

SCHEDULES

SCHEDULE 13

Section 89

SETTLEMENTS: AMENDMENTS TO ICTA AND ITTOIA 2005 ETC

PART 1

PRINCIPAL AMENDMENTS

- 1 (1) Before section 686 of ICTA (rate of tax applicable to trusts) insert—

“685A Meaning of “settled property”

- (1) For the purposes of the Tax Acts, unless the context otherwise requires,
- (a) “settled property” means any property held in trust other than—
 - (i) property held by a person as nominee for another,
 - (ii) property held by a person as trustee for another person who is absolutely entitled as against the trustee, and
 - (iii) property held by a person as trustee for another person who would be absolutely entitled as against the trustee if he were not an infant or otherwise under a disability, and
 - (b) references, however expressed, to property comprised in a settlement are references to settled property.
- (2) For the purposes of the Tax Acts, a reference to a person who is or would be absolutely entitled to property as against the trustee—
- (a) means a person who has the exclusive right (subject to satisfying the right of the trustees to resort to the property for the payment of duty, taxes, costs or other outgoings) to direct how the property shall be dealt with, and
 - (b) includes two or more persons who are or would be jointly absolutely entitled as against the trustee.

685B Meaning of “settlor”

- (1) In the Tax Acts, unless the context otherwise requires—
- (a) “settlor” in relation to a settlement means the person, or any of the persons, who has made or is treated for the purposes of the Tax Acts as having made the settlement, and
 - (b) a person is a settlor of property which—
 - (i) is settled property by reason of his having made the settlement (or by reason of an event which causes him to be treated under this Act as having made the settlement), or
 - (ii) derives from property to which sub-paragraph (i) applies.

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- (2) A person is treated for the purposes of the Tax Acts as having made a settlement if—
- (a) he has made or entered into the settlement, directly or indirectly, or
 - (b) the settled property, or property from which the settled property is derived, is or includes property of which he was competent to dispose immediately before his death and the settlement arose on his death, whether by will, on his intestacy, or otherwise.
- (3) A person is, in particular, treated for the purposes of the Tax Acts as having made a settlement if—
- (a) he has provided property directly or indirectly for the purposes of the settlement, or
 - (b) he has undertaken to provide property directly or indirectly for the purposes of the settlement.
- (4) Where one person (A) makes or enters into a settlement in accordance with reciprocal arrangements with another person (B), for the purposes of the Tax Acts—
- (a) B shall be treated as having made the settlement, and
 - (b) A shall not be treated as having made the settlement by reason only of the reciprocal arrangements.
- (5) In subsection (2)(b) the reference to property of which a deceased person was competent to dispose is a reference to property of the deceased which (otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will, assuming that all the property were situated in England and, if he was not domiciled in the United Kingdom, that he was domiciled in England, and includes references to his severable share in any property to which, immediately before his death, he was beneficially entitled as a joint tenant.
- (6) A person who has been a settlor in relation to a settlement shall be treated for the purposes of the Tax Acts as having ceased to be a settlor in relation to the settlement if—
- (a) no property of which he is the settlor is comprised in the settlement,
 - (b) he has not undertaken to provide property directly or indirectly for the purposes of the settlement in the future, and
 - (c) he has not made reciprocal arrangements with another person for that other person to enter into the settlement in the future.
- (7) For the purpose of this section and sections 685C and 685D property is derived from other property—
- (a) if it derives (directly or indirectly and wholly or partly) from that property or any part of it, and
 - (b) in particular, if it derives (directly or indirectly and wholly or partly) from income from that property or any part of it.
- (8) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

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685C Transfer between settlements: identification of settlor

