

SCHEDULE 4

(introduced by section 27)

RELIEF FOR CERTAIN ACQUISITIONS OF RESIDENTIAL PROPERTY

PART 1

INTRODUCTORY

Overview of reliefs

- 1 (1) This schedule provides for relief in the case of certain acquisitions of residential property.
- (2) It is arranged as follows—
 - Part 2 provides for relief in the case of an acquisition by a house-building company from an individual acquiring a new dwelling,
 - Part 3 provides for relief in the case of an acquisition by a property trader from an individual acquiring a new dwelling,
 - Part 4 provides for relief in the case of an acquisition by a property trader from an individual where a chain of transactions breaks down,
 - Part 5 provides for the withdrawal of those reliefs in certain circumstances,
 - Part 6 defines expressions used in this schedule.

PART 2

ACQUISITION BY HOUSE-BUILDING COMPANY FROM INDIVIDUAL ACQUIRING NEW DWELLING

Full relief

- 2 Where a dwelling (“the old dwelling”) is acquired by a house-building company from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Partial relief

- 3 Where qualifying conditions (a) to (d) but not (e) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

Qualifying conditions

- 4 In this Part of this schedule, the qualifying conditions are—
 - (a) that the individual (whether alone or with other individuals) acquires a new dwelling from the house-building company,
 - (b) that the individual occupied the old dwelling as the individual’s only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (c) that the individual intends to occupy the new dwelling as the individual’s only or main residence,

- (d) that each acquisition is entered into in consideration of the other, and
- (e) that the area of land acquired by the house-building company does not exceed the permitted area.

PART 3

ACQUISITION BY PROPERTY TRADER FROM INDIVIDUAL ACQUIRING NEW DWELLING

Full relief

- 5 Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Partial relief

- 6 Where qualifying conditions (a) to (e) but not (f) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

Qualifying conditions

- 7 In this Part of this schedule, the qualifying conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals who acquire new dwellings from house-building companies,
 - (b) that the individual (whether alone or with other individuals) acquires a new dwelling from a house-building company,
 - (c) that the individual occupied the old dwelling as the individual’s only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (d) that the individual intends to occupy the new dwelling as the individual’s only or main residence,
 - (e) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling,
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling,and
 - (f) that the area of land acquired by the property trader does not exceed the permitted area.
- 8 Paragraph 7(e)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

PART 4

ACQUISITION BY PROPERTY TRADER FROM INDIVIDUAL WHERE CHAIN OF TRANSACTIONS BREAKS DOWN

Full relief

- 9 Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Partial relief

- 10 Where qualifying conditions (a) to (g) but not (h) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

Qualifying conditions

- 11 In this Part of this schedule, the qualifying conditions are—
- (a) that the individual has made arrangements to sell the old dwelling and acquire another dwelling (“the second dwelling”),
 - (b) that the arrangements to sell the old dwelling fail,
 - (c) that the acquisition of the old dwelling is made for the purpose of enabling the individual’s acquisition of the second dwelling to proceed,
 - (d) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in the circumstances mentioned in conditions (a) to (c),
 - (e) that the individual occupied the old dwelling as the individual’s only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (f) that the individual intends to occupy the second dwelling as the individual’s only or main residence,
 - (g) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling,
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
 - (h) that the area of land acquired does not exceed the permitted area.
- 12 Paragraph 11(g)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

PART 5

WITHDRAWAL OF RELIEF

Introductory

- 13 (1) Relief under this schedule is withdrawn in the following circumstances.
- (2) Where relief is withdrawn, the amount of tax chargeable is the amount that would have been chargeable in respect of the acquisition but for the relief.

Relief under Part 3

- 14 Relief under Part 3 of this schedule (acquisition by property trader from individual acquiring new dwelling) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling,
 - (b) grants a lease or licence of the old dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.
- 15 Paragraph 14(b) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

Relief under Part 4

- 16 Relief under Part 4 of this schedule (acquisition by property trader from individual where chain of transactions breaks down) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling,
 - (b) grants a lease or licence of the old dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.
- 17 Paragraph 16(b) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

PART 6

INTERPRETATION

Meaning of “dwelling” and “new dwelling”

- 18 “Dwelling” includes land occupied and enjoyed with the dwelling as its garden or grounds.
- 19 A building or part of a building is a “new dwelling” if—
- (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
 - (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.

Meaning of “permitted area”

- 20 “The permitted area”, in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—
- (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
 - (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.
- 21 Where paragraph 20(b) applies, the permitted area is taken to consist of that part of the land that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

Meaning of “acquisition” and “market value” in relation to dwelling and permitted area

- 22 References in this schedule to—
- (a) the acquisition of a dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling,
 - (b) the market value of a dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Meaning of “house-building company”

- 23 A “house-building company” means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.
- 24 References in this schedule to such a company include any company connected with it.

Meaning of “property trader” and “principal”

- 25 (1) A “property trader” means an entity listed in sub-paragraph (2) that carries on the business of buying and selling dwellings.
- (2) The entities are—
- (a) a company,
 - (b) a limited liability partnership,
 - (c) a partnership whose partners are all either companies or limited liability partnerships.
- (3) A “principal”—
- (a) in relation to a company, means a director,
 - (b) in relation to a limited liability partnership, means a member,
 - (c) in relation to a partnership mentioned in sub-paragraph (2)(c) means a partner or a principal of a partner.
- 26 For the purposes of this schedule—
- (a) anything done by or in relation to a company connected with a property trader is treated as done by or in relation to that property trader, and
 - (b) references to the principals or employees of a property trader include the principals or employees of any such company.

Status: This is the original version (as it was originally enacted).

Meaning of “refurbishment” and “the permitted amount”

- 27 “Refurbishment” of a dwelling means the carrying out of works that enhance or are intended to enhance the value of the dwelling, but does not include—
- (a) cleaning the dwelling, or
 - (b) works required solely for the purpose of ensuring that the dwelling meets minimum safety standards.
- 28 The “permitted amount”, in relation to the refurbishment of a dwelling, is set out in the following table—

| Consideration for acquisition of the dwelling | Permitted amount |
|--|-------------------------|
| Not more than £200,000 | £10,000 |
| More than £200,000 but not more than £400,000 | 5% of the consideration |
| More than £400,000 | £20,000 |