

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, SCHEDULE 25. (See end of Document for details)

SCHEDULES

SCHEDULE 25

Section 142.

PROPERTY OF HISTORIC INTEREST ETC

Meaning of “the 1984 Act”

1 In this Schedule “the 1984 Act” means the ^{M1}Inheritance Tax Act 1984.

Marginal Citations

M1 1984 c. 51.

Claims for designation

2 (1) In section 30 of the 1984 Act (conditionally exempt transfers), after subsection (3B) there shall be inserted the following subsection—

“(3BA) A claim under subsection (1) above must be made no more than two years after the date of the transfer of value to which it relates or, in the case of a claim with respect to a potentially exempt transfer, the date of the death, or (in either case) within such longer period as the Board may allow.”

(2) This paragraph has effect in relation to any transfer of value or death on or after 17th March 1998.

3 (1) In section 78 of the 1984 Act (conditionally exempt occasions), after subsection (1) there shall be inserted the following subsection—

“(1A) A claim under subsection (1) above must be made no more than two years after the date of the transfer or other event in question or within such longer period as the Board may allow.”

(2) This paragraph has effect in relation to transfers of property made, and other events occurring, on or after 17th March 1998.

Property capable of designation

4 (1) In section 31 of the 1984 Act, in subsection (1) (property capable of designation under that section), for paragraph (a) there shall be substituted the following paragraphs—

“(a) any relevant object which appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;

(aa) any collection or group of relevant objects which, taken as a whole, appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;”.

(2) In subsections (2) and (3) of that section, for “(1)(a)”, wherever occurring, there shall be substituted “(1)(a) or (aa)”.

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- (3) For subsection (5) of that section, there shall be substituted the following subsection—

“(5) In this section—

‘national interest’ includes interest within any part of the United Kingdom; and

‘relevant object’ means—

- (a) a picture, print, book, manuscript, work of art or scientific object, or
- (b) anything not falling within paragraph (a) above that does not yield income;

and in determining under subsection (1)(a) or (aa) above whether an object or a collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.”

- (4) This paragraph has effect in relation to the making of any designation on a claim made on or after the day on which this Act is passed.

Access to designated property

- 5 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after subsection (4F) there shall be inserted the following subsection—

“(4FA) For the purposes of this section, the steps agreed for securing reasonable access to the public must ensure that the access that is secured is not confined to access only where a prior appointment has been made.”

- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

Publication of information about designated property

- 6 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after the subsection (4FA) of that section inserted by paragraph 5 above there shall be inserted the following subsection—

“(4FB) Subject to subsection (3) above, where the steps that may be set out in any undertaking include steps for securing reasonable access to the public to any property, the steps that may be agreed and set out in that undertaking may also include steps involving the publication of—

- (a) the terms of any undertaking given or to be given for any of the purposes of this Act with respect to the property; or
- (b) any other information relating to the property which (apart from this subsection) would fall to be treated as confidential;

and references in this Act to an undertaking for access to any property shall be construed as including references to so much of any undertaking as provides for the taking of steps involving any such publication.”

- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

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Undertakings on death, disposal of property, etc.

- 7 (1) In section 32 of the 1984 Act (chargeable events in relation to conditionally exempt transfers), in subsection (2), for “subsection (5)(b)” there shall be substituted “subsection (5AA)”.
- (2) In subsection (5) of that section, for paragraph (b) there shall be substituted the following paragraph—
- “(b) the condition specified in subsection (5AA) below is satisfied with respect to the property.”
- (3) After that subsection there shall be inserted the following subsection—
- “(5AA) The condition referred to in subsection (5)(b) above is satisfied if—
- (a) the requisite undertaking described in section 31 above is given with respect to the property by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where the property is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Board think appropriate in the circumstances of the case.”
- (4) In section 32A of the 1984 Act (chargeable events in relation to associated properties), in subsection (6), for the words from “unless” to “case; and” there shall be substituted—
- “unless—
- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) not disposed of by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part not disposed of is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to that property (or that part) by such person or persons as the Board think appropriate in the circumstances of the case;
- and”.
- (5) In subsection (8) of that section, for paragraph (b) there shall be substituted the following paragraph—
- “(b) the condition specified in subsection (8A) below is satisfied with respect to the property (or part) concerned.”
- (6) After that subsection there shall be inserted the following subsection—
- “(8A) The condition referred to in subsection (8)(b) above is satisfied if—
- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case.”

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(7) For subsection (9) of that section there shall be substituted the following subsection—

“(9) If the whole or part of any property is disposed of by sale and—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case,

the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).”

