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Section 10 and Schedule 1: relief for research and development

The provisions of section 10 of and Schedule 1 to the Finance (No.2) Act 2023 (F(No.2)A 2023) give effect to a range of changes to the UK's research and development (R&D) tax relief regimes. That is to say, the changes in F(No.2)A 2023 go further than the headline rate changes made by the Finance Act 2023 (FA 2023). Much like FA 2023, the changes in F(No.2)A 2023 affect both 1) the R&D expenditure credit (the RDEC)[1] (which generally applies to "large" companies[2]) and

[1] Finance (No.2) Act 2023 (F(No.2)A 2023) s.10.
[2] Corporation Tax Act 2009 (CTA 2009) Pt 3 Ch.6A s.104K(5)(a).

2) the R&D expenditure relief regime for small and medium-sized enterprises[3] (referred to as SMEs) (the SME Regime).

In summary, F(No.2)A 2023 makes four key changes to the UK's R&D tax relief regimes; none of which should come as a surprise. F(No.2)A 2023 provides for 1) new pre-claim "claim notifications" to be submitted to HMRC in certain circumstances,[4] 2) the granting of relief in respect of expenditure on data and cloud computing,[5] 3) the granting of new powers and information rights to HMRC in respect of claims for relief[6] and 4) the "safeguarding" of SME status for companies in circumstances where a company may otherwise fall outside the scope of the relevant SME thresholds.[7]

Schedule 1, Part 1: claim notifications

The basic requirement introduced by Part 1 of Schedule 1 is the requirement to make a "claim notification"[8] to HMRC in advance of making a claim for relief under one of the R&D tax relief regimes. This new requirement applies to claims for relief under the RDEC as well as the SME Regime, regardless of whether the claim under the SME Regime is one for an additional deduction or the cash tax credit available to loss-making SMEs. This may appear to be a fairly low hurdle, but it is worth noting (as the House of Lords Economic Affairs Select Committee did) that a pre-claim notification of this nature is "uniquely onerous"[9] and is "without any direct precedent within the tax system".[10]

That being said, the requirement is diluted by its limited scope. The requirement does not apply to all companies making claims and instead applies only to specific companies making specific types of claims. For example, it is incumbent on companies making a claim for relief for the first time to make a claim notification but the requirement would not bite where a company has been claiming relief for the previous three years.

The real "teeth" of this requirement (and what seemed to be causing anxiety for the House of Lords Economic Affairs Select Committee, based on witness evidence[11]) come from the fact that, should a company fail to make this new "claim notification", the company is barred entirely from making a claim for relief. F(No.2)A 2023 also fails to specify what is actually required in such a notification. The legislation only makes provision for HMRC to specify by regulation 1) the information to be provided with the notification and 2) the form and manner in which the

[3] CTA 2009 Pt 13 Ch.2.
[4] F(No.2)A 2023 Sch.1 Pt 1.
[5] F(No.2)A 2023 Sch.1 Pt 2.
[6] F(No.2)A 2023 Sch.1 Pt 3.
[7] F(No.2)A 2023 Sch.1 Pt 4.
[8] F(No.2)A 2023 Sch.1 Pt 1 para.1(3).
[9] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit*, 3rd Report of Session 2022–23 (January 2023), HL Paper 137, *https://publications.parliament.uk/pa/ld5803/ldselect/ldeconaf/137/13702.htm* [Accessed 25 August 2023], para.85.
[10] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), para.85.
[11] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), paras 75 and 76.

notification is to be made; this lack of clarity was branded as "disappointing"[12] by the House of Lords.

Whilst the concept of a pre-claim "claim notification" came without surprise (the UK Government announced in November 2021 that it intended to bring in this requirement) it is notable that the UK Government did not provide any clear or detailed rationale for it. This is all the more curious given that in the 2021 *R&D Tax Reliefs: consultation* document (the 2021 Consultation), it was specifically noted that the UK Government wanted to ensure that "administrative complexity is kept to a minimum"[13]—the suggestion being that minimal administrative complexity would act as a benchmark against which to measure whether the R&D tax relief regimes are "operating well".[14] Given this, one would expect the UK Government to provide a detailed rationale as to why it chose to increase administrative complexities and, in doing so, what it is seeking to achieve.

