

## **CLAS CIRCULAR 2019/12 (13 August 2019)**

### **Disclaimer**

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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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## HM GOVERNMENT: FULL LIST OF MINISTERS

Her Majesty's Government: July 2019

### Prime Minister, First Lord of the Treasury, Minister for the Civil Service and Minister for the Union

- Rt Hon Boris Johnson MP

### HM Treasury

- Chancellor of the Exchequer – Rt Hon Sajid Javid MP
- Chief Secretary to the Treasury – Rt Hon Rishi Sunak MP\*\*
- Financial Secretary to the Treasury – Jesse Norman MP
- Economic Secretary to the Treasury – John Glen MP
- Exchequer Secretary to the Treasury – Simon Clarke MP

### Foreign and Commonwealth Office

- Secretary of State for Foreign and Commonwealth Affairs, and First Secretary of State – Rt Hon Dominic Raab MP
- Minister of State – Rt Hon Christopher Pincher MP
- Minister of State – Rt Hon Dr Andrew Murrison MP (jointly with the Department for International Development)
- Minister of State – Andrew Stephenson MP (jointly with the Department for International Development)
- Minister of State – Lord Ahmad of Wimbledon
- Parliamentary Under Secretary of State – Heather Wheeler MP

### Home Office

- Secretary of State for the Home Department – Rt Hon Priti Patel MP
- Minister of State – Rt Hon Brandon Lewis MP\*\*
- Minister of State – Kit Malthouse MP
- Minister of State – Baroness Williams of Trafford (jointly with the Department for Work and Pensions (Minister for Equalities))
- Parliamentary Under Secretary of State – Victoria Atkins MP (jointly with the Department for Work and Pensions (Minister for Women))
- Parliamentary Under Secretary of State – Seema Kennedy MP

### Cabinet Office

- Chancellor of the Duchy of Lancaster – Rt Hon Michael Gove MP
- Paymaster General, and Minister for the Cabinet Office – Rt Hon Oliver Dowden CBE MP\*\*
- Minister of State – Rt Hon Jake Berry MP (jointly with the Ministry of Housing, Communities and Local Government)\*\*
- Parliamentary Secretary – Chloe Smith MP
- Parliamentary Secretary – Kevin Foster MP (jointly with the Wales Office; and Assistant Government Whip)
- Parliamentary Secretary – Simon Hart MP
- Parliamentary Secretary – Johnny Mercer MP (jointly with the Ministry of Defence)

### Ministry of Justice

- Lord Chancellor and Secretary of State for Justice – Rt Hon Robert Buckland QC MP
- Minister of State – Lucy Frazer QC MP
- Parliamentary Under Secretary of State – Wendy Morton MP
- Parliamentary Under Secretary of State – Edward Argar MP

**Department for Exiting the European Union**

- Secretary of State for Exiting the European Union – Rt Hon Stephen Barclay MP
- Minister of State – Lord Callanan
- Parliamentary Under Secretary of State – James Duddridge MP

**Ministry of Defence**

- Secretary of State for Defence – Rt Hon Ben Wallace MP
- Minister of State – Rt Hon Mark Lancaster TD MP
- Minister of State – Baroness Goldie DL
- Parliamentary Under Secretary of State – Anne-Marie Trevelyan MP
- Parliamentary Under Secretary of State – Johnny Mercer MP (jointly with the Cabinet Office)

**Department of Health and Social Care**

- Secretary of State for Health and Social Care – Rt Hon Matt Hancock MP
- Minister of State – Chris Skidmore MP
- Minister of State – Caroline Dinenage MP
- Parliamentary Under Secretary of State – Jo Churchill MP
- Parliamentary Under Secretary of State – Nadine Dorries MP
- Parliamentary Under Secretary of State – Baroness Blackwood of North Oxford

**Department for Business, Energy and Industrial Strategy**

- Secretary of State for Business, Energy and Industrial Strategy – Rt Hon Andrea Leadsom MP
- Minister of State – Rt Hon Kwasi Kwarteng MP\*\*
- Minister of State – Rt Hon Jo Johnson MP (jointly with the Department for Education)\*\*
- Parliamentary Under Secretary of State – Kelly Tolhurst MP
- Parliamentary Under Secretary of State – Nadhim Zahawi MP\*
- Parliamentary Under Secretary of State – Lord Duncan of Springbank (jointly with the Northern Ireland Office)

**Department for International Trade**

- Secretary of State for International Trade, and President of the Board of Trade – Rt Hon Elizabeth Truss MP
- Minister of State – Conor Burns MP
- Parliamentary Under Secretary of State – Graham Stuart MP

**Department for Work and Pensions**

- Secretary of State for Work and Pensions, and Minister for Women and Equalities – Rt Hon Amber Rudd MP
- Minister of State – Justin Tomlinson MP
- Parliamentary Under Secretary of State – Mims Davies MP
- Parliamentary Under Secretary of State – Guy Opperman MP
- Parliamentary Under Secretary of State – Will Quince MP
- Parliamentary Under Secretary of State – Baroness Stedman-Scott OBE
- Minister of State (Minister for Equalities) – Baroness Williams of Trafford (jointly with the Home Office)
- Parliamentary Under Secretary of State (Minister for Women) – Victoria Atkins MP (jointly with the Home Office)

**Department for Education**

- Secretary of State for Education – Rt Hon Gavin Williamson CBE MP
- Minister of State – Rt Hon Jo Johnson MP (jointly with the Department for Business, Energy and Industrial Strategy)\*\*

