



# Finance Act 2013

## 2013 CHAPTER 29

### PART 3

#### ANNUAL TAX ON ENVELOPED DWELLINGS

**Modifications etc. (not altering text)**

C1 Pt. 3 applied (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. 223(8)(9)(e)

*The charge to tax*

**94 Charge to tax**

- (1) A tax (called “annual tax on enveloped dwellings”) is to be charged in accordance with this Part.
- (2) Tax is charged in respect of a chargeable interest if on one or more days in a chargeable period—
  - (a) the interest is a single-dwelling interest and has a taxable value of more than £2 million, and
  - (b) a company, partnership or collective investment scheme meets the ownership condition with respect to the interest.
- (3) The tax is charged for the chargeable period concerned.
- (4) A company meets the ownership condition with respect to a single-dwelling interest on any day on which the company is entitled to the interest (otherwise than as a member of a partnership or for the purposes of a collective investment scheme).
- (5) A partnership meets the ownership condition with respect to a single-dwelling interest on any day on which a member of the partnership that is a company is entitled to the interest (as a member of the partnership).

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- (6) A collective investment scheme meets the ownership condition with respect to a single-dwelling interest on any day on which the interest is held for the purposes of the scheme.
- (7) If a company is jointly entitled to a chargeable interest (as a member of a partnership or otherwise), then regardless of whether the company is entitled as a joint tenant or tenant in common (or, in Scotland, as a joint owner or owner in common) the ownership condition is regarded as met in relation to the whole chargeable interest.
- (8) The chargeable periods are—
  - (a) the period beginning with 1 April 2013 and ending with 31 March 2014, and
  - (b) each subsequent period of 12 months beginning with 1 April.
- (9) See also section 95.

## **95 Entitlement to interests**

- (1) In this Part “entitled” means beneficially entitled—
  - (a) whether solely or jointly with another person, and
  - (b) whether as a member of a partnership or otherwise.

This is subject to subsection (2).
- (2) References in this Part to entitlement to a single-dwelling interest (or any other chargeable interest) do not include—
  - (a) entitlement in the capacity of a trustee or personal representative, or
  - (b) entitlement as a beneficiary under a settlement.
- (3) Subsection (1)(b) does not apply where the contrary is specified.
- (4) In this section “settlement” has the same meaning as in Part 4 of FA 2003 (see paragraph 1 of Schedule 16 to that Act).

## **96 Person liable**

- (1) The chargeable person is liable to pay tax charged under this Part.
- (2) “The chargeable person” means—
  - (a) in relation to tax charged by virtue of section 94(4), the company;
  - (b) in relation to tax charged by virtue of section 94(5), the responsible partners.
- (3) In relation to tax charged by virtue of section 94(6) “the chargeable person” means—
  - (a) if the collective investment scheme is a unit trust scheme, the trustee of the scheme;
  - (b) if the collective investment scheme is an open-ended investment company, the body corporate referred to in section 236(2) of the Financial Services and Markets Act 2000;
  - (c) in relation to an EEAUCITS which is not an open-ended investment company or unit trust scheme, the management company for that UCITS;
  - (d) in any other case, the person who has day-to-day control over the management of the property subject to the scheme.
- (4) The liability of the responsible partners to pay tax charged on them under this Part is joint and several.

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- (5) References in this section to “the responsible partners” are to all the persons who are members of the partnership concerned on the first day in the chargeable period on which the partnership meets the ownership condition with respect to the single-dwelling interest.
- (6) Tax charged under this Part is said to be “charged on” the chargeable person (and that person is said to be “chargeable to” the tax).

## **97 Liability of persons jointly entitled**

- (1) Subsection (2) applies if—
  - (a) a company is within the charge for a chargeable period with respect to a single-dwelling interest by virtue of section 96(2)(a), and
  - (b) one or more other persons are jointly entitled to the interest on the first day in that period on which the company is within the charge with respect to it.
- (2) The company and the other person or persons are jointly and severally liable for the tax charged for that period with respect to the interest (whether or not those other persons are also within the charge with respect to the interest on the day in question).
- (3) Subsection (4) applies if—
  - (a) a company that is a member of a partnership is entitled (as a member of the partnership) to a single-dwelling interest on a day in a chargeable period, and
  - (b) as a result, the responsible partners are within the charge with respect to the interest for the period.
- (4) If, on the first day in the chargeable period on which the responsible partners are within the charge a person (“P”) who is not one of the responsible partners is jointly entitled to the chargeable interest, P and the responsible partners are jointly and severally liable for the tax charged for the period with respect to the interest (whether or not P is also within the charge with respect to the interest on the day in question).

## **98 Collective investment schemes: liability for and collection of tax**

- (1) Subsection (2) applies where tax is charged for a chargeable period with respect to a single-dwelling interest by virtue of section 94(6).
- (2) The persons who are major participants in the scheme on the first day of the chargeable period on which the chargeable person is within the charge with respect to the interest are jointly and severally liable with the chargeable person for the tax charged.
- (3) Subsection (2) does not permit the recovery from a major participant of an amount exceeding the market value of the participant's holding in the scheme.
- (4) The reference in subsection (3) to a participant's holding in a collective investment scheme is to the interests or rights by virtue of which the participant takes part in the scheme.
- (5) Tax chargeable by virtue of section 94(6) may be recovered from the depositary (if any) of a collective investment scheme, but only up to the amount or value of any money or other property subject to the scheme that has been entrusted to the depositary for safekeeping.
- (6) The depositary—

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- (a) may retain out of any money entrusted to it as mentioned in subsection (5) enough money to pay that tax, and
  - (b) is entitled to be fully reimbursed by the participants in the scheme (by that method or another) for amounts recovered under subsection (5).
- (7) In this section—
- (a) “depository”, in relation to a collective investment scheme (other than a unit trust scheme), has the meaning given by section 237(2) of the Financial Services and Markets Act 2000;
  - (b) “major participant”, in relation to a collective investment scheme, is to be read in accordance with section 136(4);
  - (c) “participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000.
- (8) For the purposes of this Part “market value” is to be determined as for the purposes of TCGA 1992 (see, particularly, section 272 of that Act).

## **99 Amount of tax chargeable**

- (1) The amount of tax charged for a chargeable period with respect to a single-dwelling interest is stated in subsection (2) or (3).
- (2) If the chargeable person is within the charge with respect to the single-dwelling interest on the first day of the chargeable period, the amount of tax charged is equal to the annual chargeable amount.
- (3) Otherwise, the amount of tax charged is equal to the relevant fraction of the annual chargeable amount.
- (4) The annual chargeable amount for a single-dwelling interest and a chargeable period is determined in accordance with the following table, by reference to the taxable value of the interest on the relevant day.

<i>Annual chargeable amount</i>	<i>Taxable value of the interest on the relevant day</i>
£15,000	More than £2 million but not more than £5 million.
£35,000	More than £5 million but not more than £10 million.
£70,000	More than £10 million but not more than £20 million.
£140,000	More than £20 million.

- (5) The “relevant day” is—
  - (a) for the purposes of subsection (2), the first day of the chargeable period;
  - (b) for the purposes of subsection (3), the first day in the chargeable period on which the chargeable person is within the charge with respect to the interest.
- (6) The relevant fraction is—

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$$\frac{N}{Y}$$

where—

“N” is the number of days from (and including) the relevant day to the end of the chargeable period;

“Y” is the number of days in the chargeable period.

(7) See also—

- (a) section 100 (interim relief), and
- (b) section 106 (adjustment of amount chargeable).

## **100 Interim relief**

- (1) Where tax is charged for a chargeable period with respect to a single-dwelling interest, the chargeable person may claim relief before the end of the chargeable period if—
- (a) one or more days in the period is relievably with respect to the interest (by virtue of any of sections 133 to 150),
  - (b) one or more days in the chargeable period (after the first day in the period on which the chargeable person is within the charge with respect to the interest) are days on which the chargeable person is not within the charge with respect to the interest, or
  - (c) the taxable value of the single-dwelling interest on the first day in the chargeable period on which the chargeable person is within the charge with respect to the interest is higher than its taxable value on a later day in the chargeable period on which the chargeable person remains within the charge with respect to the interest.
- (2) Relief under this section is called “interim relief”, and must be claimed—
- (a) in an annual tax on enveloped dwellings return, or
  - (b) by amending such a return.
- (3) Where interim relief is claimed under this section, section 163(1) (payment of tax by filing date for annual tax on enveloped dwellings return) has effect as if the amount of tax charged with respect to the single-dwelling interest were the sum of amounts A and B.
- (4) Amount A is the total of all the daily amounts for days in the pre-claim period on which the chargeable person is within the charge with respect to the single-dwelling interest, other than days that are relievably with respect to the single-dwelling interest.
- (5) Amount B is zero if—
- (a) the day of the claim is relievably with respect to the single-dwelling interest by virtue of any of sections 133 to 150, or
  - (b) the chargeable person is not within the charge with respect to the single-dwelling interest on the day of the claim.
- (6) Otherwise, amount B is the appropriate fraction of the annual chargeable amount for the single-dwelling interest.

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For this purpose the annual chargeable amount is determined (under section 99(4)) on the basis that the day of the claim is the relevant day.

(7) In subsection (6) “appropriate fraction” means—

$$\frac{X}{Y}$$

where—

“X” is the number of days in the period beginning with the day of the claim and ending at the end of the chargeable period, and

“Y” is the number of days in the chargeable period.

(8) In this section—

“day of the claim” means the day on which the return mentioned in subsection (2)(a), or notice of the amendment made under subsection (2)(b), is delivered to HMRC;

“pre-claim period” means the period—

- (a) beginning with the first day in the chargeable period mentioned in subsection (1) on which the chargeable person is within the charge with respect to the single-dwelling interest, and
- (b) ending with the day before the day of the claim.

(9) See sections 105 and 106 for provision about the adjustment of the amount of tax charged.

## **101 Indexation of annual chargeable amounts**

- (1) If the consumer prices index for September in 2013 or any later year (“the later year”) is higher than it was for the previous September, section 99(4) applies in relation to chargeable periods beginning on or after 1 April in the year after the later year with the following amendments.
- (2) For each of the annual chargeable amounts stated in the table in section 99(4) (as it applies in relation to chargeable periods beginning in the previous 12 months) there is substituted the indexed amount.
- (3) “The indexed amount” is found by—
  - (a) increasing the previous amount by the same percentage increase as the percentage increase in the consumer prices index, and
  - (b) rounding down the result to the nearest multiple of £50.
- (4) In this section “consumer prices index” means the all items consumer prices index published by the Statistics Board.
- (5) The Treasury must, before 1 April 2014 and before each subsequent 1 April, make an order stating the amounts that by virtue of this section are to be the annual chargeable amounts for chargeable periods beginning on or after that date.

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## **102 Taxable value**

- (1) The taxable value of a single-dwelling interest on any day (“the relevant day”) is equal to its market value at the end of the latest day that—
  - (a) falls on or before that day, and
  - (b) is a valuation date in the case of that interest.
- (2) Each of the following is a valuation date in the case of any single-dwelling interest—
  - (a) 1 April 2012;
  - (b) each 1 April falling 5 years, or a multiple of 5 years, after 1 April 2012.
- (3) The following are also valuation dates in the case of any single-dwelling interest to which a company is entitled on the relevant day (otherwise than as a member of a partnership)—
  - (a) the effective date of any substantial acquisition by the company of a chargeable interest in or over the dwelling concerned;
  - (b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.
- (4) The following are also valuation dates in the case of any single-dwelling interest to which a company is entitled on the relevant day as a member of a partnership—
  - (a) the effective date of any substantial acquisition as a result of which a chargeable interest in or over the dwelling concerned became an asset of the partnership,
  - (b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.
- (5) The following are also valuation dates in the case of any single-dwelling interest that is on the relevant day held for the purposes of a collective investment scheme—
  - (a) the effective date of any substantial acquisition, made for the purposes of the scheme, of a chargeable interest in or over the dwelling concerned;
  - (b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.
- (6) In this section references to a disposal of part of a single-dwelling interest include the grant of a chargeable interest out of the single-dwelling interest.
- (7) The grant of an option does not count as the grant of a chargeable interest for the purposes of subsection (6).

