

## **CLAS CIRCULAR 2019/11 (24 July 2019)**

### **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.

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## CHARITIES AND CHARITY LAW

### Charity Commission: display of trustee legal names on the charity register

**Possibly for action if you are a registered charity in England & Wales**

The Charity Commission has extended the deadline for applying to remove a trustee's legal name from public display on the charity register from 1 September 2019 to **1 April 2020**, in order to give trustees more time to apply for a dispensation if needed: see [Display of trustee legal names on the charity register](#). The 'display name' feature will be removed on that date.

[Source: Charity Commission, 16 July]

### Charity Commission's annual report and accounts 2018-19

**For information**

The Charity Commission has published its [annual report and accounts for 2018-19](#). It contains little of direct relevance to members, but it may be worth noting that there is no reference to registering excepted charities.

In addition, the Commission has also updated its [guidance](#) on serious incident reporting. First published in June 2019, the section entitled 'Sharing Information' has been amended.

[Source: Charity Commission, 4 and 15 July]

## EMPLOYMENT

### Consultation on sick pay for lowest paid

For information

The Department for Work and Pensions, in conjunction with the Department of Health and Social Care, has published a [consultation](#) on new proposals for employing and retaining disabled staff and those with health conditions. The proposed measures would mean that the lowest-paid employees would be eligible for Statutory Sick Pay for the first time. Small businesses may also be offered a sick pay rebate to reward those who effectively manage employees on sick leave and help them get back into work.

The consultation closes **7 October 2019**.

[Source: DWP, 15 July]

### Compensation for flexible workers and a new labour market enforcement body

For information

The Department for Business, Energy and Industrial Strategy (BEIS) has [announced](#) new reforms designed to give flexible workers new rights and extra protections. This includes compensation for workers when shifts are cancelled at short notice and entitlement to a reasonable period of notice for their allocated shifts.

The proposed measures follow the Government's announcement that it is [consulting](#) on creating a single labour market enforcement body, intended to strengthen protections for workers and provide them with new rights. The consultation closes **6 October 2019**.

[Source: BEIS, 16 and 19 July]

## Parental leave

For information

The outgoing Prime Minister has [announced](#) a consultation on parental leave entitlements which questions whether statutory paternity leave for fathers and same-sex partners should be changed and asks for views on how the shared parental leave policy (introduced in 2015) could be improved.

The accompanying press release also sets out the Government's desire to introduce a new Neonatal Leave and Pay entitlement for parents of sick and premature babies who need to spend a prolonged period in neonatal care following birth. Under the proposals, parents would receive one week of Neonatal Leave and Pay for every week that their baby is in hospital. The payments would be available to mothers, fathers and partners.

In addition to these proposals, the Government is also asking for views as to whether employers should publish their leave and pay and flexible working policies, and whether there should be a requirement for employers to consider advertising jobs as 'flexible'.

The consultation closes **29 November 2019**. CLAS does not intend to submit a response to this consultation but interested members can respond online [here](#).

[Source: Prime Minister's Office & BEIS 19 July]

## FAITH & SOCIETY

### Extending civil partnerships to opposite-sex couples: next steps consultation

For information

The Government has made a commitment to change the law in England and Wales by **31 December 2019** to allow opposite-sex couples to form civil partnerships. As part of this commitment, it has [published](#) a 'next steps' policy paper which outlines its plans for extending eligibility and the range of rights and entitlements that should be made available to opposite-sex civil partners.

In addition, the Government is also [seeking views](#) on the future of conversion rights. At present, same-sex couples can convert their civil partnership to a marriage. The Government is seeking views on whether opposite-sex couples who married in England or Wales (but not in Scotland or Northern Ireland, because marriage law is devolved) should similarly have an opportunity to convert their relationships to a civil partnership. The consultation also asks whether all conversion rights should be brought to an end at some future date.

The consultation closes **20 August 2019**.

