EXPLANATORY MEMORANDUM TO

THE DESIGNATION OF FREEPORT TAX SITES (EAST MIDLANDS FREEPORT) REGULATIONS 2022

2022 No. 184

THE DESIGNATION OF FREEPORT TAX SITES (LIVERPOOL CITY REGION FREEPORT) REGULATIONS 2022

2022 No. 185

AND

THE DESIGNATION OF FREEPORT TAX SITES (SOLENT FREEPORT) REGULATIONS 2022

2022 No. 186

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations designate those freeport tax sites within, or connected to, a freeport in which certain tax reliefs are available. A freeport for these purposes is an area identified as such in a document published by or with the consent of the Treasury where special tax and customs rules will apply. The tax reliefs available in freeport tax sites include stamp duty land tax relief on qualifying acquisitions of land, a 10% enhanced rate of structures and buildings allowances, a 100% first-year allowance for qualifying expenditure on plant and machinery, a zero-rate of secondary Class National Insurance contributions (NICs) for qualifying employments and business rates relief.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is United Kingdom.

4.2 The territorial application of this instrument is United Kingdom.

5. European Convention on Human Rights

5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 These Regulations are made under section 113 of the Finance Act 2021. These are the third set of Regulations to be made under these powers. The first set of Regulations were the Designation of Freeport Tax Sites (Humber Freeport) Regulations 2021 (S.I. 2021/1193), the Designation of Freeport Tax Sites (Teesside Freeport) Regulations 2021 (S.I. 2021/1194) and the Designation of Freeport Tax Sites (Thames Freeports) Regulations 2021 (S.I. 2021/1195). The second set of Regulations were the Designation of Freeport Tax Sites (Freeport East) Regulations 2021 (S.I. 2021/1389).

6.2 Schedule 22 to the Finance Act 2021 introduced new sections 45O to 45R into the Capital Allowances Act 2001 (CAA 2001) which provide for 100% first-year allowances for companies incurring qualifying expenditure on plant or machinery for use primarily in a freeport tax site.

6.3 Schedule 22 to the Finance Act 2021 also introduced new sections 270BNA to 270BNC into CAA 2001 which provide for an enhanced 10% rate of structures and buildings allowances for persons incurring qualifying expenditure on structures and buildings situated in a freeport tax site.

6.4 Schedule 23 to the Finance Act 2021 introduced new section 61A and Schedule 6C into the Finance Act 2003 which provide for relief from stamp duty land tax for qualifying acquisitions of land situated in a freeport tax site.

6.5 Clauses 1 to 4 in the National Insurance Contributions Bill (session 2021-22) provide for a zero-rate of secondary Class 1 NICs that employers based in a freeport tax site can apply to qualifying employments from April 2022.

6.6 The government is not changing the legislation relating to business rates reliefs. Instead, the government will provide guidance to local authorities outlining eligibility criteria for relief. The government will then reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief in line with that guidance.

6.7 These Regulations are required to designate those freeport tax sites in which expenditure may qualify for the reliefs and to state the day on which expenditure can begin to qualify.

7. Policy background

What is being done and why?

7.1 On 10 February 2020, the government published a consultation on freeport policy in respect of its plans to introduce freeports across the United Kingdom. The consultation documents are available at the following web link: https://www.gov.uk/government/consultations/freeports-consultation.

7.2 Freeports are geographical areas containing at least one form of port (including air, sea and rail) where special tax and customs rules apply. Freeports are intended to support the policy of levelling up the towns, cities and regions of the United Kingdom.

7.3 The government published a consultation response on 7 October 2020, which provided initial detail of the tax reliefs it intended to offer to encourage investment and boost employment in freeport tax sites. This was followed by publication of a freeport bidding prospectus for England on 16 November 2020, which included

further details of the tax reliefs to be offered in freeport tax sites in Great Britain. The freeport bidding prospectus is available at the following web link: https://www.gov.uk/government/publications/freeports-bidding-prospectus.

7.4 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. Legislation was included in the Finance Act 2021 for the freeport tax reliefs and to provide for the power to designate freeport tax sites.

7.5 The power contained within section 113 of the Finance Act 2021 enables tax sites within, or connected to, freeports to be designated and recognised in law as geographical areas where businesses can benefit from the freeport tax reliefs. These Regulations designate freeport tax sites so that businesses can begin to invest and benefit from the reliefs.

7.6 These instruments designate the freeport tax sites for the Solent Freeport, East Midlands Freeport and Liverpool City Region Freeport respectively.

7.7 Maps of the freeport and freeport tax sites have been published at the following web link: https://www.gov.uk/government/collections/maps-of-freeports-and-freeport-tax-sites.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 These Regulations do not require consolidation.

10. Consultation outcome

10.1 The freeport package including the tax offer was the subject of an extensive consultation process which ran from 10 February 2020 to 13 July 2020. The government received 364 responses from a mixture of port operators, businesses, local authorities, non-government organisations and others.

10.2 These Regulations have not been subject to consultation. Consultation was not considered necessary as the freeport tax sites which are the subject of these Regulations were selected on merit following a competitive bidding process based on proposals submitted by freeport operators in England.

11. Guidance

11.1 No guidance will be published for these Regulations. However, guidance will be published for each of the freeport tax reliefs. Guidance for stamp duty land tax relief is available at the following web link: https://www.gov.uk/guidance/check-if-you-can-claim-relief-from-stamp-duty-land-tax-in-freeport-tax-sites. Guidance for the first-year allowance for plant and machinery is available at the following web link: https://www.gov.uk/guidance/check-if-you-can-claim-the-enhanced-capital-allowance-relief-in-freeport-tax-sites. Guidance for the enhanced rate of structures and buildings allowance is available at the following web link: https://www.gov.uk/guidance/check-if-you-can-claim-enhanced-structures-and-buildings-allowance-relief-in-freeport-tax-sites. Guidance for the zero-rate of secondary Class 1 NICs will be published before the measure comes into effect.

12. Impact

12.1 The impact on businesses, charities or voluntary bodies is that eligible businesses which operate in freeport tax sites will begin to be eligible for the freeport tax reliefs.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument was published on 3 March 2021 alongside Spring Budget 2021 and is available on the website at: https://www.gov.uk/government/publications/designation-of-freeport-tax-sites/designation-of-freeport-tax-sites. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that relatively few small businesses will be affected by this legislation and those that are will benefit from the freeport tax reliefs.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through information collected from tax returns and through communications with the affected taxpayer population. Freeport governance bodies will also need to monitor and evaluate business activity in each freeport. This measure will be monitored and assessed alongside other measures in the government's freeport package.

14.2 This instrument does not include a statutory review clause because it is exempt under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 (provisions relating to a tax).

15. Contact

15.1 Joe Layzell at Her Majesty's Revenue and Customs Telephone: 03000 589347 or email: joseph.layzell@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Tessa Robins, Deputy Director for Innovation and Growth, at Her Majesty's Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.