

## **CLAS CIRCULAR 2015/29 (22 December 2015)**

### **Disclaimer**

CLAS is not qualified to advise on the legal and technical problems of members and does not undertake to do so. Though we take every care to provide a service of high quality, neither CLAS, the Secretary nor the Governors undertakes any liability for any error or omission in the information supplied. It would be very helpful if members could let us know of anything that appears to indicate developments of policy or practice on the part of Government or other matters of general concern that should be pursued.

<b>CHARITIES &amp; CHARITY LAW .....</b>	<b>2</b>
Charities to move to FRS 102 SORP from 2016 .....	2
<b>FAITH AND SOCIETY .....</b>	<b>3</b>
Cremation consultation.....	3
Marriage law reform in England and Wales .....	3
Out-of-school education settings.....	5
<b>TAXATION .....</b>	<b>7</b>
Employer-provided living accommodation .....	7
National Insurance Contributions: abolition of Class 2 NICs .....	7
Making Tax Digital .....	8
<b>WALES .....</b>	<b>10</b>
Vulnerable places of worship Strategic Action Plan.....	10

## CHARITIES & CHARITY LAW

### Charities to move to FRS 102 SORP from 2016

**For action**

On 4 December, the Charities SORP Committee agreed that *all* charities in England, Wales and Scotland will be required to adopt a Statement of Recommended Practice (SORP) based on the FRS 102 accounting standard. For reporting periods beginning **on or after 1 January 2016**, charities will need to use the FRS 102, instead of the previously used FRSE.

[Source: CCEW & OSCR – 5 December]

## FAITH AND SOCIETY

### Cremation consultation

For information

The Ministry of Justice has launched an [online consultation](#) on cremation, seeking views on proposals for a number of changes to the Cremation (England and Wales) Regulations 2008 and for improving other aspects of cremation practice. The consultation follows the Government's consideration of the recommendations of two inquiries into infant cremations:

- David Jenkins's inquiry into the way infant cremations were carried out at Emstrey Crematorium in Shropshire between 1996 and 2012 established that during the period under consideration Emstrey Crematorium failed to obtain ashes to return to parents following infant cremations.
- In Scotland, Lord Bonomy's Infant Cremation Commission concluded in 2014 that in some cases parents had been incorrectly told that there had been, or would be, no ashes from their babies' cremations.

A majority of the recommendations of the Emstrey report were for the Government, including the recommendation that Government should also consider Lord Bonomy's recommendations (burial and cremation law in Scotland being a devolved matter). This consultation therefore considers both the Emstrey and the Bonomy recommendations. The consultation will close on **9 March 2016**.

[Source: MoJ Press Release – 14 December]

### Marriage law reform in England and Wales

For information

#### *Background*

The Law Commission for England & Wales has published [Getting Married: A Scoping Paper](#). There is also an [Executive Summary](#). In December 2014 the Government asked the Commission to conduct a review of the law governing how and where people can marry in England and Wales. The underlying question was whether the current law provides a fair and coherent legal framework for enabling people to marry. Does the law allow people to marry in a way that meets their needs and wishes while recognising the interests of society and the state in protecting the status of marriage? The

Commission conducted a preliminary study involving research into domestic and comparative law and engagement with key stakeholders to identify and provide an initial analysis of the issues that needed to be addressed in order to develop proposals for reform. The Commission believes that any reform should be guided by four principles: certainty and simplicity; fairness and equality; protecting the state's interest; and respecting individuals' wishes and beliefs.

