
Report Stage: Thursday 27 January 2022

Finance (No. 2) Bill, As Amended (Amendment Paper)

This document lists all amendments tabled to the Finance (No. 2) Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: 1 to 34, NC1 and NC2 and NS1

The Chancellor of the Exchequer

NC1

★ To move the following Clause—

“Freeport tax site reliefs: provision about regulations

Schedule (*Freeport tax site reliefs: provision about regulations*) makes provision about powers to vary the circumstances in which certain reliefs are available in relation to freeports.”

Member’s explanatory statement

This new clause and NS1 make provision about powers to make regulations in relation to the circumstances in which certain reliefs are available in relation to freeports.

Grahame Morris

NC2

★ To move the following Clause—

“Review of impact of section 25 (Tonnage tax)

- (1) The Chancellor must review the impact of the changes made by section 25 of this Act (Tonnage tax), and lay a report of that review before the House of Commons, within 12 months of that section coming into force.
- (2) The review carried out under subsection (1) must include assessment of the impact of the provisions of that section on—
 - (a) the training of UK—
 - (i) cadets and
 - (ii) ratings, and
 - (b) the employment of UK—
 - (i) cadets and
 - (ii) ratingsby operators of qualifying ships.

- (3) The review carried out under subsection (1) must include assessment of the effect of changes to flagging arrangements made by subsections 25(6) and (7)."

Member's explanatory statement

This new clause would require the Government to report to the House on the impact of the provisions of clause 25 on the training and employment of UK seafarers.

Grahame Morris

34

- ★ Clause 25, page 19, line 41, at end insert—

"(10A) The Secretary of State must consult trade unions representing UK seafarers before making any regulations pursuant to subsection (8)."

Member's explanatory statement

This amendment would require the Government to consult trade unions representing UK seafarers before making regulations pursuant to subsection (8) of this clause. This subsection extends to ships not registered in the UK the power of the Department to make regulations requiring proof from companies and groups within the tonnage tax regime that their ships comply with safety, environmental and working conditions.

The Chancellor of the Exchequer

1

- ★ Clause 36, page 28, line 10, leave out "An RP developer" and insert "A company"

Member's explanatory statement

This amendment (along with Amendments 2, 3 and 8) removes an unnecessary potential circularity in the meaning of an "interest in land" for the purposes of residential property developer tax.

The Chancellor of the Exchequer

2

- ★ Clause 36, page 28, line 11, leave out "RP developer" and insert "company"

Member's explanatory statement

See the explanatory statement for Amendment 1.

The Chancellor of the Exchequer

3

- ★ Clause 36, page 28, line 16, leave out “RP developer’s” and insert “company’s”

Member’s explanatory statement

See the explanatory statement for Amendment 1.

The Chancellor of the Exchequer

4

- ★ Clause 36, page 28, line 20, leave out subsection (2)

Member’s explanatory statement

This amendment is consequential on Amendment 5.

The Chancellor of the Exchequer

5

- ★ Clause 36, page 28, line 29, at end insert—

“(3A) But where a company (C) has an interest within subsection (3)(b), that interest is not an excluded interest if it is granted as a result of arrangements to which C or a related company is party and under which an estate in the land in question is to be conveyed by another party to the arrangements at the direction or request of C or a related company to any of—

- (a) a person who is not party to the arrangements,
- (b) C, or
- (c) a company related to C.

(3B) For the purposes of subsection (3A)—

- (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
- (b) a conveyance by a person as nominee or bare trustee is to be treated as also being a conveyance by the person or persons for whom they are the nominee or trustee.

(3C) For the purposes of this section, a company (A) is related to another company (B) if—

- (a) A is a member of a group of which B is a member;
- (b) A is a relevant joint venture company and B, or B together with any other company which is a member of a group of which B is a member, has or have a substantial interest in A.”

Member’s explanatory statement

This amendment provides that a licence to use or occupy land that is granted as a result of arrangements under which an estate in the land is to be conveyed, at the request of a company or related company, is not an excluded interest for the purposes of clause 36 (and, accordingly, is an interest in land for the purposes of that clause).