## **103 Section 102: “substantial” acquisitions and disposals**

- (1) For the purposes of section 102—
  - (a) the acquisition of a chargeable interest in a dwelling is a “substantial acquisition” only if the chargeable consideration for the acquisition is £40,000 or more;
  - (b) the disposal of part (but not the whole) of a single-dwelling interest is a “substantial disposal” only if the chargeable consideration for the acquisition of the chargeable interest by the person acquiring it is £40,000 or more.
- (2) If the acquisition mentioned in subsection (1)(a) is a transaction between persons who are connected with each other or not acting at arm's length, subsection (1)(a) applies as

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if the reference to the chargeable consideration for the acquisition were to the market value of the chargeable interest acquired.

- (3) If the disposal mentioned in subsection (1)(b) is a transaction between persons who are connected with each other or not acting at arm's length, subsection (1)(b) applies as if the reference to the chargeable consideration for the acquisition in question were to the market value of the part of the single-dwelling interest disposed of.
- (4) The chargeable consideration for the acquisition mentioned in subsection (1)(a) is taken to include the chargeable consideration for any linked acquisition of a chargeable interest in or over the same dwelling.
- (5) The chargeable consideration for the transaction mentioned in subsection (1)(b) is taken to include the chargeable consideration for any linked disposal of part (but not the whole) of the single-dwelling interest concerned.
- (6) For the purposes of subsection (2) the market value of the chargeable interest acquired is taken to be the sum of the market values of that chargeable interest and any chargeable interest in or over the same dwelling that is acquired in a linked transaction.
- (7) For the purposes of subsection (3) the market value of the part of the single-dwelling interest disposed of is taken to be the sum of the market values of that chargeable interest and any chargeable interest in or over the same dwelling that is disposed of in a linked transaction.
- (8) For the purposes of this section two or more transactions are “linked” if they form part of a single scheme, arrangement or series of transactions between the same vendor and purchaser or, in either case, persons connected with them.
- (9) In this section “chargeable consideration”, “purchaser” and “vendor” have the same meaning as in Part 4 of FA 2003.
- (10) In this section references to a disposal of part of a single-dwelling interest include the grant of a chargeable interest out of the single-dwelling interest.

#### **104 No double charge**

Tax in respect of a given single-dwelling interest is charged only once for any chargeable day even if more than one person is “the chargeable person” with respect to the tax charged.

#### *Adjustment of amount charged*

#### **105 “Adjusted chargeable amount”**

- (1) In relation to a person on whom tax is charged for a chargeable period with respect to a single-dwelling interest, the “adjusted chargeable amount” is the total of the daily amounts for all the days in the period on which the chargeable person is within the charge with respect to the interest.
- (2) The daily amount for any such day (“the actual day”) is—



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$$\frac{1}{Y} \times A$$

where—

“Y” is the number of days in the chargeable period;

“A” is the annual chargeable amount for the single-dwelling interest, determined (under section 99(4)) on the basis that the actual day is the relevant day.

### **106 Adjustment of amount chargeable**

- (1) Where tax is charged for a chargeable period with respect to a single-dwelling interest and the adjusted chargeable amount is greater than the initial charged amount, the amount of tax charged is taken to be increased to the adjusted chargeable amount.
- (2) In this section “the initial charged amount” means the amount of tax charged under section 99 for the period in respect of the interest.
- (3) Subsection (4) applies where—
  - (a) tax is charged for a chargeable period with respect to a single-dwelling interest,
  - (b) the adjusted chargeable amount is less than the initial charged amount, and
  - (c) a claim for relief is made under this subsection.
- (4) The amount of tax charged for the period with respect to the interest is taken to be reduced (at the end of the chargeable period) to the adjusted chargeable amount.
- (5) Relief under subsection (3) must be claimed—
  - (a) in an annual tax on enveloped dwellings return, or
  - (b) by amending an annual tax on enveloped dwellings return.
- (6) The claim must be delivered by the end of the chargeable period following the one to which the claim relates.
- (7) Relief under subsection (3) may be given by repayment of tax or otherwise.
- (8) See also section 160 (return of adjusted amount chargeable); and see section 163(2) for provision about payment of additional tax by reference to the adjusted chargeable amount.

*Chargeable interests and “single-dwelling interest”*

### **107 Chargeable interests**

- (1) In this Part “chargeable interest” means—
  - (a) an estate, interest, right or power in or over land in the United Kingdom, or
  - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- (2) Where two or more persons are jointly entitled to a chargeable interest the chargeable interest is not regarded, for the purposes of this Part, as consisting of separate interests

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corresponding to the shares (if any) that those persons have by virtue of their joint entitlement.

- (3) An exempt interest is not a chargeable interest for the purposes of this Part.
- (4) The following are exempt interests—
  - (a) any security interest;
  - (b) a licence to use or occupy land;
  - (c) in England and Wales or Northern Ireland, a tenancy at will.
- (5) In subsection (4) “security interest” means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation.
- (6) In the application of this Part in Scotland the reference in subsection (5) to a rentcharge is to be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 (asp 5).
- (7) The Treasury may by regulations provide that any other description of interest or right in or over a dwelling is an exempt interest.

## **108 Meaning of “single-dwelling interest”**

- (1) References in this Part to a “single-dwelling interest” are to be read in accordance with this section.
- (2) A chargeable interest that is exclusively in or over land consisting (on any day) of a single dwelling is a single-dwelling interest (on that day).
- (3) Where a person is entitled to a chargeable interest that is exclusively in or over land consisting (on any day) of two or more single dwellings—
  - (a) provisions referring to a “single-dwelling interest” operate as if the person had (on that day) a separate chargeable interest in or over each dwelling, and
  - (b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.
- (4) Where a person is entitled to a chargeable interest in or over land that on any day consists of one or more single dwellings and non-residential land—
  - (a) provisions referring to a “single-dwelling interest” operate as if the person had (on that day) a separate chargeable interest in or over each dwelling and a further separate chargeable interest in or over the non-residential land, and
  - (b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.
- (5) A single-dwelling interest is referred to as a single-dwelling interest “in” the dwelling concerned.
- (6) A single-dwelling interest in one dwelling is distinct from any single-dwelling interest in another dwelling, even if the dwellings stand successively on the same land.
- (7) In this section—
  - (a) “non-residential land” means land that is not a dwelling or part of a dwelling;
  - (b) references to a dwelling include a part of a dwelling.

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## **109 Different interests held in the same dwelling**

- (1) Subsection (2) applies if on one or more days in a chargeable period—
  - (a) a company is entitled to two or more single-dwelling interests in the same dwelling, or
  - (b) two or more single-dwelling interests in the same dwelling are held for the purposes of the same collective investment scheme.
- (2) This Part has effect with respect to that chargeable period as if those separate interests constituted just one single-dwelling interest, the taxable value of which on any day is the sum of the taxable values of the separate interests.
- (3) In calculating the taxable values of the separate interests for the purposes of subsection (2), the market value of each interest is determined, under the provisions of TCGA 1992 applied by section 98(8), on the assumption that the other interest or interests are placed on the open market with that interest (on the valuation date appropriate to that interest).

## **110 Interests held by connected persons**

- (1) If on any day a company (“C”) is entitled to a single-dwelling interest in a dwelling and another person (“P”) who is connected with C is entitled to a different single-dwelling interest in the same dwelling, this Part has effect—
  - (a) in relation to C as if C were on that day entitled to P's single-dwelling interest as well as C's single-dwelling interest, and
  - (b) (if P is a company) in relation to P as if P were on that day entitled to C's single-dwelling interest as well as P's single-dwelling interest.
- (2) This subsection provides for an exception to subsection (1).

Where P is an individual, C is not treated on the day in question as entitled to P's single-dwelling interest unless on that day C is entitled to a single-dwelling interest in the dwelling that is a freehold or leasehold interest with a taxable value of more than £500,000.

- (3) If on any day a single-dwelling interest (“the scheme interest”) is held for the purposes of a collective investment scheme and a person (“P”) who is connected with the scheme is entitled to a different single-dwelling interest in the same dwelling, this Part has effect—
  - (a) in relation to the scheme, as if both those separate interests were on that day held for the purposes of the scheme, and
  - (b) (if P is a company) in relation to P as if P were on that day entitled to the scheme interest as well as P's single-dwelling interest.
- (4) If on any day a single-dwelling interest in a dwelling is held for the purposes of a collective investment scheme (“the first scheme”) and another interest in the same dwelling is held for the purposes of another collective investment scheme (“the second scheme”) that is connected with the first scheme, this Part has effect—
  - (a) in relation to the first scheme, as if both the interests were held on that day for the purposes of that scheme, and
  - (b) in relation to the second scheme, as if both interests were held on that day for the purposes of that scheme.
- (5) See also—

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- (a) section 97, for provision about the liability to tax of persons treated under this section (read with section 104) as jointly entitled to a single-dwelling interest;
  - (b) paragraph 55 of Schedule 33, for provision about returns in cases involving joint entitlement.
- (6) The provisions mentioned in subsection (5) are to be read as including corresponding provision for cases where the same single-dwelling interest is treated under this section as held—
- (a) for the purposes of different collective investment schemes, or
  - (b) by a company and for the purposes of a collective investment scheme.
- (7) In the application of this section to Scotland—
- (a) the reference to a freehold interest is to the interest of the owner;
  - (b) the reference to a leasehold interest is to a tenant's right over or interest in property subject to a lease.

### **111 Different interests held in the same dwelling: effect of reliefs etc**

- (1) References in section 110 to a person do not include—
- (a) a public body, as defined in section 153,
  - (b) a body listed in section 154(2) (bodies established for national purposes).
- (2) Subsections (1) to (4) of section 110 do not apply in relation to a single-dwelling interest if—
- (a) the day in question is relievable with respect to that interest by virtue of section 150 (providers of social housing),
  - (b) by virtue of section 151 (charitable companies) the ownership condition is regarded as not met with respect to the interest on that day, or
  - (c) the taxable value of the interest on that day is taken to be zero by virtue of section 155 (dwelling conditionally exempt from inheritance tax).
- (3) Subsection (4) applies where the separate interests (the “relevant interests”) that under section 110 (or that section and section 109) are treated as constituting, on a day, just one single-dwelling interest (“the combined interest”) include—
- (a) a freehold or leasehold interest, and
  - (b) a leasehold interest (“the inferior interest”) granted out of that interest.
- (4) If the inferior interest is the most inferior relevant interest, the combined interest, and the dwelling itself (where relevant), are regarded for the purposes of the relevant relieving provisions as being exploited, on the day mentioned in subsection (3), in the way the inferior interest is exploited on that day.
- (5) If the inferior interest is an interest in part only (“the sub-let part”) of the land that is the subject-matter of the combined interest, subsection (4) has effect in relation to the combined interest only so far as that interest relates to the sub-let part.
- (6) In this section “the relevant relieving provisions” means sections 132 to 150.
- (7) The inferior interest counts as “the most inferior relevant interest” if no relevant interest (see subsection (3)) is a leasehold interest granted out of it.
- (8) In this section the reference to a leasehold interest includes the interest of a lessee under an agreement for a lease.