### ***The scoping paper***

The scoping paper does not set out specific proposals for reform: rather, it sets out a complete list of the questions, covering each of the stages of getting married, that would need to be considered in any review. In summary, these questions include the following:

- *Preliminaries:* What does the state need to know before people can legally marry? Who should receive that information and how and where should it be provided?
- *Ceremony:* If the ability to solemnize marriages is extended beyond religious groups and the state, how could this be done? Can the rules be made more coherent? Is there scope to expand the range of locations in which a marriage ceremony can take place? For example, should marriages be able to take place outdoors?
- *Registration:* What should be the process of registration? Who should be responsible for ensuring that a marriage is registered?
- *Generally:* What should be the minimum requirements for a valid marriage? What offences or sanctions are needed to uphold a reformed law of marriage? Should aspects of the law governing the formation of civil partnerships be aligned with the law governing the solemnization of marriages?

*There are certain areas that would lie outside the scope of any review:*

- Who can be married; so there would be no consideration of changing the age of consent or the restrictions on marrying within prohibited degrees of kinship.
- Whether or not religious groups should be obliged to solemnize marriages of same sex couples: the matter was recently decided by Parliament following wide public debate.
- Whether or not non-religious belief groups should be obliged to solemnize marriages of same-sex couples (assuming that such groups are enabled to solemnize marriages following any reform).
- The rights or responsibilities which marriage entails, such as the financial entitlements of surviving spouses or the consequences of divorce.
- The duty of the Church of England and the Church in Wales to marry their parishioners.
- How the law of England and Wales deals with marriages that have taken place overseas.

- Void or voidable marriages.

The Commission has also identified two key policy areas which would feature in the reform of marriage law but which are questions for the Government rather than for the Commission itself.

- Whether or not the current categories of those able to solemnize marriages should be expanded, and, if so, to which other groups or individuals. The Commission could consider how any expansion of the current categories the Government decided to make could be incorporated in a new system.
- How far any changes made to the law governing the solemnization of marriage should be reflected in changes to the law governing the formation of civil partnerships. The Commission could consider how certain reforms could operate for both marriage and civil partnership; but whether any such alignment should be undertaken is a decision for Government.

### **Next steps**

For CLAS, *none at the moment*. The Commission held two meetings during the initial planning stage: one with the Church of England and one – at which the Secretary of CLAS was present – with representatives of the other major denominations

The next stage is for the Government to respond to the Commission's recommendations for further work. Should the Government wish to continue the review of marriage law, the Commission will discuss with Government its role in an ongoing review. If the Commission continues to undertake the review then detailed terms of reference, including a timetable for the remainder of the review, will be agreed between it and Government.

The next stage of any review *for the Commission itself* would be to work towards producing a consultation paper containing proposals for reform of the law. Once the consultation paper is published CLAS will need to respond.

[Source: Law Commission – 17 December]

### **Out-of-school education settings**

**For information and possibly for action**

In November the Department for Education issued a [call for evidence](#) on its proposed new system for registering and inspecting “education settings providing intensive tuition, training or instruction to children outside of school”.

These settings are often, but not exclusively, supplementary schools and tuition centres – though our suspicion is that it is really aimed at imposing controls on *madrassas*. The DfE is inviting all interested parties, including education providers, local authorities and parents and children to make submissions to help broaden its evidence-base on out-of-school education settings.

Though we were aware of the consultation we had not intended to make a submission; however, we have recently received a few e-mails expressing concern at the possible impact on such things as Sunday schools and holiday clubs.

The consultation closes on **11 January**: we aim to make a short, general submission flagging up the general issue of the possible impact on entirely legitimate Church activities.

[Source: DfE – November 2014]

## TAXATION

### Employer-provided living accommodation

**For information and for action**

As noted in our recent e-mail, HMRC has published a [call for evidence](#) seeking information about employer-provided living accommodation. HMRC wants to hear from anyone with an interest in this topic. As well as seeking written responses to the call for evidence, HMRC has said that it will hold a series of round-table meetings in early January and we hope to arrange a meeting with officials. The consultation closes on **3 February**.

This is obviously a matter of considerable interest to Churches: we are working on an overall CLAS response and have already been in contact with several members on matters of detail. However *we would strongly urge individual Churches to make their own responses*. The more submissions, the more likely ministers and officials will get the point.

