

## EXPLANATORY NOTE

### POST-CESSATION TRADE RELIEF: TAX-GENERATED PAYMENTS OR EVENTS

#### SUMMARY

1. This clause provides for changes to the rules for “post-cessation trade relief” which can be claimed by a person after a trade, profession or vocation has ceased. The changes are designed to prevent tax-generated costs being available for relief against the person’s other taxable income or capital gains. These changes were announced on 12 January 2012 and will apply on and after that date.

#### DETAILS OF THE CLAUSE

2. Subsection (2) adds section 98A of the Income Tax Act 2007 (ITA) to the list of sections with which section 96 of ITA needs to be read.
3. Subsection (3) inserts new section 98A of ITA (Denial of relief for tax-generated payments or events).
4. New section 98A(1) provides that no post-cessation trade relief (including relief by way of claim under section 261D of the Taxation of Chargeable Gains Act 1992) is available to a person in respect of a payment or an event which is made or occurs in consequence of, or in connection with, relevant tax avoidance arrangements.
5. New section 98A(2) defines “relevant tax avoidance arrangements” for the purposes of new section 98A(1).
6. New section 98A(3) defines “arrangements” and “section 261D claim” for the purposes of new section 98A.
7. Subsection (4) provides commencement rules.
8. Subsection (5) defines “an unconditional obligation” for the purposes of subsection (4).

#### BACKGROUND NOTE

9. A person who incurs certain costs or bad debts directly related to a trade, profession or vocation that has ceased may claim relief against their other income and capital gains. This is known as “post-cessation trade relief”.
10. The Government has become aware of avoidance activity that relies on creating contrived costs in order to claim post-cessation trade relief. This puts at risk substantial amounts of tax.
11. The Exchequer Secretary to the Treasury (David Gauke) announced in a written statement on 12 January 2012 that legislation would be introduced

with effect from that date to prevent post-cessation trade relief being available where the relief arises from arrangements and a main purpose of the arrangements is to obtain a tax reduction resulting from post-cessation trade relief.