As part of the November 2021 announcement of the UK Government's intention to introduce a pre-claim "claim notification" (which came in the form of its response to the 2021 *Consultation in R&D Tax Reliefs: Report* (the 2021 Report)), the UK Government referred to a pre-claim "claim notification" as one of the "next steps to improve compliance".[15] Admittedly this is an incredibly broad and unsatisfactory rationale, but it is a rationale, nonetheless. It does raise the question as to how this new requirement achieves the goal of improving compliance.

Perhaps the missing piece of the puzzle is the lack of colour around what would be expected to comprise a "claim notification". If legislation does eventually mandate that the "claim notification" is to require information such as 1) "more detail…on what expenditure the claim covers",[16] 2) "the nature of the advance sought"[17] and 3) "details of any agent who has advised the company on compiling the claim",[18] the "claim notification" seems more of an information gathering exercise than anything else. With the requirement that such information would have to be submitted in advance of a claim for relief, the "claim notification" plays the role of a mechanism to alert HMRC to "red flags" in an upcoming claim (though, as rightly pointed out to the House of Lords Select Committee on Economic Affairs, not every "claim notification" would necessarily be followed by a claim for relief[19]). For example, should a "claim notification" name a specific R&D adviser who, in HMRC's eyes, "presents a risk of boundary-pushing",[20] HMRC would be better able to divert resources to analyse that claim when (or, if) it is eventually made. That rationale dovetails well with the UK Government's view—expressed in the 2021

[12] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), para.90.
[13] HM Treasury and HMRC, *R&D Tax Reliefs: consultation* (March 2021), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965501/Condoc_-_RD_review_.pdf* [Accessed 25 August 2023], para.3.1.
[14] HM Treasury and HMRC, *R&D Tax Reliefs: consultation* (2021), para.3.1.
[15] HM Treasury, *R&D Tax Reliefs: Report* (November 2021), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037348/RD_Tax_Reliefs.pdf* [Accessed 25 August 2023], paras 2.33–2.36.
[16] HM Treasury, *R&D Tax Reliefs: Report* (2021), para.2.36.
[17] HM Treasury, *R&D Tax Reliefs: Report* (2021), para.2.36.
[18] HM Treasury, *R&D Tax Reliefs: Report* (2021), para.2.36.
[19] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), para.78.
[20] HM Treasury and HMRC, *R&D Tax Reliefs: consultation* (2021), para.3.12.

Report in response to the 2021 Consultation—that "additional resource alone cannot address the underlying problems".[21] In other words, more efficient deployment of existing resources is a motivating factor.

Another upshot of the pre-claim nature of the "claim notification" is that it will give HMRC additional time to consider claims. Over the years, various initiatives had developed (particularly in respect of the SME Regime) which were intended to provide greater certainty to companies around their claims for relief. One of these initiatives included an assurance by HMRC to process cash tax credit claims for SMEs within 28 days of receipt.[22] Particular attention was given by the House of Lords to another one of these initiatives known as the Advance Assurance process which, in short, provided upfront certainty to SMEs around whether or not HMRC would accept a claim for relief (prior to giving a formal decision).[23]

In what then became a problem of HMRC's own making, it was noted in the 2021 Consultation that those initiatives gave "very little time for HMRC to consider every case in detail".[24] This gave way to a "process now, check later approach"[25] which, undoubtedly, will have fuelled the rate of error within the R&D tax relief regimes.

