

Land and Buildings Transaction Tax (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 70
Long Title

Schedules 1 to 19

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

John Swinney

- 1 In section 2, page 2, line 4, leave out <land transaction returns> and insert <returns relating to land transactions>

John Swinney

- 2 In section 2, page 2, line 6, at end insert—
<Part 5A contains provision about the application of the Act to leases and non-residential licences,>

Section 5

John Swinney

- 3 In section 5, page 2, line 29, leave out <an interest or right> and insert <a real right or other interest in or over land>

John Swinney

- 4 In section 5, page 2, line 34, leave out <an interest or right in relation to> and insert <a real right or other interest in or over>

John Swinney

- 5 In section 5, page 3, line 1, leave out <an interest or right in relation to> and insert <a real right or other interest in or over>

Section 6

John Swinney

- 6 In section 6, page 3, line 9, at end insert <(but not the variation of a lease)>.

- () The variation of a lease is treated as an acquisition and a disposal of a chargeable interest only where paragraph 31 of schedule 18A (reduction of rent or term or other variation of lease) applies.>

John Swinney

- 7 In section 6, page 3, line 21, leave out second <the> and insert <a>

Section 10

John Swinney

- 8 In section 10, page 4, line 24, at end insert—
<() Where paragraph 27 of schedule 18A (leases) applies, it applies in place of this section.>

Section 24

Gavin Brown

- 9 In section 24, page 10, line 13, at end insert—
<() The first order containing provision under subsection (1)(b) must be laid before the Scottish Parliament at least 12 months before the tax is first charged on non-residential property transactions.>

John Swinney

- 10 In section 24, page 10, line 23, at end insert—
<() In the case of a transaction for which the whole or part of the chargeable consideration is rent, see paragraph 3 of schedule 18A (leases) for the tax rates and tax bands applicable to such consideration.>

Section 25

John Swinney

- 11 In section 25, page 10, line 35, leave out <section 55 (application of this Act to leases)> and insert <schedule 18A (leases)>

Section 26

John Swinney

- 12 In section 26, page 11, line 19, leave out <section 55 (application of this Act to leases)> and insert <schedule 18A (leases)>

Section 27

John Swinney

- 13 In section 27, page 12, line 6, leave out <a land transaction return or an amendment of such a> and insert <the first return made in relation to the transaction or in an amendment of that>

After section 27

Patrick Harvie

- 69 After section 27, insert—

<Variations

Schedule (*energy performance variation*) provides for variations of the tax in relation to certain land transactions.>

Gavin Brown

- 70 After section 27, insert—

<Relief for transactions involving transfer of rights

- (1) Before the tax is first charged, the Scottish Ministers must consult such persons as appear to them to be appropriate for the purposes of considering the circumstances in which relief should be provided for transactions involving transfer of rights.
- (2) The Scottish Ministers must, by order, modify this Act before the tax is first charged so as to provide for relief for such transactions involving transfer of rights as appear to them to be appropriate.>

Section 30

John Swinney

- 14 In section 30, page 13, line 20, after <rate> insert <tax>

John Swinney

- 15 In section 30, page 13, line 24, after <rate> insert <tax>

John Swinney

- 16 In section 30, page 13, line 28, at end insert—

<() In subsection (1A)(a)(ii), “relevant rent” means—

- (a) the annual rent (as defined in paragraph 9(7) of schedule 18A), or
- (b) in the case of the grant of a lease to which paragraph 28A of schedule 17 applies, the relevant chargeable proportion of the annual rent (as calculated in accordance with that paragraph).>

Section 31

John Swinney

17 In section 31, page 14, line 23, at end insert—

- <() This section does not apply so far as the consideration consists of rent (see schedule 18A (leases)) unless the effect of the event mentioned in subsection (2) is that the transaction becomes notifiable.>

Section 32

John Swinney

18 In section 32, page 15, line 1, leave out <section 55 (application of this Act to leases)> and insert <schedule 18A (leases)>

Section 36

John Swinney

19 In section 36, page 16, line 34, at end insert—

- <() in relation to a return under paragraph 10 of schedule 18A (leases), the review date (see paragraph 10(6)),
- () in relation to a return under paragraph 11 of that schedule, the day on which the lease is assigned or terminated,
- () in relation to a return under paragraph 21 of that schedule, the date on which the 1 year period mentioned in paragraph 21(3) ended,
- () in relation to a return under paragraph 23 of that schedule, the date on which the deemed fixed term mentioned in paragraph 23(2) ended,
- () in relation to a return under paragraph 32 of that schedule, the date from which the variation mentioned in that paragraph takes effect.>

