

SCHEDULES

SCHEDULE 20

INHERITANCE TAX: RULES FOR TRUSTS ETC

PART 3

RELATED AMENDMENTS IN IHTA 1984

Commencement

- 7 The following paragraphs of this Part of this Schedule shall be deemed to have come into force on 22nd March 2006.

Deemed disposition where omission to exercise a right increases value of another person's estate or of settled property not aggregated with a person's estate

- 8 In section 3(3) of IHTA 1984 (failure to exercise a right treated as disposition if the omission increases the value of another person's estate or the value of settled property in which no interest in possession subsists), for the words from the beginning to “increased” substitute—

“Where the value of a person's estate is diminished, and the value—

- (a) of another person's estate, or
- (b) of any settled property, other than settled property treated by section 49(1) below as property to which a person is beneficially entitled,

is increased”.

Potentially exempt transfers: provision in consequence of section 71 of IHTA 1984 not applying to property settled on or after 22nd March 2006

- 9 (1) Section 3A of IHTA 1984 (potentially exempt transfers) is amended as follows.
- (2) In subsection (1)(a) (transfer must be one made on or after 18th March 1986), after “1986” insert “but before 22nd March 2006”.
- (3) After subsection (1) insert—
- “(1A) Any reference in this Act to a potentially exempt transfer is also a reference to a transfer of value—
- (a) which is made by an individual on or after 22nd March 2006,
 - (b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer), and

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- (c) to the extent that it constitutes—
 - (i) a gift to another individual,
 - (ii) a gift into a disabled trust, or
 - (iii) a gift into a bereaved minor’s trust on the coming to an end of an immediate post-death interest.

(1B) Subsections (1) and (1A) above have effect subject to any provision of this Act which provides that a disposition (or transfer of value) of a particular description is not a potentially exempt transfer.”

- (4) In subsection (2) (extent to which transfer is a gift to another individual), after “subsection (1)(c)” insert “or (1A)(c)(i)”.

- (5) After subsection (3) insert—

“(3A) Subject to subsection (6) below, a transfer of value falls within subsection (1A)(c)(ii) above to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 89 below applies.

(3B) A transfer of value falls within subsection (1A)(c)(iii) above to the extent that the value transferred is attributable to settled property (whenever settled) that becomes property to which section 71A below applies in the following circumstances—

- (a) under the settlement, a person (“L”) is beneficially entitled to an interest in possession in the settled property,
- (b) the interest in possession is an immediate post-death interest,
- (c) on or after 22nd March 2006, but during L’s life, the interest in possession comes to an end,
- (d) L is beneficially entitled to the interest in possession immediately before it comes to an end, and
- (e) on the interest in possession coming to an end, the property—
 - (i) continues to be held on the trusts of the settlement, and
 - (ii) becomes property to which section 71A below applies.”

- (6) In subsection (7) (application of section in relation to charge to tax under section 52), after “subsection (1)(a)” insert “or (1A)(a)”.

Person’s “estate” not to include certain interests in possession

- 10 (1) Section 5 of IHTA 1984 (meaning of “estate”) is amended as follows.

- (2) In subsection (1) (person’s estate is aggregate of all property to which person beneficially entitled, except that person’s estate immediately before death does not include excluded property), for “except that the” substitute “except that—

- (a) the estate of a person—
 - (i) does not include an interest in possession in settled property to which section 71A or 71D below applies, and
 - (ii) does not include an interest in possession that falls within subsection (1A) below, and
- (b) the”.

- (3) After subsection (1) insert—

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- “(1A) An interest in possession falls within this subsection if—
- (a) it is an interest in possession in settled property,
 - (b) the settled property is not property to which section 71A or 71D below applies,
 - (c) the person is beneficially entitled to the interest in possession,
 - (d) the person became beneficially entitled to the interest in possession on or after 22nd March 2006, and
 - (e) the interest in possession is—
 - (i) not an immediate post-death interest,
 - (ii) not a disabled person’s interest, and
 - (iii) not a transitional serial interest.”