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- (9) In the application of this section to Scotland—
- (a) the reference to a freehold interest is to the interest of the owner;
  - (b) the reference to a leasehold interest is to a tenant's right over or interest in property subject to a lease;
  - (c) the reference to an agreement for lease includes missives of let.

#### *Meaning of “dwelling”*

### **112 Meaning of “dwelling”**

- (1) A building or part of a building counts as a dwelling at any time when—
  - (a) it is used or suitable for use as a single dwelling, or
  - (b) it is in the process of being constructed or adapted for such use.
- (2) Land that is, or is at any time intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.
- (3) Land that subsists, or is at any time intended to subsist, for the benefit of a dwelling is taken to be part of the dwelling at that time.
- (4) A building, or part of a building, used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).
- (5) Where a building, or part of a building, is used for a purpose mentioned in subsection (4), no account is to be taken for the purposes of subsection (1) of its suitability for any other use.
- (6) If a building or part of a building becomes temporarily unsuitable for use as a dwelling for any reason (including accidental damage, repairs or any other physical change to the building or its environment), that temporary unsuitability is ignored in determining whether or not the building or part of a building is, during the period in question, a dwelling for the purposes of this Part.

This subsection does not affect any of the provisions in sections 126 to 131.

### **113 Substantial performance of “off plan” purchase**

- (1) Subsection (2) applies where—
  - (a) a contract is entered into for the acquisition of a chargeable interest in or over land that consists of or includes a building, or part of a building, that is to be constructed or adapted for use as a single dwelling,
  - (b) substantial performance is treated as constituting the acquisition of the chargeable interest (under section 122), and
  - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.
- (2) The chargeable interest deemed to be acquired as mentioned in subsection (1)(b) is taken to be in or over land that consists of or (as appropriate) includes a dwelling.
- (3) If at any time after the substantial performance of the contract the obligation under the contract to carry out the construction or adaptation ceases to have effect without

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the construction or adaptation having been begun, subsection (2) ceases to apply at that time.

(4) A building or part of a building used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).

(5) In this section—

“contract” includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);

“substantially performed” has the same meaning as in section 44 of FA 2003.

#### **114 Power to modify meaning of “use as a dwelling”**

(1) The Treasury may by order amend this Part so as to specify cases where use of a building is to be use of a building as a dwelling for the purposes of section 112(1) or 113(1).

(2) The reference in section 116(8)(a) of FA 2003 (power to amend section 116(2) and (3)) to “the purposes of subsection (1)” includes a reference to the purposes of sections 112(1) and 113(1).

#### **115 Parts of a greater whole**

(1) The fact that a part of a building is suitable for use as a dwelling does not prevent that part from forming part of a larger single dwelling.

(2) The fact that a building or structure that is—

- (a) in the garden or grounds of a dwelling, and
- (b) occupied or enjoyed with the dwelling,

is itself suitable for use as a single dwelling does not prevent it from being treated (in accordance with section 112(2)) as part of the dwelling.

#### **116 Dwelling in grounds of another dwelling**

(1) Subsection (4) applies where the conditions in subsection (2) are met in relation to two dwellings (the “main dwelling” and the “associated dwelling”) on a day (“the day in question”) in a chargeable period.

(2) The conditions are that—

- (a) the main dwelling has a garden or grounds,
- (b) the associated dwelling stands within the garden or grounds of the main dwelling, but is not occupied or enjoyed with that dwelling,
- (c) the associated dwelling does not have separate access, and is not part of the same building as the main dwelling, and
- (d) the common ownership condition is met.

(3) The common ownership condition is that—

- (a) a company is entitled to a chargeable interest in the main dwelling, and the company or a person connected with the company is entitled to a chargeable interest in the associated dwelling, or

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- (b) a chargeable interest in the main dwelling is held for the purposes of a collective investment scheme, and a chargeable interest in the associated dwelling is held for the purposes of the same collective investment scheme.  
(It does not matter whether or not the interest in the main dwelling and the interest in the associated dwelling are held for the same title.)
- (4) This Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (3) as if the main dwelling and the associated dwelling were, on the day in question, suitable for use as a single dwelling.
- (5) Subsection (4) does not apply if—
- (a) the day in question is, in relation to the interest in the main dwelling or the interest in the associated dwelling, relievable by virtue of a provision mentioned in subsection (6), or
  - (b) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not being met on that day with respect to one or other of those interests.
- (6) Those provisions are—
- section 133 (property rental businesses);
  - section 134 (rental property: preparation for sale etc);
  - section 137 (dwellings opened to the public);
  - section 138 (property developers);
  - section 139 (property developers: exchange of dwellings);
  - section 141 (property traders);
  - section 143 (financial institutions acquiring dwellings in the course of lending);
  - section 145 (occupation by certain employees or partners);
  - section 148 (farmhouses);
  - section 150 (providers of social housing).
- (7) The reference in subsection (3)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).
- (8) The reference in subsection (3)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.
- (9) The associated dwelling has “separate access” only if—
- (a) there is access to the associated dwelling directly from a highway (in Scotland, a road) that the dwelling adjoins, or
  - (b) the person entitled to possession of the associated dwelling has access to that dwelling from a highway (in Scotland, a road), exclusively by passing over land that the person is entitled to pass over by reason of one or more rights of way or other interests in land to which the person is separately entitled.
- (10) In this section—
- in relation to a dwelling or dwellings, references to the “garden or grounds” are to land occupied or enjoyed with the dwelling or dwellings as a garden or grounds;

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references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person;

“separately entitled” means entitled otherwise than by reason of a chargeable interest in or over the main dwelling.

## **117 Dwellings in the same building**

- (1) Two parts of a building are “linked dwellings” if—
  - (a) each of them counts as a dwelling,
  - (b) there is private access between the two dwellings,
  - (c) the two parts of the building are not (together) used or suitable for use as a single dwelling, and
  - (d) the common ownership condition and the use condition are met.
- (2) The common ownership condition is that—
  - (a) a company is entitled to a chargeable interest in one of the dwellings, and the company or a person connected with the company is entitled to a chargeable interest in the other dwelling, or
  - (b) a chargeable interest in one of the dwellings is held for the purposes of a collective investment scheme, and a chargeable interest in the other dwelling is held for the purposes of the same collective investment scheme.

(It does not matter whether or not the interests are held for the same title.)
- (3) If on a day in a chargeable period (“the day in question”) two parts of a building constitute linked dwellings, this Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (2) as if the two parts were, on the day in question, suitable for use as a single dwelling.
- (4) Subsection (3) does not apply if—
  - (a) the day in question is, in relation to a chargeable interest mentioned in subsection (2)(a) or (as the case may be) (2)(b), relievable by virtue of a provision mentioned in subsection (5), or
  - (b) (in a case where paragraph (a) of subsection (2) applies) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not being met on that day with respect to one or other of the chargeable interests mentioned in that paragraph.
- (5) Those provisions are—
  - section 133 (property rental businesses);
  - section 134 (rental property: preparation for sale etc);
  - section 137 (dwellings opened to the public);
  - section 138 (property developers);
  - section 139 (property developers: exchange of dwellings);
  - section 141 (property traders);
  - section 143 (financial institutions acquiring dwellings in the course of lending);
  - section 145 (occupation by certain employees or partners);
  - section 148 (farmhouses);
  - section 150 (providers of social housing).



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- (6) The reference in subsection (2)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).
- (7) If two dwellings in a building (dwelling A and dwelling B) are treated under this section as suitable for use as a single dwelling, and dwelling B and a third dwelling in the building (“dwelling C”) are treated under this section as suitable for use as a single dwelling, all three are treated as suitable for use as a single dwelling (and so on).

## **118 Section 117: supplementary**

- (1) The reference in section 117(2)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.
- (2) For the purposes of section 117, there is private access between two dwellings if the person entitled to possession of each dwelling is entitled, by reason of a right of way or other interest in land, to have access to that person's dwelling from the other dwelling, without passing over any part of the building (or any other land) in which a third party has an interest entitling that third party to enter it.
- (3) In subsection (2) “third party” means a person other than—
  - (a) the persons entitled to possession of the dwellings mentioned in subsection (2), and
  - (b) persons connected with any of them.
- (4) The use condition mentioned in section 117(1)(d) is that each of the two dwellings—
  - (a) is occupied (or usually occupied) by a relevant individual,
  - (b) is intended to be so occupied (or usually so occupied), or
  - (c) is not occupied.
- (5) In subsection (4) “relevant individual” means—
  - (a) an individual connected with the company mentioned in section 117(2)(a),
  - (b) an individual connected with the collective investment scheme mentioned in section 117(2)(b),
  - (c) an individual who occupies (or is to occupy) the dwelling concerned otherwise than on commercial terms, or
  - (d) an individual who is employed wholly or partly in connection with the occupation by a person falling within any of paragraphs (a) to (c) of a dwelling in the building, or provides services in connection with such a person's occupation of a dwelling in the building.
- (6) In this section references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person.

## **119 Terraces etc**

Any structure (such as a terrace of houses or a pair of semi-detached houses) that is composed of or includes dwellings is regarded as a building for the purposes of sections 117 and 118.

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### *Acquisitions and disposals*

#### **120 Acquisitions and disposals of chargeable interests**

- (1) References in this Part to the acquisition of a chargeable interest include any acquisition however effected (including an acquisition effected by the act of parties to a transaction, by order of a court or other authority, by or under any statutory provision or by operation of law).
- (2) The surrender or release of a chargeable interest is—
  - (a) an acquisition of that interest by any person whose interest or right is benefited or enlarged by the transaction, and
  - (b) a disposal by the person ceasing to be entitled to that interest.
- (3) The variation of a chargeable interest is—
  - (a) an acquisition of a chargeable interest by the person benefiting from the variation, and
  - (b) a disposal of a chargeable interest by the person whose interest is subject to or limited by the variation.

#### **121 Date of acquisition or disposal**

- (1) A person who acquires a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as acquiring the interest on the effective date of the acquisition (and therefore as entitled to the interest with effect from that date: see section 171).
- (2) A person who disposes of a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as ceasing to be entitled to the interest on the effective date of the disposal (and therefore as not being entitled to the interest on that day: see section 171).
- (3) If a person's acquisition and disposal of a chargeable interest are completed on the same day, then for the purposes of this Part—
  - (a) the person's acquisition of the interest is ignored if it precedes the disposal;
  - (b) the person's disposal of the interest is ignored if it precedes the acquisition.
- (4) The effective date of an acquisition of a chargeable interest is—
  - (a) the date on which the acquisition is completed, or
  - (b) any alternative date the Commissioners for Her Majesty's Revenue and Customs may prescribe by regulations.
- (5) The effective date of a disposal of a chargeable interest is—
  - (a) the date on which the disposal is completed, or
  - (b) any alternative date the Commissioners for Her Majesty's Revenue and Customs may specify by regulations.

#### **122 Contract and conveyance: the purchaser**

- (1) This section applies where a person (“P”) enters into a contract under which—
  - (a) P is to acquire a relevant chargeable interest, and
  - (b) the acquisition is to be completed by a conveyance.

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- (2) P is not regarded as acquiring any chargeable interest by reason of entering into the contract.
- (3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the acquisition provided for by the contract.
- (4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 102 (taxable value) as effecting the acquisition of a chargeable interest.
- (5) Where subsection (3) applies and—
  - (a) the contract is afterwards rescinded or annulled, or
  - (b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,this Part has effect as if P had at the relevant time disposed of the chargeable interest referred to in subsection (1)(a).
- (6) In subsection (5) “the relevant time” means—
  - (a) the time when the rescission or annulment takes effect, or
  - (b) (as the case requires) the time when performance of the contract ceases.
- (7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be acquired under the contract is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected—
  - (a) the disposal by P of the chargeable interest referred to in subsection (1)(a), and
  - (b) the substantial performance of the contract, as varied.
- (8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.
- (9) In this section—
  - (a) references to completion are to the completion of the acquisition proposed, whether or not between the original parties;
  - (b) “contract” includes any agreement;
  - (c) “conveyance” includes any instrument;
  - (d) “relevant chargeable interest” means a chargeable interest in or over land that consists of or includes a dwelling;
  - (e) “substantially performed” has the same meaning as in section 44 of FA 2003.

