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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1998, Cross Heading: Variation of undertakings. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 25

#### PROPERTY OF HISTORIC INTEREST ETC

##### *Variation of undertakings*

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

**“35A Variation of undertakings.**

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

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

**“79A Variation of undertakings.**

- (1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
  - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
  - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and

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- (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
- the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”
- (3) In Schedule 4 to the 1984 Act (maintenance funds for historic buildings), in paragraph 3, after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(3A) Section 35A of this Act shall apply in relation to an undertaking given under sub-paragraph (3) above as it applies in relation to an undertaking given under section 30 of this Act.”
- (4) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.
- 9 (1) In section 258 of the <sup>M1</sup>Taxation of Chargeable Gains Act 1992 (disposal of works of art), after subsection (8) there shall be inserted the following subsection—
- “(8A) Section 35A of the 1984 Act (variation of undertakings) shall have effect in relation to an undertaking given under this section as it has effect in relation to an undertaking given under section 30 of that Act.”
- (2) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.

#### **Marginal Citations**

**M1** 1992 c. 12.

- 10 (1) Section 35A of the 1984 Act applies in relation to a relevant undertaking given with respect to any property before the day on which this Act is passed except in a case where there has been a chargeable event with respect to that property at any time after the giving of the undertaking but before that day.
- (2) In its application to such a relevant undertaking, section 35A of the 1984 Act applies with the modifications set out in sub-paragraphs (3) and (4) below.
- (3) The first modification is the substitution, for paragraph (a) of subsection (2), of the following paragraph—
- “(a) the Board have made a proposal to the person bound by such an undertaking for the undertaking to be varied so as to include (where it does not already do so) an extended access requirement or a publication requirement (or both those requirements).”
- (4) The second modification is the insertion, after subsection (4), of the following subsections—

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“(5) For the purposes of subsection (2)(a) above—

- (a) an extended access requirement is a requirement for the taking of steps ensuring that the access to the public that is secured is not confined to access only where a prior appointment has been made; and
- (b) a publication requirement is a requirement for the taking of steps involving the publication of any matter mentioned in paragraph (a) or (b) of section 31(4FB) above.

(6) In determining for the purposes of subsection (2)(a) above whether an undertaking already includes an extended access requirement, there shall be disregarded so much of the undertaking as includes provision for the property with respect to which the undertaking was given to be made available temporarily for the purposes of special exhibitions.”

(5) In this paragraph “relevant undertaking” means any of the following—

- (a) an undertaking given under section 30, 32, 32A, 78 or 79 of the 1984 Act;
- (b) an undertaking given under paragraph 3(3) of Schedule 4 to the 1984 Act or paragraph 5(2) of Schedule 5 to that Act;
- (c) an undertaking given under section 76, 78, 81 or 82 of the <sup>M2</sup>Finance Act 1976;
- (d) an undertaking given under section 34(2) of the <sup>M3</sup>Finance Act 1975;
- (e) an undertaking given under section 258 of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992.

(6) In this paragraph “chargeable event”, in relation to any property means—

- (a) an event which under section 32 or 32A of the 1984 Act is a chargeable event with respect to that property; or
- (b) an event which under either of those sections would be such an event if (where it is not the case) the undertaking in question had been given under section 30 of that Act.

#### Marginal Citations

**M2** 1976 c. 40.

**M3** 1975 c. 7.

**M4** 1992 c. 12.

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