[Source: HMRC – 9 December 2015]

### National Insurance Contributions: abolition of Class 2 NICs

**For information and possibly for action**

In the 2015 Summer Budget confirmed the government's intention to abolish Class 2 National Insurance contributions (NICs). This means that instead of paying two classes of NICs (Class 2 and Class 4), the self-employed will pay just one (Class 4) in the future. This follows the recommendations of the Office of Tax Simplification. The Government

“believes that the special rules for groups (*including Ministers of Religion*) are outdated. Following the abolition of Class 2 NICs, it is envisaged for these groups that:

- Individuals liable for Class 4 NICs could gain benefit entitlement through the new Class 4 contributory benefit test like other self-employed people.
- Individuals who are unable to meet the conditions of the Class 4 NICs benefit test could pay Class 3 voluntary NICs or use NI credits to build up entitlement to the State Pension (for instance, there is already a specific NICs credit for Foster Carers).”

*"The proposed structure of Class 4 NICs*

To simplify NICs for the self-employed, the government will abolish Class 2 NICs and introduce a new contributory benefit test into Class 4 NICs. To do this, the government proposes to:

- create a new zero-rate band of Class 4 NICs on annual profits between the Small Profits Threshold (SPT, currently £5,965) – the point at which Class 2 is currently liable to be paid – and the Lower Profits Limit (LPL, currently £8,060) – the point at which Class 4 becomes payable.
- change the contribution conditions attached to the State Pension and other contributory benefits to enable Class 4 NICs (including those at the new zero-rate) to count towards benefit entitlement, so that self-employed individuals with annual profits at or over the Small Profits Threshold would be able to accrue qualifying years (QYs) for benefit entitlement.
- align the SPT with the weekly Lower Earnings Limit (LEL) in Class 1: Primary (employee) NICs, by setting the SPT at 52 times the LEL."

We have already been informed that the proposed Abolition of Class 2 NICs will affect Roman Catholic clergy because they all pay Class 2 NICs rather than Class 1. We do not know what the picture is overall and it would be helpful if members could let us know of any potential problems. The closing date for submissions is **24 February**.

[Source: DWP/HMRC/HM Treasury – 11 December 2014]

***Making Tax Digital***

For information

HMRC and HM Treasury have published [Making Tax Digital](#), explaining the latest position in the planned move to the end of paper self-assessments. The plan is that by 2016, every individual and small business will have access to a personal secure digital tax account, like an online bank account, that will enable them to interact with HMRC digitally. By 2020, businesses and individual taxpayers will be able to register, file, pay and update their information at any time of the day or night and at any point in the year to suit them. So for the vast majority, there will be no need to fill in an annual tax return.

On several occasions we have raised with HMRC the fact that there is no HMRC-provided software to enable clergy to complete the Minister of Religion pages in the self-assessment and to file online.



While this has not previously been cost-effective, we will be working with HMRC to see if the new digital tax accounts can help to achieve this goal.

[Source: HMRC – 15 December 2015]

## WALES

### Vulnerable places of worship Strategic Action Plan

**For information and for action**

The Welsh Government has published a new [Strategic Action Plan](#) to protect vulnerable places of worship across Wales and find ways in which they can remain a valuable part of community life. The action plan supports the aims of the Historic Environment (Wales) Bill, which was introduced to the Assembly earlier this year. The aim is to encourage new activities that will help retain these buildings as community assets, whether as places of worship or with an alternative purpose.

Cadw will continue to support and advise those caring for historic places of worship through its normal course of business. Such work includes:

- offering advice and guidance, and pre-application discussions about cases concerning places of worship
- a grants programme to help support places of worship most at risk, particularly focusing on projects that will keep buildings in use
- providing advice and guidance on listed buildings.

The plan will also establish a forum, representing interests across the sector, to share information and best practice, review ongoing needs and help steer the plan's delivery. The first meeting is being arranged for the end of January.

[Source: Welsh Government – 17 December 2015]