### **123 Contract and conveyance: the vendor**

- (1) This section applies where a person (“V”) enters into a contract under which—
  - (a) V is to dispose of a relevant chargeable interest, and
  - (b) the disposal is to be completed by a conveyance.
- (2) V is not regarded as disposing of a chargeable interest by reason of entering into the contract.

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- (3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the disposal provided for by the contract.
- (4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 102 as effecting the disposal of a chargeable interest.
- (5) Where subsection (3) applies and—
- (a) the contract is afterwards rescinded or annulled, or
  - (b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,
- this Part has effect as if V had at the relevant time re-acquired the chargeable interest referred to in subsection (1)(a).
- (6) In subsection (5) “the relevant time” means—
- (a) the time when the rescission or annulment takes effect, or
  - (b) (as the case requires) the time when performance of the contract ceases.
- (7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be disposed of under the contract is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected—
- (a) the re-acquisition by V of the chargeable interest referred to in subsection (1)(a), and
  - (b) the substantial performance of the contract, as varied.
- (8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.
- (9) In this section—
- (a) references to completion are to the completion of the disposal proposed, between the same parties, in substantial conformity with the contract;
  - (b) “contract” includes any agreement;
  - (c) “conveyance” includes any instrument;
  - (d) “relevant chargeable interest” means a chargeable interest in or over land that consists of or includes a dwelling;
  - (e) “substantially performed” has the same meaning as in section 44 of FA 2003.

*New dwellings, conversions, demolition etc*

## **124 New dwellings**

- (1) Where a new dwelling is being or has been constructed (whether or not as part of a larger building) the earlier of the following days is a valuation date in the case of a single-dwelling interest in that dwelling—
- (a) the completion day;
  - (b) the day on which the dwelling is first occupied.
- (2) The reference in subsection (1) to the construction of a new dwelling—

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- (a) includes the production of a new dwelling by the alteration (whether structural or otherwise) of an existing building, but
  - (b) does not include a case to which section 125 (dwellings produced from other dwellings) or section 128 (demolition and replacement: new dwellings) applies.
- (3) The reference in subsection (1) to the “completion day” is to the day on which the new dwelling is treated as having come into existence for the purposes of—
- (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
  - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
  - (c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).
- (4) In this section “building” includes a part of a building.

### **125 Dwellings produced from other dwellings**

- (1) This section applies where an existing building that is a dwelling or dwellings (“the old dwelling” or “the old dwellings”) becomes a different dwelling or dwellings (“new” dwellings) as a result of structural alteration.
- (2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling or dwellings or in a new dwelling is determined on the assumption that the old dwelling or dwellings cease to exist, and any new dwelling come into existence, only when the conversion is completed.
- (3) The day after the conversion is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.
- (4) References to when the conversion is completed are to the end of the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of—
- (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
  - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
  - (c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).
- (5) In this section “building” includes a part of a building.

### **126 Demolition of a dwelling**

- (1) This section and sections 127 to 129 apply where a building that is a dwelling (“the old dwelling”) is demolished after 1 April 2013.
- (2) Except so far as express provision to the contrary is made in sections 127 to 129, any question as to whether a person has a single-dwelling interest in the dwelling, and any question as to the taxable value of such an interest, is determined as if the dwelling had not been demolished.
- (3) For the purposes of subsection (1) the demolition of a building is treated as having occurred after 1 April 2013 if a day after 1 April 2013 is the first day on which—
- (a) the demolition has begun, and

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(b) as a result, the building is no longer suitable for use as a dwelling.

(4) In this section “building” includes a part of a building.

## **127 Demolition without replacement**

(1) Subsection (2) applies if a person entitled to a single-dwelling interest in the old dwelling notifies an officer of Revenue and Customs that to the best of the person's knowledge there is no proposal to construct any dwelling or dwellings on the site of the old dwelling.

(2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases (or ceased) to exist with effect from the end of the day mentioned in subsection (3).

(3) That day is the first day on which—

- (a) the demolition has begun, and
- (b) as a result, the building in question is no longer suitable for use as a dwelling.

(4) A notification under subsection (1) must be given—

- (a) in an annual tax on enveloped dwellings return, or
- (b) by amending such a return.

(5) In this section—

- (a) “building” includes part of a building;
- (b) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
- (c) the reference to the construction of a dwelling or dwellings on that site is to the construction of a dwelling or dwellings wholly or partly on the site.

## **128 Demolition and replacement: new dwellings**

(1) Subsection (2) applies if one or more dwellings (referred to below as “new dwellings”) are constructed on the site of the old dwelling after the demolition.

(2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling or in a new dwelling is determined on the assumption that the old dwelling ceases to exist, and the new dwellings come into existence, only when the rebuilding is completed.

(3) The day after the rebuilding is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.

(4) In subsection (1)—

- (a) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
- (b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.

(5) References to when the rebuilding is completed are to the end of whichever of the following days is earlier—

- (a) the completion day;
- (b) the day on which the last of the new dwellings to be occupied is first occupied.

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- (6) The reference in subsection (5) to the “completion day” is to the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of—
- (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
  - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
  - (c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).

## **129 Demolition and replacement: other cases**

- (1) This section applies if—
- (a) a building is constructed on the site of the old dwelling after the demolition, and
  - (b) section 128 does not apply.
- (2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases to exist on the day after—
- (a) the day on which the change of use is approved, or
  - (b) if later, the day on which the old dwelling ceased to be occupied.
- (3) In subsection (1)—
- (a) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
  - (b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.

## **130 Conversion of dwelling for non-residential use**

- (1) This section applies where a building or part of a building—
- (a) has been suitable for use as a dwelling, and
  - (b) is altered for the purpose of making it suitable for use otherwise than as a dwelling.
- (2) The question whether or not the alterations make the building or part unsuitable for use as a dwelling is one of fact (but see subsection (3)).
- (3) The building or part will not be regarded as having become unsuitable for use as a dwelling as a result of the alterations at any time unless by that time any planning permission or development consent required for the alterations has been granted (and the alterations have been made in accordance with any such permission or consent).
- (4) In this section “planning permission” has the meaning given by the relevant planning enactment.
- (5) “The relevant planning enactment” means—
- (a) in relation to land in England and Wales, section 336(1) of the Town and Country Planning Act 1990;
  - (b) in relation to land in Scotland, section 277(1) of the Town and Country Planning (Scotland) Act 1997;

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(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11)).

(6) In this section “development consent” means development consent under the Planning Act 2008.

### **131 Damage to a dwelling**

(1) This section applies where a dwelling is damaged so as to be temporarily unsuitable for use as a dwelling.

(2) The unsuitability for use as a dwelling is taken into account in applying the definition of “dwelling” for the purposes of this Part (see section 112) only if the first and second conditions are met.

(3) The first condition is that the damage is—

- (a) accidental, or
- (b) otherwise caused by events beyond the control of the person entitled to the single-dwelling interest.

(4) The second condition is that, as a result of the damage, the building concerned is unsuitable for use as a dwelling for at least 90 consecutive days.

(5) Where the first and second conditions are met—

- (a) the entire period of unsuitability for use as a dwelling (including the first 90 days) is taken into account in applying the definition of “dwelling”, and
- (b) work done in that period to restore the building to suitability for use as a dwelling does not count, for the purposes of section 112 or 113, as construction or adaptation of the building for use as a dwelling.

(6) The first condition is regarded as not being met if the damage occurs in the course of work that—

- (a) is done for the purpose of altering the dwelling (or a building of which it forms part), and
- (b) itself involves, or could be expected to involve, making the building unsuitable for use as a dwelling for 30 days or more.

(7) In this section—

- (a) references to alteration include partial demolition;
- (b) references to a building include a part of a building.

(8) In this section references to damage include damage done before 1 April 2013; and days before 1 April 2013 may be taken into account for the purposes of subsection (4).

### *Reliefs*

### **132 Effect of reliefs under sections 133 to 150**

(1) Subsection (2) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievably as a result of any of the provisions listed in subsection (3) (or for more than one such period).



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- (2) For any such period, the adjusted chargeable amount is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (3) The provisions are—
  - section 133 (property rental businesses);
  - section 134 (rental property: preparation for sale etc);
  - section 137 (dwellings opened to the public);
  - section 138 (property developers);
  - section 139 (property developers: exchange of dwellings);
  - section 141 (property traders);
  - section 143 (financial institutions acquiring dwellings in the course of lending);
  - section 145 (occupation by certain employees or partners);
  - section 148 (farmhouses);
  - section 150 (providers of social housing).
- (4) See also section 106 (adjustment of amount chargeable and claim for relief).

### **133 Property rental businesses**

- (1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day the interest—
  - (a) is being exploited as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business carried on by a person entitled to the interest, or
  - (b) steps are being taken to secure that the interest will, without undue delay, be so exploited in the course of a qualifying property rental business that is being carried on, or is to be carried on, by a person entitled to the interest.
- (2) A day is not relievable by virtue of subsection (1) or section 134 in the case of a single-dwelling interest if on that day a non-qualifying individual is permitted to occupy the dwelling.
- (3) In this Part “qualifying property rental business” means a property rental business that is run on a commercial basis and with a view to profit.
- (4) A business is a “property rental business” for the purposes of subsection (3) if it is a property business as defined in Chapter 2 of Part 4 of CTA 2009, but—
  - (a) the question whether or not a business is a property rental business for the purposes of subsection (3) is determined without reference to whether or not any profits of the business are chargeable to corporation tax (and section 204(2) of CTA 2009 is therefore disregarded), and
  - (b) for the purposes of this subsection the “rents or other receipts” referred to in section 207(1) of CTA 2009 are taken not to include excluded rents
- (5) In subsection (1)(b) “without undue delay” means without delay except so far as delay is justified by commercial considerations or cannot be avoided.
- (6) In this Part “excluded rents” means rents within any of classes 2 to 6 in the table in section 605(2) of CTA 2010.

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### **134 Rental property: preparation for sale, demolition etc**

(1) A day (“day X”) on which a person (“P”) is entitled to a single-dwelling interest is relievable in relation to that interest if—

- (a) on day X the dwelling is unoccupied and any of the first to fourth conditions is met (see below),
- (b) day X is preceded by one or more days (“qualifying days”) that are relievable under section 133 in relation to the interest and on which P, or a relevant partner, was entitled to the interest, and
- (c) the days (if any) between day X and the last of the qualifying days to precede day X are all relievable under this section.

*First condition* The first condition is that steps are being taken to secure that the interest will be sold without undue delay.

*Second condition* The second condition is that—

- (a) steps are being taken to secure that the dwelling will be demolished without undue delay, and
- (b) if it is intended that a new dwelling will be constructed on the site of the existing dwelling, the intention is that it will be used in a relievable way.

*Third condition* The third condition is that—

- (a) steps are being taken to secure that the dwelling will be converted into a different dwelling without undue delay, and
- (b) it is intended that the new dwelling will be used in a relievable way.

*Fourth condition* The fourth condition is that steps are being taken to secure that the dwelling will be converted into a building other than a dwelling without undue delay.

(2) A dwelling is “used in a relievable way” for the purposes of subsection (1) if the single-dwelling interest in question is exploited in such a way, or held in such a way and for such purposes, (or, as the case requires, the dwelling itself is exploited or used in such a way) that a day of such exploitation, ownership or use would be relievable under any of sections 133, 137, 145 and 148.

