

## SCHEDULE 5

### HIGHER RATES RESIDENTIAL PROPERTY TRANSACTIONS

#### PART 6

#### INTERPRETATION

##### *Dwellings outside Wales*

- 35 (1) In the provisions of this Schedule specified in sub-paragraph (4), references to a “dwelling” include references to a dwelling situated outside Wales.
- (2) In relation to a dwelling situated in England, those provisions are to be construed in accordance with the provisions of the [Finance Act 2003 \(c. 14\)](#).
- (3) In the application of those provisions in relation to a dwelling situated in a country or territory outside England and Wales—
- (a) references to a “major interest” in the dwelling are to an equivalent interest in the dwelling under the law of that country or territory,
  - (b) references to persons being beneficially entitled as joint tenants, tenants in common or coparceners to an interest in the dwelling are to persons having an equivalent entitlement to the interest in the dwelling under the law of that country or territory,
  - (c) references to a “land transaction” in relation to the dwelling are to the acquisition of an interest in the dwelling under the law of that country or territory,
  - (d) references to the “effective date” of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired under the law of that country or territory, and
  - (e) references to “inheritance” are to the acquisition of an interest from a deceased person’s estate in accordance with the laws of that country or territory concerning the inheritance of property.
- (4) The provisions of this Schedule referred to in sub-paragraphs (1), (2) and (3) are—
- (a) paragraph 5(1)(a),
  - (b) paragraph 8(2)(b), (c), (d) and (e) and (4)(b), (c) and (d),
  - (c) paragraph 9(4),
  - (d) paragraph 15(1)(b),
  - (e) paragraph 17(2)(b), (c), (d) and (e) and (4)(b), (c) and (d),
  - (f) paragraph 18(4),
  - (g) paragraph 26,
  - (h) paragraph 28,
  - (i) paragraph 32(2), and
  - (j) paragraph 34.
- (5) Where the child of a person (“P”) has an interest in a dwelling which is situated in a country or territory outside Wales—
- (a) P and any spouse or civil partner of P are to be treated for the purposes of this Schedule as having that interest, and

- (b) the child is not to be so treated.
- (6) Sub-paragraph (5)(a) does not apply in relation to a spouse or civil partner of P if the two of them are not living together (for the meaning of which, see paragraph 25(3)).
- (7) Sub-paragraph (5) does not apply where—
- (a) a person (“D”) acquires, holds or disposes of, a major interest in a dwelling in a child’s name or on the child’s behalf,
  - (b) D does so in the exercise of powers conferred on D as the deputy of the child, and
  - (c) D holds or, in the case of a disposal, held, that interest on trust for the child.
- (8) In sub-paragraph (7), “deputy” means—
- (a) a person appointed under section 16 of the [Mental Capacity Act 2005 \(c. 9\)](#), or
  - (b) a person appointed to an equivalent position under the law of a country or territory outside England and Wales (and accordingly the reference to an interest being held on trust by such a person is to its being held on an equivalent basis under that law).