

## SCHEDULE 4

### MAINTENANCE FUNDS FOR HISTORIC BUILDINGS, ETC

#### PART I

##### TREASURY DIRECTIONS

###### *Giving of directions*

- 1 (1) If the conditions mentioned in paragraph 2(1) below are fulfilled in respect of settled property, the Treasury shall, on a claim made for the purpose, give a direction under this paragraph in respect of the property.
- (2) The Treasury may give a direction under this paragraph in respect of property proposed to be comprised in a settlement or to be held on particular trusts in any case where, if the property were already so comprised or held, they would be obliged to give the direction.
- (3) Property comprised in a settlement by virtue of a transfer of value made before the coming into force of section 94 of the Finance Act 1982 and exempt under section 84 of the Finance Act 1976 shall be treated as property in respect of which a direction has been given under this paragraph.

###### *Conditions*

- 2 (1) The conditions referred to in paragraph 1 above are—
- (a) that the Treasury are satisfied—
    - (i) that the trusts on which the property is held comply with the requirements mentioned in paragraph 3 below, and
    - (ii) that the property is of a character and amount appropriate for the purposes of those trusts; and
  - (b) that the trustees—
    - (i) are approved by the Treasury,
    - (ii) include a trust corporation, a solicitor, an accountant or a member of such other professional body as the Treasury may allow in the case of the property concerned, and
    - (iii) are, at the time the direction is given, resident in the United Kingdom.
- (2) For the purposes of this paragraph trustees shall be regarded as resident in the United Kingdom if—
- (a) the general administration of the trusts is ordinarily carried on in the United Kingdom, and
  - (b) the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are resident in the United Kingdom ;
- and where a trustee is a trust corporation, the question whether the trustee is resident in the United Kingdom shall, for the purposes of paragraph (b) above, be determined as for the purposes of corporation tax.
- (3) In this paragraph—

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" accountant" means a member of an incorporated society of accountants ;  
 " trust corporation " means a person that is a trust corporation for the purposes of the Law of Property Act 1925 or for the purposes of Article 9 of the Administration of Estates (Northern Ireland) Order 1979.

- 3 (1) The requirements referred to in paragraph 2(1)(a)(i) above are (subject to paragraph 4 below)—
- (a) that none of the property held on the trusts can at any time in the period of six years beginning with the date on which it became so held be applied otherwise than—
    - (i) for the maintenance, repair or preservation of, or making provision for public access to, property which is for the time being qualifying property, for the maintenance, repair or preservation of property held on the trusts or for such improvement of property so held as is reasonable having regard to the purposes of the trusts, or for defraying the expenses of the trustees in relation to the property so held ;
    - (ii) as respects income not so applied and not accumulated, for the benefit of a body within Schedule 3 to this Act or of a qualifying charity ; and
  - (b) that none of the property can, on ceasing to be held on the trusts at any time in that period or, if the settlor dies in that period, at any time before his death, devolve otherwise than on any such body or charity ; and
  - (c) that income arising from property held on the trusts cannot at any time after the end of that period be applied except as mentioned in paragraph (a)(i) or (ii) above.
- (2) Property is qualifying property for the purposes of sub-paragraph (1) above if—
- (a) it has been designated under section 34(1) of the Finance Act 1975 or section 77(1)(b), (c), (d) or (e) of the Finance Act 1976 or section 31(1)(b), (c), (d) or (e) of this Act; and
  - (b) the requisite undertaking has been given with respect to it under section 34 of the Finance Act 1975 or under section 76, 78(5)(b) or 82(3) of the Finance Act 1976 or under section 30, 32(5)(b) or 79(3) of this Act or paragraph 5 of Schedule 5 to this Act; and
  - (c) tax has not (since the last occasion on which such an undertaking was given) become chargeable with respect to it under the said section 34 or under section 78 or 82(3) of the Finance Act 1976 or under section 32 or 79(3) of this Act or paragraph 3 of Schedule 5 to this Act.
- (3) If it appears to the Treasury that provision is, or is to be, made by a settlement for the maintenance, repair or preservation of any such property as is mentioned in subsection (1)(b), (c), (d) or (e) of section 31 of this Act they may, on a claim made for the purpose—
- (a) designate that property under this sub-paragraph, and
  - (b) accept with respect to it an undertaking such as is described in subsection (4) of that section ;

and, if they do so, sub-paragraph (2) above shall have effect as if the designation were under that section and the undertaking under section 30 of this Act and as if the reference to tax becoming chargeable were a reference to the occurrence of an event on which tax would become chargeable under section 32 of this Act if there

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had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under section 30.

- (4) A charity is a qualifying charity for the purposes of sub-paragraph (1) above if it exists wholly or mainly for maintaining, repairing or preserving for the public benefit buildings of historic or architectural interest, land of scenic, historic or scientific interest or objects of national, scientific, historic or artistic interest; and in this sub-paragraph " national interest" includes interest within any part of the United Kingdom.
- (5) Designations, undertakings and acceptances made under section 84(6) of the Finance Act 1976 or section 94(3) of the Finance Act 1982 shall be treated as made under sub-paragraph (3) above.
- 4 (1) Paragraphs (a) and (b) of paragraph 3(1) above do not apply to property which—
- (a) was previously comprised in another settlement, and
  - (b) ceased to be comprised in that settlement and became comprised in the current settlement in circumstances such that by virtue of paragraph 9(1) below there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it;
- and in relation to any such property paragraph 3(1)(c) above shall apply with the omission of the words " at any time after the end of that period ".
- (2) Sub-paragraph (1) above shall not have effect if the time when the property comprised in the previous settlement devolved otherwise than on any such body or charity as is mentioned in paragraph 3(1)(a) above fell before the expiration of the period of six years there mentioned ; but in such a case paragraph 3(1) above shall apply to the current settlement as if for the references to that period of six years there were substituted references to the period beginning with the date on which the property became comprised in the current settlement and ending six years after the date on which it became held on the relevant trusts of the previous settlement (or, where this sub-paragraph has already had effect in relation to the property, the date on which it became held on the relevant trusts of the first settlement in the series).

#### *Withdrawal*

- 5 If in the Treasury's opinion the facts concerning any property or its administration cease to warrant the continuance of the effect of a direction given under paragraph 1 above in respect of the property, they may at any time by notice in writing to the trustees withdraw the direction on such grounds, and from such date, as may be specified in the notice ; and the direction shall cease to have effect accordingly.

#### *Information*

- 6 Where a direction under paragraph 1 above has effect in respect of property, the trustees shall from time to time furnish the Treasury with such accounts and other information relating to the property as the Treasury may reasonably require.

#### *Enforcement of trusts*

- 7 Where a direction under paragraph 1 above has effect in respect of property, the trusts on which the property is held shall be enforceable at the suit of the Treasury and the Treasury shall, as respects the appointment, removal and retirement of trustees, have the rights and powers of a beneficiary.