The UK Government does appear to believe that these initiatives caused more problems than they solved; the processing of payments (rather than the analysis of claims) became the priority. Consequently, by the time HMRC did get round to scrutinising a claim fully (which should have been their priority in the first instance) the claimant company had already received the cash tax credit (and, presumably, any R&D adviser had already been paid their fee). Putting aside the possibility that the SME Regime may not exist in its own right in the near future,[26] a "claim notification" mechanism which gives HMRC additional time to consider claims before they are actually made may allow new initiatives to be developed (or perhaps existing ones to be expanded). One would hope, though, that HMRC have learnt key lessons from pushing these initiatives too far and that they do not fall back into the habit of paying large sums of (taxpayer) money against relatively tight timeframes and without the proper scrutiny. This consideration did not stop the House of Lords suggesting that HMRC re-launch the Advance Assurance process for SMEs and that HMRC consider extending the initiative to claims under the RDEC.[27]

Schedule 1 Part 2: R&D expenditure on data and cloud computing

Perhaps the most long-awaited change coming out of F(No.2)A 2023 is the expansion of "qualifying expenditure" to include expenditure on data licences and cloud computing services.

[21] HM Treasury, *R&D Tax Reliefs: Report* (2021), para.2.34.
[22] HM Treasury, *R&D Tax Reliefs: consultation* (2021), para.3.15.
[23] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), para.158.
[24] HM Treasury, *R&D Tax Reliefs: consultation* (2021), para.3.15.
[25] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit (2023), Summary of conclusions and recommendations*, para.25.
[26] HM Treasury, *R&D Tax Reliefs Review: Consultation on a single scheme, Summary of Responses* (July 2023), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1171402/Summary_of_Responses_-_RD.pdf* [Accessed 25 August 2023], para.3.11.
[27] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), Summary of conclusions and recommendations, paras 34–36.

This is accompanied by a string of consequential amendments intended to give effect to the changes and avoid any unintended outcomes.

Of all the changes which have been made to the UK's R&D tax relief regime recently, this is arguably the least surprising. The idea was first floated in the Spring Budget 2020[28] (which was delivered by the Right Honourable Rishi Sunak MP, who was Chancellor at the time) where it was announced that the UK Government would consult on whether the scope of qualifying R&D tax credit costs for the purposes of the R&D tax relief regimes should be expanded.

Naturally, the UK Government launched a consultation in July 2020 (the 2020 Consultation) which specifically explored the usage of data and cloud computing as part of R&D activities.[29] One of the general themes coming out of the 2020 Consultation was that the inability to claim data and cloud computing costs as part of R&D tax relief claims represented a divergence from jurisdictions such as the US, Canada, Belgium, Ireland and Australia (though respondents did admit that whilst such costs were in scope of the regimes of these jurisdictions they were "often restricted in some way").[30] The UK Government's response was generally lukewarm, with only a commitment to "consider" whether to bring data and cloud computing costs into the scope of relief which would be considered alongside "other policy options and priorities".[31]

This position remained unchanged until Rishi Sunak's Autumn Budget and Spending Review 2021, in which the UK Government announced that the scope of R&D tax relief would be expanded to include costs expended on data and cloud computing, thereby reflecting "how businesses conduct research in the modern world".[32] Interestingly, being "out of step" with comparable jurisdictions was not mentioned as a motivating factor for this change, but was mentioned as a driving factor behind UK Government policy to focus R&D tax reliefs on domestic activity in the UK.[33]

Whilst this particular change had cross-party support in the House of Commons, the Right Honourable Kirsty Blackman MP and the Right Honourable Stewart Hosie MP (both Scottish National Party MPs) raised a point on the new section 1126ZA of the Corporation Tax Act 2009 (CTA 2009)[34] and the *Finance (No.2) Bill Explanatory Notes*[35] in respect of that provision. Both MPs took issue with the view that expenditure on data licences is not attributable to R&D where

[28] HM Treasury, *Budget 2020, Delivering on our promises to the British people* (March 2020), HC 121, *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871799/Budget_2020_Web_Accessible_Complete.pdf* [Accessed 25 August 2023], para.1.230.

[29] HM Treasury and HMRC, *The scope of qualifying expenditures for R&D Tax Credits: consultation* (July 2020), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902349/200702_RD_tax_credit_draft_consultation_FINAL.pdf* [Accessed 25 August 2023].

[30] HM Treasury and HMRC, The scope of qualifying expenditures for R&D Tax Credits: 2020 consultation - summary of responses (March 2021), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965087/The_scope_of_qualifying_expenditures_for_R_D_Tax_Credits_summary_of_responses_consultation_.pdf* [Accessed 25 August 2023], paras 2.30 and 2.31.

