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Chairs of the Finance Bill Public Bill Committee
House of Commons
London
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Dear David and Valerie

POWERS CONTAINED IN FINANCE BILL 2024-25

This letter provides information on secondary legislation under this year's Bill and sets out detail on each power being taken.

A summary is provided on the powers contained in clauses 7, 19, 26, 56 and 81.

I am copying this letter to the other members of the Public Bill Committee and depositing a copy of this letter in the Library of the House.

Yours sincerely,

JAMES MURRAY

**Finance Bill 2024-25: Clauses with powers to make secondary
legislation**

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Glossary of statutory references and other terms:

Statutory references

TCGA 1992	Taxation of Chargeable Gains Act 1992
CTA 2009	Corporation Tax Act 2009
FSMA 2023	Financial Services and Markets Act 2023

Other terms

FA	Finance Act
HMRC	His Majesty's Revenue and Customs
OECD	Organisation for Economic Co-operation and Development
SDLT	Stamp Duty Land Tax
SDRT	Stamp Duty Reserve Tax
PISCES	Private Intermittent Securities and Capital Exchange System
CARF	Crypto-Asset Reporting Framework
FMI	Financial Market Infrastructure

PART 1: INCOME TAX, CAPITAL GAINS TAX AND CORPORATE TAXES

Clause 7 and Schedule 1: Main rates of CGT for gains other than carried interest gains

Paragraph 9(2) of Schedule 1 inserts into FA 2019, Schedule 2 (Returns for Disposals of UK Land etc) new paragraphs 16A to 16H. These paragraphs reproduce what was Schedule 1B to the TCGA 1992 and define “residential property gains” for the purpose of Schedule 2 to the FA 2019, which is treated as if included in the TCGA 1992 by paragraph 17(3) of Schedule 2.

Paragraph 16D(1) of Schedule 2 defines what constitutes an “interest in land” and includes within its meaning an estate, interest, right of power in or over land. Sub-paragraph (2) sets out what are excluded interests. Paragraph 16D(2)(d) of Schedule 2 introduces a power that allows the Treasury, by regulations, to provide that any other description of interest or right in relation to land in the UK is also an excluded interest. This power mirrors a similar provision within the SDLT code (FA 2003, section 48(5)) and the ATED code (FA 2013, section 107).

Paragraph 16E of Schedule 2 defines when a building constitutes a “dwelling”. Sub-paragraph (3)(i) provides that student accommodation managed or controlled by their educational establishment under paragraph 4 of Schedule 14 to the Housing Act 2004 and any corresponding provision in Scotland or Northern Ireland is not a dwelling for the purposes of the Schedule. Paragraph 16E(3)(i)(ii) of Schedule 2 introduces a power that allows the Treasury, by regulations, to designate what constitutes a corresponding provision in Scotland or Northern Ireland. There are currently no corresponding provisions in either Scotland or Northern Ireland.

These regulations are exercisable by statutory instrument made under section 287(2) and (4) of the TCGA 1992 and are subject to the ‘made negative’ resolution procedure.

Clause 19 and Schedule 4: Pillar 2

Schedule 4 contains a number of amendments to the FA (No.2) 2023 provisions implementing the OECD “Pillar Two” initiative. While there are no entirely new regulation making powers in Schedule 4, provisions in paragraph 46 make amendments to existing powers. The amendments affect the existing regulation making powers under section 241, section 256 and paragraph 2 Schedule 16A of FA (No.2) 2023.

Regulations under section 241 may specify “Pillar 2 Territories”, which in practice will be those which have implemented Income Inclusion Rules (such as the UK’s Multinational Top-Up Tax) which have passed through the peer review process at the OECD. The change made by the Bill will permit the Commissioners of HMRC to add further countries to the list of Pillar 2 Territories contained in any such regulations by notice, so avoiding the need for further regulations to be laid as the list of territories expands.

Regulations under section 256 specify “qualifying domestic top-up taxes”. These are overseas equivalents of the UK’s Domestic Top-Up Tax which have passed through the peer review process at the OECD.

Regulations under paragraph 2 Schedule 16A specify “accredited qualifying domestic top-up taxes”. These are overseas equivalents of the UK’s Domestic Top-Up Tax which have passed through the more stringent peer review process at the OECD needed to clear a tax as capable of falling within the “safe harbour”.

Regulations under section 256 and paragraph 2 Schedule 16A will permit any such regulations which are made to allow the Commissioners of HMRC to add overseas taxes to the list by notice, so avoiding the need for further regulations to be laid as the list of qualifying domestic top-up taxes expands.

Any regulations made under any of these provisions will continue to be made under the negative procedure, as would be the case prior to the amendments.

Clause 26: Film and television programmes: increased relief for visual effects

Clause 26 inserts section 1179EC into the CTA 2009, which introduces an additional amount of Audio-Visual Expenditure Credit for film and TV production companies which incur qualifying visual effects costs. Section 1179EC(6) contains a power allowing the Treasury to amend by regulations the percentage rate of credit available on relevant visual effects expenditure, and the figure used to calculate the Chapter 3 credit amount in Step 6 of subsection 1179EC(4). Any regulations made under this power would follow the negative procedure.

PART 3: OTHER TAXES

Clause 56: Testing of FMI technologies or practices

Clause 56 confers power on the Treasury to make Stamp Duty and SDRT changes by secondary legislation in connection with an FMI sandbox. Subsection (1) provides that the Treasury may by regulations, made under this power, make provisions about Stamp Duty or SDRT in connection with regulations made under section 13 of the FSMA 2023 (testing of FMI technologies or practices). Subsection (2) provides what regulations under subsection (1) may and may not do (and does not include a power to amend primary legislation). Subsection (3) provides that regulations under subsection (1) must be made by statutory instrument. Subsection (4) provides that a

statutory instrument that has the effect of increasing the amount of duty or tax that is chargeable in respect of any instrument, transfer or agreement to transfer above the amount that would have been chargeable in the absence of regulations using the power will be subject to the draft affirmative procedure in the House of Commons. Subsection (5) provides that any other statutory instrument will be subject to the negative procedure in the House of Commons.

The Government intends to exercise this power to provide an exemption from Stamp Duty and SDRT for PISCES transactions. The Government will introduce this exemption ahead of the first PISCES trading events.

PART 4: MISCELLANEOUS AND FINAL

Clause 81: OECD crypto-asset reporting framework

Clause 81 amends Section 349 of FA (No. 2) 2023 (international arrangements for exchanging information). This amendment to an existing power will allow the Treasury to make regulations to implement the OECD CARF. The future regulations to be made under the amended power will place reporting and due diligence requirements on reporting crypto-asset service providers to comply with the CARF, and penalties where they do not. Any regulations made under the amended power will be subject to the negative procedure.