(8) In Schedule 5 to the 1984 Act, for paragraph 5 (undertaking capable of preventing disposal from being chargeable in cases where death occurred before 7th April 1976) there shall be substituted the following paragraph—

“5 (1) The further undertaking referred to in paragraph 1 above is the requisite undertaking described in section 31(2) of this Act given with respect to the object in question by such person as the Board think appropriate in the circumstances of the case.

(2) Subsection (3) of section 31 of this Act shall apply in relation to documents which are designated as objects to which section 31 of the ^{M2}Finance Act 1975 applies as that subsection applies in relation to documents designated under section 31(1)(a) of this Act.

(3) The further undertaking referred to in paragraph 3 above is—

- (a) the requisite undertaking described in subsection (4) of section 31 of this Act given with respect to the property in question by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where applicable) the requisite undertakings described in subsections (4) and (4A) of that section given with respect to the property in question by such person or persons as the Board think appropriate in the circumstances of the case.”

(9) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

Marginal Citations

M2 1975 c. 7.

Variation of undertakings

8 (1) After section 35 of the 1984 Act there shall be inserted the following section—

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“35A Variation of undertakings.

- (1) An undertaking given under section 30, 32 or 32A above or paragraph 5 of Schedule 5 to this Act may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
 - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
 - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
 - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”

(2) After section 79 of the 1984 Act there shall be inserted the following section—

“79A Variation of undertakings.

- (1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
 - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
 - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
 - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”

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- (3) In Schedule 4 to the 1984 Act (maintenance funds for historic buildings), in paragraph 3, after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(3A) Section 35A of this Act shall apply in relation to an undertaking given under sub-paragraph (3) above as it applies in relation to an undertaking given under section 30 of this Act.”
- (4) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.
- 9 (1) In section 258 of the ^{M3}Taxation of Chargeable Gains Act 1992 (disposal of works of art), after subsection (8) there shall be inserted the following subsection—
- “(8A) Section 35A of the 1984 Act (variation of undertakings) shall have effect in relation to an undertaking given under this section as it has effect in relation to an undertaking given under section 30 of that Act.”
- (2) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.

Marginal Citations

M3 1992 c. 12.

- 10 (1) Section 35A of the 1984 Act applies in relation to a relevant undertaking given with respect to any property before the day on which this Act is passed except in a case where there has been a chargeable event with respect to that property at any time after the giving of the undertaking but before that day.
- (2) In its application to such a relevant undertaking, section 35A of the 1984 Act applies with the modifications set out in sub-paragraphs (3) and (4) below.
- (3) The first modification is the substitution, for paragraph (a) of subsection (2), of the following paragraph—
- “(a) the Board have made a proposal to the person bound by such an undertaking for the undertaking to be varied so as to include (where it does not already do so) an extended access requirement or a publication requirement (or both those requirements).”
- (4) The second modification is the insertion, after subsection (4), of the following subsections—
- “(5) For the purposes of subsection (2)(a) above—
- (a) an extended access requirement is a requirement for the taking of steps ensuring that the access to the public that is secured is not confined to access only where a prior appointment has been made; and
- (b) a publication requirement is a requirement for the taking of steps involving the publication of any matter mentioned in paragraph (a) or (b) of section 31(4FB) above.
- (6) In determining for the purposes of subsection (2)(a) above whether an undertaking already includes an extended access requirement, there shall be disregarded so much of the undertaking as includes provision for the

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property with respect to which the undertaking was given to be made available temporarily for the purposes of special exhibitions.”

- (5) In this paragraph “relevant undertaking” means any of the following—
- (a) an undertaking given under section 30, 32, 32A, 78 or 79 of the 1984 Act;
 - (b) an undertaking given under paragraph 3(3) of Schedule 4 to the 1984 Act or paragraph 5(2) of Schedule 5 to that Act;
 - (c) an undertaking given under section 76, 78, 81 or 82 of the ^{M4}Finance Act 1976;
 - (d) an undertaking given under section 34(2) of the ^{M5}Finance Act 1975;
 - (e) an undertaking given under section 258 of the ^{M6}Taxation of Chargeable Gains Act 1992.
- (6) In this paragraph “chargeable event”, in relation to any property means—
- (a) an event which under section 32 or 32A of the 1984 Act is a chargeable event with respect to that property; or
 - (b) an event which under either of those sections would be such an event if (where it is not the case) the undertaking in question had been given under section 30 of that Act.

Marginal Citations

M4 1976 c. 40.

M5 1975 c. 7.

M6 1992 c. 12.

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