- (1) This section applies in relation to a transfer of property from the trustees of one settlement (“Settlement 1”) to the trustees of another (“Settlement 2”) otherwise than—
 - (a) for full consideration, or
 - (b) by way of a bargain made at arm’s length.
- (2) In this section “transfer of property” means—
 - (a) a disposal of property by the trustees of Settlement 1, and
 - (b) the acquisition by the trustees of Settlement 2 of—
 - (i) property disposed of by the trustees of Settlement 1, or
 - (ii) property created by the disposal;and a reference to transferred property is a reference to property acquired by the trustees of Settlement 2 on the disposal.
- (3) For the purposes of the Tax Acts, except where the context otherwise requires—
 - (a) the settlor (or each settlor) of the property disposed of by the trustees of Settlement 1 shall be treated from the time of the disposal as having made Settlement 2, and
 - (b) if there is more than one settlor of the property disposed of by the trustees of Settlement 1, each settlor shall be treated in relation to Settlement 2 as the settlor of a proportionate part of the transferred property.
- (4) For the purposes of the Tax Acts, except where the context otherwise requires, if and to the extent that the property disposed of by the trustees of Settlement 1 was provided for the purposes of Settlement 1, or is derived from property provided for the purposes of Settlement 1, the transferred property shall be treated from the time of the disposal as having been provided for the purposes of Settlement 2.
- (5) If transferred property is treated by virtue of subsection (4) as having been provided for the purposes of Settlement 2—
 - (a) the person who provided the property disposed of by the trustees of Settlement 1, or property from which it was derived, for the purposes of Settlement 1 shall be treated as having provided the transferred property, and
 - (b) if more than one person provided the property disposed of by the trustees of Settlement 1, or property from which it was derived, for the purposes of Settlement 1, each of them shall be treated as having provided a proportionate part of the transferred property.
- (6) But subsections (3) and (4) do not apply in relation to a transfer of property—
 - (a) which occurs by reason only of the assignment or assignation by a beneficiary under Settlement 1 of an interest in that settlement to the trustees of Settlement 2,
 - (b) which occurs by reason only of the exercise of a general power of appointment, or
 - (c) to which section 685D(6) applies.

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- (7) There is an acquisition or disposal of property for the purposes of this section if there would be an acquisition or disposal of property for the purposes of the 1992 Act.

685D Variation of will or intestacy, etc: identification of settlor

- (1) This section applies where—
- (a) a disposition of property following a person's death is varied, and
 - (b) section 62(6) of the 1992 Act applies in respect of the variation.
- (2) Where property becomes settled property in consequence of the variation (and would not, but for the variation, have become settled property), a person mentioned in subsection (3) shall be treated for the purposes of the Tax Acts, except where the context otherwise requires—
- (a) as having made the settlement, and
 - (b) as having provided the property for the purposes of the settlement.
- (3) Those persons are—
- (a) a person who immediately before the variation was entitled to the property, or to property from which it derives, absolutely as legatee,
 - (b) a person who would have become entitled to the property, or to property from which it derives, absolutely as legatee but for the variation,
 - (c) a person who immediately before the variation would have been entitled to the property, or to property from which it derives, absolutely as legatee but for being an infant or other person under a disability, and
 - (d) a person who would, but for the variation, have become entitled to the property, or to property from which it derives, absolutely as legatee if he had not been an infant or other person under a disability.
- (4) For the purposes of this section—
- (a) "legatee" includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee,
 - (b) property taken under a testamentary disposition or on an intestacy or partial intestacy includes any property appropriated by the personal representatives in or towards satisfaction of a pecuniary legacy or any other interest or share in the property devolving under the disposition or intestacy, and
 - (c) a person taking under a donatio mortis causa shall be treated as a legatee and his acquisition as made at the time of the donor's death.
- (5) Where—
- (a) property would have become comprised in a settlement—
 - (i) which arose on the deceased person's death (whether in accordance with his will, on his intestacy or otherwise, or
 - (ii) which was already in existence on the deceased person's death (whether or not the deceased person was a settlor in relation to that settlement), but

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- (b) in consequence of the variation the property, or property derived from it, becomes comprised in another settlement,
the deceased person shall be treated for the purposes of the Tax Acts, except where the context otherwise requires, as having made the other settlement.
- (6) Where—
 - (a) immediately before the variation property is comprised in a settlement and is property of which the deceased person is a settlor, and
 - (b) immediately after the variation the property, or property derived from it, becomes comprised in another settlement,
the deceased person shall be treated for the purposes of the Tax Acts, except where the context otherwise requires, as having made the other settlement.
- (7) If a person is treated as having made a settlement under subsection (5) or (6), for the purposes of the Tax Acts he shall be treated as having made the settlement immediately before his death.
- (8) But subsection (7) does not apply in relation to a settlement which arose on the person's death.

