

Annex 1 - Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill

Table 1: Subordinate legislation powers in SDLT, LBTT and LTTA legislation

Description of power	Subordinate legislation power in LTTA Bill	Equivalent provision in SDLT legislation	Equivalent provision in LBTT legislation
Power to add, remove or modify the list of exempt interests	Section 5(4) <i>Procedure: AFFIRMATIVE</i>	Section 48(5) FA 2003 <i>Procedure: NEGATIVE</i>	Section 5(4) LBTT(S)A 2013 <i>Procedure: AFFIRMATIVE</i>
Power to modify chargeable consideration provisions	Section 18(2) <i>Procedure: AFFIRMATIVE</i>	Section 50(2) FA 2003 <i>Procedure: NEGATIVE</i>	Section 17(2) LBTT(S)A 2013 <i>Procedure: NEGATIVE (but AFFIRMATIVE when amending primary legislation)</i>
Power to set tax bands and tax rates	Section 24(1) <i>Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE</i>	Not applicable (<i>tax bands and tax rates set through resolutions made under Provisional Collection of Taxes Act and annual Finance Act</i>)	Section 24(1) LBTT(S)A 2013 <i>Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE</i>
Power to add, modify or remove reliefs or modify section 31 (relief TAAR)	Section 30(6) <i>Procedure: AFFIRMATIVE</i>	Not applicable (<i>reliefs introduced, removed and modified through resolutions made under Provisional Collection of Taxes Act and annual Finance Act</i>)	Section 27(3) LBTT(S)A 2013 <i>Procedure: AFFIRMATIVE</i>
Power to make further provision about the application of LTT to companies	Section 33(7) <i>Procedure: AFFIRMATIVE</i>	No equivalent power	No equivalent power
Power to provide that certain schemes are not to be treated as unit trust schemes for purposes of LTT	Section 34(6) <i>Procedure: NEGATIVE</i>	Section 101(5) FA 2003 <i>Procedure: NEGATIVE</i>	Section 45(6) LBTT(S)A 2013 <i>Procedure: NEGATIVE</i>

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Power to make provision to ensure LTT has effect in relation to open-ended investment companies and transactions involving those companies	Section 35(1) Procedure: AFFIRMATIVE	Section 102(1) FA 2003 Procedure: NEGATIVE	Section 46(1) LBTT(S)A 2013 Procedure: NEGATIVE
Power to amend partnership provisions	Section 40(2) Procedure: AFFIRMATIVE	No equivalent power	Section 49(2) LBTT(S)A 2013 Procedure: AFFIRMATIVE
Power to amend trust provisions	Section 41(2) Procedure: AFFIRMATIVE	No equivalent power	Section 50(2) LBTT(S)A 2013 Procedure: AFFIRMATIVE
Power to substitute thresholds at which a transaction becomes notifiable	Section 45(10) Procedure: AFFIRMATIVE	No equivalent power	Section 30(7) LBTT(S)A 2013 Procedure: AFFIRMATIVE
Power to amend late payment interest start date in cases where the consideration is contingent or unascertained	Section 46(5) Procedure: AFFIRMATIVE	Section 87 FA 2003 Procedure: NEGATIVE	Section 217(2) RSTPA 2014 Procedure: NEGATIVE
Power to amend late payment interest start date in cases where relief is withdrawn	Section 48(5) Procedure: AFFIRMATIVE	Section 87 FA 2003 Procedure: NEGATIVE	Section 217(2) RSTPA 2014 Procedure: NEGATIVE
Power to amend period within which returns must be made	Section 51(1) Procedure: AFFIRMATIVE	Section 76(2) FA 2003 (<i>note power exercisable by Commissioners for Revenue and Customs not Treasury</i>) Procedure: NEGATIVE	Section 39(1) LBTT(S)A 2013 Procedure: NEGATIVE
Power to make regulations about the deferral of tax	Section 63(1) Procedure: AFFIRMATIVE	Section 90(2) FA 2003 (<i>note power exercisable by Commissioners for Revenue and</i>	Section 42 LBTT(S)A 2013 Procedure: NEGATIVE