Life assurance policies entered into before 22nd March 2006

- 11 (1) After section 46 of IHTA 1984 insert—

“46A Contract of life insurance entered into before 22nd March 2006 which on that day is settled property in which interest in possession subsists

- (1) Subsections (2) and (4) below apply where—
- (a) a settlement commenced before 22nd March 2006,
 - (b) a contract of life insurance was entered into before that day,
 - (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,
 - (d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—
 - (i) were comprised in the settlement, and
 - (ii) were settled property in which a transitionally-protected interest (whether or not the same such interest throughout that period) subsisted,
 - (e) rights under the contract become, by reference to payment of the premium or as a result of the variation,—
 - (i) comprised in the settlement, and
 - (ii) part of the settled property in which the then-current transitionally-protected interest subsists, and
 - (f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it is a variation that—
 - (i) increased the benefits secured by the contract, or
 - (ii) extended the term of the insurance provided by the contract, was an allowed variation.
- (2) For the purposes of the provisions mentioned in subsection (3) below—
- (a) the rights mentioned in subsection (1)(e) above shall be taken to have become comprised in the settlement, and
 - (b) the person beneficially entitled to the then-current transitionally-protected interest shall be taken to have become beneficially entitled to his interest in possession so far as it subsists in those rights, before 22nd March 2006.

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- (3) Those provisions are—
- section 3A(2) above;
 - section 5(1A) above;
 - section 49(1A) and (1B) below;
 - section 51(1A) and (1B) below;
 - section 52(2A) and (3A) below;
 - section 53(1A) and (2A) below;
 - section 54(2A) and (2B) below;
 - section 54A(1A) below;
 - section 57A(1A) below;
 - section 58(1B) and (1C) below;
 - section 59(1) and (2) below;
 - section 80(4) below;
 - section 100(1A) below;
 - section 101(1A) below;
 - section 102ZA(1) of the Finance Act 1986 (gifts with reservation); and
 - sections 72(1A) and (2A) and 73(2A) of the 1992 Act.
- (4) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.
- (5) In this section—
- “allowed variation”, in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006;
 - “transitionally-protected interest” means—
 - (a) an interest in possession to which a person was beneficially entitled immediately before, and on, 22nd March 2006, or
 - (b) a transitional serial interest.

46B Contract of life insurance entered into before 22nd March 2006 which immediately before that day is property to which section 71 applies

- (1) Subsections (2) and (5) below apply where—
- (a) a settlement commenced before 22nd March 2006,
 - (b) a contract of life insurance was entered into before that day,
 - (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,
 - (d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—
 - (i) were comprised in the settlement, and
 - (ii) were settled property to which section 71 below applied,
 - (e) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and
 - (f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—

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- (i) increased the benefits secured by the contract, or
 - (ii) extended the term of the insurance provided by the contract,was an allowed variation.
- (2) If the rights mentioned in subsection (1)(e) above would, but for subsection (1A) of section 71 below, become property to which that section applies, those rights shall become settled property to which that section applies when they become comprised in the settlement.
- (3) Subsection (5) below also applies where—
 - (a) a settlement commenced before 22nd March 2006,
 - (b) a contract of life insurance was entered into before that day,
 - (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day when there are rights under the contract—
 - (i) that are comprised in the settlement and are settled property to which section 71A or 71D below applies,
 - (ii) that immediately before that day were settled property to which section 71 below applied, and
 - (iii) that on or after that day, but before the particular time, became property to which section 71A or 71D below applies in circumstances falling within subsection (4) below,
 - (d) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and
 - (e) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—
 - (i) increased the benefits secured by the contract, or
 - (ii) extended the term of the insurance provided by the contract,was an allowed variation.
- (4) The circumstances referred to in subsection (3)(c)(iii) above are—
 - (a) in the case of property to which section 71D below applies, that the property on becoming property to which section 71D below applies ceased to be property to which section 71 below applied without ceasing to be settled property;
 - (b) in the case of property to which section 71A below applies—
 - (i) that the property on becoming property to which section 71A below applies ceased, by the operation of section 71(1B) below, to be property to which section 71 below applied, or
 - (ii) that the property, having become property to which section 71D below applied in circumstances falling within paragraph (a) above, on becoming property to which 71A below applies ceased, by the operation of section 71D(5)(a) below, to be property to which section 71D below applied.
- (5) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.