685E Trustees of settlements

- (1) For the purposes of the Tax Acts the trustees of a settlement shall, unless the context otherwise requires, together be treated as if they were a single person (distinct from the persons who are the trustees of the settlement from time to time).
- (2) The deemed person referred to in subsection (1) shall be treated for the purposes of the Tax Acts as resident and ordinarily resident in the United Kingdom at any time when a condition in subsection (3) or (4) is satisfied.
- (3) Condition 1 is that all the trustees are resident in the United Kingdom.
- (4) Condition 2 is that—
 - (a) at least one trustee is resident in the United Kingdom,
 - (b) at least one is not resident in the United Kingdom, and
 - (c) a settlor in relation to the settlement was resident, ordinarily resident or domiciled in the United Kingdom at a time which is a relevant time in relation to him.
- (5) In subsection (4)(c) “relevant time” in relation to a settlor means—
 - (a) where the settlement arose on the settlor's death (whether by will, intestacy or otherwise), the time immediately before his death, and
 - (b) in any other case, a time when the settlor made the settlement (or was treated for the purposes of the Tax Acts as making the settlement);and, in the case of a transfer of property from Settlement 1 to Settlement 2 in relation to which section 685C applies, “relevant time” in relation to a settlor of the transferred property in respect of Settlement 2 includes any time which, immediately before the time of the disposal by the trustees of Settlement 1, was a relevant time in relation to that settlor in respect of Settlement 1.

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- (6) A trustee who is not resident in the United Kingdom shall be treated for the purposes of subsections (3) and (4) as if he were resident in the United Kingdom at any time when he acts as trustee in the course of a business which he carries on in the United Kingdom through a branch, agency or permanent establishment there.
- (7) If the deemed person referred to in subsection (1) is not treated for the purposes of the Tax Acts as resident and ordinarily resident in the United Kingdom, then for the purposes of the Tax Acts it shall be treated as neither resident nor ordinarily resident in the United Kingdom.
- (8) If part of the settled property in relation to a settlement is vested in one trustee or body of trustees and another part of the settled property in relation to that settlement is vested in another trustee or body of trustees (and in particular where settled land within the meaning of the Settled Land Act 1925 (c. 18) is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement) they shall together be treated for the purposes of this section as constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.
- (9) If the trustees of a settlement are carrying on a trade, profession or vocation, a change in the trustees of the settlement by reason of the coming into force of this section and section 685A shall not result in—
 - (a) any of the trustees before the change permanently ceasing to carry on the trade, profession or vocation, or
 - (b) any of the trustees after the change starting to carry on the trade, profession or vocation.

685F Application of section 739 and 740

- (1) Section 685E(2) and (7) shall not apply for any of the purposes of section 739 in relation to income payable before 15th June 1989, or for the purposes of subsection (3) of that section in relation to income payable on or after that date if—
 - (a) the capital sum mentioned in that subsection was received, or the right to receive it was acquired, before that date, and
 - (b) the sum was wholly repaid, or the right to it waived, before 1st October 1989.
- (2) Section 685E shall not apply for any of the purposes of section 740 in relation to benefits received before 15th June 1989; and, in relation to benefits received on or after that date, “relevant income” includes income arising to the trustees of a settlement before 6 April 1989, notwithstanding that one or more trustees was not resident outside the United Kingdom, unless the trustees have been charged to tax in relation to that income.

685G Sub-funds

- (1) If the trustees of a settlement have made a sub-fund election under paragraph 1 of Schedule 4ZA to the 1992 Act, then for the purposes of the Tax Acts, unless the context otherwise requires—
 - (a) the sub-fund settlement shall be treated as a settlement,