(3) In this section—

“relevant partner”, where P is (on day X) entitled to the interest as a member of a partnership, means a person who was at the time in question carrying on the qualifying rental property business concerned as a member of that partnership; “without undue delay” means without delay, except so far as delay is justified by commercial considerations or cannot be avoided.

### **135 Non-qualifying occupation: look-forward and look-back**

(1) Subsection (2) applies if on a day in a chargeable period (“the day of non-qualifying occupation”)—

- (a) a single-dwelling interest to which a person (“the landlord”) is entitled is being exploited as mentioned in section 133(1)(a), or steps are being taken to secure that the interest will be so exploited, as mentioned in section 133(1)(b), and
- (b) a non-qualifying individual is permitted to occupy the dwelling.

(2) No subsequent day in that chargeable period, or in any of the subsequent 3 chargeable periods, that meets the continuity of ownership condition and would (in the absence of this subsection) be relievable by virtue of section 133(1)(b) is treated as relievable

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by virtue of that provision unless a day of qualifying use falls between that day and the day of non-qualifying occupation.

- (3) A day meets the continuity of ownership condition if on that day—
  - (a) the landlord is entitled to the single-dwelling interest, or
  - (b) if the landlord carried on or (as the case requires) intended to carry on the property rental business in partnership, another member of the partnership is entitled to the interest.
- (4) Subsection (5) applies if a person who is a non-qualifying individual in relation to a single-dwelling interest occupies the dwelling on a day in a chargeable period (“the day of non-qualifying occupation”).
- (5) An earlier day in that or the preceding chargeable period (“the earlier day”) is not relievable by virtue of section 133(1)(b) or 134 if a relevant person is entitled to the single-dwelling interest on that day.
- (6) In subsection (5) “relevant person” means—
  - (a) a person who is entitled to the single-dwelling interest on the day of non-qualifying occupation, or
  - (b) if a person falling within paragraph (a) is or has been a member of a partnership whose members have at any time exploited the single-dwelling interest as a source of rents and receipts in a property rental business, any other member of that partnership.
- (7) Subsection (5) does not apply in relation to the earlier day if a day that is relievable by virtue of section 133(1)(a) falls between that earlier day and the day of non-qualifying occupation.
- (8) For the purposes of this section—
  - (a) “day of qualifying use”, in relation to a single-dwelling interest, means a day that is relievable in the case of the interest by virtue of section 133(1)(a);
  - (b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

### **136 Meaning of “non-qualifying individual”**

- (1) In sections 133 and 135 “non-qualifying individual”, in relation to a single-dwelling interest, means any of the following—
  - (a) an individual who is entitled to the interest (otherwise than as a member of a partnership),
  - (b) an individual (“a connected person”) who is connected with a person entitled to the interest,
  - (c) if a person is entitled to the interest as a member of a partnership, an individual who is, or is connected with, a qualifying member of that partnership,
  - (d) an individual (“a relevant settlor”) who is the settlor in relation to a settlement of which a trustee is (in the capacity of trustee) connected with a person who is entitled to the interest,
  - (e) the spouse or civil partner of a connected person or of a relevant settlor,
  - (f) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,
  - (g) a relative of the spouse or civil partner of a connected person or of a relevant settlor,

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- (h) the spouse or civil partner of a person falling within paragraph (g), or
  - (i) an individual who is a major participant in a relevant collective investment scheme or is connected with a major participant in a relevant collective investment scheme.
- (2) In subsection (1)(c) “qualifying member”, in relation to a partnership, means a member of the partnership who is entitled to a 50% or greater share—
- (a) in the income profits of the partnership, or
  - (b) in the partnership's assets.
- (3) In subsection (1)(i) “relevant collective investment scheme”, in relation to a single-dwelling interest, means a collective investment scheme that meets the ownership condition with respect to the interest.
- (4) A person who participates in a collective investment scheme is a “major participant” in the scheme if the person—
- (a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or
  - (b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (5) The reference in subsection (4)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.
- (6) For the purposes of subsection (1), section 1122 of CTA 2010 (as applied by section 172) has effect as if subsections (7) and (8) of that section (application of rules about connected persons to partnerships) were omitted.
- (7) In this section—
- “relative” means brother, sister, ancestor or lineal descendant;
  - “settlement” and “settlor” have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (8) In subsection (1)(d) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).

### **137 Dwellings opened to the public**

- (1) A day in a chargeable period is relievable in relation to a single-dwelling interest if the first or second condition is met on that day.
- (2) The first condition is that the dwelling is being exploited as a source of income in the course of a qualifying trade in the normal course of which the public are offered the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on least 28 days in any year.
- (3) The second condition is that steps are being taken to secure—
- (a) that the dwelling will (in that or a future chargeable period) be exploited as a source of income in the course of a qualifying trade such as is mentioned in subsection (2), and

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- (b) that it will be so exploited without delay, except so far as delay is justified by commercial considerations or cannot otherwise be avoided.
- (4) In this section “qualifying trade” means a trade carried on on a commercial basis and with a view to profit.
- (5) For the purposes of this section persons are not taken to have an opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they are permitted to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.
- (6) The size (relative to the size of the whole dwelling), nature, and function of the area or areas concerned are to be taken into account in determining whether they form a significant part of the interior of the dwelling.

### **138 Property developers**

- (1) A day in a chargeable period is relievably in relation to a single-dwelling interest if on that day—
  - (a) a person carrying on a property development trade (“the property developer”) is entitled to the interest, and
  - (b) the interest is held exclusively for the purpose of developing and reselling the land in the course of the trade.
- (2) If the property developer holds an interest for the purpose mentioned in subsection (1) (b), any additional purpose the property developer may have of exploiting the interest as a source of rents or other receipts in the course of a qualifying property rental business (after developing the land and before reselling it) is treated as not being a separate purpose in applying the test in subsection (1)(b).
- (3) A day is not relievably by virtue of subsection (1) if on the day a non-qualifying individual is permitted to occupy the dwelling.
- (4) In this Part “property development trade” means a trade that—
  - (a) consists of or includes buying and developing for resale residential or non-residential property, and
  - (b) is run on a commercial basis and with a view to profit.
- (5) In this section references to development include redevelopment.

### **139 Property developers: exchange of dwellings**

- (1) A day in a chargeable period is relievably in relation to a single-dwelling interest if—
  - (a) a person (“the property developer”) is on that day entitled to a single-dwelling interest (“the returned interest”) that was acquired (by the relevant person) in the course of a property development trade, and
  - (b) that acquisition (“the reverse acquisition”) was part of a qualifying exchange.
- (2) A day is not relievably by virtue of this section if on that day a non-qualifying individual is permitted to occupy the dwelling.
- (3) In this section “the relevant person” means—

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- (a) if the property developer is entitled to the returned interest as a member of a partnership, the persons who acquired the interest as members of the partnership, or
  - (b) otherwise, the property developer (and any person who acquired the returned interest jointly with the property developer).
- (4) The reverse acquisition is “part of a qualifying exchange” only if—
- (a) it was made by way of transfer,
  - (b) the person from whom the acquisition was made itself acquired (by way of grant or transfer) a chargeable interest in or over a new dwelling from the relevant person, and
  - (c) each of those acquisitions was entered into in consideration of the other.
- (5) 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.

#### **140 Property developers: supplementary**

- (1) Subsection (2) applies if on a day in a chargeable period—
- (a) a person carrying on a property development trade (“the property developer”) is entitled to a single-dwelling interest that has been acquired in the course of that trade (whether or not the acquisition was part of a qualifying exchange for the purposes of section 139), and
  - (b) a non-qualifying individual is permitted to occupy the dwelling.
- (2) No subsequent day is relievable in the case of the single-dwelling interest by virtue of section 138(1) or 139(1) if—
- (a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and
  - (b) there is continuity of ownership on that day.
- (3) There is “continuity of ownership” on any day on which—
- (a) the property developer is entitled to the single-dwelling interest, or
  - (b) if the property developer carried on the property development trade in partnership, another member of the partnership is entitled to the interest.
- (4) Subsection (5) applies if—
- (a) on a day in a chargeable period (“the day of non-qualifying occupation”) a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and
  - (b) on an earlier day in that, or the preceding, chargeable period (“the earlier day”) the conditions in section 138(1)(a) and (b) are met in relation to the same single-dwelling interest.
- (5) The earlier day is not relievable by virtue of section 138(1) in the case of the single-dwelling interest if—
- (a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or

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- (b) if the trade mentioned in section 138(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying occupation.
- (6) Subsection (7) applies if—
- (a) on a day in a chargeable period (“the day of non-qualifying occupation”) a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and
  - (b) on an earlier day in that, or the preceding, chargeable period (“the earlier day”) the conditions in section 139(1)(a) and (b) are met in relation to the same single-dwelling interest.
- (7) The earlier day is not relievable by virtue of section 139(1) in the case of the single-dwelling interest if—
- (a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or
  - (b) where the trade mentioned in section 139(1) is carried on in partnership, a person who has at any time carried that trade on in partnership is entitled to the interest on the day of non-qualifying occupation.
- (8) If a day that is relievable by virtue of section 133(1)(a) falls between the earlier day mentioned in subsection (5) or (as the case may be) (7) and the day of non-qualifying occupation, that subsection does not apply in relation to that earlier day.
- (9) For the purposes of sections 138 and 139 and this section—
- (a) “non-qualifying individual” has the meaning given by section 136(1);
  - (b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

## **141 Property traders**

- (1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—
- (a) a person carrying on a property trading business is entitled to the interest, and
  - (b) the interest is held as stock of the business and for the sole purpose of resale in the course of the business.
- (2) A single-dwelling interest in a dwelling is taken not to be held for the sole purpose of resale in the course of a property trading business at any time when a non-qualifying individual is permitted to occupy the dwelling.
- (3) In this Part “property trading business” means a business that—
- (a) consists of or includes activities in the nature of a trade of buying and selling dwellings, and
  - (b) is carried on on a commercial basis and with a view to profit.

## **142 Property traders: supplementary**

- (1) Subsection (2) applies if on a day in a chargeable period (“the day of non-qualifying occupation”)—
- (a) a person carrying on a property trading business (“the property trader”) is entitled to a single-dwelling interest that is held as mentioned in section 141(1)(b), and

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- (b) a non-qualifying individual is permitted to occupy the dwelling.
- (2) No subsequent day is relievable in the case of the single-dwelling interest by virtue of section 141(1) if—
  - (a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and
  - (b) the property trader or a relevant partner is entitled to the interest on that day.
- (3) If on the day of non-qualifying occupation mentioned in subsection (1) the property trader carries on the property trading business in partnership, “relevant partner” means any other person who is, at any time, a member of that partnership.
- (4) Subsection (5) applies if—
  - (a) on a day in a chargeable period (“the day of non-qualifying occupation”) a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and
  - (b) on an earlier day in that, or the preceding, chargeable period (“the earlier day”) the conditions in section 141(1)(a) and (b) are met in relation to the same single-dwelling interest.
- (5) The earlier day is not relievable by virtue of section 141(1) in the case of the single-dwelling interest if—
  - (a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or
  - (b) if the business mentioned in section 141(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying occupation.
- (6) Subsection (5) does not apply in relation to the earlier day if a day that is relievable by virtue of section 133(1)(a) falls between the earlier day and the day of non-qualifying occupation.
- (7) For the purposes of this section and section 141—
  - (a) “non-qualifying individual” has the meaning given by section 136(1);
  - (b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

### **143 Financial institutions acquiring dwellings in the course of lending**

- (1) A day in a chargeable period is relievable in relation to a single-dwelling interest if matters stand as follows on that day—
  - (a) a financial institution carrying on a business that involves the lending of money is entitled to the interest,
  - (b) the financial institution has acquired the interest in the course of that business and in connection with those lending activities, and
  - (c) the interest is held with the intention that it will be sold in the course of that business without delay (except so far as delay is justified by commercial considerations or cannot be avoided).
- (2) A single-dwelling interest in a dwelling is taken not to be held with the intention mentioned in subsection (1)(c) at any time when a non-qualifying individual is permitted to occupy the dwelling.



