Land and Buildings Transaction Tax (Scotland) Bill

Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

**Note:** The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

**Group 1: Returns relating to land transactions**

1, 13, 23, 27

**Group 2: Minor changes consequential on Stage 2 and other technical amendments**

2, 7, 14, 15, 31, 36, 40, 41, 42, 43, 44, 45, 46, 67

**Group 3: Chargeable interest**

3, 4, 5

**Group 4: Leases**

6, 8, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 25, 29, 32, 35, 37, 38, 39, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68

**Debate to end no later than 20 minutes after proceedings begin**

**Group 5: Procedure for orders setting rates and bands**

9

**Group 6: Energy performance variation**

69, 73, 74

**Debate to end no later than 50 minutes after proceedings begin**
Group 7: Relief for transactions involving transfer of rights
70, 72

Group 8: Partnerships
71

Debate to end no later than 1 hour 20 minutes after proceedings begin

Group 9: Trusts
24, 28

Group 10: Licences
26, 30, 33

Group 11: Crown application
34

Debate to end no later than 1 hour 30 minutes after proceedings begin
Amendments in debating order

**Group 1: Returns relating to land transactions**

**John Swinney**

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

**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>

**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,>}

**John Swinney**

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

**Group 2: Minor changes consequential on Stage 2 and other technical amendments**

**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,>

**John Swinney**

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

**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**

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

**John Swinney**

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

**John Swinney**

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

John Swinney

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

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>

John Swinney

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

Group 3: Chargeable interest

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>

Group 4: Leases

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

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.⟩

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.⟩

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)>

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)>

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).⟩

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.⟩

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)>

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.

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).>

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).>

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.>

John Swinney

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

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

John Swinney

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

<(  ) section 55(2),>

John Swinney

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

<(  ) paragraph 7(1) of that schedule.>
John Swinney
35 In schedule 1, page 30, line 25, at end insert—
\[
\langle (\ ) \text{ For the purposes of sub-paragraph (1)(a), a transaction in respect of a lease of residential property is exempt only if—} \\
\text{ (a) the main subject-matter of the transaction consists entirely of an interest in land that is residential property, or} \\
\text{ (b) where the transaction is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of such an interest.}\rangle
\]

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
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—
\[
\langle (\ ) \text{ Where less tax is payable in respect of the transaction than has already been paid, the overpayment is to be repaid by the Tax Authority.}\rangle
\]

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>

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

Group 5: Procedure for orders setting rates and bands
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.>

Group 6: Energy performance variation
Patrick Harvie
69 After section 27, insert—
<Variations

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

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

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.>

Group 7: Relief for transactions involving transfer of rights

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.>

Gavin Brown

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

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

Group 8: Partnerships

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.>
Group 9: Trusts

John Swinney

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

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

John Swinney

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

<( ) section 50(2),>

Group 10: Licences

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.>

Gavin Brown

Supported by: John Swinney

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

<( ) section 51A(1),>

Gavin Brown

Supported by: John Swinney

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

Group 11: Crown application

John Swinney

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