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		<i>Customs not Treasury</i> Procedure: NEGATIVE	
Power to make provision about WRA certificates	Section 64(5) Procedure: NEGATIVE	Section 79(4) FA 2003 (<i>note power exercisable by Commissioners for Revenue and Customs not Treasury</i>) Procedure: NEGATIVE	No equivalent power
Power to modify the meaning of “residential property”	Section 71(10) Procedure: AFFIRMATIVE	Section 116(8) FA 2003 Procedure: NEGATIVE	Section 59(9) LBTT(S)A 2013 Procedure: AFFIRMATIVE
Power to make consequential etc. provision	Section 76(1) Procedure: NEGATIVE, but AFFIRMATIVE if the regulations have the effect of imposing or increasing liability to tax	No specific stand-alone power, but see section 109(6) FA 2003 (PROVISIONAL AFFIRMATIVE) and section 114(6) FA 2003	Section 67(1) LBTT(S)A 2013 Procedure: NEGATIVE (but AFFIRMATIVE when amending primary legislation)
Power to commence provisions in the Bill	Section 79(2) No procedure	No equivalent power	Section 70(2) LBTT(S)A 2013 No procedure
Power to add, remove or vary exemptions	Paragraph 7, Schedule 3 Procedure: AFFIRMATIVE	Paragraph 5, Schedule 3 FA 2003 Procedure: NEGATIVE	Paragraph 8, Schedule 1 LBTT(S)A 2013 Procedure: AFFIRMATIVE
Power to charge tax on the rent element of residential lease	Paragraph 27(2), Schedule 5 Procedure: AFFIRMATIVE	No equivalent power	No equivalent power
Power to specify residential	Paragraph 27(4), Schedule 5	Not applicable (<i>tax bands and tax</i>)	Paragraph 3, Schedule 19

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lease rates and bands	<i>(power can only be exercised if regulations made under paragraph 27(2), Schedule 5)</i> Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE	<i>rates set through resolutions made under Provisional Collection of Taxes Act and annual Finance Act)</i>	LBTT(S)A 2013 Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE
Power to specify lease rates and bands	Paragraph 28(1), Schedule 5 Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE	<i>Not applicable (tax bands and tax rates set through resolutions made under Provisional Collection of Taxes Act and annual Finance Act)</i>	Paragraph 3, Schedule 19 LBTT(S)A 2013 Procedure: First regulations = AFFIRMATIVE, second and subsequent regulations = PROVISIONAL AFFIRMATIVE
Power to specify alternative temporal discount rate	Paragraph 32, Schedule 5 Procedure: AFFIRMATIVE	Paragraph 8, Schedule 5 FA 2003 Procedure: NEGATIVE	Paragraph 7, Schedule 19 LBTT(S)A 2013 Procedure: NEGATIVE
Power to specify amount of relevant rent	Paragraph 36(1), Schedule 5 Procedure: AFFIRMATIVE	No equivalent power	No equivalent power
Power to prescribe further information in relation to alternative finance investment bonds	Paragraphs 8(1), 9(1), 12(b), 16 and 18(4) or (5), Schedule 10 Procedure: NEGATIVE	Paragraph 1, Schedule 61 FA 2009 Procedure: NEGATIVE	Paragraph 3, Schedule 8 LBTT(S)A 2013 Procedure: NEGATIVE
Power to prescribe minimum percentage of tax attributable to dwellings in multiple dwellings relief	Paragraph 6(6), Schedule 12 Procedure: NEGATIVE	No equivalent power	Paragraph 12, Schedule 5 LBTT(S)A 2013 Procedure: NEGATIVE
Power to add to list of “relevant public sector bodies” for	Paragraph 2(3)(g), Schedule 14	Paragraph 1, Schedule 9 FA 2003	No equivalent power (<i>relief does not exist in Scotland</i>)

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purposes of right to buy relief	Procedure: NEGATIVE	No procedure	
Power to prescribe proportion of tax in acquisition relief	Paragraph 3(1), Schedule 16 Procedure: AFFIRMATIVE	No equivalent power	Paragraph 6, Schedule 11 LBTT(S)A 2013 Procedure: NEGATIVE
Power to specify particular transaction eligible for relief for certain acquisitions involving public bodies	Paragraph 1(2), Schedule 19 Procedure: NEGATIVE	Section 66(2) FA 2003 Procedure: NEGATIVE	Paragraph 2, Schedule 16 LBTT(S)A 2013 Procedure: NEGATIVE
Power to add to list of public bodies for purposes of relief for certain acquisitions involving public bodies	Paragraph 1(4)(l), Schedule 19 Procedure: NEGATIVE	Section 66(4) FA 2003 Procedure: NEGATIVE	Paragraph 4, Schedule 16 LBTT(S)A 2013 Procedure: NEGATIVE
Power to add to list of health bodies eligible for relief	Paragraph 2(d), Schedule 19 Procedure: NEGATIVE	No equivalent power	No equivalent power (<i>relief does not exist in Scotland</i>)
Power to add to list of public bodies for purposes of relief for compliance with planning obligations	Paragraph 2(3)(e), Schedule 20 Procedure: NEGATIVE	Section 61(3) FA 2003 No procedure	Paragraph 5, Schedule 15 LBTT(S)A 2013 Procedure: NEGATIVE
Power to make provision about records to be kept or preserved for purposes of TCMA	Paragraph 7, Schedule 22 (introducing new section 39A TCMA) Procedure: NEGATIVE	Paragraph 4, Schedule 11 FA 2003 Procedure: NEGATIVE	Section 81 RSTPA 2014 Procedure: AFFIRMATIVE