[Source: Government Equalities Office, 10 July]

### National Lottery: consultation on raising the minimum age to 18

For information

DCMS has launched a [consultation](#) on potential changes to the current minimum age of 16 for playing National Lottery games. The consultation proposes three options:

- Option 1 - Do nothing, retain the minimum age of 16 for all National Lottery games.
- Option 2 - Raise the minimum age to 18 for National Lottery instant win games such as scratchcards and online instant win games.
- Option 3 - Raise the minimum age to 18 for all National Lottery games.

[Source: DCMS 16 July]

## Review of FCO support for persecuted Christians

For information

The [final report and recommendations](#) of the Bishop of Truro's independent review for the Foreign Secretary of the Foreign and Commonwealth Office's support for persecuted Christians has now been published. The report concludes that while positive evidence of support has been identified over the course of the research, the FCO support for persecuted Christians is 'good in parts'. It raises particular concerns over the limited awareness of the existence of the [FoRB Tool Kit](#) (and thereby its limited implementation) and the 'vast scale' of persecution faced by Christians unearthed during the review.

The final report contains 21 recommendations which are separated into the following four categories:

1. Strategy and Structures: Make Freedom of Religion or Belief (FoRB) central to the FCO's culture, policies and international operations.
2. Education and Engagement: Develop a religiously-literate local operational approach.
3. Consistency and Co-ordination: Strengthen joined up thinking.
4. Organisational Feedback: Independent review of the recommendations in three years' time.

The Foreign Secretary, Jeremy Hunt, has thanked Bishop Mounstephen for his report (which you can read in full [here](#)) and you can read a transcript of his speech [here](#).

[Source: Foreign and Commonwealth Office, 8 July]

## FUNDING

### Society lotteries

For information

The Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport, Mims Davies, has [announced](#) that changes to the current limits on society lotteries:

- the per-draw sales limit will be raised from £4 million to £5 million;
- the maximum prize limit for large society lotteries will be increased from £400,000 to £500,000; and
- the annual sales limit will be raised from £10 million to £50 million.

The Gambling Commission has agreed to monitor the changes for any potential wider impact – and it remains unclear as to when the new limits will come into force.

[Source: DCMS 16 July]

## NORTHERN IRELAND

### Abortion law and same-sex marriage

For information

The purpose of the Northern Ireland (Formation of Executive) Bill is to extend the period for forming an Executive under s.1(1) of the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. During the Bill's committee stage in the Commons, the Committee of the whole House voted – at least in principle – to extend both same-sex marriage and access to abortion to Northern Ireland by inserting New Clause 1 (Marriage of same-sex couples in Northern Ireland), moved by Conor McGinn (St Helens North) (Lab) and New Clause 10 (International obligations), moved by Stella Creasy (Walthamstow) (Lab). The first is self-explanatory, while the second would oblige ministers to make regulations implementing the recommendations of the Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women – in effect, to address the current situation under which abortion law in Northern Ireland is largely based on ss.58 and 59 of the Offences Against the Person Act 1861.

Before the votes, the Minister of State at the Northern Ireland Office, John Penrose, told the House that, despite the Government's misgivings about the drafting and timescales in the New Clauses, it was 'a free-vote issue, so if this passes a vote it will go into law and become part of primary legislation. Ministers would be bound by it and Government would proceed'.

The abortion and equal marriage commitments in the Bill will become law by October 21 unless the Northern Ireland Executive has been re-established by that date. The original New Clauses were amended in the Lords after some professional redrafting by the Office of the Parliamentary Counsel, so that the final version of the Bill requires regulations to be laid at Westminster to reform marriage law in Northern Ireland by 13 January 2020 and abortion law by 31 March 2020. The Bill is currently awaiting Royal Assent.

[Source: CLAS summary, 23 July]

## ODDS & ENDS

### Food safety

**For action**

We have recently had a query about food safety requirements in relation to food provided at church events: in particular, the issue of food cooked at home by church members then being reheated at church prior to serving.