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(6) In this section “allowed variation”, in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006.”

(2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

Tax where interest in possession ends, or is treated as ending, during beneficiary’s life

12 In section 51 of IHTA 1984 (disposal of interest in possession not a transfer of value, but treated as coming to end of interest), after subsection (1) insert—

“(1A) Where the interest disposed of is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (1) above applies in relation to the disposal only if the interest is—

- (a) an immediate post-death interest,
- (b) a disabled person’s interest within section 89B(1)(c) or (d) below, or
- (c) a transitional serial interest.

(1B) Where the interest disposed of is one to which the person became beneficially entitled before 22nd March 2006, subsection (1) above does not apply in relation to the disposal if, immediately before the disposal, section 71A or 71D below applies to the property in which the interest subsists.”

13 (1) Section 52 of IHTA 1984 (tax on termination of interest in possession) is amended as follows.

(2) After subsection (2) insert—

“(2A) Where the interest mentioned in subsection (1) or (2) above is one to which the person became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the coming to an end of the interest only if the interest is—

- (a) an immediate post-death interest,
- (b) a disabled person’s interest, or
- (c) a transitional serial interest.”

(3) After subsection (3) insert—

“(3A) Where the interest mentioned in paragraph (a) of subsection (3) above is one to which the person mentioned in that paragraph became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the transaction only if the interest is—

- (a) an immediate post-death interest,
- (b) a disabled person’s interest, or
- (c) a transitional serial interest.”

14 (1) Section 53 of IHTA 1984 (exceptions from tax charge under section 52) is amended as follows.

(2) After subsection (1) insert—

“(1A) Tax shall not be chargeable under section 52 above if—

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- (a) the person whose interest comes to an end became beneficially entitled to the interest before 22nd March 2006,
- (b) the interest comes to an end on or after that day, and
- (c) immediately before the interest comes to an end, section 71A or 71D below applies to the property in which the interest subsists.”

(3) After subsection (2) insert—

“(2A) Where—

- (a) a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, and
- (b) the interest is not a disabled person’s interest,

subsection (2) above applies in relation to the coming to an end of the interest with the omission of the words “or to another interest in possession in the property”.”

Non-aggregation with deceased person’s estate of property in which he had interest in possession if property reverts to settlor or passes to settlor’s spouse or civil partner etc

15 (1) Section 54 of IHTA 1984 (exceptions from charge on death) is amended as follows.

(2) After subsection (2) insert—

“(2A) Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsections (1) and (2) above apply in relation to the interest only if it is—

- (a) a disabled person’s interest, or
- (b) a transitional serial interest.

(2B) Where—

- (a) a person (“B”) becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property,
- (b) B dies,
- (c) the interest in possession, throughout the period beginning with when B becomes beneficially entitled to it and ending with B’s death, is an immediate post-death interest,
- (d) the settlor died before B’s death but less than two years earlier, and
- (e) on B’s death, the settlor’s widow or widower, or surviving civil partner, becomes beneficially entitled to the settled property and is domiciled in the United Kingdom,

the value of the settled property shall be left out of account in determining for the purposes of this Act the value of B’s estate immediately before his death.”

(3) In subsection (3) (section 53(5) and (6) apply in relation to subsections (1) and (2))—

- (a) for “(1) and (2)” substitute “(1), (2) and (2B)”, and
- (b) at the end add “, but as if the reference in section 53(5)(a) above to section 53(4)(b) above were to subsection (2)(b) or (2B) above.”

