

## New Clause 1 and New Schedule 1: Freeport tax site reliefs: provision about regulations

### Summary

1. New Clause 1 and New Schedule 1 make provisions about powers to vary the circumstances in which certain reliefs are available in relation to freeport tax sites. Part 1 of the schedule contains those provisions which apply to 100% first-year allowances for companies investing in plant or machinery for use primarily in freeport tax sites. Part 2 of the schedule contains those provisions which apply to enhanced structures and buildings allowances at the annual rate of 10% for qualifying expenditure incurred on non-residential structures and buildings situated in freeport tax sites. Part 3 of the schedule contains those provisions which apply to relief from Stamp Duty Land Tax (SDLT) for certain acquisitions of land situated in freeport tax sites.

### Details of the clause

2. New Clause 1 introduces Schedule 1 into Finance (No. 2) Bill which makes provision amending section 45R and 270BNC Capital Allowances Act (CAA) 2001 and paragraph 12 of Schedule 6C to Finance Act (FA) 2003 together with consequential amendments.

### Details of the Schedule

3. New Schedule 1 of Finance (No. 2) Bill comprises three Parts.

### Part 1: First-Year Allowance for Plant and Machinery

4. Paragraph 1 is introductory and explains that amendments are to be made to Part 2 of the Capital Allowances Act 2001.
5. Paragraph 3 introduces provisions into section 45R CAA 2001.
6. Sub-paragraph 3 introduces new subsections (3A), (3B) and (3C).
7. Subsection (3A) introduces a power for the Treasury to make regulations to make provision adding, removing or altering, or otherwise about, circumstances in which expenditure on plant or machinery is to be treated as having never been first-year qualifying expenditure under section 45O.
8. Subsection (3B) provides that the power to make regulations under subsection (3A) is exercisable only in relation to expenditure incurred on or after the date on

which the regulations come into force.

9. Subsection (3C) provides that subsections 45P(3) and (4) apply to regulations made under subsection (3A).
10. Sub-paragraph (4) extends the provisions in subsection (4) to make assessments and adjustments to assessments to give effect to any regulations made under subsection (3A).
11. Sub-paragraphs (5) and (6) extend the requirements in subsections (5) and (6) for persons to notify an officer of HMRC where they have made a return and become aware that anything in that return has become incorrect, to provisions which may be introduced through regulations under subsection (3A).
12. Paragraph 4 amends section 570B CAA 2001 by inserting reference to section 45R CAA 2001.

## Part 2: Structures and Buildings Allowances

13. Paragraph 5 amends section 270BNC CAA 2001 to make further provisions about powers to amend the meaning of “freeport qualifying expenditure” etc.
14. Sub-paragraph (1) provides that section 270BNC is to be amended.
15. Sub-paragraph (2) inserts “etc” at the end of the heading for section 270BNC CAA 2001.
16. Sub-paragraph (3) inserts new subsection 270BNC(1)(b) CAA 2001 which enables regulations made under section 270BNC CAA 2001 to make provision adding, removing or altering, or otherwise about, circumstances in which qualifying expenditure is to be treated as if it were freeport qualifying expenditure or other qualifying expenditure. Regulations made under subsection 270BNC(1)(b) CAA 2001 may also include provisions about assessments, adjustments to assessments, returns, amendments of returns and penalties.
17. Sub-paragraph (4) provides that subsection (4)(b) applies to new subsection (1)(b) such that regulations made under that subsection may amend, repeal or otherwise modify other provisions of CAA 2001 or provisions of another Act.
18. Sub-paragraph (5) inserts new subsection (5) into section 270BNC CAA 2001.
19. Subsection (5) provides that the power to make regulations under section 270BNC(1)(b) CAA 2001 is exercisable only in relation to qualifying expenditure incurred on or after the date on which the regulations come into force.

## Part 3: Stamp Duty Land Tax

20. Paragraph 6(1) provides that paragraph 12 of Schedule 6C (power to change the cases in which relief is available) of FA 2003 is to be amended.
21. Paragraph 6(2)(a) inserts “or” at the end of paragraph 12(1)(a) of Schedule 6C.

22. Paragraph 6(2)(b) inserts a new paragraph 12(1)(b) into Schedule 6C in place of existing paragraphs (b) and (c).
23. Paragraph 12(1)(b)(i) of Schedule 6C enables regulations to be used to make provision adding, removing or altering, or otherwise about, conditions that must be met or satisfied for relief to be available.
24. Paragraph 12(1)(b)(ii) of Schedule 6C enables regulations to be used to make provision about withdrawal of relief.
25. Paragraph 12(1)(b)(iii) of Schedule 6C enables regulations to be used to make provision about returns in cases where relief is withdrawn.
26. Paragraph 6(3) makes changes consequential to the other changes made by paragraph 6.
27. Paragraph 6(4) inserts new paragraph 12(5) into Schedule 6C. Paragraph 12(5) makes provision to ensure that the powers provided by paragraph 12 may only be used to change liability to tax (whether charging or relieving) for transactions with effective dates on or after the date on which the regulations come into force.

## Background note

28. At Spring Budget on 3 March 2021, the government announced the locations of the eight successful English freeport bids with further plans to introduce freeports in Northern Ireland, Scotland and Wales. Freeports are geographical areas containing at least one form of port where special tax and customs rules apply. Legislation was included in the Finance Act (FA) 2021 for the freeport tax reliefs and to provide for the power to designate freeport tax sites in Great Britain.
29. FA 2021 provided for enhanced rates of capital allowances on qualifying expenditure incurred in freeport tax sites:
  - a. A 100% first-year allowance available for companies investing in plant or machinery for use primarily in freeport tax sites, and
  - b. An enhanced annual rate of structures and buildings allowances of 10% for qualifying expenditure incurred on non-residential structures and buildings situated within freeport tax sites.
30. FA 2021 also provided for SDLT relief for purchases of land and buildings within a freeport tax site, subject to a 'control period' of up to 3 years and the land being acquired and used in a 'qualifying manner'.
31. This measure makes provision about powers to vary the circumstances in which those freeport tax reliefs are available in relation to freeport tax sites.