[31] HM Treasury and HMRC, The scope of qualifying expenditures for R&D Tax Credits: 2020 consultation - summary of responses (2021), para.3.7.

[32] HM Treasury and the Rt Hon Rishi Sunak MP, Oral statement to Parliament, *Autumn Budget and Spending Review 2021 Speech* (October 2021), *https://www.gov.uk/government/speeches/autumn-budget-and-spending-review-2021-speech* [Accessed 25 August 2023].

[33] HM Treasury and the Rt Hon Rishi Sunak MP, *Autumn Budget and Spending Review 2021 Speech* (2021).

[34] As inserted by F(No.2)A 2023 Sch.1 Pt 2 para.3.

[35] HM Government, *Finance (No. 2) Bill Explanatory Notes* (March 2023), *https://publications.parliament.uk/pa/bills/cbill/58-03/0276/en/220276en.pdf* [Accessed 25 August 2023].

the "relevant person"[36] obtains a right "to ongoing use after the relevant research and development has ended".[37] The key criticism was that this restriction would "hamper anyone applying for the allowance in the first place, as they may want to continue to use that data licence and cloud computing after the research and development".[38] Whilst an amendment was tabled, it was not pressed to a vote and the position remains unchanged.[39] Curiously, HMRC's guidance on the point notes that "most purchases of data will not be qualifying expenditure"[40] and so it will be interesting how claims in respect of expenditure on data will develop. After over two years of anticipation of this change, it would indeed be a "missed opportunity" if the expansion to include costs expended on data failed to have any material benefit.[41]

Schedule 1 Part 3: amendments to Schedule 18 to the Finance Act 1998

Whilst the writer will not delve into each individual change made by Part 3 of Schedule 1, the underlying principle for these changes is generally a simple one. HMRC needed to be given enough time and the requisite legal power to manage the risk of error and fraud within the R&D tax relief regimes.

The impression given by the various pieces of literature on the subject is that the UK Government did not want to draw too much attention to these changes. The *Finance (No.2) Bill Explanatory Notes* dress this up as "administrative provisions"[42] whilst the Right Honourable Victoria Atkins MP (Financial Secretary to the Treasury) only noted that these changes would "help reduce error and fraud".[43]

Suffice to say, the Chartered Institute of Taxation did not share that view. Writing to Victoria Atkins MP,[44] the Chartered Institute of Taxation took issue with the new powers given to HMRC under Part 3 of Schedule 1; in particular HMRC's new power to remove a claim.[45] Lord Leigh of Hurley (himself a chartered accountant) noted that he had been contacted by a number of practitioners who generally shared the same view.[46] Without a right of appeal in respect of these new powers given to HMRC, HMRC risked "causing havoc" by refusing claims where they are "clearly due".[47]

The UK Government had little appetite for accommodating these concerns. Baroness Penn (Parliamentary Secretary to the Treasury) noted that, although companies had no right of appeal,

[36] Defined in CTA 2009 s.1126A(10).
[37] HM Government, *Finance (No. 2) Bill Explanatory Notes* (2023), p.27.
[38] *Hansard*, HC Vol.731 col.184 (18 April 2023).
[39] *Hansard*, HC Vol.731 col.184 (18 April 2023).
[40] HMRC, *Research and Development (R&D) tax reliefs – draft guidance update* (April 2023), *https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs/outcome/research-and-development-rd-tax-reliefs-draft-guidance-update#data-licences-and-cloud-computing-services* [Accessed 25 August 2023], para.2.2.
[41] *Hansard*, HC Vol.734 col.741 (20 June 2023).
[42] HM Government, *Finance (No. 2) Bill Explanatory Notes* (March 2023), p.28, para.17.
[43] *Hansard*, HC Vol.731 col.166 (18 April 2023).
[44] Chartered Institute of Taxation, *R&D tax relief enquiries by ISBC Campaigns and Projects team* (July 2023), *https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c683edd0-897a-4454-a005-dc6336f43f05/230703%20RD%20tax%20relief%20enquiries%20-%20CIOT%20letter.pdf* [Accessed 25 August 2023].
[45] F(No.2)A 2023 Sch.1 Pt 3 para.14.
[46] *Hansard*, HL Vol.831 col.1193 (4 July 2023).
[47] *Hansard*, HL, Vol 831, col 1193 (4 July 2023).