The Chancellor of the Exchequer

6

★ Clause 36, page 28, line 35, at end insert—

“(4A) For the purposes of subsection (4), a licence falling within subsection (3A) to use or occupy land is to be treated as being disposed of when an estate in the land is, or would be, conveyed under the arrangements as a result of which the licence is granted.”

Member’s explanatory statement

This amendment provides that a licence of the sort mentioned in subsection (3A) of clause 36 (inserted by Amendment 5) would form part of a company’s trading stock for the purposes of that clause.

The Chancellor of the Exchequer

7

★ Clause 36, page 28, line 36, leave out “subsection (4)” and insert “this section”

Member’s explanatory statement

This amendment is consequential on Amendment 6.

The Chancellor of the Exchequer

8

★ Clause 36, page 28, line 38, leave out “an RP developer” and insert “a company”

Member’s explanatory statement

See the explanatory statement for Amendment 1.

The Chancellor of the Exchequer

9

★ Clause 58, page 44, line 43, leave out “entities that are” and insert “persons”

Member’s explanatory statement

This amendment and Amendment 10 ensure that those liable to pay the economic crime (anti-money laundering) levy are referred to as “persons” in each place for consistency with other provisions of Part 3.

The Chancellor of the Exchequer

10

- ★ Clause 58, page 45, line 9, leave out “entities” and insert “persons”

Member’s explanatory statement

See the explanatory statement for Amendment 9.

The Chancellor of the Exchequer

11

- ★ Clause 78, page 63, line 6, leave out “period ending with 30th April 2022” and insert “permitted period”

Member’s explanatory statement

See the explanatory statement for Amendment 12.

The Chancellor of the Exchequer

12

- ★ Clause 78, page 63, line 23, at end insert—

“(2ZD) Paragraphs (2ZE) and (2ZF) apply in determining the “permitted period” for the purposes of paragraph (2)(c)(d)(iii).

(2ZE) In the case of vehicles arriving in the United Kingdom on or after 28th October 2021, the “permitted period” means the period ending with—

- (a) 30th April 2022, or
- (b) such later date as regulations made by the Treasury may specify.

(2ZF) Where regulations made by the Treasury provide for this paragraph to apply in the case of vehicles arriving in the United Kingdom on or after a date specified in the regulations that is after 30th April 2022, the “permitted period” means the period—

- (a) beginning with that specified date, and
- (b) ending with such later as the regulations may specify.

(2ZG) The later date specified in regulations under paragraph (2ZE)(b) or (2ZF)(b) must be no later than 31st December 2022.

(2ZH) Regulations under paragraph (2ZE) or (2ZF) are to be made by statutory instrument.

(2ZI) A statutory instrument containing regulations under paragraph (2ZE) or (2ZF) is subject to annulment in pursuance of a resolution of the House of Commons.”

Member’s explanatory statement

This amendment (along with Amendments 11 and 13) enables the Treasury by regulations to extend the temporary extension of cabotage rights afforded by clause 78 beyond the current end date of 30 April 2022, but any such extension must end on or before 31 December 2022.

The Chancellor of the Exchequer

13

- ★ Clause 78, page 63, line 24, leave out subsection (3)

Member's explanatory statement

See the explanatory statement for Amendment 12.

The Chancellor of the Exchequer

NS1

- ★ To move the following Schedule—

“Freeport tax site reliefs: provision about regulations

Part 1

First-year allowance for plant and machinery

- 1 Part 2 of CAA 2001 (plant and machinery allowances) is amended in accordance with paragraphs 2 and 3.
- 2 In section 45O (expenditure on plant and machinery for use in freeport tax sites), in subsection (7), for the entry relating to section 45R substitute “section 45R (effect of failing to comply with ongoing requirements) and regulations under that section, and”.
- 3 (1) Section 45R (effect of plant or machinery subsequently being primarily for use outside freeport tax sites) is amended as follows.
 - (2) In the heading, for the words from “plant” to the end substitute “failing to comply with ongoing requirements”.
 - (3) After subsection (3) insert—
 - “(3A) The Treasury may by regulations make provision adding, removing or altering, or otherwise about, circumstances in which expenditure on the provision of plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45O.
 - (3B) The power to make regulations under subsection (3A) may be exercised only in relation to expenditure incurred on or after the date on which the regulations come into force.
 - (3C) Subsections (3) and (4) of section 45P apply in relation to regulations under subsection (3A) as they apply in relation to regulations under that section.”
 - (4) In subsection (4), at the end insert “or regulations under subsection (3A)”.
 - (5) In subsection (5), after “this section” insert “or of regulations under subsection (3A)”.
 - (6) In subsection (6), at the end insert “or of regulations under subsection (3A)”.

