

SCHEDULE 5

HIGHER RATES RESIDENTIAL PROPERTY TRANSACTIONS

PART 5

SUPPLEMENTARY PROVISIONS

Settlements and bare trusts

- 29 (1) Where—
- (a) the main subject-matter of a land transaction consists of an interest other than a major interest in a dwelling, and
 - (b) sub-paragraph (2) or (3) applies in relation to the transaction,
- then, for the avoidance of doubt, the effect of paragraph 28 of this Schedule or, as the case may be, paragraph 3(1) of Schedule 8, is that the main subject-matter of the transaction is to be treated for the purposes of this Schedule as consisting of a major interest in a dwelling.
- (2) This sub-paragraph applies in relation to a transaction where—
- (a) a major interest in the dwelling is held on a bare trust for a beneficiary (“B”),
 - (b) there is a disposal of the whole or part of B’s interest in the dwelling,
 - (c) immediately before the effective date of the transaction—
 - (i) the major interest is, by virtue of paragraph 3(1) of Schedule 8, treated as if it were vested in B, or
 - (ii) B is, by virtue of paragraph 28, treated as holding the major interest in the dwelling, and
 - (d) immediately after the effective date of the transaction—
 - (i) the major interest is, by virtue of paragraph 3(1) of Schedule 8, treated as if it were vested in the buyer, or
 - (ii) the buyer is, by virtue of paragraph 28, treated as holding the major interest.
- (3) This sub-paragraph applies in relation to a transaction where—
- (a) a person (“B”) is a beneficiary under a settlement where a major interest in the dwelling forms part of the trust property,
 - (b) under the terms of the settlement B is entitled to—
 - (i) occupy the dwelling for life, or
 - (ii) income earned in respect of the dwelling,
 - (c) there is a disposal of the whole or part of B’s interest in the dwelling,
 - (d) immediately before the effective date of the transaction B is, by virtue of paragraph 28, treated as holding the major interest in the dwelling, and
 - (e) immediately after the effective date of the transaction the buyer is, by virtue of that paragraph, treated as holding the major interest.
- (4) In determining whether sub-paragraph (2) or (3) applies to a transaction, ignore paragraphs 30 and 35(5).