they did have a new statutory right of representation under F(No.2)A 2023 to provide HMRC with evidence within a period of 90 days if they thought their claim for relief had been removed in error from their corporation tax return. Baroness Penn also noted that companies retained the right to apply for judicial review if they did not think HMRC had applied the process correctly.[48] In the writer's view, the latter is not a particularly helpful suggestion given the time and expense entailed in such applications when compared to the quantum of relief in respect of individual claims under the R&D tax relief regimes.

The rationale for granting HMRC additional powers, time, and information rights is, in theory at least, that HMRC should as a result be better able to use their resources to manage the error and fraud risk. Whilst this was not discussed in detail in either the House of Commons or House of Lords debates, it may cause some concern in light of the findings from the House of Lords Economic Affairs Committee.

The House of Lords Economic Affairs Select Committee found inter alia that 1) "HMRC is not sufficiently resourced for its current compliance activities in relation to R&D claims" and 2) "HMRC was perceived as adopting a confrontational approach to R&D claimants".[49]

One does begin to wonder whether granting additional powers and information rights to HMRC is the best way to address the error and fraud risk. Without sufficient resources, it is unlikely that HMRC will be able to extract the maximum benefit from having increased amounts of information, and the granting of additional powers may exacerbate the perceived problem of HMRC being "confrontational" with the powers it already has.

Schedule 1 Part 4: miscellaneous amendments

The amendments made by Part 4 of Schedule 1 do not sit neatly in any key policy categories and have received little attention to date. In short the amendments made by Part 4 have the following effects: 1) companies are to be treated as SMEs for particular accounting periods in circumstances where those companies might otherwise fall outside the relevant thresholds,[50] 2) a company whose accounts have not been prepared on a going concern basis only because that company has transferred its trade to another member of its group, may make a claim for relief (in respect of both the RDEC and SME Regime)[51] and 3) to put "beyond doubt"[52] that, in order to be the subject of a claim under the R&D tax relief regimes, the expenditure has to be incurred in relation to a payment made before the claim is made rather than extending to expenditure incurred in relation to a payment made within the period to which the claim relates.[53]

The writer will focus on the changes in 1). It is notable that the changes in 2) were described as simply "a technical fix" by Victoria Atkins MP.[54] The changes in 3) are intended to address

[48] *Hansard*, HL Vol.831 col.1201 (4 July 2023).
[49] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), Summary of conclusions and recommendations, paras 6 and 37.
[50] F(No.2)A 2023 Sch.1 Pt 4 para.16.
[51] F(No.2)A 2023 Sch.1 Pt 4 para.17.
[52] HM Government, *Finance (No. 2) Bill Explanatory Notes* (2023), p.29, para.29.
[53] F(No.2)A 2023 Sch.1 Pt 4 para.18.
[54] *Hansard*, HC Vol.731 col.166 (18 April 2023).

an "anomaly" and "clarify" the existing practice of HMRC[55] though the *Finance (No.2) Bill Explanatory Notes* do state that this change could result in some companies losing relief[56] (which suggests that this change cannot merely be clarificatory and may be representative of a policy change, albeit a minor one, by HMRC) but this was not discussed or raised as a material point of concern.

Prior to F(No.2)A 2023, where one SME was "related" to another "linked" or "partner" SME at the beginning of an accounting period but by the end of that same accounting period those same SMEs no longer qualified as SMEs because one exceeded the SME qualification thresholds,[57] both companies risked losing SME status for the entire accounting period. The consequence of this was that both companies found themselves ineligible to make claims under the SME Regime.

One of the concerns about this in practice sometimes arose in the context of mergers and acquisitions (M&A). Typically, in an M&A context, a target group (with each company within the group qualifying as an SME) would be acquired by a "large" company. Whilst it could be argued that being acquired by a large company is something of a natural trajectory for SMEs and should not result in them being "punished", this did unfortunately mean that the target group would lose SME status for the entirety of the accounting period in which it was acquired.