- 4 (1) Section 570B of CAA 2001 (orders and regulations made by Treasury or Commissioners) is amended as follows.
- (2) In subsection (3), after "section 45P," insert "45R,".
- (3) In subsection (4), after "section 45P" insert ", 45R".

Part 2

Structures and buildings allowances

- 5 (1) Section 270BNC of CAA 2001 (structures and buildings allowances: power to amend meaning of "freeport qualifying expenditure") is amended as follows.
- (2) In the heading, at the end insert "etc".
- (3) In subsection (1)—
 - (a) the words from "change" to the end become paragraph (a);
 - (b) after that paragraph insert ", or
 - (b) make provision adding, removing or altering, or otherwise about, circumstances in which qualifying expenditure is to be treated as if it were—
 - (i) freeport qualifying expenditure, or
 - (ii) other qualifying expenditure,including provision about assessments, adjustments to assessments, returns, amendments of returns and penalties."
- (4) In subsection (4)(b), after "subsection" insert "(1)(b) or".
- (5) At the end insert—

"(5) The power to make regulations under subsection (1)(b) may be exercised 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

- 6 (1) In Schedule 6C to FA 2003 (stamp duty land tax: relief for freeport tax sites), paragraph 12 (power to change the cases in which relief is available) is amended as follows.
- (2) In sub-paragraph (1)—
 - (a) at the end of paragraph (a) insert "or";
 - (b) for paragraphs (b) and (c) substitute—"(b) make other provision about the availability of relief under this Schedule, including provision—
 - (i) adding, removing or altering, or otherwise about, conditions that must be met in order for relief to be available,
 - (ii) about the withdrawal of relief, or
 - (iii) about returns where relief is withdrawn."

(3) In sub-paragraph (4)(b), after “on” insert “sub-paragraph (1)(b) of this paragraph or on”.

(4) At the end insert—

“(5) The power to make regulations under this paragraph may be exercised only in relation to transactions with an effective date that is on or after the date on which the regulations come into force.””

Member’s explanatory statement

See the explanatory statement for NC1.

The Chancellor of the Exchequer

14

- ★ Schedule 1, page 91, line 38, leave out “(see Step 1)” and insert “(“the transition component”)”

Member’s explanatory statement

This amendment and Amendments 15 to 17 ensure that a tax liability arising from the transitional arrangements for the coming into force of Schedule 1 may be reduced at Step 6 of the calculation in section 23 of the Income Tax Act 2007.

The Chancellor of the Exchequer

15

- ★ Schedule 1, page 91, line 39, leave out “that” and insert “the transition”

Member’s explanatory statement

See the explanatory statement for Amendment 14.

The Chancellor of the Exchequer

16

- ★ Schedule 1, page 91, line 39, leave out from “2” to end of line 42 and insert “,
- (c) the amount of the transition component left after Step 2 were left out of the calculation of net income (and subsequent Steps), and
 - (d) for the purposes of Steps 5 to 7, the amount (if any) given by sub-paragraph (3) were treated as an amount of tax calculated at Step 4.”

Member’s explanatory statement

See the explanatory statement for Amendment 14.

The Chancellor of the Exchequer

17

- ★ Schedule 1, page 92, line 1, leave out sub-paragraph (3) and insert—

“(3) The amount given by this sub-paragraph is the difference between—

- (a) the total amount of tax that would be calculated at Step 5 if Steps 1 to 4 were applied in accordance with sub-paragraph (2)(a) to (c) (ignoring sub-paragraph (2)(d)), and
- (b) the total amount of tax that would be calculated at Step 5 if Steps 1 to 4 were applied in accordance with sub-paragraph (2)(a) and (b) (ignoring sub-paragraph (2)(c) and (d)).”