The Food Standards Agency publishes advice on [REHEATING](#): the strapline is 'It is very important to reheat food properly to kill harmful bacteria that may have grown since the food was cooked'.

[Source: Food Standards Agency, undated]

## PROPERTY & PLANNING

### Fire safety: clarification of Approved Document B

For information

The Government announced its intention to clarify fire safety guidance under the Building Regulations in May 2018, following the publication of the Hackitt Review. A consultation paper was published shortly afterwards and the Government has now announced its [response](#) to that consultation.

The clarifications introduced as part of the process have not added or amended any technical requirements; however, the format has been adjusted to make it more navigable and Plain English text has been added to some sections.

[Source: MHCLG, 5 July]

### Leasehold reform

For information

The Government has published its [response](#) to the Commons Housing, Communities and Local Government Committee's report on leasehold reform. The Government makes it clear that leasehold is a legitimate form of home ownership for flats; crucially, however, it agrees with the Committee that "there is no good reason for houses to be sold on a leasehold basis" – and the response was published after the Government [announced](#) its plans to axe leaseholds for new builds.

The Government has also published its [response](#) to the Law Commission's consultation on leasehold reform – which notes that it will legislate to restrict ground rents to £0. MCHLG has subsequently updated its [How to Lease](#) guidance.

[Source: MHCLG, 3 July]

## Lead theft from church roofs

For information

The Government answered two written questions on lead theft from Lord Alderdice:

- 'what were the [estimated replacement costs](#) for lead stolen from churches in England in each of the last five years'; and
- 'what [discussions they have had with English Heritage](#) [sic] about the replacement of lead stolen from church roofs; and whether they raised in any such discussions the option to replace such lead with materials of a similar appearance but less value'.

On behalf of the Government, Lord Ashton of Hyde replied that replacement costs were not a matter for the Government and that the Government had not had any discussions with Historic England on the matter.

He directed those affected by lead theft to the Listed Places of Worship Grant Scheme which provides grants towards VAT paid on repairs, maintenance, and alterations to listed buildings used principally as places of worship – which, with great respect to HMG, manages to miss the point entirely.

[Source: House of Lords, 12 July]

## Tenancy reform consultation

For action, please

MCHLG has published [Resetting the balance of rights and responsibilities between landlords and tenants: A consultation](#). It canvasses a range of tenancy reforms, including the abolition of evictions under section 21 of the Housing Act 1998 (often referred to as 'no-fault' evictions). It builds on responses to the Government's 2018 consultation, [Overcoming the barriers to longer tenancies in the private rented sector](#), to which CLAS responded on behalf of members.

The Government has taken into account the points made by us, the Church of England and others. As a result, question 32 of the new consultation asks whether the existing ground 5 should be reviewed so that possession can be obtained for re-use by a religious worker, even if a lay person is currently in occupation (as it stands, ground 5 only allows for notice to be given to a serving member of the clergy when the property is required by his or her successor).

The consultation applies to **England only** (see below for changes to the Welsh regime) and ends on **12 October**. CLAS intends to submit a response to the consultation, which also proposes two new mandatory grounds for eviction and a new discretionary ground under section 8 of the 1988 Act, and members are encouraged to submit any feedback to us via [info@clas.org.uk](mailto:info@clas.org.uk).

[Source: MHCLG, 22 July]

## SCOTLAND

### Responses to consultation on Scottish charity law

For information

The Scottish Government has [published](#) the responses to the [consultation on changes to charity law](#).

More than 300 individuals, charities and other organisations – including CLAS – responded with their views on proposals to improve the availability of information about a charity's activities and operations. The majority supported the proposals in the consultation; however, the analysis report makes clear that more policy development work and stakeholder engagement are required before any legislative changes can be brought forward.

The consultation also gained support for stronger enforcement powers, including the process for automatically disqualifying trustees. You can read a full analysis [here](#).

