

Scottish Government consultation – Additional Dwelling Supplement: Proposals for Change
Response from Propertymark
March 2023

Background

1. Propertymark is the UK's leading professional body of property agents, with over 17,000 members. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry leading training programme and mandatory Continuing Professional Development.

Overview

2. The Scottish Government is proposing to make legislative amendments to the Land and Buildings Transaction Tax (LBTT) Additional Dwelling Supplement (ADS). The proposals seek to make a number of amendments:
 - **Timelines** - extends timelines from 18 to 36 months to purchase a new main residence after disposing of a previous main residence, time available to dispose of a previous main residence after purchasing a new main residence and time for considering whether a property was a buyer's only or main residence prior to purchase of a new main residence.
 - **Inherited Property** – provides that properties inherited after the purchase of a new main residence are disregarded for the purposes of ADS and clarifies the point of ownership of an inherited property.
 - **Small Shares** – disregard property shares under ADS purposes where the individual taxpayer's share value is less than £40,000.
 - **Divorce or Separation** – Provide relief from the ADS on purchase of a main residence where an interest in a previous main residence is required to be retained by court order.
 - **Joint Buyers/ Economic Unit Provisions** – where a property is purchased jointly only one buyer can meet the condition of disposing of their previous main residence, this will be considered in the previous 36 months and includes disposal of a property in which the buyer had an interest.
 - **Local Authorities** – provides relief for local authorities from LBTT and ADS where purchases are funded under s2 of the Housing (Scotland) Act 1988.

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Timelines and inherited property

3. Propertymark broadly agrees with the proposed changes to the LBTT ADS which will bring timelines and scope more in line with other areas of the UK. Timelines will reflect those south of the border which currently allow 36 months for purchases of a new main residence. Provisions around inherited property and those which are part of a court-ordered divorce or

separation agreement now provide greater reliefs and clarifies the point of ownership upon transfer.

Small shares

4. Small shares represent those with joint ownership of a property being regarded as owning the whole of the property where the value of the share is more than £40,000. Our members do not agree that this proposed change is proportionate or fair to taxpayers. According to the Registers of Scotland, the median sale price of residential property in February 2023¹ was £175,000. Therefore, those with a 25% share (25% is a demonstrative amount as used in the example scenario) would be subject to ADS as their share would be valued at £43,750. Our members believe it would be fairer to those who acquire shares in a property to have a minimum share value of £75,000 before ADS is applicable.

Local authorities

5. Where the proposals are providing relief for local authorities who purchase under Section 2 of the Housing (Scotland) Act 1988 funding, PropertyMark supports this. PropertyMark has long advocated for greater supply for social housing in Scotland, particularly where there is a significant deficit in the number of houses required. This has put enormous pressure on the private rented sector, which in turn has impacted the home buying market. The Scottish Government should consider a clear definition of affordable housing for LBTT purposes which should be included in any future guidance following implementation of the proposed changes.

Additional comments

6. The equality impact assessment of the consultation states that there is no identified differential impact on island and rural communities in Scotland. However, it could be argued that the measured proposed do present a disproportionate impact on these areas in two ways. Firstly, rural and island communities are disproportionately affected by second home purchases for use as holiday homes or holiday lets². The proposals should take into account the impact on these areas where adequate supply of housing is lacking. Secondly, the small shares provisions will have a larger impact in these areas where the median house price in February 2023³ was generally above the national average, £195,000 for the Highland region and £225,000 for the Shetland Islands. This will take a 25% up to £56,250 in Shetland and will impact significantly more people than in an area such as Dundee City where a 25% of the median house price would be £31,562.
7. PropertyMark is disappointed with how complex the language is around the proposals. Considering that LBTT ADS has the potential to affect many homeowners, whether that is through inheritance, divorce, separation or part-ownership. The language used in the

¹ [House price statistics - Registers of Scotland \(ros.gov.uk\)](https://ros.gov.uk/house-price-statistics)

² Rural Lives Understanding financial hardship and vulnerability in rural areas, March 2021
[453540 rural poverty report 2021 8.3.2021 optimised.pdf \(rurallives.co.uk\)](https://rurallives.co.uk/453540-rural-poverty-report-2021-8.3.2021-optimised.pdf)

³ [House price statistics - Registers of Scotland \(ros.gov.uk\)](https://ros.gov.uk/house-price-statistics)

consultation and the requirement to cross-reference with complex legislation meant that the consultation was inaccessible to the majority of individuals who would be affected by the proposals.

8. Propertymark is concerned about the Scottish Government's decision to increase the ADS from 4% to 6% from 16 December 2022. On the one hand the Scottish Government is increasing the costs of buying a buy to let property but capping rents in the private rented sector under the Cost of Living legislation to support tenants as a result of rising costs. Landlords have seen their tax burden increase in recent years. The withdrawal of tax relief on mortgage interest costs and replacement with a 20% tax credit, removal of the 10% Wear and Tear Allowance for fully furnished properties being replaced with an at-cost relief, maintaining Capital Gains Tax (CGT) for rented property at 28%, when it was reduced to 18% for other assets, a rise in corporation tax from 19% to 25% from 2023 and now higher rates of LBTT. Supply of private rented property is the number one concern for Propertymark members. The number of properties available to rent has been diminishing with a large portion of landlords choosing to sell their properties. A lack of property is the root cause of rent increases and rising figures on social housing lists. The private rented sector is a key solution to resolve the housing crisis but if the Scottish Government continue with policies that disincentive landlords this will only make the situation worse. To boost the supply of rented housing and reduce rent rises the Scottish Government should reduce the surcharge on additional homes to encourage further investment in the private rented sector and carry out a review of all taxes impacting private landlords.

Conclusion

9. Overall, Propertymark is in favour of updating the ADS system. There are some arbitrary aspects to the proposals, there appears to be no basis for the suggestion of a £40,000 threshold for shares in a property. However, other parts present a fairer outcome for taxpayers, particularly where the proposals relate to relief following a court-ordered divorce or separation agreement and allowing additional time for those who inherit a property. Yet, the legislation is complex, and the proposed changes are not accessible to the lay person to respond, this will give a very narrow pool of respondents and will not necessarily represent the wider public opinion. This should be considered when creating guidance on LBTT ADS.