Member’s explanatory statement

See the explanatory statement for Amendment 14.

Chancellor of the Exchequer

18

- ★ Schedule 2, page 95, line 45, leave out “(1)(b)(i)” and insert “(1)(b)(ii)”

Member’s explanatory statement

This amendment corrects a cross-referencing error.

Chancellor of the Exchequer

19

- ★ Schedule 2, page 100, line 13, after “connected persons” insert “(within the meaning of section 1122 of CTA 2010 (“connected” persons))”

Member’s explanatory statement

This amendment clarifies what is meant by a person being connected to another.

Chancellor of the Exchequer

20

- ★ Schedule 2, page 100, line 18, leave out paragraphs (i) and (ii) and insert—

- “(i) any person who would be regarded as a participator (for the purposes of that Part) only as a result of being a creditor of the fund in respect of a normal commercial loan (within the meaning it has in paragraph 3) is not to be regarded as a participator,
- (ii) any interest a participator has as a creditor of the fund in respect of a normal commercial loan is not to be regarded as an interest of that participator,
- (iia) as if paragraph (a) of section 450(3) of that Act were omitted,

- (iib) paragraphs 5(5) and 6(5) and (6) of this Schedule apply for the purposes of determining the rights of participators in the fund as they apply for the purposes of determining relevant interests in a QAHC, and"

Member's explanatory statement

This amendment provides that the provision of a commercial loan to a fund will not constitute an interest in it for the purposes of determining whether a fund is close and provides for the application of certain rules of this Schedule in making that determination.

Chancellor of the Exchequer

21

- ★ Schedule 2, page 100, line 31, leave out sub-paragraph (iii)

Member's explanatory statement

This amendment is consequential on Amendment 20.

Chancellor of the Exchequer

22

- ★ Schedule 2, page 100, line 34, at end insert—

"(5A) In making a determination under sub-paragraph (5)(b), neither a manager of a fund nor a general partner in a limited partnership that is a collective investment scheme is to be regarded as having control of that fund or scheme unless that manager or partner would be treated as having control of it as result of satisfying a condition in section 450(3)(b) to (d) of CTA 2010 (whether alone or with other persons)."

Member's explanatory statement

This amendment ensures that managers and general partners of certain types of funds will only be regarded as having control of a fund as a result of their economic interest in it or as a result of their voting power.

Chancellor of the Exchequer

23

- ★ Schedule 2, page 100, line 38, leave out from "the fund" to end of line 39

Member's explanatory statement

This amendment removes an over-elaboration of the concept of voting power (in a fund).

Chancellor of the Exchequer

24

- ★ Schedule 2, page 101, line 3, leave out "6(6)" and insert "6(7)"

Member's explanatory statement

This amendment corrects a cross-referencing error.

Chancellor of the Exchequer 25

- ★ Schedule 2, page 101, line 14, after “(5)(a)(i)” insert “and (ii) (as they apply by virtue of subparagraph (5)(b))”

Member’s explanatory statement

This amendment is consequential on Amendment 20.

Chancellor of the Exchequer 26

- ★ Schedule 2, page 101, line 17, at end insert—

“manager”, in relation to a fund, means—

- (a) any person who is the manager of the property that is the subject of or held by the fund, or
- (b) any other person who has, or is expected to have, day-to-day control of that property.”

Member’s explanatory statement

This amendment defines “manager” for the purposes of Amendment 22 and paragraph 9(3) of Schedule 2.

Chancellor of the Exchequer 27

- ★ Schedule 2, page 101, line 46, after “connected” insert “(within the meaning of section 1122 of CTA 2010 (“connected” persons))”

Member’s explanatory statement

This amendment clarifies what is meant by a person being connected to another.

Chancellor of the Exchequer 28

- ★ Schedule 2, page 101, line 47, after “controlled” insert “(within the meaning of section 450 of that Act)”

Member’s explanatory statement

This amendment clarifies what is meant by a person having control of another.

