

## SCHEDULES

### SCHEDULE 44

Section 216

#### TRUSTS WITH VULNERABLE BENEFICIARY

##### *Inheritance Tax Act 1984*

- 1 IHTA 1984 is amended as follows.
- 2 (1) Section 71A (trusts for bereaved minors) is amended as follows.
  - (2) For subsection (3)(c)(ii) substitute—
    - “(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor.”
  - (3) In subsection (4), before paragraph (a) insert—
    - “(za) the trustees’ having powers that enable them to apply otherwise than for the benefit of the bereaved minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit.”
  - (4) After subsection (4) insert—
    - “(4A) For the purposes of this section and section 71B, the “annual limit” is whichever is the lower of the following amounts—
      - (a) £3,000, and
      - (b) 3% of the amount that is the maximum value of the settled property during the period in question.
    - (4B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.
    - (4C) The Treasury may by order made by statutory instrument—
      - (a) specify circumstances in which subsection (4)(za) is, or is not, to apply in relation to a trust, and
      - (b) amend the definition of “the annual limit” in subsection (4A).
    - (4D) An order under subsection (4C) may—
      - (a) make different provision for different cases, and
      - (b) contain transitional and saving provision.
    - (4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”
- 3 (1) Section 71B (charge to tax on property to which section 71A applies) is amended as follows.
  - (2) In subsection (1), after “(2)” insert “, (2B)”.

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- (3) After subsection (2) insert—
- “(2A) Subsection (2B) applies in a case in which—
- (a) an amount is paid or applied otherwise than for the benefit of the bereaved minor, and
- (b) the exemptions provided by subsection (2) of this section and subsections (3) and (4) of section 70 do not apply.
- (2B) In such a case, tax is not charged under this section in respect of whichever is the lower of the following amounts—
- (a) the amount paid or applied, and
- (b) the annual limit.”
- 4 (1) Section 71D (age 18-to-25 trusts) is amended as follows.
- (2) For subsection (6)(c)(ii) substitute—
- “(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B.”
- (3) After that subsection insert—
- “(6A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), paragraphs (b) and (c) of subsection (6) have effect as if for “living and under the age of 25,” there were substituted “under the age of 25 and the income arising from the settled property is held on trust for B.”
- (4) In subsection (7), before paragraph (a) insert—
- “(za) the trustees’ having powers that enable them to apply otherwise than for the benefit of B amounts (whether consisting of income or capital, or both) not exceeding the annual limit.”
- (5) After that subsection insert—
- “(7A) For the purposes of this section and section 71E, the “annual limit” is whichever is the lower of the following amounts—
- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.
- (7B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.
- (7C) The Treasury may by order made by statutory instrument—
- (a) specify circumstances in which subsection (7)(za) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (7A).
- (7D) An order under subsection (7C) may—
- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

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- (7E) A statutory instrument containing an order under subsection (7C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”
- 5 (1) Section 71E (charge to tax on property to which section 71D applies) is amended as follows.
- (2) In subsection (1), for “(4)” substitute “(4A)”.
- (3) After subsection (4) insert—
- “(4A) If an amount is paid or applied otherwise than for the benefit of B and the exemptions provided by subsections (2) to (4) do not apply, tax is not charged under this section in respect of whichever is the lower of the following amounts—
- (a) the amount paid or applied, and
- (b) the annual limit.”
- 6 (1) Section 89 (trusts for disabled persons) is amended as follows.
- (2) For subsection (1)(b) substitute—
- “(b) which secure that, if any of the settled property or income arising from it is applied during the disabled person’s life for the benefit of a beneficiary, it is applied for the benefit of the disabled person.”
- (3) For subsection (3) substitute—
- “(3) The trusts on which the settled property is held are not to be treated as falling outside subsection (1) by reason only of—
- (a) the trustees’ having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
- (f) the trustees’ having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).
- (3A) For the purposes of this section, the “annual limit” is whichever is the lower of the following amounts—
- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.
- (3B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

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- (3C) The Treasury may by order made by statutory instrument—
- (a) specify circumstances in which subsection (3)(a) is, or is not, to apply in relation to a trust, and
  - (b) amend the definition of “the annual limit” in subsection (3A).