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Rate of tax on ending of interest in possession in property settled during settlor's life

- 16 (1) Section 54A of IHTA 1984 (special rate of charge on coming to end of interest in possession in settled property affected by potentially exempt transfer) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsection (1)(b) above applies in relation to the person's death only if the interest is—
- (a) a disabled person's interest, or
- (b) a transitional serial interest.”
- (3) In subsection (2) (circumstances in which section applies to a chargeable transfer)—
- (a) in paragraph (c), omit “, other than property to which section 71 below applies”, and
- (b) in paragraph (d)(i), omit “or to which section 71 below applies”.
- (4) Where a chargeable transfer to which section 54A of IHTA 1984 applies was made before 22nd March 2006, that section has effect in relation to that transfer without the amendments made by sub-paragraph (3).

Property entering maintenance fund after death of person entitled to interest in possession

- 17 In section 57A of IHTA 1984 (relief where property enters fund for maintenance of historic buildings etc), after subsection (1) insert—
- “(1A) Where the interest mentioned in subsection (1)(a) above is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (2) below does not apply unless, immediately before the person's death, the interest was—
- (a) an immediate post-death interest,
- (b) a disabled person's interest, or
- (c) a transitional serial interest.”

“Relevant property” not to include property held on trust for a bereaved child

- 18 In section 58(1)(b) of IHTA 1984 (property to which certain sections apply is not relevant property for purposes of Chapter 3 of Part 3), after “71,” insert “71A, 71D,”.

“Relevant property” to include property held on employee trusts or newspaper trusts if certain interests in possession subsist in the property

- 19 (1) Section 58 of IHTA 1984 (meaning of “relevant property” in Chapter 3 of Part 3) is amended as follows.
- (2) In subsection (1)(b) (which provides that property to which section 86 applies is not relevant property), after “86 below applies” insert “(but see subsection (1A) below)”.
- (3) After subsection (1) insert—
- “(1A) Settled property to which section 86 below applies is “relevant property” for the purposes of this Chapter if—
- (a) an interest in possession subsists in that property, and

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- (b) that interest falls within subsection (1B) or (1C) below.
- (1B) An interest in possession falls within this subsection if—
- (a) an individual is beneficially entitled to the interest in possession,
 - (b) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
 - (c) the interest in possession is—
 - (i) not an immediate post-death interest,
 - (ii) not a disabled person’s interest, and
 - (iii) not a transitional serial interest.
- (1C) An interest in possession falls within this subsection if—
- (a) a company is beneficially entitled to the interest in possession,
 - (b) the business of the company consists wholly or mainly in the acquisition of interests in settled property,
 - (c) the company has acquired the interest in possession for full consideration in money or money’s worth from an individual who was beneficially entitled to it,
 - (d) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
 - (e) immediately before the company acquired the interest in possession, the interest in possession was neither an immediate post-death interest nor a transitional serial interest.”

Certain interests in possession to which a person becomes entitled on or after 22nd March 2006 not to be “qualifying interests in possession” for purposes of Chapter 3 of Part 3 of IHTA 1984

- 20 (1) Section 59 of IHTA 1984 (settlements without interests in possession: meaning of “qualifying interest in possession”) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) In this Chapter “qualifying interest in possession” means—
- (a) an interest in possession—
 - (i) to which an individual is beneficially entitled, and
 - (ii) which, if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, is an immediate post-death interest, a disabled person’s interest or a transitional serial interest, or
 - (b) an interest in possession to which, where subsection (2) below applies, a company is beneficially entitled.”
- (3) In subsection (2) (cases where interest in possession to which a company is entitled is a “qualifying” interest), after paragraph (b) insert “, and
- (c) if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, the interest is an immediate post-death interest, or a disabled person’s interest within section 89B(1)(c) or (d) below or a transitional serial interest, immediately before the company acquires it.”

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- (4) Where a chargeable transfer to which section 54A of IHTA 1984 applies was made before 22nd March 2006, that section has effect in relation to that transfer as if in that section “qualifying interest in possession” has the meaning it would have apart from sub-paragraphs (1) to (3).
- (5) In the heading to Chapter 3 of Part 3 of IHTA 1984, at the end add “, AND CERTAIN SETTLEMENTS IN WHICH INTERESTS IN POSSESSION SUBSIST”.