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- (3) In this Part (except where otherwise stated) “financial institution” has the meaning given by section 564B of ITA 2007; but for this purpose section 564B(1) is to be read as if paragraph (d) of that subsection were omitted.

#### **144 Section 143: supplementary**

- (1) Subsection (2) applies if on a day in a chargeable period—
- (a) a financial institution that carries on a business involving the lending of money is entitled to a single-dwelling interest that has been acquired by it as mentioned in section 143(1)(b), and
  - (b) a non-qualifying individual is permitted to occupy the dwelling.
- (2) No subsequent day is relivable in the case of the single-dwelling interest by virtue of section 143(1) if—
- (a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and
  - (b) there is continuity of ownership on that day.
- (3) There is continuity of ownership on a day on which—
- (a) the financial institution is entitled to the single-dwelling interest, or
  - (b) if the financial institution carried on the business mentioned in subsection (1) (a) in partnership, another member of the partnership is entitled to the interest.
- (4) Subsection (5) applies if—
- (a) on a day in a chargeable period (“the day of non-qualifying occupation”) a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and
  - (b) on an earlier day in that, or the preceding, chargeable period (“the earlier day”) the conditions in section 143(1)(a) to (c) are met in relation to the same single-dwelling interest.
- (5) The earlier day is not relivable by virtue of section 143(1) in the case of the single-dwelling interest if—
- (a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or
  - (b) if the business mentioned in section 143(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying ownership.
- (6) Subsection (5) does not apply in relation to the earlier day if a day that is relivable by virtue of section 133(1)(a) falls between the earlier day and the day of non-qualifying occupation.
- (7) For the purposes of this section and section 143—
- (a) “non-qualifying individual” has the meaning given by section 136(1);
  - (b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

#### **145 Occupation by certain employees or partners**

- (1) A day in a chargeable period is a relivable if matters stand as follows on that day—
- (a) a person (“P”) is entitled to a single-dwelling interest,

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- (b) P, or a relevant group member, carries on a qualifying trade,
  - (c) the interest is held for the purpose of making the dwelling available to one or more qualifying employees or qualifying partners for use as living accommodation, and
  - (d) the dwelling is, or is to be, made available as mentioned in paragraph (c) for purposes that are solely or mainly purposes of the trade.
- (2) “Qualifying trade” means a trade that is carried on on a commercial basis and with a view to profit.
- (3) In this section references to making a dwelling available to a qualifying employee or qualifying partner include making it available to persons who are to share the accommodation with such an individual as their family.
- (4) Where P is a company, “a relevant group member” means a company which is a member of the same group as P for the purposes mentioned in paragraph 1(2) of Schedule 7 to FA 2003 (stamp duty land tax: group relief).

#### **146 Meaning of “qualifying employee” and “qualifying partner” in section 145**

- (1) In a case where the person carrying on the trade mentioned in section 145(1)(b) carries it on in partnership with one or more other persons, “qualifying partner” means any individual who is a member of the partnership, except one who is entitled to a 10% or greater share—
- (a) in the income profits of the partnership, or
  - (b) in any company that is entitled to the single-dwelling interest mentioned in section 145(1)(a), or
  - (c) in the partnership's assets.
- (2) “Qualifying employee” means any individual employed for the purposes of the qualifying trade, except one who—
- (a) is entitled to a 10% or greater share—
    - (i) in the income profits of the trade, or
    - (ii) in any company that is entitled to the single-dwelling interest mentioned in section 145(1)(a), or
    - (iii) in that single-dwelling interest, or
  - (b) provides excluded domestic services.
- (3) The reference in subsection (2)(b) to an individual who provides excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by a non-qualifying individual, of the dwelling mentioned in section 145(1)(c) (“the relevant dwelling”), or a linked dwelling.
- (4) In subsection (3) “non-qualifying individual” means an individual connected with a person who is entitled to the single-dwelling interest.
- (5) The following are “linked” dwellings for the purposes of subsection (3)—
- (a) if the conditions in section 116(2) are met in relation to the relevant dwelling and another dwelling, that other dwelling;
  - (b) a dwelling that is linked to the relevant dwelling, as described in section 117(1).

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- (6) In this section references to employment include the holding of an office.
- (7) For the purposes of subsections (1)(c) and (2)(a)(iii) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

#### **147 Meaning of “10% or greater share in a company”**

- (1) This section applies for the purposes of section 146.
- (2) An individual (“P”) is taken to be entitled to a 10% or greater share in a company (“C”) if P possesses (directly or indirectly) or is entitled to acquire—
  - (a) 10% or more of the share capital of C,
  - (b) 10% or more of the issued share capital of C,
  - (c) 10% or more of the voting power in C,
  - (d) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive 10% or more of the amount so distributed, or
  - (e) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive 10% or more of the assets of C which would then be available for distribution among the participators.
- (3) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in subsection (2)(d).
- (4) For the purposes of subsection (2) a person is treated as entitled to acquire anything which the person—
  - (a) is entitled to acquire at a future date, or
  - (b) will at a future date be entitled to acquire.
- (5) If a person—
  - (a) possesses any rights or powers on behalf of another person (“A”), or
  - (b) may be required to exercise any rights or powers on A's direction or behalf,those rights or powers are to be attributed to A.
- (6) The following are also to be attributed to a person—
  - (a) the rights and powers of any company of which the person has, or the person and associates of the person have, control;
  - (b) the rights and powers of any two or more companies within paragraph (a);
  - (c) the rights and powers of any associate of the person (or of any two or more associates of the person).
- (7) The rights and powers which are to be attributed under subsection (6)—
  - (a) include those attributed to a company or associate under subsection (5), but
  - (b) do not include those attributed to an associate under subsection (6).
- (8) A person who does not meet the conditions in subsection (2) is nevertheless treated as having a 10% or greater share in a company if the person exercises, is able to exercise or is entitled to acquire, direct or indirect control over the company's affairs.
- (9) In this section—

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“associate” has the same meaning as in Part 10 of CTA 2010 (see section 448 of that Act); but for this purpose section 448 is to be read as if the words “or partner” were omitted in subsection (1)(a);

“control” has the same meaning as in that Part (see section 450 of that Act);

“loan creditor” has the same meaning as in that Part (see section 453 of that Act);

“participator” has the same meaning as in that Part (see section 454 of that Act).

**Modifications etc. (not altering text)**

- C2** S. 147 applied by 2003 c. 14, Sch. 4A para. 5E(9) (as inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 40 para. 2\(4\)](#))

**148 Farmhouses**

- (1) This section applies where on a day in a chargeable period—
- (a) a dwelling (“the farmhouse”) forms part of land occupied for the purposes of a qualifying trade of farming, and
  - (b) a person carrying on the trade is entitled to, or connected with a person who is entitled to, a single-dwelling interest in the farmhouse.
- (2) That day is relievably in relation to the single-dwelling interest if on that day the farmhouse is occupied—
- (a) by a farm worker who occupies it for the purposes of the trade, or
  - (b) by a former long-serving farm worker, or the surviving spouse or civil partner of a former farm worker.
- (3) A trade of farming is a “qualifying trade of farming” only if it is carried on—
- (a) on a commercial basis, and
  - (b) with a view to profit.
- (4) In this section—
- “farming” has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this section “farming” includes market gardening;
- “market gardening” has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

**149 “Farm worker” and “former long-serving farm worker”**

- (1) An individual is a “farm worker” in relation to the qualifying trade of farming mentioned in section 148(1) at any time when the individual has a substantial involvement in—
- (a) the day-to-day work of the trade, or
  - (b) the direction and control of the conduct of the trade.
- (2) Where section 148 applies, an individual occupying the farmhouse on the day mentioned in section 148(1) is a “former long-serving farm worker” if the individual had, before that day, been a farm worker in relation to the qualifying trade of farming for—

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- (a) a qualifying period of 3 or more years, or
  - (b) qualifying periods together amounting to 3 or more years within a 5 year period.
- (3) In subsection (2) “qualifying period” means a period throughout which—
- (a) the individual occupied the farmhouse for the purposes of the trade,
  - (b) the land of which the farmhouse forms part was occupied for the purposes of the trade,
  - (c) the trade was carried on by—
    - (i) a person who is entitled to the single-dwelling interest in the farmhouse on the day mentioned in section 148(1), or
    - (ii) a person connected with such a person, and
  - (d) a person who is entitled to the single-dwelling interest in the farmhouse on the day mentioned in section 148(1) was entitled to that interest.
- (4) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this section and section 148.

## **150 Providers of social housing**

- (1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—
- (a) a profit-making registered provider of social housing (P) is entitled to the interest, and
  - (b) P's acquisition of the interest (or of any part of the interest) was funded with the assistance of public subsidy.
- (2) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—
- (a) a relevant housing provider (that is, a non-profit registered provider of social housing or a registered social landlord) is entitled to the interest, and
  - (b) the condition in subsection (3) is met.
- (3) The condition mentioned in subsection (2) is that—
- (a) the relevant housing provider is controlled by its tenants,
  - (b) the person from whom the relevant housing provider acquired the interest (or any part of the interest) is a qualifying body, or
  - (c) the relevant housing provider's acquisition of the interest (or of any part of the interest) was funded with the assistance of a public subsidy.
- (4) In this section—
- (a) the reference to a relevant housing provider “controlled by its tenants” is to be read in accordance with subsection (2) of section 71 of FA 2003;
  - (b) “qualifying body” has the meaning given by subsection (3) of that section;
  - (c) “public subsidy” has the same meaning as in that section.

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## *Exemptions*

### **151 Charitable companies**

- (1) A charitable company that is entitled to a single-dwelling interest is regarded as not meeting the ownership condition with respect to the interest on any day on which the interest is held by the company for qualifying charitable purposes, other than an excluded day.
- (2) The interest is “held for qualifying charitable purposes” if it is held—
  - (a) for use in furtherance of the charitable purposes of the charitable company or of another charity, or
  - (b) as an investment from which the profits are (or are to be) applied to the charitable purposes of the charitable company.
- (3) A day is an “excluded day” if the following conditions are met—
  - (a) a person (“the donor”) has on or before that day made, or agreed to make, a gift to the charitable company or to a charity that is connected with it,
  - (b) there exist on that day arrangements under which or as a result of which a linked individual is permitted, or is to be or may in the future be permitted, to occupy the dwelling, and
  - (c) it is reasonable to assume from either or both of—
    - (i) the likely effects of the gift and the arrangements, or
    - (ii) the circumstances in which the gift was made and the circumstances in which the arrangements were entered into,
that the gift would not have been made and the arrangements would not have been entered into independently of one another;  
but see the exception in subsection (5).
- (4) In subsection (3)(b) “linked individual” means an individual who—
  - (a) is the donor, or
  - (b) was, when the arrangements were entered into, an associate of the donor.
- (5) A day is not an “excluded day” if the first, second or third condition is met on that day.  
The first condition is that the activities undertaken for carrying out the primary purposes of the charitable company include, or normally include, opening the dwelling to the public.  
The second condition is that the dwelling is being exploited through commercial activities that involve, or normally involve, opening the dwelling to the public.  
The third condition is that steps are being taken—
  - (a) to secure that the first or second condition will be met without undue delay, or
  - (b) to secure that the single-dwelling interest will be sold without undue delay.
- (6) In subsection (5)—
  - (a) “opening the dwelling to the public” means offering the public the opportunity to make use of, stay in or otherwise enjoy, on at least 28 days in any year, areas that constitute a significant part of the interior of the dwelling or of the dwelling's garden or grounds;

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- (b) “without undue delay” means without delay, except so far as delay is justified by commercial considerations or for the sake of a primary purpose of the charitable company.
- (7) For the purposes of subsection (6)(a), the size (relative to the size of the whole dwelling or of the whole garden or grounds), nature, and function of the areas concerned are to be taken into account in determining whether they form a significant part of the interior of the dwelling or (as the case may be) of the garden or grounds.
- (8) For the purposes of subsection (3)(a)—
  - (a) “connected” means connected in a matter relating to the structure, administration or control of the charitable company, and
  - (b) section 172 does not apply.