- (3D) An order under subsection (3C) may—
- (a) make different provision for different cases, and
  - (b) contain transitional and saving provision.

(3E) A statutory instrument containing an order under subsection (3C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”

- (4) In subsection (4), for the words following “into settlement,” substitute “was a disabled person”.
- (5) For subsections (5) and (6) substitute—
- “(4A) In this section “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.”
- 7 (1) Section 89A (self-settlement by person with condition expected to lead to disability) is amended as follows.
- (2) In subsection (1)(b), for the words following “A becoming” substitute “a person falling within any paragraph of the definition of “disabled person” in paragraph 1 of Schedule 1A to the Finance Act 2005”.
- (3) In subsection (2), after “settled property” insert “or income arising from it”.
- (4) For subsections (5) and (6) substitute—
- “(5) For the purposes of subsection (1)(b), assume—
- (a) that A will meet any conditions as to residence or presence that are required to establish entitlement to the allowance, payment or increased pension in question,
  - (b) that there will be no provision made by regulations under any of the following—
    - (i) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCBA 1992,
    - (ii) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCB(NI)A 1992, and
    - (iii) sections 85 and 86 of WRA 2012 and the corresponding provision having effect in Northern Ireland, and
  - (c) that A will not be prevented from receiving the allowance, payment or increased pension in question by any of the following—
    - (i) section 113(1) of SSCBA 1992,
    - (ii) section 113(1) of SSCB(NI)A 1992,
    - (iii) section 87 of WRA 2012 and the corresponding provision having effect in Northern Ireland,
    - (iv) articles 61 and 64 of the Personal Injuries (Civilians) Scheme 1983 ([S.I. 1983/686](#)),

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- (v) article 53 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606), and
- (vi) article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517).”

(5) Before subsection (7) insert—

“(6A) The trusts on which the settled property is held are not to be treated as falling outside subsection (2) by reason only of—

- (a) the trustees’ having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
- (f) the trustees’ having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(6B) For the purposes of this section, the “annual limit” is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(6C) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(6D) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (6A)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (6B).

(6E) An order under subsection (6D) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(6F) A statutory instrument containing an order under subsection (6D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”

(6) For subsection (8) substitute—

“(8) In this section—

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“SSCBA 1992” means the Social Security Contributions and Benefits Act 1992,

“SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and

“WRA 2012” means the Welfare Reform Act 2012.”

- (7) In the heading, for the words following “**person**” substitute “**expected to fall within the definition of “disabled person”**”.
- 8 (1) Section 89B (meaning of “disabled person’s interest”) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) In subsection (1)(c) “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.”
- (3) After that subsection insert—
- “(2A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), subsection (1)(d)(v) has effect as if for “A’s life” there were substituted “the period during which the income from the property is held on trust for A”.”
- 9 (1) The amendments made by paragraphs 2 to 8 have effect in relation to property transferred into settlement on or after 8 April 2013.
- (2) Nothing in paragraphs 6 to 8 is to be read as preventing property transferred into a relevant settlement on or after 8 April 2013 from being property to which section 89 or 89A of IHTA 1984 applies.
- 10 (1) In section 89B (meaning of “disabled person’s interest”), in subsection (1)(c) after “2006” insert “if the trusts on which the settled property is held secure that, if any of the settled property is applied during the disabled person’s life for the benefit of a beneficiary, it is applied for the benefit of the disabled person”.
- (2) After that section insert—

**“89C Disabled person’s interest: powers of advancement etc**

- (1) The trusts on which settled property is held are not to be treated for the purposes of section 89B(1)(c) or (d) (meaning of “disabled person’s interest”: cases involving an interest in possession) as failing to secure that the settled property is applied for the benefit of a beneficiary by reason only of—
- (a) the trustees’ having powers that enable them to apply otherwise than for the benefit of the beneficiary amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
  - (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
  - (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
  - (d) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

