
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, Paragraph 36. (See end of Document for details)

SCHEDULES

SCHEDULE 7

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS BY NON-RESIDENTS ETC

PART 1

AMENDMENTS OF TCGA 1992

36 After Schedule A1, insert—

“SCHEDULE B1

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS

Meaning of “disposal of a UK residential property interest”

- 1 (1) For the purposes of this Act, the disposal by a person (“P”) of an interest in UK land (whether made before or after this Schedule comes into force) is a “disposal of a UK residential property interest” if the first or second condition is met.
- (2) The first condition is that—
 - (a) the land has at any time in the relevant ownership period consisted of or included a dwelling, or
 - (b) the interest in UK land subsists for the benefit of land that has at any time in the relevant ownership period consisted of or included a dwelling.
- (3) The second condition is that the interest in UK land subsists under a contract for an off-plan purchase.
- (4) In sub-paragraph (2) “relevant ownership period” means the period—
 - (a) beginning with the day on which P acquired the interest in UK land or 6 April 2015 (whichever is later), and
 - (b) ending with the day before the day on which the disposal occurs.
- (5) If the interest in UK land disposed of by P as mentioned in sub-paragraph (1) results from interests in UK land which P has acquired at different times (“the acquired interests”), P is regarded for the purposes of sub-paragraph (4)
 - (a) as having acquired the interest when P first acquired any of the acquired interests.
- (6) In this paragraph—

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“contract for an off-plan purchase” means a contract for the acquisition of land consisting of, or including, a building or part of a building that is to be constructed or adapted for use as a dwelling; “dwelling” has the meaning given by paragraph 4.

- (7) Paragraphs 10 and 21 of Schedule 4ZZB contain further provision about interests under contracts for off-plan purchases.

“Interest in UK land”

- 2 (1) In this Schedule, “interest in UK land” 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,
- other than an excluded interest.
- (2) The following are excluded interests—
- (a) any security interest;
 - (b) a licence to use or occupy land;
 - (c) in England and Wales or Northern Ireland—
 - (i) a tenancy at will;
 - (ii) a manor.
- (3) In sub-paragraph (2) “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.
- (4) In relation to land in Scotland the reference in sub-paragraph (3) 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).
- (5) The Treasury may by regulations provide that any other description of interest or right in relation to land in the United Kingdom is an excluded interest.
- (6) Regulations under sub-paragraph (5) may make incidental, consequential, supplementary or transitional provision or savings.

Grants of options

- 3 (1) Sub-paragraph (2) applies where—
- (a) a person (“P”) grants at any time an option binding P to sell an interest in UK land, and
 - (b) a disposal by P of that interest in UK land at that time would be a disposal of a UK residential property interest by virtue of paragraph 1.
- (2) The grant of the option is regarded for the purposes of this Schedule as the disposal of an interest in the land in question (if it would not be so regarded apart from this paragraph).

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- (3) Nothing in this paragraph affects the operation of section 144 in relation to the grant of the option (or otherwise).
- (4) Subsection (6) of section 144 (interpretation of references to “sale” etc) applies for the purposes of this paragraph as it applies for the purposes of that section.

Meaning of “dwelling”

- 4 (1) For the purposes of this Schedule, a building counts as a dwelling at any time when—
 - (a) it is used or suitable for use as a dwelling, or
 - (b) it is in the process of being constructed or adapted for such use.
- (2) Land that at any time is, or is 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) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used as—
 - (a) residential accommodation for school pupils;
 - (b) residential accommodation for members of the armed forces;
 - (c) a home or other institution providing residential accommodation for children;
 - (d) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;
 - (e) a hospital or hospice;
 - (f) a prison or similar establishment;
 - (g) a hotel or inn or similar establishment.
- (4) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used, or suitable for use, as an institution (not falling within any of paragraphs (c) to (f) of sub-paragraph (3)) that is the sole or main residence of its residents.
- (5) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it falls within—
 - (a) paragraph 4 of Schedule 14 to the Housing Act 2004 (certain buildings occupied by students and managed or controlled by their educational establishment etc),
 - (b) any corresponding provision having effect in Scotland, or
 - (c) any corresponding provision having effect in Northern Ireland.
- (6) In sub-paragraph (5) “corresponding provision” means provision designated by regulations made by the Treasury as corresponding to the provision mentioned in sub-paragraph (5)(a).
- (7) If the accommodation provided by a building meets the conditions in sub-paragraph (8) in a tax year, the building is not to be regarded for the purposes

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of sub-paragraph (1) as used or suitable for use as a dwelling at any time in that tax year.

- (8) The conditions are that the accommodation—
- (a) includes at least 15 bedrooms,
 - (b) is purpose-built for occupation by students, and
 - (c) is occupied by students on at least 165 days in the tax year.

In the expression “purpose-built” the reference to building includes conversion.

- (9) For the purposes of sub-paragraph (8), accommodation is occupied by students if it is occupied exclusively or mainly by persons who occupy it for the purpose of undertaking a course of education (otherwise than as school pupils).
- (10) A building which (for any reason) becomes temporarily unsuitable for use as a dwelling is treated for the purposes of sub-paragraph (1) as continuing to be suitable for use as a dwelling; but see also the special rules in—
- (a) paragraph 6 (damage to a dwelling), and
 - (b) paragraph 8(7) (periods before or during certain works).
- (11) In this paragraph “building” includes a part of a building.