## **152 Section 151: supplementary**

- (1) In section 151 “associate”, in relation to the donor, means any of the following—
  - (a) an individual (“a connected person”) who is connected with the donor,
  - (b) an individual who is the settlor in relation to a settlement of which a trustee is (in the capacity of trustee) connected with the donor,
  - (c) the spouse or civil partner of a connected person or of a relevant settlor,
  - (d) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,
  - (e) a relative of the spouse or civil partner of a connected person or of a relevant settlor, or
  - (f) the spouse or civil partner of a person falling within paragraph (e).
- (2) In subsection (1)—
  - “relative” means brother, sister, ancestor or lineal descendant;
  - “settlement” and “settlor” have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (3) In subsection (1)(b) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).
- (4) For the purposes of section 151 occupation of any part of a dwelling is regarded as occupation of the dwelling.
- (5) For the purposes of section 151(3)—
  - (a) the making of a gift is disregarded if it is made before the day on which this Act is passed, and
  - (b) an agreement to make a gift is disregarded if the agreement is made before that day.
- (6) Arrangements entered into before the day on which this Act is passed are disregarded for the purposes of section 151(3) unless a material alteration has been made to them on or after that date.

“Material alteration” means an alteration affecting anything in the arrangements that relates to the individual's having (at any time), or potentially having, permission to occupy the dwelling.

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- (7) References in section 151 and this section to a gift include the disposal of an asset for consideration of an amount or value which is less than the market value of the asset.
- (8) In section 151 and this section “arrangements” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

### **153 Public bodies**

- (1) A public body is not regarded as a company for the purposes of this Part.
- (2) In this section—
  - (a) “public body” means any body corporate that is a public body for the purposes of section 66 of FA 2003, and
  - (b) references to a public body accordingly include a company such as is mentioned in subsection (5) of that section (companies wholly owned by the listed bodies).
- (3) The power of the Treasury to prescribe persons by an order under section 66(4) of FA 2003 may be exercised so as to make different provision for purposes relating to annual tax on enveloped dwellings and stamp duty land tax.
- (4) In paragraph (b) of subsection (2) “company” means a company as defined by section 1 of the Companies Act 2006 (and subsection (1) is to be ignored in interpreting that paragraph).

### **154 Bodies established for national purposes**

- (1) A body listed in subsection (2) is not regarded as a company for the purposes of this Part.
- (2) The bodies are—
  - the Historic Buildings and Monuments Commission for England;
  - the Trustees of the British Museum;
  - the Trustees of the National Heritage Memorial Fund;
  - the Trustees of the Natural History Museum.

### **155 Dwelling conditionally exempt from inheritance tax**

- (1) Subsection (2) applies to a single-dwelling interest if—
  - (a) the whole or part of the dwelling has been designated under section 31 of IHTA 1984 (buildings of outstanding historic or architectural interest etc),
  - (b) an undertaking has been made with respect to the dwelling under section 30 of that Act (conditionally exempt transfers), and
  - (c) a transfer of value is exempt from inheritance tax by virtue of that designation and that undertaking.
- (2) The taxable value of the single-dwelling interest on any day is taken to be zero if no chargeable event has occurred with respect to the dwelling in the time between the transfer of value and the beginning of that day.
- (3) Subsection (4) applies to a single-dwelling interest if—



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- (a) the whole or part of the dwelling has been designated under section 31 of IHTA 1984,
  - (b) an undertaking has been made with respect to the dwelling under section 78 of that Act (settled property: conditionally exempt occasions), and
  - (c) a transfer of property or other event is a conditionally exempt occasion by virtue of that designation and that undertaking.
- (4) The taxable value of the single-dwelling interest on any day is taken to be zero if no chargeable event has occurred with respect to the dwelling in the time between the conditionally exempt occasion and the beginning of that day.
- (5) In this section—
- “chargeable event” means an event which is a chargeable event under section 32 of IHTA 1984;
  - “conditionally exempt occasion” is to be read in accordance with section 78(2) of that Act;
  - “transfer of value” has the same meaning as in that Act.

#### *Power to modify reliefs*

### **156 Modification of reliefs**

- (1) The Treasury may by regulations—
- (a) amend this Part for the purpose of providing further relief, or further exemptions, from tax (whether by modifying an existing relief or exemption or otherwise);
  - (b) amend or repeal any of sections 132 to 155 for purposes not falling within paragraph (a);
  - (c) make any amendment of any other provision of this Part that may be necessary in consequence of provision under paragraph (b).
- (2) In subsection (1)—
- (a) the reference to providing further relief from tax includes the provision of relief for additional persons or categories of person or in additional cases or circumstances;
  - (b) the reference to providing further exemptions from tax includes the provision of exemptions for additional persons or categories of person or in additional cases or circumstances.

#### *Alternative property finance*

### **157 Land sold to financial institution and leased to person**

- (1) This section applies where—
- (a) section 71A of FA 2003 (land sold to financial institution and leased to person) or section 72 of that Act (land in Scotland sold to financial institution and leased to person) applies in relation to arrangements entered into between a financial institution and another person (“the lessee”), and

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- (b) the land in which the institution purchases a major interest under the first transaction consists of or includes one or more dwellings (or parts of a dwelling).
- (2) If the lessee is a company, this Part has effect in relation to times when the arrangements are in operation as if—
- (a) the interest held by the financial institution as mentioned in subsection (3)(b) were held by the lessee (and not by the financial institution), and
  - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (3) The reference in subsection (2) to times when the arrangements are in operation is to times when—
- (a) the lessee holds the leasehold interest granted to it under the second transaction, and
  - (b) the interest purchased under the first transaction (or that interest except so far as transferred by a further transaction) is held by a financial institution.
- (4) A company treated under subsection (2)(a) as holding an interest at a particular time is treated as holding it as a member of a partnership if at the time in question the company holds the leasehold interest as a member of the partnership (and this Part has effect accordingly in relation to the other members of the partnership).
- (5) In relation to times when the arrangements operate for the benefit of a collective investment scheme, this Part has effect as if—
- (a) the interest held by the financial institution as mentioned in subsection (6)(b) were held by the lessee for the purposes of a collective investment scheme (and were not held by the financial institution), and
  - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (6) The reference in subsection (5) to times when the arrangements operate for the benefit of a collective investment scheme is to times when—
- (a) the lessee holds the leasehold interest for the purposes of a collective investment scheme, and
  - (b) the interest purchased under the first transaction (or that interest except so far as transferred by a further transaction) is held by a financial institution.
- (7) In this section—
- “financial institution” has the meaning given by section 73BA of FA 2003;
  - “the first transaction” has the same meaning as in section 71A or (as the case requires) 72 of FA 2003;
  - “further transaction” has the same meaning as in section 71A of FA 2003;
  - “the leasehold interest” means the interest granted to the lessee under the second transaction;
  - “the second transaction” has the same meaning as in section 71A or (as the case requires) 72 of FA 2003.
- (8) The reference in subsection (1) to a major interest in land is to be read in accordance with section 117 of FA 2003.

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- (9) Where the lessee is an individual, references in subsections (5) and (6) to the lessee are to be read, in relation to times after the death of the lessee, as references to the lessee's personal representatives.
- (10) In relation to transactions in relation to which section 29 of the Scotland Act 2012 (disapplication of UK stamp duty land tax) has effect, this section has effect as if—
  - (a) in subsection (1) the words “or section 72 of that Act (land in Scotland sold to financial institution and leased to person)” were omitted, and
  - (b) in subsection (7) the words, “or (as the case requires) section 72” were omitted (in each place).

#### *Administration and payment of tax*

### **158 Responsibility for collection and management**

The Commissioners for Her Majesty's Revenue and Customs are responsible for the collection and management of annual tax on enveloped dwellings.

### **159 Annual tax on enveloped dwellings return**

- (1) Where tax is charged on a person for a chargeable period with respect to a single-dwelling interest the person must deliver a return for the period with respect to the interest.
- (2) A return under subsection (1) must be delivered by the end of the period of 30 days beginning with first day in the period on which the person is within the charge with respect to the interest.
- (3) If the first day in the chargeable period on which the person is within the charge with respect to the interest (“day 1”) is a valuation date only because of section 124 (new dwellings) or section 125 (dwellings produced from other dwellings)—
  - (a) subsection (2) does not apply, and
  - (b) the return must be delivered by the end of the period of 90 days beginning with day 1.
- (4) A return under this section must be delivered to an officer of Revenue and Customs, and is called an “annual tax on enveloped dwellings return”.

#### **Modifications etc. (not altering text)**

**C3** S. 159 modified (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. 109(5)(6)

### **160 Return of adjusted chargeable amount**

- (1) A person on whom tax is charged for a chargeable period with respect to a single-dwelling interest must deliver a further return for the period with respect to the interest if the first or second condition is met.
- (2) The return must be delivered by the end of the period of 30 days beginning with the first day of the period following the period for which the tax is charged (but see subsection (3)).

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- (3) If the return is required because the second condition is met and the adjusted chargeable amount is affected by an event that has occurred after the end of the chargeable period mentioned in subsection (1), the return must be delivered by the end of the period of 30 days beginning with the day on which that event occurred.
- (4) The first condition is that—
  - (a) the person has not made a claim under section 100 (interim relief) with respect to the interest for the chargeable period, and
  - (b) the adjusted chargeable amount is greater than the amount charged under section 99 with respect to the single-dwelling interest for the period.
- (5) The second condition is that—
  - (a) the person has made one or more claims under section 100 with respect to the interest for the chargeable period, and
  - (b) the sum of amounts A and B, as calculated under that section, in connection with the last of those claims is less than the adjusted chargeable amount.
- (6) A return under this section must be delivered to an officer of Revenue and Customs, and is called a “return of the adjusted chargeable amount”.

#### **161 Return to include self assessment**

- (1) A return must include a self assessment.
- (2) In subsection (1) “return” means—
  - (a) an annual charge on enveloped dwellings return, or
  - (b) a return of the adjusted chargeable amount.
- (3) In the case of an annual tax on enveloped dwellings return, “self assessment” means an assessment of—
  - (a) the amount of tax to which the person is chargeable under section 99 for the period in respect of the interest, and
  - (b) if the return includes a claim under section 100 (interim relief), the tax payable after the relief.
- (4) In the case of a return of the adjusted chargeable amount, “self assessment” means an assessment of—
  - (a) the adjusted chargeable amount, and
  - (b) the additional tax payable in accordance with section 163(2).
- (5) A self assessment must include a statement of the amount taken to be the market value of the interest on each valuation date (earlier than the date on which the return is delivered) that is relevant for the purposes of the assessment.

#### **162 Returns, enquiries, assessments and other administrative matters**

- (1) Schedule 33 contains provision about returns, enquiries and related matters.
- (2) The Treasury may by regulations—
  - (a) make any amendments of Schedule 33 that they may at any time think appropriate;

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- (b) make any amendment of any other provision of this Part that may be necessary in consequence of provision under paragraph (a).

