

## SCHEDULE 16

### GROUP RELIEF

#### PART 3

#### RESTRICTIONS ON AVAILABILITY OF RELIEF

##### *Certain mortgage arrangements not within paragraph 4*

- 6 (1) Arrangements entered into by a company which, apart from this paragraph, would be arrangements to which paragraph 4 applies are not to be treated as such arrangements if and so long as—
- (a) the arrangements are a mortgage, secured by way of shares or securities in the company, which on default or the happening of any other event allows the mortgagee to exercise its rights against the mortgagor, and
  - (b) the mortgagee has not exercised its rights against the mortgagor.
- (2) This paragraph does not apply if the mortgagee—
- (a) possesses greater rights in respect of the shares or securities which are the subject of the mortgage than it requires to protect its interest as mortgagee, or
  - (b) could alone or together with connected persons dictate the terms or timing of the default or the happening of any event which allows it to exercise its rights against the mortgagor.
- (3) For the purposes of sub-paragraph (2)(b), a mortgagee is not, by reason only of the mortgage, connected with a company whose shares or securities are the subject of the mortgage.
- (4) In this paragraph, “mortgage” means—
- (a) in England and Wales, and Northern Ireland, any legal or equitable charge, and
  - (b) in Scotland, any right in security.