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- (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
  - (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).
- (2) For the purposes of this section, the "annual limit" is whichever is the lower of the following amounts—
  - (a) £3,000, and
  - (b) 3% of the amount that is the maximum value of the settled property during the period in question.
- (3) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.
- (4) The Treasury may by order made by statutory instrument—
  - (a) specify circumstances in which subsection (1)(a) is, or is not, to apply in relation to a trust, and
  - (b) amend the definition of "the annual limit" in subsection (2).
- (5) An order under subsection (4) may—
  - (a) make different provision for different cases, and
  - (b) contain transitional and saving provision.
- (6) A statutory instrument containing an order under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."
- (3) The amendments made by this paragraph have effect in relation to property transferred into settlement on or after the day on which this Act is passed.
- (4) Nothing in this paragraph is to be read as preventing property transferred into a settlement to which sub-paragraph (5) applies from being settled property for the purposes of section 89B(1)(c) or (d) of IHTA 1984.
- (5) This sub-paragraph applies to a settlement—
  - (a) created before the day on which this Act is passed the trusts of which have not been altered on or after that day, or
  - (b) arising on or after the day on which this Act is passed under the will of a testator, if—
    - (i) the will was executed before the day on which this Act is passed and its provisions, so far as relating to the settlement, have not been altered on or after that day, or
    - (ii) the will was executed or confirmed on or after the day on which this Act is passed and its provisions, so far as relating to the settlement, are in the same terms as those contained in a will executed by the same testator before that day.

#### *Taxation of Chargeable Gains Act 1992*

11 TCGA 1992 is amended as follows.

- 12 (1) Section 169D (exceptions to rules on gifts to settlor-interested settlements etc) is amended as follows.

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(2) For subsection (3) substitute—

“(3) The first condition is that, immediately after the making of the disposal, the settled property is held on trusts which secure that, during the lifetime of a disabled person—

- (a) if any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit, and
- (b) either—
  - (i) the disabled person is entitled to all of the income (if there is any) arising from any of the property, or
  - (ii) if any such income is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit.”

(3) After subsection (4) insert—

“(4A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), subsection (3) has effect as if the reference to the lifetime of a disabled person were a reference to the period during which the income is held on trust for the disabled person.

(4B) The trusts on which the settled property is held are not to be treated as falling outside subsection (3) by reason only of—

- (a) the trustees’ having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
- (f) the trustees’ having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(4C) For the purposes of this section, the “annual limit” for a tax year is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(4D) The Treasury may by order—

- (a) specify circumstances in which subsection (4B)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (4C).



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- (4E) An order under subsection (4D) may—
- (a) make different provision for different cases, and
  - (b) contain transitional and saving provision.
- (4F) A statutory instrument containing an order under subsection (4D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”
- (4) For subsections (7) to (9) substitute—
- “(7) In this section “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.”
- (5) Omit subsection (10).
- (6) The amendments made by this paragraph have effect in relation to disposals to the trustees of a settlement on or after 8 April 2013.
- (7) But if the settlement is a relevant settlement, nothing in this paragraph is to be read as preventing section 169D(2) of TCGA 1992 from applying in relation to the disposal.
- 13 (1) Paragraph 1 of Schedule 1 (application of exempt amount and reporting limits in cases involving settled property) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “mentally disabled person or a person in receipt of attendance allowance or of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate” substitute “disabled person”, and
  - (b) for paragraphs (a) and (b) substitute—
    - “(a) if any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit, and
    - (b) either—
      - (i) the disabled person is entitled to all of the income (if there is any) arising from any of the property, or
      - (ii) if any such income is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit.”
- (3) After that sub-paragraph insert—
- “(1A) The trusts on which settled property is held are not to be treated as falling outside sub-paragraph (1) by reason only of—
- (a) the trustees’ having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
  - (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
  - (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