Power to modify meaning of “use as a dwelling”

- 5 (1) The Treasury may by regulations amend paragraph 4 for the purpose of clarifying or changing the cases where a building is or is not to be regarded as being used as a dwelling (or suitable for use as a dwelling).
- (2) The provision that may be made under sub-paragraph (1) includes, in particular, provision omitting or adding cases where a building is or is not to be regarded as being used (or as suitable for use) as a dwelling.
- (3) Regulations under this paragraph may make incidental, consequential, supplementary or transitional provision or savings.
- (4) In this paragraph “building” includes a part of a building.

Damage to a dwelling

- 6 (1) Sub-paragraph (2) applies where a person disposes of an interest in UK land and a building that forms, or has formed, part of the land has at any time in the relevant ownership period been temporarily unsuitable for use as a dwelling.
- (2) Paragraph 4(10) (disregard of temporary unsuitability) does not apply in relation to the building's temporary unsuitability for use as a dwelling if—
- (a) the temporary unsuitability resulted from damage to the building, and
 - (b) the first and second conditions are met.
- (3) The first condition is that the damage was—
- (a) accidental, or

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- (b) otherwise caused by events beyond the control of the person disposing of the interest in UK land.
- (4) The second condition is that, as a result of the damage, the building was unsuitable for use as a dwelling for a period of at least 90 consecutive days.
- (5) Where the first and second conditions are met, work done in the 90-day period to restore the building to suitability for use as a dwelling does not count, for the purposes of paragraph 4(1), 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 occurred in the course of work that—
 - (a) was being done for the purpose of altering the building, and
 - (b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for 30 days or more.
- (7) The 90-day period mentioned in sub-paragraph (4) must end at or before the end of the relevant ownership period but may begin at any time (whether or not within the ownership period).
- (8) In this paragraph—
 - (a) references to alteration include partial demolition;
 - (b) “building” includes a part of a building;
 - (c) “relevant ownership period” has the meaning given by paragraph 1(4).

Demolition of a building

- 7 A building is regarded as ceasing to exist from the time when it has either—
- (a) been demolished completely to ground level, or
 - (b) been demolished to ground level except for a single facade (or, in the case of a building on a corner site, a double facade) the retention of which is a condition or requirement of planning permission or development consent.

Disposal of a building that has undergone works

- 8 (1) This paragraph applies where a person disposes of an interest in UK land, and a building which is (or was formerly) on the land and has at any time in the relevant ownership period been suitable for use as a dwelling—
- (a) has undergone complete or partial demolition or any other works during the relevant ownership period, and
 - (b) as a result of the works, has, at or at any time before the completion of the disposal, either ceased to exist or become unsuitable for use as a dwelling.
- (2) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is taken to have been unsuitable for use as a dwelling throughout the part of the relevant ownership period when the works were in progress.

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- (3) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is also taken to have been unsuitable for use as a dwelling throughout any period which—
- (a) ends immediately before the commencement of the works, and
 - (b) is a period throughout which the building was, for reasons connected with the works, not used as a dwelling.
- (4) The conditions are that—
- (a) as a result of the works the building has (at any time before the completion of the disposal) either ceased to exist or become suitable for use otherwise than as a dwelling,
 - (b) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted, and
 - (c) the works have been carried out in accordance with any such permission or consent.
- (5) If at the completion of the disposal the conditions in sub-paragraph (4) have not been met, the works are taken not to have affected the building's suitability for use as a dwelling (at any time before the disposal).
- (6) Sub-paragraph (2) does not apply in relation to any time when—
- (a) the building was undergoing any work, or put to a use, in relation to which planning permission or development consent was required but had not been granted, or
 - (b) anything was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building.
- (7) Where a building is treated under sub-paragraph (2) or (3) as unsuitable for use as a dwelling, the unsuitability is not regarded as temporary for the purposes of paragraph 4(10).
- (8) In this paragraph—
- “building” includes a part of a building;
- “relevant ownership period” has the meaning given by paragraph 1(4).

Retrospective planning permission or development consent

- 9 (1) The condition in paragraph 8(4)(b) is taken to have been met at the time of the completion of the disposal if the required planning permission or development consent is given subsequently.
- (2) For the purposes of paragraph 8(6)(a), the fact that planning permission or development consent had not been given at any time in relation to any work or use of a building is ignored if the required planning permission or development consent is given subsequently.

Interpretation

- 10 (1) For the purposes of this Schedule, the “completion” of the disposal of an interest in UK land is taken to occur—

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- (a) at the time of the disposal, or
- (b) if the disposal is under a contract which is completed by a conveyance, at the time when the interest is conveyed.

(2) In this Schedule—

“conveyance” includes any instrument (and “conveyed” is to be construed accordingly);

“development consent” means development consent under the Planning Act 2008;

“interest in UK land” has the meaning given by paragraph 2;

“land” includes a building;

“planning permission” has the meaning given by the relevant planning enactment.

(3) In sub-paragraph (2) “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 227(1) of the Town and Country Planning (Scotland) Act 1997;
- (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)).”

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