



SHIPPING | MAY 2021

FREEPORTS: BACK IN BUSINESS?

Over the coming weeks, HFW will be launching a series of articles on the re-introduction of Freeports in the UK. We'll be looking at the implications for businesses operating within these Freeports, focusing on a number of industry sectors including Shipping, Construction, Energy & Resources, Aviation and Commodities.

The UK's new Freeports aim to regenerate local economies, create thousands of jobs and boost international trade. Freeports may be back but can they really live up to the government's promises?

(Re)introducing Freeports

On the 3rd of March, Chancellor Rishi Sunak announced his budget for the coming tax year. As expected, much of the budget focused on gearing up the British economy to cope with the impact of Covid-19. A key part of his plan is the creation of eight new Freeports in the UK which, it is promised, will regenerate deprived areas of the country by creating jobs and encouraging international trade. But what does this mean for companies operating within these ports already and those who choose to trade with us going forward?

There were previously several Freeports in the UK, namely in Southampton, Liverpool, Tilbury and Gatwick Airport. They continued operating up until 2012 when domestic legislation establishing them expired. Consequently, there are currently no Freeports operating in the UK. For several years now, Freeports have been an important part of the government's Brexit strategy, but with the Covid-19 pandemic threatening the UK economy they have now been pushed to the forefront of government plans. In fact, Mr Sunak has been passionately championing the re-introduction of Freeports in the UK for many years - safe to say the Chancellor is bringing Freeports back.

What are Freeports?

Freeports are special economic zones usually located within or around shipping ports or airports. Within these special economic zones, different rules apply in relation to tax, customs and building and business rates with the view to encourage and sustain economic activity. The official Budget Report¹ tells us, 'businesses will benefit from more generous tax reliefs, simplified customs procedures and wider government support, bringing investment, trade and jobs which will regenerate regions across the country that need it most'.

The rules applying to Freeports generally mean that goods arriving into that port from abroad are not subject to tax charges that are normally paid to the government when cargo arrives in a country, on the condition that those goods stay within the port and are then sent directly overseas again without being transported internally within the country of initial arrival. Such tax reliefs make it easier and cheaper for companies to do business in the country the Freeport is located. Most Freeports are designed to specifically encourage businesses that import, process and then re-export goods.

What is the legal basis?

HM Treasury already has the power to designate Freeports by Statutory Instrument under section 100A of the Customs and Excise Management Act (CEMA) 1979. In terms of an overarching legal framework, EU legislation largely governed UK Freeports in the past, much of it coming down to fair competition, the free movement of goods and services and the single market. EU legislation somewhat limited the scope of Freeports so the UK, no longer a

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966869/Budget_2021_Print.pdf

member of the EU, now has the opportunity to write its own rules and capitalise on the economic advantages Freeports can afford.

However, even post-Brexit, the creation of new Freeports would also be subject to the UK's future domestic subsidy control regime; its subsidy control obligations at the World Trade Organisation; state aid obligations under the Northern Ireland Protocol; and subsidy control provisions negotiated in all UK Free Trade Agreements (including the Trade and Cooperation Agreement with the EU).

So what's new?

The Freeports bidding process opened in November 2020. Bidders were asked to demonstrate how they would achieve the government's three key policy objectives, namely: the creation of a hub for global trade and investment; the promotion of regeneration and job creation; and the creation of innovation hotbeds. The deadline for submitting applications to become a Freeport was 5 February 2021 and there is no talk of re-opening applications anytime soon. The current list is therefore, as it stands, exhaustive.

The eight new sites, having won their bid to become Freeports, will be located at:

- East Midlands Airport
- Felixstowe & Harwich
- The Humber region
- Liverpool City
- Plymouth
- Solent
- The Thames
- Teeside.

The UK's Freeport model has been based on evidence from successful Freeports around the world, in particular those in the USA. We are informed the UK government has designed a '*bespoke, world-leading UK Freeport model*' aiming to achieve the three aforementioned objectives. The benefits to those operating in and around these ports will fall into three broad areas: customs relief, tax relief and relaxed planning regulations. The UK's new Freeports will reportedly begin operations from late 2021.

Stay tuned for our next article, which will focus on customs relief for companies operating within the UK's Freeports.

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