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- (d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
  - (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
  - (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).
- (1B) For the purposes of this paragraph, the “annual limit” for a tax year is whichever is the lower of the following amounts—
- (a) £3,000, and
  - (b) 3% of the amount that is the maximum value of the settled property during the tax year in question.
- (1C) The Treasury may by order—
- (a) specify circumstances in which sub-paragraph (1A)(a) is, or is not, to apply in relation to a trust, and
  - (b) amend the definition of “the annual limit” in sub-paragraph (1B).
- (1D) An order under sub-paragraph (1C) may—
- (a) make different provision for different cases, and
  - (b) contain transitional and saving provision.
- (1E) A statutory instrument containing an order under sub-paragraph (1C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”
- (4) In sub-paragraph (2), for the words from the beginning to “that sub-paragraph” substitute “The reference in sub-paragraph (1)”.
- (5) In sub-paragraph (6), for the definitions of “mentally disabled person”, “attendance allowance” and “disability living allowance” substitute—
- ““disabled person” has the meaning given by Schedule 1A to the Finance Act 2005; and”.
- (6) The amendments made by this paragraph have effect in relation to the tax year 2013-14 and subsequent tax years.
- (7) But if the settlement is a relevant settlement, nothing in this paragraph is to be read as preventing sections 3(1) to (5C) and 3A of TCGA 1992 from applying in relation to the settlement as provided by paragraph 1(1) of Schedule 1 to that Act.

*Finance Act 2005*

14 FA 2005 is amended as follows.

15 (1) Section 34 (disabled persons) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

“(b) either—

- (i) that the disabled person is entitled to all the income (if there is any) arising from any of the property, or

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(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the benefit of the disabled person.”

(3) For subsection (3) substitute—

“(3) The trusts on which property is held are not to be treated as failing to secure that the conditions in subsection (2) are met by reason only of—

- (a) the trustees’ having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
- (f) the trustees’ having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(3B) For the purposes of this section, the “annual limit” for a tax year is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(3C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (3)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (3B).

(3D) An order under subsection (3C) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(3E) A statutory instrument containing an order under subsection (3C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”

16 (1) Section 35 (relevant minors) is amended as follows.

(2) For subsection (3)(c)(ii) substitute—

“(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the benefit of the relevant minor.”

(3) For subsection (4) substitute—

“(4) Trusts to which subsection (2) applies are not to be treated as failing to secure that the conditions in subsection (3) are met by reason only of—

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- (a) the trustees' having powers that enable them to apply in any tax year otherwise than for the benefit of the relevant minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,
- (b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
- (f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(4B) For the purposes of this section, the “annual limit” for a tax year is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(4C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (4)(a) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (4B).

(4D) An order under subsection (4C) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”

17 For section 38 substitute—

**“38 Meaning of “disabled person”**

In this Chapter “disabled person” has the meaning given by Schedule 1A.”

18 The amendments made by paragraphs 15 to 17 have effect for the tax year 2013-14 and subsequent tax years.

19 After Schedule 1 insert—

“SCHEDULE  
1A

Section 38

MEANING OF “DISABLED PERSON”

**“Disabled person”**

- 1 “Disabled person” means—
- (a) a person who by reason of mental disorder within the meaning of the Mental Health Act 1983 is incapable of administering his or her property or managing his or her affairs,
  - (b) a person in receipt of attendance allowance,
  - (c) a person in receipt of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate,
  - (d) a person in receipt of personal independence payment by virtue of entitlement to the daily living component,
  - (e) a person in receipt of an increased disablement pension,
  - (f) a person in receipt of constant attendance allowance, or
  - (g) a person in receipt of armed forces independence payment.