New meaning of “qualifying interest in possession” not to apply in section 72 of IHTA 1984

- 21 (1) Section 72 of IHTA 1984 (property leaving employee trusts and newspaper trusts) is amended as follows.
- (2) In subsection (1) (section 72 applies to property to which section 86 applies if no qualifying interest in possession subsists in it), for “if no qualifying interest in possession subsists in it” substitute “if—
- (a) no interest in possession subsists in it to which an individual is beneficially entitled, and
 - (b) no company-purchased interest in possession subsists in it.”
- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1)(b) above, an interest in possession is “company-purchased” if—
- (a) a company is beneficially entitled to the interest in possession,
 - (b) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and
 - (c) the company has acquired the interest in possession for full consideration in money or money’s worth from an individual who was beneficially entitled to it.
- (1B) Section 59(3) and (4) above apply for the purposes of subsection (1A)(c) above as for those of section 59(2)(b) above, but as if the references to the condition set out in section 59(2)(a) above were to the condition set out in subsection (1A)(b) above.”

No charge under sections 71B, 71E etc where property held on trusts for bereaved child becomes held on trusts for charitable purposes etc

- 22 In section 76(1) of IHTA 1984 (which provides for tax not to be charged under certain provisions of Chapter 3 of Part 3 where property becomes held for charitable purposes etc), after “71,” insert “71A, 71D,”.

No postponement of commencement date of settlement where property settled on or after 22nd March 2006 unless settlor, or spouse or civil partner, has immediate post-death interest

- 23 In section 80 of IHTA 1984 (postponement of commencement date of settlement where settlor, or spouse or civil partner or surviving spouse or surviving civil partner, has interest in possession at outset), after subsection (3) insert—
- “(4) Where the occasion first referred to in subsection (1) above occurs on or after 22nd March 2006, this section applies—

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- (a) as though for “an interest in possession” in each place where that appears in subsection (1) above there were substituted “a postponing interest”, and
- (b) as though, for the purposes of that subsection, each of the following were a “postponing interest”—
 - (i) an immediate post-death interest;
 - (ii) a disabled person’s interest.”

Protective trusts

24 In section 88 of IHTA 1984 (protective trusts), after subsection (2) insert—

“(3) Where—

- (a) settled property became held before 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and
- (b) as a result of the failure or determination of those trusts on or after 22nd March 2006, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession,

this Act shall apply in relation to that interest in possession as if the principal beneficiary became beneficially entitled to that interest in possession before 22nd March 2006.

(4) Subsection (5) below applies where—

- (a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925,
- (b) the interest of the principal beneficiary under those trusts is—
 - (i) an immediate post-death interest,
 - (ii) a disabled person’s interest within section 89B(1)(c) or (d) below, or
 - (iii) a transitional serial interest, and
- (c) as a result of the failure or determination of those trusts, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession.

(5) This Act shall apply—

- (a) as if that interest in possession were a continuation of the immediate post-death interest, disabled person’s interest or transitional serial interest, and
- (b) as if the immediate post-death interest, or disabled person’s interest or transitional serial interest, had not come to an end on the failure or determination of the trusts.

(6) Subsection (2) above does not apply in a case where—

- (a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and
- (b) the interest of the principal beneficiary under those trusts is—
 - (i) not an immediate post-death interest,

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- (ii) not a disabled person's interest within section 89B(1)(c) or (d) below, and
- (iii) not a transitional serial interest.”

Alterations of capital etc of close company where participator holds shares etc in company as trustee of settled property in which an interest in possession subsists

- 25 In section 100 of IHTA 1984 (alteration of close company's capital etc where participator is trustee of settlement under which an individual is beneficially entitled to an interest in possession), after subsection (1) insert—

- “(1A) Where the interest in possession is one to which the individual became beneficially entitled on or after 22nd March 2006, this section applies only if the interest in possession is—
- (a) an immediate post-death interest,
 - (b) a disabled person's interest, or
 - (c) a transitional serial interest.”