[Source: Scottish Government, 4 July]

### Strengthening fire safety and building standards

For information

The Scottish Government has [announced](#) improvements in fire safety and better facilities for people with disabilities. This includes strengthening fire safety in high rise buildings and improving facilities for those with disabilities in larger new buildings. The changes to Scottish building standards will come into force **1 October 2019**.

You can read the full revised Building Standards technical Handbooks [here](#).

[Source: Scottish Government, 12 July]

## TAXATION

### Charity Tax Commission report

For information

The Charity Tax Commission, established by NCVO under the chairmanship of Sir Nick Montague, a former Chairman of the Board of Inland Revenue, has published its final report: [Reforming charity taxation: towards a stronger civil society](#). The report calls for an overhaul of the reliefs offered to UK charities and makes a series of recommendations, many of which focus on encouraging donors to use Gift Aid, including a single Universal Gift Aid Declaration that to cover all charitable donations by the donor in question. Unsurprisingly, the report also calls for a comprehensive review of VAT for charities, arguing that it could help address the anomalies in the current system.

[Source: Charity Tax Commission, 17 July]

### Draft Finance Bill 2019-20

For information

The Government has [published draft clauses of the Finance Bill 2019-20](#) for technical consultation before the final version is laid before Parliament. The final contents of Finance Bill 2019-20 will be subject to confirmation at Budget 2019. Each measure is accompanied by:

- a tax information and impact note (TIIN) which sets out what the legislation seeks to achieve, why the government is undertaking the change and a summary of the expected impacts;
- draft legislation; and
- an explanatory note which provides a more detailed guide to the legislation.

Also included are the [impacting definitions for the tax information and impact notes and the Financial Secretary to the Treasury's declaration](#) about the tax information and impact notes.

Possibly of most interest to members are the following:

- [Rules for off-payroll working from April 2020](#);
- [Income Tax and the treatment of expenses for voluntary office holders](#) (which will put the current extra-statutory concession on a statutory footing); and

- [Technical and procedural amendments to the General Anti-Abuse Rule.](#)

– though there may be other matters of interest to members as well. The consultation closes on **5 September 2019**.

[Source: HMRC, 11 July]

### **Simplification of VAT Partial Exemption and the Capital Goods Scheme: call for evidence**

**For information and possibly for action**

HMRC has launched a call for evidence on ways to improve the operation of partial exemption and the Capital Goods Scheme, following the findings of the 2017 Office of Tax Simplification VAT review. The call for evidence is split into three sections:

1. The process for applying Partial Exemption (PE) Special Methods (PESMs) and the possible ways in which this might be improved to reduce burdens, both for taxpayers and HMRC.
2. How the current PE *de minimis* limit could be changed to aid simplification.
3. Possible policy solutions to issues caused by the Capital Goods Scheme.

The consultation closes **26 September 2019**. It is not intended to make a response from CLAS.

[Source: HMRC 18 July]

## WALES

### Extending minimum notice for 'no fault' evictions

For information

The Welsh Government has launched a consultation on [Increasing the minimum notice period for a no fault eviction](#) from two to six months. The change would be made to the (as yet unimplemented) [Renting Homes \(Wales\) Act 2016](#), which provides a new, streamlined and reformed basis for residential tenancies in Wales. Once in force, the Act will replace existing models of tenancies, including Assured Shorthold Tenancies. The Government would like to remove 'no-fault' evictions, but legislative timetabling constraints means it is instead seeking to extend the notice period.

The consultation covers:

- extending the minimum notice period from 2 months to 6 months;
- increasing the period at the beginning of a contract during which a landlord cannot give notice from 4 months to 6 months;
- placing a 6-month restriction on issuing a notice following the expiry of a previous notice;
- removing a landlord's ability to end a fixed term standard contract (under s.186); and,
- the use of break clauses in fixed term contracts.

The consultation runs until **5 September 2019**. Cyûn (which is far better-placed than CLAS to do so) will be responding to the consultation.

[Source: Welsh Government, 11 July]