

Explanatory Note

Clause 9: Increased nil-rate band where home inherited by descendants

Summary

1. The amendments to clause 9 provide that an estate will qualify for the new residence nil-rate band when a home has been left to the current spouse or civil partner of a direct descendant of the deceased, or, in some cases, to the direct descendant's widow, widower, or surviving civil partner. They also clarify that a person inherits a home if it was held in a certain type of trust before, or after, the deceased died and the property passes to them on the death of the deceased or they are entitled to benefit from the property and are treated as owning the property. In addition, the amendments also ensure that kinship carers and similar terms are included within the definition of a foster parent. The amendments will apply for deaths on or after 6 April 2017

Details of the amendments

2. Amendments 1 and 2 amend subsection (3) and insert a new subsection (3A) into new section 8J. The amendments clarify that a property is not inherited by a direct descendant as a result of the deceased's ("D's") will if it is settled in a trust either on the death of D (subsection (3)(a)), or if it was settled in a certain type of trust before D died and D was treated as if they owned the property (subsection (3)(b)). The amendments now make specific provision for these circumstances.
3. New section 8J(3A) applies where the property is settled in a trust on the death of D. A person ("B") will be treated as inheriting the property if it is settled in certain types of trusts where the settled assets are held or applied for the benefit of B. These include trusts where the beneficiary is treated as if they own the property themselves, and trusts for bereaved minors and other persons under the age of 25.
4. Amendment 3 inserts new subsection (3B) into new section 8J.
5. New section 8J(3B) applies where, at D's death, the property is already settled in trust and D was treated as if they owned the property themselves. B inherits the property if B owns the property themselves following D's death, or if B becomes entitled to benefit from the property and is treated as if they own the property in the same way as the deceased.
6. Amendments 4 and 5 extend the persons who can inherit the property in new section 8K(1) to the current spouse or civil partner of a lineal descendant of D. They also include the widow or widower (or the surviving civil partner) of a lineal descendant who died before D. This would not apply to a surviving spouse or civil partner who remarries or forms a new civil partnership before D's death.

7. Amendment 6 makes a small change to the definition of a foster parent in section 8K(10) to include other terms for a foster parent such as a kinship carer in Scotland.

Background note

8. Summer Budget 2015 announced that the burden of inheritance tax would be reduced for most families by making it easier to pass on the family home to direct descendants without a tax charge. Clause 9 implements the announcement made by the Chancellor of the Exchequer in his statement on 8 July 2015.
9. The amendments to clause 9 will ensure that the new provisions work as intended. They also ensure that an estate will qualify for the new residence nil-rate band where a home has been left to a direct descendant and their spouse or civil partner jointly, to a direct descendant's spouse or civil partner solely, or to a direct descendant's widow, widower or surviving civil partner who has not married again or entered into another civil partnership.

PUBLIC BILL COMMITTEE

Mr David Gauke

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Clause 9, page 9, line 11, leave out from “if” to “to” in line 14 and insert “—

- (a) the property becomes comprised in a settlement on D’s death, or
- (b) immediately before D’s death, the property was settled property in which D was beneficially entitled to an interest in possession.

(3A) Where the property becomes comprised in a settlement on D’s death, B inherits the property if—

- (a) B becomes beneficially entitled on D’s death”

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Clause 9, page 9, line 18, leave out “under the disposition the property becomes” and insert “the property becomes, on D’s death,”

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Clause 9, page 9, line 20, at end insert—

“(3B) Where, immediately before D’s death, the property was settled property in which D was beneficially entitled to in an interest in possession, B inherits the property if B becomes beneficially entitled to it on D’s death.”

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Clause 9, page 9, line 27, leave out “a person’s death,” and insert “the death of a person (“D”),”

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Clause 9, page 9, line 29, leave out “a lineal descendant of the person” and insert “—

- (a) a lineal descendant of D,
- (b) a person who, at the time of D’s death, is the spouse or civil partner of a lineal descendant of D, or
- (c) a person who—
 - (i) at the time of the death of a lineal descendant of D who died no later than D, was the spouse or civil partner of the lineal descendant, and
 - (ii) has not, in the period beginning with the lineal descendant’s death and ending with D’s death, become anyone’s spouse or civil partner.”

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Clause 9, page 10, line 44, after first “parent” insert “(however styled)”

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