Section 39

John Swinney

20 In section 39, page 17, line 18, at end insert—

- <() in schedule 18A (leases)—
- (i) paragraph 10(3),
 - (ii) paragraph 11(3),
 - (iii) paragraph 21(3)(a),
 - (iv) paragraph 23(2)(a),
 - (v) paragraph 32(2)(a).>

Section 40

John Swinney

21 In section 40, page 17, line 28, at end insert—

<() in schedule 18A (leases)—

- (i) paragraph 10 (return on 3-yearly review),
- (ii) paragraph 11 (return on assignation or termination of lease),
- (iii) paragraph 21 (return where lease for fixed term continues after end of term),
- (iv) paragraph 23 (return in relation to lease for indefinite term),
- (v) paragraph 32 (transactions which become notifiable on variation of rent or term).>

Section 41

John Swinney

22 In section 41, page 18, line 19, leave out subsection (5) and insert—

<(5) Unless the Scottish Ministers provide otherwise by order, this section does not apply to consideration so far as it consists of rent.>

Section 48

John Swinney

23 In section 48, page 22, leave out lines 25 and 26 and insert—

<() if a return is required in relation to the transaction, a single return must be made,>

Section 49

Gavin Brown

71 In section 49, page 22, line 34, at end insert—

<(1A) The Scottish Ministers must review the provisions of schedule 17 before the tax is first charged.

(1B) In conducting a review under subsection (1A), the Scottish Ministers must consult—

- (a) such persons as appear to them to have an interest in the application of this Act to partnerships, and
- (b) such other persons as they consider appropriate.

(1C) Subsection (1D) applies where the Scottish Ministers do not consider that the result of the review under subsection (1A) requires them to exercise the power to make regulations under subsection (2) to modify schedule 17.

(1D) Where this subsection applies, the Scottish Ministers must, before the tax is first charged, lay before the Scottish Parliament a report on the review under subsection (1A), giving their reasons for not exercising the power.>

Section 50

John Swinney

24 In section 50, page 22, line 37, at end insert—

<(2) The Scottish Ministers may, by regulations, modify schedule 18.>

Section 55

John Swinney

25 In section 55, page 23, line 17, at end insert—

<(2) The Scottish Ministers may, by regulations, modify schedule 18A.>

Section 51A

Gavin Brown

26 In section 51A, page 23, line 30, at end insert—

<() Before making regulations under subsection (1), the Scottish Ministers must consult—
(a) such persons as appear to them to have an interest in non-residential licences to occupy property, and
(b) such other persons as they consider appropriate.>

Section 56

John Swinney

27 In section 56, page 24, line 26, leave out <land transaction>

Section 67

Gavin Brown

72 In section 67, page 28, line 22, at end insert—

<() section (*relief for transactions involving transfer of rights*)(2),>

John Swinney

28 In section 67, page 28, line 23, at end insert—

<() section 50(2),>

John Swinney

- 29 In section 67, page 28, line 23, at end insert—
<() section 55(2),>

Gavin Brown

Supported by: John Swinney

- 30 In section 67, page 28, line 23, at end insert—
<() section 51A(1),>

John Swinney

- 31 In section 67, page 28, leave out line 27

Patrick Harvie

- 73 In section 67, page 28, line 27, at end insert—
<() paragraph 1 of schedule (*energy performance variation*),>

John Swinney

- 32 In section 67, page 28, line 28, at end insert—
<() paragraph 7(1) of that schedule.>

Gavin Brown

Supported by: John Swinney

- 33 In section 67, page 28, leave out line 33

Section 69

John Swinney

- 34 In section 69, page 29, line 18, after <67> insert <, 68>

Schedule 1

John Swinney

- 35 In schedule 1, page 30, line 25, at end insert—
<() For the purposes of sub-paragraph (1)(a), a transaction in respect of a lease of residential property is exempt only if—
(a) the main subject-matter of the transaction consists entirely of an interest in land that is residential property, or
(b) where the transaction is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of such an interest.>

Schedule 2

John Swinney

- 36 In schedule 2, page 36, line 1, after <would> insert <be>

Schedule 5

John Swinney

- 37 In schedule 5, page 45, line 23, after second <transaction> insert <(other than a transaction to which schedule 18A (leases) applies)>

John Swinney

- 38 In schedule 5, page 46, line 30, leave out paragraphs 10 and 11

John Swinney

- 39 In schedule 5, page 48, line 13, leave out paragraph 17

John Swinney

- 40 In schedule 5, page 48, line 21, leave out <effect> and insert <effective>

Schedule 8

John Swinney

- 41 In schedule 8, page 57, line 30, leave out <land and building transaction> and insert <the>

John Swinney

- 42 In schedule 8, page 58, line 31, leave out <(1)(b)> and insert <14(1)(b)>

Schedule 13

John Swinney

- 43 In schedule 13, page 79, line 23, leave out <subsection> and insert <sub-paragraph>