In some cases, there was often a strong commercial desire to maintain access to the SME Regime for the period prior to the acquisition. For example, the receipt of the cash tax credit under the SME Regime may have been factored into the pricing of the transaction, so making a claim under the SME Regime became a commercial necessity. One of the workarounds involved an exercise in which the accounting period of the target group companies was terminated prior to the transaction becoming unconditional. This would leave the target companies in a position where a claim under the SME Regime was still possible for that shorter accounting period (because for the entire, shorter, accounting period—which ended prior to the completion of the acquisition—the companies qualified as SMEs for the entire period).

Whilst being a neat workaround for what seemed to be a lacuna in the legislation, the entire process did give the impression of being entirely unnecessary given that the workaround effectively maintained the status quo for the target companies in respect of the period prior to their acquisition.

The legislation also provides for what might be described as the opposite of what is described above.[58] Namely, where a company (Company A), which does not qualify as an SME only because it is "related" to a company (Company B) which exceeds the relevant thresholds, is acquired by an SME (Company C), Company A is to be treated as having SME status for that accounting period (notwithstanding that, prior to its acquisition by Company C, it did not qualify for part of the accounting period concerned).

In the round then, it stands to reason that practitioners may have raised these concerns with the UK Government and HMRC (the House of Lords Select Committee on Economic Affairs

[55] HMRC, Policy Paper, *Research and Development Tax relief reform changes* (March 2023), *https://www.gov.uk/government/publications/reform-of-research-and-development-tax-reliefs/research-and-development-tax-relief-reform-changes#detailed-proposal* [Accessed 25 August 2023].
[56] HM Government, *Finance (No. 2) Bill Explanatory Notes* (2023), p.29, para.29.
[57] CTA 2009 ss.1119 and 1120.
[58] F(No.2)A 2023 Sch.1 Pt 4 para.16(3).

suggested this was commonplace in the context of R&D practitioners[59]) and indeed the *Finance (No.2) Bill Explanatory Notes* frame the relevant changes as "addressing an unintended result affecting some companies' SME status".[60] Without these changes, the SME Regime did appear to be punishing SMEs for what might be seen as following their natural trajectories—in some cases those SMEs are acquired by a larger group to be nurtured as part of a wider business and in other cases those SMEs themselves grow to acquire other SMEs to integrate into the business. It is, therefore, helpful that these scenarios have been addressed by F(No.2)A 2023.

Conclusion

In summary, the changes made to the RDEC and SME Regime by F(No.2)A 2023 are wider ranging than the headline rate changes contained in FA 2023. The changes generally: 1) seek to align the availability of relief with the way in which modern R&D is carried out (and to align the availability of relief with the approach taken by comparable jurisdictions); 2) impose additional administrative requirements on certain claims for relief and provide HMRC with additional powers (and increased timeframes) to address the ongoing risk of fraud and error; and 3) tweak certain aspects of the rules to ensure that the application of the legislation does not lead to unintended or (what may be perceived to be) adverse outcomes.

With such a wide range of changes, it almost makes one forget that the existence of the RDEC and SME Regime as independent tax relief regimes may cease in less than a year's time. Committing the time and effort to debating and effecting changes (which are both substantive and technical in nature) to regimes which are, in all likelihood, doomed, may be perceived as a waste of limited resources.

That being said, if the UK Government's intention is to export these changes to a new unified R&D tax relief regime from April 2024 onwards, it does provide breathing room for best practice and guidance to be generated. This may help smooth over the implementation and operation of any new R&D tax relief regime. Once again though, if that were the UK Government's rationale, it would have been helpful to have that set out clearly in its presentation of the legislative reforms in F(No.2)A 2023.

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[59] House of Lords, *Select Committee on Economic Affairs Finance Bill Sub-Committee Research and development tax relief and expenditure credit* (2023), Summary of conclusions and recommendations, para.52.
[60] HM Government, *Finance (No. 2) Bill Explanatory Notes* (2023), p.29, para.25.
* Associate, Slaughter and May.