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- (b) the sub-fund settlement shall be treated as having been created at the time when the sub-fund election is treated as having taken effect,
 - (c) each trustee of the trusts on which the property comprised in the sub-fund settlement is held shall be treated as a trustee of the sub-fund settlement,
 - (d) a person who is a trustee of the sub-fund settlement shall be treated, from the time when the election is to be treated as having taken effect, as having ceased to be a trustee of the principal settlement unless he is also a trustee of trusts on which property comprised in the principal settlement is held,
 - (e) a person who is a trustee of the principal settlement shall not be treated as a trustee of the sub-fund settlement unless he is also a trustee of trusts on which property comprised in the sub-fund settlement is held, and
 - (f) the trustees of the sub-fund settlement shall be treated as having become absolutely entitled, at the time when the sub-fund election is treated as having taken effect, to the property comprised in that settlement as against the trustees of the principal settlement.
- (2) References in subsection (1) to the time when the sub-fund election is treated as having taken effect are references to the time when the sub-fund election is treated as having taken effect under paragraph 2 of Schedule 4ZA to the 1992 Act.
- (3) In this section—
- “principal settlement” has the meaning given by paragraph 1 of Schedule 4ZA to the 1992 Act,
 - “sub-fund election” has the meaning given by paragraph 2 of that Schedule, and
 - “sub-fund settlement” has the meaning given by paragraph 1 of that Schedule.”
- (2) Sections 685A to 685C, inserted by sub-paragraph (1), shall come into force on 6th April 2006 (in relation to settlements whenever created).
- (3) Section 685D, inserted by sub-paragraph (1), shall have effect in respect of variations occurring on or after 6th April 2006 (irrespective of the date on which the deceased person died).
- (4) Section 685E, inserted by sub-paragraph (1), shall have effect—
- (a) for the purposes of determining the residence status of the trustees of a settlement (whenever created), from 6th April 2007, and
 - (b) for any other purpose (in relation to settlements whenever created), from 6th April 2006.
- (5) Section 685F, inserted by sub-paragraph (1), shall come into force on 6th April 2006.
- (6) Section 685G, inserted by sub-paragraph (1), shall have effect in relation to years of assessment beginning on or after 6th April 2006.
- 2 (1) In section 686(2)(b) of ICTA—
- (a) omit “either”, and
 - (b) for sub-paragraphs (i) and (ii) substitute “the income of a person other than the trustees.”

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- (2) This paragraph shall come into force on 6th April 2006 (in relation to settlements whenever created).
- 3 (1) For section 686A of ICTA substitute—

“686A Receipts to be treated as income to which section 686 applies

(1) Where the trustees of a settlement (other than the trustees of a unit trust scheme)—

- (a) receive or are entitled to a payment of a kind specified in subsection (2), or
- (b) are liable for tax in respect of a gain on a chargeable event of a kind specified in subsection (2),

the payment or gain shall be treated as if it were income to which section 686 applies.

(2) Those payments and gains are—

- (a) a payment made by a company—
 - (i) on the redemption, repayment or purchase of its own shares, or
 - (ii) on the purchase of rights to acquire its own shares,
- (b) a gain arising on a chargeable event in respect of which the trustees are liable for tax under section 467 of ITTOIA 2005 (gains on contracts for life insurance, etc), other than a gain to which subsection (7)(a) of that section applies,
- (c) if the trustees are resident in the United Kingdom, a profit on the disposal of a deeply discounted security in respect of which the trustees are liable for tax under section 429 of ITTOIA 2005,
- (d) a sum to which Chapter 4 of Part 3 of ITTOIA 2005 applies,
- (e) a profit on the disposal of a future or option in respect of which the trustees are liable for tax under section 557 of ITTOIA 2005, if none of conditions A to C in section 568 of that Act are met,
- (f) a profit on the disposal of a deposit in respect of which the trustees are liable for tax under section 554 of ITTOIA 2005,
- (g) the proceeds of sale of a foreign dividend coupon in respect of which the trustees are liable for tax under section 573 of ITTOIA 2005,
- (h) a sum which is chargeable to tax under section 68(2) or 71(4) of the Finance Act 1989 (c. 26) (employee share ownership trusts: chargeable events),
- (i) an offshore income gain (within the meaning of section 761 of this Act), and
- (j) a gain on a disposal of land to which section 776 of this Act applies.”

- (2) This paragraph shall have effect in respect of payments made, or gains arising, to the trustees of a settlement on or after 6th April 2006.
- 4 (1) In section 686D of ICTA—
- (a) in subsection (1) for “trustees of a trust” substitute “trustees of a settlement”, and
 - (b) in subsection (3) for “£500” substitute “£1,000”.

(2) After section 686D of ICTA insert—

“686E Application of section 686D where settlor has made more than one settlement

- (1) If a settlor in relation to a settlement has made more than one settlement, section 686D shall have effect in relation to each settlement made by him with the following modification.
- (2) The reference in subsection (3) to £1000 shall be treated as a reference to—
 - (a) £200, or
 - (b) such amount as may be obtained by dividing £1000 by the total number of settlements in the class, provided that the amount is not less than £200.
- (3) If there is more than one settlor in relation to a settlement, the amount shall be the amount obtained under subsection (2)(b) in relation to the largest class of settlements.
- (4) In this section a reference to a class of settlements is a reference to the class of settlements which were made by a settlor and which are in existence during any part of the year of assessment.”