**Attendance allowance**

- 2 A person is to be treated as a disabled person under paragraph 1(b) if he or she satisfies HMRC that he or she would be entitled to receive attendance allowance but for—
- (a) the conditions as to residence and presence prescribed under section 64(1) of SSCBA 1992 or section 64(1) of SSCB(NI)A 1992,
  - (b) provision made by regulations under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation), or
  - (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

**Disability living allowance**

- 3 A person is to be treated as a disabled person under paragraph 1(c) if he or she satisfies HMRC that he or she would be entitled to receive a disability living allowance by virtue of entitlement to the care component at the highest or middle rate but for—
- (a) the conditions as to residence and presence prescribed under section 71(6) of SSCBA 1992 or section 71(6) of SSCB(NI)A 1992,
  - (b) provision made by regulations under section 72(8) of SSCBA 1992 or section 72(8) of SSCB(NI)A 1992 (no

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payment of disability allowance for persons for whom certain accommodation is provided), or

- (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

#### **Personal independence payment**

- 4 A person is to be treated as a disabled person under paragraph 1(d) if he or she satisfies HMRC that he or she would be entitled to receive personal independence payment by virtue of entitlement to the daily living component but for—
  - (a) the conditions as to residence and presence prescribed under section 77(3) of WRA 2012 or the corresponding provision having effect in Northern Ireland,
  - (b) provision made by regulations under section 85 of WRA 2012 (exclusion of certain care home residents) or the corresponding provision having effect in Northern Ireland,
  - (c) provision made by regulations under section 86 of WRA 2012 (exclusion of certain hospital in-patients) or the corresponding provision having effect in Northern Ireland, or
  - (d) section 87 of WRA 2012 (exclusion of prisoners and detainees) or the corresponding provision having effect in Northern Ireland.

#### **Increased disablement pension**

- 5 A person is to be treated as a disabled person under paragraph 1(e) if he or she satisfies HMRC that he or she would be entitled to receive an increased disablement pension but for—
  - (a) conditions as to residence and presence that have effect in relation to increased disablement pension by virtue of regulations under section 104(3) of SSCBA 1992 or section 104(3) of SSCB(NI)A 1992 (application of attendance allowance provisions),
  - (b) provision made under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation) that has effect in relation to increased disablement pension by virtue of such regulations, or
  - (c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

### **Constant attendance allowance**

- 6 A person is to be treated as a disabled person under paragraph 1(f) if he or she satisfies HMRC that he or she would be entitled to receive constant attendance allowance but for—
- (a) article 61 (residence outside United Kingdom) or article 64 (maintenance in hospital or institution) of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or
  - (b) article 53 (maintenance in hospital or institution) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606).

### **Armed forces independence payment**

- 7 A person is to be treated as a disabled person under paragraph 1(g) if he or she satisfies HMRC that he or she would be entitled to receive armed forces independence payment but for article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) (cessation of payment on admission to Royal Hospital, Chelsea).

### **Interpretation**

- 8 In this Schedule—
- “armed forces independence payment” means armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,
  - “attendance allowance” means an allowance under section 64 of SSCBA 1992 or section 64 of SSCB(NI)A 1992,
  - “constant attendance allowance” means an allowance under—
    - (a) article 14 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or
    - (b) article 8 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606),
  - “disability living allowance” means a disability living allowance under section 71 of SSCBA 1992 or section 71 of SSCB(NI)A 1992,
  - “HMRC” means Her Majesty’s Revenue and Customs,
  - “increased disablement pension” means an increase of disablement pension under—
    - (a) section 104 of SSCBA 1992, or
    - (b) section 104 of SSCB(NI)A 1992,
  - “personal independence payment” means personal independence payment under—
    - (a) WRA 2012, or
    - (b) the corresponding provision having effect in Northern Ireland,

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“SSCBA 1992” means the Social Security Contributions and Benefits Act 1992,

“SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

“WRA 2012” means the Welfare Reform Act 2012.”

*Interpretation: relevant settlement*

- 20 (1) In this Schedule, “relevant settlement” means—
- (a) a settlement created before 8 April 2013 the trusts of which have not been altered on or after that date, or
  - (b) a settlement arising on or after 8 April 2013 under the will of a testator, if—
    - (i) the will was executed before 8 April 2013 and its provisions, so far as relating to the settlement, have not been altered on or after that date, or
    - (ii) the will was executed or confirmed on or after 8 April 2013 and its provisions, so far as relating to the settlement, are in the same terms as those contained in a will executed by the same testator before that date.
- (2) In this Schedule a reference to a will includes a reference to a codicil.