Close company's interest in possession treated as interest of its participators

- 26 In section 101 of IHTA 1984 (where close company has interest in possession in settled property, its participators are treated for purposes of IHTA 1984 as the persons entitled to the interest), after subsection (1) insert—

- “(1A) Where the interest in possession mentioned in subsection (1) above is one to which the company became entitled on or after 22nd March 2006 (whether or not the company was a close company when it became entitled to the interest), subsection (1) above applies in relation to the interest only if it is—
- (a) an immediate post-death interest, or
 - (b) a transitional serial interest.

(1B) Subsection (1C) below applies where any of the participators mentioned in subsection (1) above (“the prior participator”) disposes of rights and interests of his in the company to another person (“the later participator”).

(1C) If and so far as the later participator is a participator in the company by virtue of having any of the rights and interests disposed of, subsection (1) above is to be applied to him only as a participator in his own right (in particular, he is not to be treated by virtue of that subsection as having entitlement to the interest in possession as a result of disposal to him of entitlement that the prior participator was treated as having by virtue of that subsection, but this is without prejudice to the application of this Act in relation to the prior participator as the person making the disposal).”

Distributions within two years of person's death out of property settled by his will

- 27 (1) Section 144 of IHTA 1984 (distribution etc from property settled by will) is amended as follows.

(2) In subsection (1)—

- (a) for “This section applies” substitute “Subsection (2) below applies”, and
- (b) in paragraph (a), for “(apart from this section)” substitute “(apart from subsection (2) below)”.

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

(3) After subsection (1) insert—

“(1A) Where the testator dies on or after 22nd March 2006, subsection (1) above shall have effect as if the reference to any interest in possession were a reference to any interest in possession that is—

- (a) an immediate post-death interest, or
- (b) a disabled person’s interest.”

(4) In subsection (2), for “this section” (in both places) substitute “this subsection”.

(5) After subsection (2) insert—

“(3) Subsection (4) below applies where—

- (a) a person dies on or after 22nd March 2006,
- (b) property comprised in the person’s estate immediately before his death is settled by his will, and
- (c) within the period of two years after his death, but before an immediate post-death interest or a disabled person’s interest has subsisted in the property, there occurs an event that involves causing the property to be held on trusts that would, if they had in fact been established by the testator’s will, have resulted in—
 - (i) an immediate post-death interest subsisting in the property, or
 - (ii) section 71A or 71D above applying to the property.

(4) Where this subsection applies by virtue of an event—

- (a) this Act shall have effect as if the will had provided that on the testator’s death the property should be held as it is held after the event, but
- (b) tax shall not be charged on that event under any provision of Chapter 3 of Part 3 of this Act.

(5) Subsection (4) above also applies where—

- (a) a person dies before 22nd March 2006,
- (b) property comprised in the person’s estate immediately before his death is settled by his will,
- (c) an event occurs—
 - (i) on or after 22nd March 2006, and
 - (ii) within the period of two years after the testator’s death, that involves causing the property to be held on trusts within subsection (6) below,
- (d) no immediate post-death interest, and no disabled person’s interest, subsisted in the property at any time in the period beginning with the testator’s death and ending immediately before the event, and
- (e) no other interest in possession subsisted in the property at any time in the period beginning with the testator’s death and ending immediately before 22nd March 2006.

(6) Trusts are within this subsection if they would, had they in fact been established by the testator’s will and had the testator died at the time of the event mentioned in subsection (5)(c) above, have resulted in—

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

- (a) an immediate post-death interest subsisting in the property, or
- (b) section 71A or 71D above applying to the property.”

Interpretation of IHTA 1984

28 In section 272 of IHTA 1984 (general interpretation), in the appropriate place insert—

““disabled person’s interest” has the meaning given by section 89B above;”

““immediate post-death interest” means an immediate post-death interest for the purposes of Chapter 2 of Part 3 (see section 49A above);”

““transitional serial interest” means a transitional serial interest for the purposes of Chapter 2 of Part 3 (see section 49B above);”.