After schedule 16

Patrick Harvie

- 74* After schedule 16, insert—

<SCHEDULE
(introduced by section (variations))

ENERGY PERFORMANCE VARIATION

- 1 The Scottish Ministers may make regulations providing for variations of the tax to be payable on the basis of the energy performance of a dwelling in respect of which a land transaction is entered into.
- 2 Regulations under paragraph 1 may define the energy performance of a dwelling by reference to the measures in an energy performance certificate provided under the Energy Performance of Buildings (Scotland) Regulations 2008 (S.S.I 2008/309) or by reference to such other measures as the Scottish Ministers consider appropriate.
- 3 Regulations under paragraph 1 may provide for different variations to apply to different categories of buildings.
- 4 Regulations under paragraph 1 may make provision designed to ensure that the total effect of variations of the tax under such regulations results, so far as practicable, in no net change in the total amount of tax collected by the Tax Authority.
- 5 Before making regulations under paragraph 1, the Scottish Ministers must consult such persons as they consider appropriate.>

Schedule 17

John Swinney

- 44 In schedule 17, page 100, line 27, after <rate> insert <tax>

John Swinney

- 45 In schedule 17, page 100, line 28, after <rate> insert <tax>

John Swinney

- 46 In schedule 17, page 100, line 32, after <rate> insert <tax>

Schedule 18A

John Swinney

- 47 In schedule 18A, page 109, line 23, after <with> insert <the day after>

John Swinney

- 48 In schedule 18A, page 109, line 29, at end insert—
<() Where less tax is payable in respect of the transaction than has already been paid, the overpayment is to be repaid by the Tax Authority.>

John Swinney

- 49 In schedule 18A, page 109, line 34, leave out <in the case of a transaction to which sub-paragraph (1)(b)(i) applies> and insert <where the return mentioned in sub-paragraph (1)(b)(i) is the first return made in relation to the transaction>

John Swinney

- 50 In schedule 18A, page 109, line 37, leave out <in the case of a transaction to which sub-paragraph (1)(b)(ii) applies> and insert <where the return mentioned in sub-paragraph (1)(b)(ii) is the first return made in relation to the transaction>

John Swinney

- 51 In schedule 18A, page 110, line 1, leave out <in the case of a transaction to which sub-paragraph (1)(b)(iii) applies> and insert <where the return mentioned in sub-paragraph (1)(b)(iii) is the first return made in relation to the transaction>

John Swinney

- 52 In schedule 18A, page 110, line 5, leave out <in the case of a transaction to which sub-paragraph (1)(b)(iv) applies> and insert <where the return mentioned in sub-paragraph (1)(b)(iv) is the first return made in relation to the transaction>

John Swinney

- 53 In schedule 18A, page 110, line 17, after <with> insert <the day after>

John Swinney

- 54 In schedule 18A, page 110, line 23, at end insert—
<() Where less tax is payable in respect of the transaction than has already been paid, the overpayment is to be repaid by the Tax Authority.>

John Swinney

- 55 In schedule 18A, page 110, line 34, leave out paragraph 13

John Swinney

- 56 In schedule 18A, page 111, line 13, leave out <Act> and insert <paragraph>

John Swinney

- 57 In schedule 18A, page 113, line 3, leave out <paragraphs 25(2) and 26(3)> and insert <paragraph 25(2)>

John Swinney

- 58 In schedule 18A, page 114, leave out lines 1 to 4 and insert—

<(3) In a case where no land transaction return or any other return has been made in relation to the transaction, where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of 1 year after the end of a fixed term is that the transaction becomes notifiable—>

John Swinney

59 In schedule 18A, page 114, line 5, leave out <or a further return>

John Swinney

60 In schedule 18A, page 114, line 14, leave out <whatever is its> and insert <its original>

John Swinney

61 In schedule 18A, page 114, leave out lines 30 and 31

John Swinney

62 In schedule 18A, page 114, line 36, leave out <(and paragraph 13 does not apply to it)>

John Swinney

63 In schedule 18A, page 115, leave out lines 10 to 13 and insert—

<(2) In a case where no land transaction return or any other return has been made in relation to the transaction, where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that the transaction becomes notifiable—>

John Swinney

64 In schedule 18A, page 115, line 14, leave out <or further return>

John Swinney

65 In schedule 18A, page 116, line 24, leave out paragraph 26

John Swinney

66 In schedule 18A, page 120, line 13, after <with> insert <the day after>

Schedule 19

John Swinney

67 In schedule 19, page 122, line 8, column 1, after <rate> insert <tax>

John Swinney

68 In schedule 19, page 122, line 8, column 2, at end insert <and paragraph 3 of schedule 18A>

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