

## SCHEDULES

### SCHEDULE 2

Section 6

#### AMENDMENTS OF INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

- 1 The Inheritance (Provision for Family and Dependants) Act 1975 is amended as follows.

#### *Children of the family*

- 2 (1) Section 1 (application for financial provision from deceased's estate) is amended as follows.
- (2) In subsection (1)(d), for the words from "who" to the end substitute "who in relation to any marriage or civil partnership to which the deceased was at any time a party, or otherwise in relation to any family in which the deceased at any time stood in the role of a parent, was treated by the deceased as a child of the family;".
- (3) After subsection (2) insert—
- “(2A) The reference in subsection (1)(d) above to a family in which the deceased stood in the role of a parent includes a family of which the deceased was the only member (apart from the applicant).”

#### *Maintenance*

- 3 In section 1 (application for financial provision from deceased's estate), for subsection (3) substitute—
- “(3) For the purposes of subsection (1)(e) above, a person is to be treated as being maintained by the deceased (either wholly or partly, as the case may be) only if the deceased was making a substantial contribution in money or money's worth towards the reasonable needs of that person, other than a contribution made for full valuable consideration pursuant to an arrangement of a commercial nature.”

#### *Powers of court*

- 4 (1) Section 2 (powers of court to make orders) is amended as follows.
- (2) In subsection (1), at the end insert—
- “(h) an order varying for the applicant's benefit the trusts on which the deceased's estate is held (whether arising under the will, or the law relating to intestacy, or both).”
- (3) After subsection (3) insert—
- “(3A) In assessing for the purposes of an order under this section the extent (if any) to which the net estate is reduced by any debts or liabilities (including any

inheritance tax paid or payable out of the estate), the court may assume that the order has already been made.”

*Matters to which court is to have regard*

- 5 (1) Section 3 (matters to which court is to have regard when exercising powers under section 2) is amended as follows.
- (2) In subsection (2), at the end of each of the final two sentences insert “; but nothing requires the court to treat such provision as setting an upper or lower limit on the provision which may be made by an order under section 2.”
- (3) In subsection (3)—
- (a) for paragraph (a) substitute—
    - “(a) to whether the deceased maintained the applicant and, if so, to the length of time for which and basis on which the deceased did so, and to the extent of the contribution made by way of maintenance;
    - (aa) to whether and, if so, to what extent the deceased assumed responsibility for the maintenance of the applicant;”;
  - (b) in paragraph (b) for “assuming and discharging that responsibility” substitute “maintaining or assuming responsibility for maintaining the applicant”.
- (4) In subsection (4), for the words from “regard” to the end substitute “regard—
- (a) to the length of time for which and basis on which the deceased maintained the applicant, and to the extent of the contribution made by way of maintenance;
  - (b) to whether and, if so, to what extent the deceased assumed responsibility for the maintenance of the applicant.”

*Time limit for applications*

- 6 In section 4 (time-limit for applications), at the end insert “(but nothing prevents the making of an application before such representation is first taken out)”.

*Joint tenancies*

- 7 (1) Section 9 (property held on joint tenancy) is amended as follows.
- (2) In subsection (1)—
- (a) omit the words from “, before the end” to “first taken out,” and
  - (b) omit “, at the value thereof immediately before his death,”.
- (3) After subsection (1) insert—
- “(1A) Where an order is made under subsection (1) the value of the deceased’s severable share of the property concerned is taken for the purposes of this Act to be the value that the share would have had at the date of the hearing of the application for an order under section 2 had the share been severed immediately before the deceased’s death, unless the court orders that the share is to be valued at a different date.”