(3) This paragraph shall come into force on 6th April 2006 (in relation to settlements whenever created).

5 (1) For section 619(2) to (4) of ITTOIA 2005 (charge to tax on settlor) substitute—

“(2) For the purposes of sections 1 to 1B of ICTA, where income of another person is treated as income of the settlor and is charged to tax under subsection (1)(a) or (b) above, it shall be charged in accordance with whichever provisions of the Tax Acts would have been applied in charging it if it had arisen directly to the settlor.”

(2) This paragraph shall have effect—

- (a) in relation to income which arises or is treated as arising on or after 6th April 2006, and
- (b) in relation to income which is paid to a minor child of the settlor, where the child is unmarried and is not in a civil partnership, on or after 6th April 2006 and in relation to which section 631 of ITTOIA 2005 applies (irrespective of when the income arose).

6 (1) After section 685 of ITTOIA 2005 insert—

“685A Settlor-interested settlements

- (1) This section applies if—
 - (a) a person receives an annual payment in respect of income from the trustees of a settlement,
 - (b) the payment is made in the exercise of a discretion (whether of the trustees of the settlement or any other person), and
 - (c) a settlor is charged to tax under section 619(1) on the income arising to the trustees of the settlement (whether in the current year of

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assessment or in a previous year of assessment) out of which the annual payment is made.

- (2) This section applies only in respect of that proportion of the annual payment which corresponds to the proportion of the total income arising to the trustees of the settlement in respect of which a settlor is chargeable to tax under section 619(1).
 - (3) If and in so far as this section applies, the recipient of the annual payment shall be treated for the purposes of this Chapter as having paid income tax at the higher rate in respect of the annual payment.
 - (4) But—
 - (a) tax which the recipient is treated by virtue of this section as having paid is not repayable,
 - (b) tax which the recipient is treated by virtue of this section as having paid may not be taken into account in relation to a tax liability of the recipient in respect of any other income of his, and
 - (c) the annual payment shall be treated for the purposes of sections 348 and 349(1) of ICTA as payable wholly out of profits or gains not brought into charge to income tax.
 - (5) If the recipient of the annual payment is a settlor in relation to the settlement, if and in so far as this section applies the annual payment shall not be treated as his income for the purposes of the Income Tax Acts (and subsection (3) does not apply).
 - (6) Section 687 of ICTA shall not apply in relation to an annual payment if and in so far as this section applies.”
- (2) This paragraph shall have effect for payments in respect of income made on or after 6th April 2006.

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

- 7 Paragraphs 8 to 26 amend ICTA.
- 8 Section 220(2) shall cease to have effect.
- 9 In section 227—
 - (a) in subsection (5) for “trustees (other than bare trustees)” substitute “the trustees of a settlement”, and
 - (b) in subsection (9) for “the property held on the trusts” substitute “the settled property”.
- 10 In section 229(2)—
 - (a) for “held on trusts (other than bare trusts)” substitute “settled property”, and
 - (b) for “trustees” substitute “trustees of the settlement”.
- 11 In section 360A—
 - (a) in subsection (2)(b) omit the words after “is or was, a settlor”, and
 - (b) in subsections (2) and (8) in each place omit the words “trustee or”.