Chancellor of the Exchequer 29

- ★ Schedule 2, page 115, line 6, leave out paragraph (d)

Member’s explanatory statement

This amendment removes provision disapplying provision about intangible fixed assets that is otiose, given intangible fixed assets will not be within the ring fence business of a QAHC.

Chancellor of the Exchequer 30

- ★ Schedule 2, page 120, line 27, leave out “regardless” and insert “security”

Member’s explanatory statement

This amendment corrects an error.

The Chancellor of the Exchequer 31

- ★ Schedule 5, page 137, line 16, leave out “the words in brackets” and insert ““(adjusted, where relevant, in accordance with step 2)””

Member’s explanatory statement

This amendment clarifies which words are to be omitted from Step 4 in section 76 Finance Act 2012.

The Chancellor of the Exchequer 32

- ★ Schedule 5, page 137, line 18, after “etc)” insert “—
 (i) in subsection (2), in paragraph (a) omit “(but see subsection (3))”;

Member’s explanatory statement

This amendment omits a reference in section 77(2) Finance Act 2012 to section 77(3), which is also being omitted.

The Chancellor of the Exchequer 33

- ★ Schedule 5, page 137, line 34, leave out paragraph (h) and insert—
 “(h) in section 128 (relief for transferee in respect of transferor’s BLAGAB expenses)—
 (i) in the heading, after “transferor’s” insert “excess”;
 (ii) omit subsections (2) to (4);”

Member’s explanatory statement

This amendment ensures that the provisions of section 128 Finance Act 2012 relevant to the transfer of excess basic life assurance and general annuity business expenses in the context of a transfer under Part VII of the Financial Services and Markets Act 2000 are retained.

Order of the House

[16 November 2021]

That the following provisions shall apply to the Finance (No. 2) Bill:

Committal

1. The following shall be committed to a Committee of the whole House—
 - (a) Clause 4 (increase in rates of tax on dividend income);
 - (b) Clause 6 (rate of banking surcharge and surcharge allowance);
 - (c) Clauses 7 and 8 and Schedule 1 (attribution of trade and property business profits etc for a tax year);
 - (d) Clause 12 (capital allowances: extension of temporary increase in annual investment allowance);
 - (e) Clauses 27 and 28 (diverted profits tax: mutual agreement procedure and closure notices etc);
 - (f) Clauses 53 to 66 (economic crime (anti-money laundering) levy);
 - (g) Clauses 68 to 71 (value added tax);
 - (h) Clauses 84 to 92 and Schedules 12 and 13 (avoidance);
 - (i) Clause 93 and Schedule 14 (free zones); and
 - (j) any new Clauses or new Schedules relating to the subject matter of the Clauses and Schedules mentioned in paragraphs (a) to (i).
2. The remainder of the Bill shall be committed to a Public Bill Committee.

Proceedings in Committee of the whole House

3. Proceedings in Committee of the whole House shall be completed in one day.
4. The proceedings—
 - (a) shall be taken on that day in the order shown in the first column of the following Table, and
 - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Proceedings	Time for conclusion of proceedings
Clause 4; Clause 6; Clauses 7 and 8 and Schedule 1; Clause 12; any new Clauses or new Schedules relating to the subject matter of those Clauses and that Schedule	2 hours from commencement of proceedings on the Bill
Clauses 27 and 28; Clauses 53 to 66; Clauses 84 to 89; Clause 90 and Schedule 12; Clause 91 and Schedule 13; Clause 92; any new Clauses or new Schedules relating to the subject matter of those Clauses and those Schedules	4 hours from commencement of proceedings on the Bill

Proceedings

Clauses 68 to 71 (value added tax);
Clause 93 and Schedule 14 (free zones);
any new Clauses or new Schedules
relating to the subject matter of those
Clauses and that Schedule

Time for conclusion of proceedings

6 hours from commencement of
proceedings on the Bill

Proceedings in Public Bill Committee etc

5. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 13 January 2022.
6. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.
7. When the provisions of the Bill considered, respectively, by the Committee of the whole House and by the Public Bill Committee have been reported to the House, the Bill shall be proceeded with as if it had been reported as a whole to the House from the Public Bill Committee.

Consideration and Third Reading

8. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
9. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

10. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House or to proceedings on Consideration and Third Reading.
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