company at the time that it ceases to be a member of the group and leaves the same group as the transferor company as a result of the transferee company leaving.

7. Subsection (6) amends paragraph 4(3) of Schedule 34 to the Finance Act 2002 to makes similar changes to those made under subsection (3) above. Paragraph 4 gives an exemption from recovery where a transferee company ceases to be a member of the group as a result of a transfer of shares where reconstruction relief (claimed under section 75 of the Finance Act 1986) applies, but paragraph 4(3) re-imposes the withdrawal if within three years the transferee company ceases to be a member of the new group.

8. Subsection (7) amends the closing words of paragraph 4(3) of Schedule 34 consequentially.

9. Subsection (8) defines “relevant associated company” for the purposes of paragraph 4(3)(b) of Schedule 34.

10. Subsection (9) applies this section to instruments executed after 14 April 2003.

11. Subsection (10) provides that this section does not apply to an instrument which gives effect to a contract made on or before 9 April 2003, unless the instrument results from the exercise of an option, an assignment or further contract made after 9 April 2003.

BACKGROUND

12. Associated companies relief (“group relief”) is provided in stamp duty by section 42 of the Finance Act 1930 and section 151 Finance Act 1995, with anti-avoidance rules in section 27 of the Finance Act 1967. Section 111 and Schedule 34 to the Finance Act 2002 strengthens the earlier rules by providing for a recovery of group relief where a company which has claimed group relief leaves the group within two years of a successful claim to group relief.

13. This clause makes it more difficult to avoid the withdrawal of group relief under section 111 and Schedule 34 to Finance Act 2002.

14. The first change extends the period during which group relief can be withdrawn to three years.

15. The second change deals with a loophole which allowed the 2002 provisions to be avoided. It was possible to transfer an interest in land through two subsidiary companies and then transfer the first subsidiary outside the group. Although the land had left the group, there was no withdrawal of group relief because the transferee did not hold the interest in land at the time it left the group.

16. The third change deals with another loophole. It provides that group relief will still be withdrawn unless ad valorem duty has been paid on the market value of the relevant land. This prevents land being transferred outside the group for a nominal sum and then reacquired for the same consideration in order to avoid the withdrawal of group relief.

17. Some minor drafting changes are also made to bring Schedule 34 in to line with Schedule 35 to the Finance Act 2002. Similar amendments to the related section 113 and Schedule 35 are dealt with by clause 127.

EXPLANATORY NOTE

**CLAUSE 127 CIRCUMSTANCES IN WHICH RELIEF FOR
COMPANY ACQUISITIONS WITHDRAWN**

SUMMARY

1. This clause amends anti-avoidance provisions in section 113 and Schedule 35 to the Finance Act 2002. It follows clause 126 by extending the period in which acquisition relief can be withdrawn to three years, closing a loophole in section 113 and Schedule 35 by providing for group relief to be withdrawn where another company holds the land on which acquisition relief was claimed and control changes of that other company as a consequence of the transferee company leaving, and it provides that market value must apply if acquisition relief is not to be withdrawn when the land has been subsequently reacquired by the transferee.

DETAILS OF THE CLAUSE

2. Subsection (1) provides that section 113 of the Finance Act 2002 (stamp duty: withdrawal of relief for company acquisitions) is amended.
3. Subsection (2) substitutes three years for two years in section 113(1)(b) so that the recovery will apply where the acquiring company leaves the group within three years of the date of the relevant instrument.
4. Subsection (3) amends section 113(1)(c) so that relief is withdrawn if either the acquiring company holds the relevant interest in land or another company (a “relevant associated company”) holds that interest. It also modifies the final words of the subsection so that it is clear that re-acquisition of land by a duly stamped instrument within the three year withdrawal period only prevents acquisition relief being withdrawn where ad valorem duty is paid on the market value of the land which is reacquired.
5. Subsection (4) amends section 113(3) so as to refer to the acquiring company and any “relevant associated company”.
6. Subsection (5) inserts a new section 113(3A) which defines “relevant associated company” as a company which is controlled by the acquiring

company immediately before control of that company changes and of which control changes because of the change in control of the acquiring company.

7. Subsection (6) amends paragraph 3(3)(b) and 4(3)(b) of Schedule 34 to the Finance Act 2002 to make similar changes to those made under subsection (3) above. Paragraph 3 gives an exemption from recovery where control changes in a transaction which qualified for group relief. Paragraph 4 gives an exemption where control changes due to a share transaction within section 77 of the Finance Act 1986. Both these paragraphs have provisions which reinstate the recovery where there is a further change of control within the three year period.