- 12 In section 417(3)—
 (a) in paragraph (b) omit the words after “is or was, a settlor”, and
 (b) in paragraphs (b) and (c)(i) omit the words “trustee or”.
- 13 In section 421(1) for “trust” in each place substitute “settlement”.
- 14 In section 481—
 (a) in subsections (4) and (4A) for “trust” in each place substitute “settlement”,
 and
 (b) in subsection (5)(k)(iii) for “of the trust” substitute “under the settlement”.
- 15 (1) Section 686 shall be amended as follows.
(2) In subsection (1) for “trustees” substitute “the trustees of a settlement”.
(3) In subsection (2) for “arising to trustees” substitute “arising to the trustees of a
settlement”.
(4) In subsection (2AA)—
 (a) for “arising to trustees” substitute “arising to the trustees of a settlement”,
 and
 (b) in paragraph (b) for “provisions of the trust” substitute “terms of the
settlement”.
(5) In subsection (2A)(a)—
 (a) for “any trustees” substitute “the trustees of a settlement”, and
 (b) for “provisions of the trust” substitute “terms of the settlement”.
(6) In subsection (2B) for “arising to trustees” substitute “arising to the trustees of a
settlement”.
(7) In subsection (5A)—
 (a) for “in relation to trustees” substitute “in relation to the trustees of a
settlement”, and
 (b) in paragraph (f) for “686A” substitute “686A(2)(a)”.
(8) In subsection (6) in each place for “trustees” substitute “the trustees of a settlement”.
- 16 In section 686D(7)(b) for “FA 1989” substitute “the Finance Act 1989 (c. 26)”.
- 17 In section 687(1) for “trustees” substitute “the trustees of a settlement”.
- 18 In section 687A(1)(a) for “trustees” substitute “the trustees of a settlement”.
- 19 In section 689A(1)(a) for “to trustees” substitute “to the trustees of a settlement”.
- 20 In section 689B(1) for “any trustees” substitute “the trustees of a settlement”.
- 21 In section 720—
 (a) in subsection (6)(a) for “a trustee of a settlement is” substitute “the trustees
of a settlement are”,
 (b) in subsection (6)(b) for “a trustee of a settlement who is” substitute “the
trustees of a settlement who are”,
 (c) in the closing words of subsection (6) for “the trustee is” substitute “the
trustees are”,
 (d) in subsection (7) for “a trustee of a settlement” substitute “the trustees of
a settlement”, and

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- (e) in subsection (8) omit paragraph (a).
- 22 After section 742(9) insert—
- “(9A) Where the trustees of a settlement are treated, by virtue of section 685E(7), as neither resident nor ordinarily resident in the United Kingdom, then for the purposes of this Chapter they shall be treated as resident and domiciled outside the United Kingdom.”
- 23 Section 764 shall cease to have effect.
- 24 In section 809—
- (a) in subsection (1)(a) for “trustees” substitute “the trustees of a settlement”, and
- (b) in subsections (1)(a) and (2) for “trust” substitute “settlement”.
- 25 In section 839—
- (a) at the end of subsection (3)(b) omit “and”,
- (b) for the words after subsection (3)(c) substitute—
- “(d) if the settlement is the principal settlement in relation to one or more sub-fund settlements, the trustees of the sub-fund settlements, and
- (e) if the settlement is a sub-fund settlement in relation to a principal settlement, the trustees of any other sub-fund settlements in relation to the principal settlement.”, and
- (c) after subsection (3A) insert—
- “(3B) For the purpose of subsection (3) above—
- (a) “settlement” has the same meaning as in section 620 of ITTOIA 2005,
- (b) “trustee”, in relation to a settlement in relation to which there would be no trustees apart from this paragraph, means any person in whom the settled property or its management is for the time being vested, and
- (c) “principal settlement” and “sub-fund settlement” have the meaning given by paragraph 1 of Schedule 4ZA to the 1992 Act.”
- 26 In paragraph 4(12) of Schedule 28AA for the definitions of “settlement” and “settlor” substitute—
- “settlement” and “settlor” have the same meanings as in section 620 of ITTOIA 2005.”
- 27 (1) Paragraph 7 and paragraphs 9 to 26 shall come into force on 6th April 2006 (in relation to settlements whenever created).
- (2) Paragraph 8 shall come into force on 6th April 2007 (in relation to settlements whenever created).
- 28 (1) FA 1989 shall be amended as follows.
- (2) The following provisions shall cease to have effect—
- (a) section 68(2)(c),
- (b) section 71(4)(c), and
- (c) section 110.