### **163 Payment of tax**

- (1) Tax charged on a person under section 99 for a chargeable period with respect to a single-dwelling interest must be paid not later than the filing date for the annual tax on enveloped dwellings return required to be made for the period with respect to the interest.
- (2) So far as a chargeable person's adjusted chargeable amount for a chargeable period with respect to a single-dwelling interest exceeds the amount payable under subsection (1) (as modified, where applicable, by section 100(3)), the amount of the difference must be paid not later than the filing date for the return of the adjusted chargeable amount under section 160.
- (3) Tax payable as a result of the amendment of a return must be paid—
  - (a) immediately, or
  - (b) if the amendment is made on or before the filing date for the return, not later than that date.
- (4) In subsection (3) “return” means—
  - (a) an annual tax on enveloped dwellings return, or
  - (b) a return of the adjusted chargeable amount.
- (5) Tax payable in accordance with a determination or assessment by an officer of Revenue and Customs must be paid within the period of 30 days beginning with the day on which the determination or assessment is issued.

#### **Modifications etc. (not altering text)**

C4 S. 163 modified (17.7.2014) by [Finance Act 2014 \(c. 26\), s. 109\(5\)\(7\)](#)

### **164 Information and enforcement**

In Schedule 34—

- (a) Part 1 contains provision about information and inspection powers, and
- (b) Part 2 contains provision about penalties.

### **165 Collection and recovery of tax etc**

- (1) Schedule 12 to FA 2003 (stamp duty land tax: collection and recovery of tax) has effect in relation to the collection and recovery of tax under this Part as it has effect in relation to stamp duty land tax.
- (2) The reference in subsection (1) to tax under this Part includes any unpaid penalty or interest under this Part.

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### *Application of provisions*

## **166 Companies**

- (1) In this Part “company” means a body corporate but does not include—
  - (a) a corporation sole, or
  - (b) any partnership (see section 167(1)).
- (2) Everything to be done by a company under this Part must be done by the company acting through—
  - (a) the proper officer of the company, or
  - (b) another person who has the express, implied or apparent authority of the company to act on its behalf for the purpose.
- (3) Service of a document on a company under this Part may be effected by serving the document on the proper officer.
- (4) Tax due from any company that is incorporated under the law of a country or territory outside the United Kingdom may be recovered from the proper officer of the company (as well as by any means available in the absence of this subsection).
- (5) The proper officer—
  - (a) may retain, out of any money that may come into the officer's hands on the company's behalf, enough money to pay that tax, and
  - (b) is entitled to be fully reimbursed by the company (whether by that method or another) for amounts recovered from the officer under subsection (4).
- (6) For the purposes of this section the proper officer of a company is—
  - (a) the secretary, or a person acting as secretary, of the company, or
  - (b) if the company does not have a proper officer within paragraph (a), the treasurer, or a person acting as treasurer, of the company.
- (7) If a liquidator has been appointed for the company—
  - (a) subsections (2)(b) and (6) do not apply, and
  - (b) the liquidator is the proper officer of the company.
- (8) If an administrator has been appointed for the company—
  - (a) subsection (6) does not apply, and
  - (b) the administrator is the proper officer of the company.
- (9) If two or more persons are appointed to act jointly or concurrently as the administrator of the company, the proper officer of the company is—
  - (a) whichever of those persons is specified in a notice given by the administrators to an officer of Revenue and Customs for the purposes of this section, or
  - (b) if no notice is given under paragraph (a), whichever of those persons is designated by an officer of Revenue and Customs as the proper officer for those purposes.
- (10) See also section 153 (public bodies) and section 154 (bodies established for national purposes).

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## **167 Partnerships**

- (1) In this Part “partnership” means—
  - (a) a partnership within the Partnerships Act 1890,
  - (b) a limited partnership registered under the Limited Partnerships Act 1907,
  - (c) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002, or
  - (d) a firm or entity of a similar character to any of those mentioned in paragraphs (a) to (c) formed under the law of a country or territory outside the United Kingdom.
- (2) This Part has effect as follows in relation to a partnership (for instance, a limited liability partnership formed as mentioned in subsection (1)(c)) that is itself capable of being entitled to, or of acquiring or disposing of, a chargeable interest—
  - (a) transactions entered into on behalf of the partnership are treated as entered into by or on behalf of the partners;
  - (b) where the partnership is entitled to a single-dwelling interest, this Part has effect as if the partners were jointly entitled to the interest (and the partnership had no entitlement to it).
- (3) For the purposes of this Part a partnership is treated as the same partnership despite a change in membership if any person who was a member before the change remains a member after the change.
- (4) For the purposes of this Part—
  - (a) a collective investment scheme is not regarded as a partnership, and
  - (b) accordingly, a member of a partnership by or on whose behalf a single-dwelling interest is held for the purposes of a collective investment scheme is not regarded as entitled to the interest as a member of the partnership.
- (5) Anything required or authorised by this Part to be done by or in relation to the responsible partners for a partnership may instead be done by or in relation to any representative partner or partners.
- (6) A representative partner means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Part of this Act.
- (7) Any such nomination, or the revocation of such a nomination, has effect only after notice of the nomination, or revocation, has been given to an officer of Revenue and Customs.

### *Supplementary provisions*

## **168 Miscellaneous amendments and transitory provision**

Schedule 35 contains—

- (a) miscellaneous amendments, and
- (b) provision about the chargeable period beginning on 1 April 2013.

## **169 Orders and regulations**

- (1) Orders and regulations under this Part are to be made by statutory instrument.

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- (2) A statutory instrument containing an order or regulations made under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (3) Subsection (2) does not apply to—
  - (a) an instrument containing only an order under section 101(5), or
  - (b) an instrument to which subsection (4) applies.
- (4) A statutory instrument containing (whether alone or with other provision) provision made under section 156(1) or 162(2) 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) An order or regulations under this Part—
  - (a) may make different provision for different purposes,
  - (b) may include consequential or transitional provisions or savings.

### *Interpretation*

#### **170 Meaning of “chargeable day” and “within the charge”**

- (1) Any day on which the conditions in section 94(2) are met with respect to a single-dwelling interest is a “chargeable day” for that interest.
- (2) Where a day is a chargeable day as a result of subsection (1), the chargeable person is “within the charge” with respect to a single-dwelling interest on that day.

#### **171 References to the state of affairs “on” a day**

In determining for the purposes of any provision of this Part whether or not a state of affairs obtains on a particular day, it is to be assumed that the state of affairs obtaining at the end of the day persisted throughout the day.

#### **172 Connected persons**

- (1) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this Part (except where otherwise stated).
- (2) For the purposes of this Part a person is taken to be connected with a collective investment scheme if the person is a participant in the scheme who—
  - (a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or
  - (b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (3) The reference in subsection (2) to a collective investment scheme does not include a unit trust scheme; but see section 1123(2) of CTA 2010 (provision about the application of rules about connected persons to unit trust schemes).
- (4) The reference in subsection (2)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 3. (See end of Document for details)*

- (5) For the purposes of subsection (2) a person is taken to have any rights and powers that the person—
  - (a) is entitled to acquire at a future date, or
  - (b) will at a future date be entitled to acquire.
- (6) For the purposes of subsection (2) the rights and powers of any associate of a person (or of any two or more associates of a person) are to be attributed to the person.
- (7) In this section “associate” has the same meaning as in Part 10 of CTA 2010 (see section 448 of that Act); but for this purpose section 448 is to be read as if the words “or partner” were omitted in subsection (1)(a).

**Modifications etc. (not altering text)**

- C5** S. 172(2)-(7) applied by 2003 c. 14, Sch. 4A para. 5A(10)(b) (as inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 40 para. 2\(4\)](#))

**173 Connected persons: cell companies**

- (1) For the purposes of this Part a person is to be treated as connected to a cell company where, if any cell of the company were a separate company, the person would be connected to that separate company.
- (2) For the purposes of this section a company is a “cell company” if it meets the first or second condition.
- (3) The first condition is that under the law under which the company is incorporated or formed, under the company's articles of association or other document regulating the company or under arrangements entered into by or in relation to the company—
  - (a) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and
  - (b) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company.
- (4) The second condition is that the company's articles of association, or other document regulating it, establish an entity (by whatever name known) which—
  - (a) under the law under which the company is incorporated or formed, has legal personality distinct from that of the company, and
  - (b) which is not itself a company.
- (5) For the purposes of this section a “cell”, in relation to a cell company, is—
  - (a) an identifiable part of the company (by whatever name known) that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable, or
  - (b) an entity of the kind specified in subsection (4).

**174 General interpretation of Part 3**

- (1) In this Part—

“chargeable day” (in relation to a single-dwelling interest) is to be read in accordance with section 170;

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- “chargeable interest” has the meaning given by section 107;
- “the chargeable person” has the meaning given by section 96(2) or (3);
- “closure notice” has the meaning given by paragraph 16 of Schedule 33;
- “collective investment scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 235 of that Act);
- “company” has the meaning given by section 166(1);
- “completion”, in Scotland, means—
- (a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means,
  - (b) in relation to any other transaction, the settlement of the transaction;
- “discovery assessment” has the meaning given by paragraph 21 of Schedule 33;
- “EEAUCITS” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237 of that Act);
- “excluded rents” has the meaning given by section 133(6);
- “farming” has the meaning given by section 148(4);
- “filing date”, in relation to an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount, has the meaning given by paragraph 58 of Schedule 33;
- “financial institution” has the meaning given by section 143 (except where otherwise stated);
- “HMRC” means Her Majesty's Revenue and Customs;
- “HMRC determination” has the meaning given by paragraph 18 of Schedule 33;
- “jointly entitled” means—
- (a) in England and Wales, beneficially entitled as joint tenants or tenants in common,
  - (b) in Scotland, entitled as joint owners or owners in common,
  - (c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;
- “land” includes—
- (a) buildings and structures, and
  - (b) land covered by water;
- “market value” has the meaning given by section 98(8);
- “notice of enquiry” has the meaning given by paragraph 8 of Schedule 33;
- “open-ended investment company” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236(1) of that Act);
- “participant”, in relation to a collective investment scheme, has the meaning given by section 98(7);
- “partnership” has the meaning given by section 167;
- “property development trade” has the meaning given by section 138(4);
- “property rental business” has the meaning given by section 133(4);
- “property trading business” has the meaning given by section 141(3);
- “qualifying property rental business” has the meaning given by section 133(3);
- “self assessment” has the meaning given by section 161(3);
- “tax” means tax under this Part;
- “trade” has the same meaning as in section 35 of CTA 2009 (and cognate expressions are to be read accordingly);

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“unit trust scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237(1) of that Act).

(2) In this Part—

references to the “adjusted chargeable amount”, in relation to a person on whom tax is charged for a chargeable period with respect to a single-dwelling interest, are to be read in accordance with section 105;

references to an “annual tax on enveloped dwellings return” are to be read in accordance with section 159(4);

references to the “daily amount” for a day are to be read in accordance with section 105(2);

references to “delivery”, in relation to an annual tax on enveloped dwellings return, are to be read in accordance with paragraph 2 of Schedule 33;

references to the “effective date” of an acquisition are to be read in accordance with section 121(4);

references to the “effective date” of a disposal are to be read in accordance with section 121(5);

references to a “major interest” in land are to be read in accordance with section 117 of FA 2003;

references to a “return of the adjusted chargeable amount” are to be read in accordance with section 160(6);

references to meeting the “ownership condition” are to be read in accordance with section 94(4) to (6);

references to being “within the charge” with respect to a single-dwelling interest are to be read in accordance with section 170.

**Status:**

Point in time view as at 17/07/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2013, PART 3.