8. Subsection (7) applies this section to instruments executed after 14 April 2003.

9. Subsection (8) provides that this section does not apply to an instrument which gives effect to a contract made on or before 9 April 2003, unless the instrument results from the exercise of an option, an assignment or further contract made after 9 April 2003.

10. Subsection (9) deems this provision to come into force on 15 April 2003.

BACKGROUND

11. Acquisition relief is provided in stamp duty for certain company reorganisations by section 76 of the Finance Act 1986. It reduces the rate of stamp duty to 0.5% on an instrument for the acquisition of an undertaking of a company where consideration is shares in an acquiring company and no more than 10% cash. Section 113 and Schedule 34 to the Finance Act 2002 provide anti-avoidance rules which provide for a recovery of acquisition relief where control of the acquiring company changes within two years of the successful claim to acquisition relief.

12. This clause makes it more difficult to avoid the withdrawal of the relief under section 113 and Schedule 35 to Finance Act 2002.

13. The first change extends the period during which acquisition relief can be withdrawn to three years.

14. The second change deals with a loophole which allowed the 2002 provisions to be avoided. It was possible to transfer an interest in land to a subsidiary company and then change control of the parent (which was the

company which had originally claimed acquisition relief). There was no recovery because the transferee did not hold the interest in land at the time it left the group, but by owning the subsidiary it still controlled it.

15. The third change deals with another loophole. Section 113(1)(c) provides an exemption from recovery if the transferee company only held the interest in land because it had re-acquired it subsequent to the transfer outside the group. It requires that instrument for the re-acquisition must be stamped with duty but did not require that the stamp duty should be based on a consideration of market value. It was possible therefore to change control of a company which held an interest in land for a nominal sum and re-acquire it for the same consideration, and escape the recovery.

16. Both the above changes are repeated consequentially in Schedule 35.

17. Some minor drafting changes are also made to bring Schedule 35 in line with Schedule 34 to the Finance Act 2002. Similar amendments to the related section 111 and Schedule 34 are dealt with by clause 126.

EXPLANATORY NOTE

**CLAUSE 128 :STAMP DUTY: EXEMPTION OF CERTAIN LEASES
GRANTED BY REGISTERED SOCIAL LANDLORDS.**

SUMMARY

1. This clause exempts from stamp duty certain leases granted by Registered Social Landlords under agreements to temporarily house the homeless.
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DETAILS OF THE CLAUSE

2. Subsection 1 exempts from stamp duty leases for an indefinite term, or terminable by notice of one month or less, granted by a registered social landlord to one or more individuals.
 3. Subsection 2 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.
 4. Subsection 3 provides that the exemption only applies to arrangements entered into between the registered social landlord and a housing authority whereby the landlord provides temporary rented accommodation for individuals nominated by the authority in pursuance of the authority's statutory housing functions. The temporary rented accommodation is defined as accommodation that has been leased to the landlord for five years or less.
 5. Subsection 4 defines housing authorities and the equivalent bodies in Scotland and Northern Ireland.
 6. Subsection 5 and Subsection 6 provide for the administrative procedures for claims for relief under the section.
 7. Subsection 7 is the commencement provision. It applies the section to instruments executed after Royal Assent.
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BACKGROUND

8. Many registered social landlords enter into tenancy agreements to temporarily house homeless families. These agreements arise under arrangements with housing authorities to house the homeless. In some cases the landlord needs to obtain additional housing stock on a temporary basis. This clause exempts the tenancy agreements from stamp duty to encourage social landlords to enter into such arrangements.
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EXPLANATORY NOTE

**CLAUSE 129: STAMP DUTY: EXEMPTION OF CERTAIN LEASES
GRANTED BEFORE CLAUSE 128 HAS EFFECT**

SUMMARY

1. This clause allows repayments to be made in respect of stamp duty paid on certain instruments executed on or before Royal Assent to the Finance Bill. The instruments concerned are certain leases executed on or after 1 January 2000 by Registered Social Landlords under agreements to temporarily house the homeless.
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DETAILS OF THE CLAUSE

2. Subsection 1 provides that the clause applies to instruments executed between 1 January 2000 and Royal Assent to the Finance Bill and to which clause 128 applies.
3. Subsection 2 provides that where the instrument has not previously been stamped, for stamp duty purposes only, clause 128 shall be deemed to apply.
4. Subsection 3 provides for repayment of any stamp duty which was paid if the instrument was stamped prior to Royal Assent.
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 provides that the clause applies to housing associations and bodies corporate which were registered in a register maintained by Scottish Homes prior to the enactment of the Housing (Scotland) Act 2001.

BACKGROUND

10. The repayments authorised by this clause have the effect of backdating to 1 January 2000 the exemption from stamp duty introduced by clause 128. The clause also allows unstamped relevant instruments to be stamped denoting that no duty is chargeable.
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