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- (3) In section 68(2)—
- (a) after paragraph (ba) insert “, and”, and
 - (b) after paragraph (bb) omit “, and”.
- (4) In section 71(4)—
- (a) after paragraph (ba) insert “, and”, and
 - (b) after paragraph (bb) omit “, and”.
- (5) Sub-paragraph (2)(a) and (b) shall have effect in relation to payments made on or after 6th April 2006.
- (6) Sub-paragraph (2)(c) shall have effect from 6th April 2007 (in relation to settlements whenever created).
- (7) Sub-paragraphs (3) and (4) shall come into force on 6th April 2006.
- 29 (1) In section 151(2)(a) of FA 1989 (assessment of trustees) for “the trustees to whom the income arises” substitute “the trustees of the settlement in the year of assessment in which the income arises”.
- (2) This paragraph shall come into force on 6th April 2006.
- 30 (1) In section 25(9)(b) of FA 1990—
- (a) after sub-paragraph (iii) omit “or”, and
 - (b) after sub-paragraph (iv) insert—
- “or
- (v) section 685A(2) of that Act (payments from settlor-interested settlements);”.
- (2) This paragraph shall have effect for payments in respect of income made on or after 6th April 2006.
- 31 (1) In ITTOIA 2005—
- (a) for “trustees of trusts” in each place in sections 417(2) and 420 substitute “trustees of settlements”,
 - (b) in section 420(1)(a) and (c) for “trust” substitute “settlement”,
 - (c) in the title of section 420 for “trust” substitute “settlement”.
- (2) For section 623 of ITTOIA 2005 (calculation of income) substitute—
- “623 Calculation of income**
- For the purpose of calculating liability to tax under this Chapter (but for no other purpose), a settlor shall be allowed the same deductions and reliefs as if any amount treated under this Chapter as income of the settlor had actually been received by the settlor.”
- (3) This paragraph shall come into force on 6th April 2006 in respect of settlements whenever created, and in respect of loans or advances whenever made.
- 32 (1) The following provisions of ITTOIA 2005 shall cease to have effect—
- (a) section 457(4), and
 - (b) section 568(5).

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

- (2) In section 457(5) of ITTOIA 2005 for “(2) to (4)” substitute “(2) and (3)”.
- (3) In section 467(7) of that Act for paragraph (b) substitute—
 “(b) at the rate applicable by virtue of section 686A of ICTA (payments treated as income) in any other case.”
- (4) This paragraph shall have effect in relation to payments made on or after 6th April 2006 to the trustees of a settlement (whenever created).
- 33 (1) In sections 628 and 630 of ITTOIA 2005 for “UK trust” in each place substitute “UK settlement”.
- (2) In section 628(6) of that Act for the definition of “UK trust” substitute—
 ““UK settlement” means a settlement the trustees of which are resident and ordinarily resident in the United Kingdom.”
- (3) In section 630(1)(b) of that Act for “terms of the trust” substitute “terms of the settlement”.
- (4) In section 631(5)(e)(ii) of that Act for “provisions of the trust” substitute “terms of the settlement”.
- (5) This paragraph shall come into force on 6th April 2006.
- 34 (1) After section 629(7) of ITTOIA 2005 insert—
 “(8) Subsection (1) is subject to section 28A of FA 2005.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.
- 35 (1) FA 2005 shall be amended as follows.
- (2) In the following provisions for “trustees” substitute “the trustees of a settlement”—
 (a) section 23(1)(a) and (b) (vulnerable persons: introduction),
 (b) section 24(1) (vulnerable persons: claims),
 (c) section 25(1)(a) (qualifying trusts: income tax), and
 (d) section 37(1) (vulnerable person election).
- (3) In section 25(3)—
 (a) for “section 660G(1) and (2) of ICTA” substitute “section 620(1) of ITTOIA 2005”, and
 (b) for “section 660A of that Act” substitute “sections 624 and 625 of that Act”.
- (4) In section 27(2)(b) (qualifying expenses) for “total income” substitute “income”.
- (5) Section 42(5)(b) shall cease to have effect.
- (6) In section 43(4) (penalties) for the first reference to “trustees” substitute “the trustees of a settlement”.
- (7) This paragraph shall come into force on 6th April 2006.
- 36 (1) After section 28 of FA 2005 insert—

“28A Disapplication of section 629 of ITTOIA 2005

- (1) In a case where this section applies, section 629(1) of ITTOIA 2005 shall not apply in respect of a payment by the trustees of a settlement to a beneficiary under the settlement.
- (2) This section applies if in a year of assessment—
- (a) the trustees make a payment to a vulnerable person,
 - (b) the payment is made out of qualifying trusts income,
 - (c) the vulnerable person is a relevant child (within the meaning given by section 629 of ITTOIA 2005) of a settlor in relation to the settlement, and
 - (d) the trustees have made a successful claim for special income tax treatment under section 25.”
- (2) This paragraph shall have effect in relation to payments made on or after 6th April 2004.
- 37 (1) For the purposes of regulations (whenever made) made under a provision of the Tax Acts —
- (a) references to settled property, a settlor or trustees shall be read in accordance with sections 685A to 685G of ICTA (inserted by paragraph 1 of this Schedule), and
 - (b) references to the trustees of a trust shall be treated as references to the trustees of a settlement.
- (2) This paragraph shall come into force on 6th April 2006.