- Minister of State – Rt Hon Nick Gibb MP
- Parliamentary Under Secretary of State – Kemi Badenoch MP
- Parliamentary Under Secretary of State – Lord Agnew of Oulton DL

**Department for Environment, Food and Rural Affairs**

- Secretary of State for Environment, Food and Rural Affairs – Rt Hon Theresa Villiers MP
- Minister of State – Dr Therese Coffey MP
- Minister of State – George Eustice MP
- Parliamentary Under Secretary of State – Zac Goldsmith MP (jointly with the Department for International Development)
- Parliamentary Under Secretary of State – Lord Gardiner of Kimble

**Ministry of Housing, Communities and Local Government**

- Secretary of State for Housing, Communities and Local Government – Rt Hon Robert Jenrick MP
- Minister of State – Rt Hon Esther McVey MP\*\*
- Minister of State – Rt Hon Jake Berry MP (jointly with the Cabinet Office)\*\*
- Parliamentary Under Secretary of State – Luke Hall MP
- Parliamentary Under Secretary of State – Viscount Younger of Leckie

**Department for Transport**

- Secretary of State for Transport – Rt Hon Grant Shapps MP
- Minister of State – Chris Heaton-Harris MP
- Minister of State – George Freeman MP
- Parliamentary Under Secretary of State – Nusrat Ghani MP (and Government Whip (paid))
- Parliamentary Under Secretary of State – Paul Maynard MP
- Parliamentary Under Secretary of State – Baroness Vere of Norbiton

**Northern Ireland Office**

- Secretary of State for Northern Ireland – Rt Hon Julian Smith MP
- Minister of State – Rt Hon Nick Hurd MP (and Minister for London)
- Parliamentary Under Secretary of State – Robin Walker MP (jointly with Scotland Office)
- Parliamentary Under Secretary of State – Lord Duncan of Springbank (jointly with the Department for Business, Energy and Industrial Strategy)

**Scotland Office**

- Secretary of State for Scotland – Rt Hon Alister Jack MP
- Parliamentary Under Secretary of State – Colin Clark MP (and a Government Whip)
- Parliamentary Under Secretary of State – Robin Walker MP (jointly with the Northern Ireland Office)

**Wales Office**

- Secretary of State for Wales – Rt Hon Alun Cairns MP
- Parliamentary Under Secretary of State – Kevin Foster MP (jointly with the Cabinet Office; and Assistant Government Whip)

**Office of the Leader of the House of Lords**

- Lord Privy Seal, and Leader of the House of Lords – Rt Hon Baroness Evans of Bowes Park
- Minister of State (Deputy Leader of the House of Lords) – Rt Hon Earl Howe

**Department for Digital, Culture, Media and Sport**

- Secretary of State for Digital, Culture, Media and Sport – Rt Hon Nicky Morgan MP

- Minister of State – Nigel Adams MP
- Parliamentary Under Secretary of State – Rebecca Pow MP
- Parliamentary Under Secretary of State – Matt Warman MP
- Parliamentary Under Secretary of State – Baroness Barran MBE

#### **Department for International Development**

- Secretary of State for International Development – Rt Hon Alok Sharma MP
- Minister of State – Rt Hon Dr Andrew Murrison MP (jointly with the Foreign and Commonwealth Office)
- Minister of State – Andrew Stephenson MP (jointly with the Foreign and Commonwealth Office)
- Parliamentary Under Secretary of State – Zac Goldsmith MP (jointly with the Department for Environment, Food and Rural Affairs)
- Parliamentary Under Secretary of State – Baroness Sugg CBE

#### **Minister without Portfolio**

- Minister without Portfolio (and Conservative Party Chair) – James Cleverly MP

#### **Office of the Leader of the House of Commons**

- Lord President of the Council, and Leader of the House of Commons – Rt Hon Jacob Rees-Mogg MP\*\*

#### **Whips – House of Commons**

- Parliamentary Secretary to the Treasury (Chief Whip) – Rt Hon Mark Spencer MP\*\*
- Treasurer of HM Household (Deputy Chief Whip) – Amanda Milling MP
- Comptroller of HM Household (Government Whip) – Jeremy Quin MP
- Vice Chamberlain of HM Household (Government Whip) – Stuart Andrew MP

#### **Junior Lords of the Treasury**

- Government Whip (Lord Commissioner of HM Treasury) – Rebecca Harris MP
- Government Whip (Lord Commissioner of HM Treasury) – Michelle Donelan MP
- Government Whip (Lord Commissioner of HM Treasury) – Mike Freer MP
- Government Whip (Lord Commissioner of HM Treasury) – David Rutley MP
- Government Whip (Lord Commissioner of HM Treasury) – Nusrat Ghani MP (and Parliamentary Under Secretary of State at the Department for Transport)
- Government Whip (Lord Commissioner of HM Treasury) – Colin Clark MP (and a Parliamentary Under Secretary of State at the Scotland Office)

#### **Assistant Whips (Commons)**

- Assistant Government Whip – Kevin Foster MP (and Parliamentary Secretary at the Cabinet Office and the Wales Office)
- Assistant Government Whip – Leo Docherty MP
- Assistant Government Whip – James Morris MP
- Assistant Government Whip – Tom Pursglove MP
- Assistant Government Whip – Nigel Huddleston MP
- Assistant Government Whip – Marcus Jones MP
- Assistant Government Whip – Iain Stewart MP

**Whips – House of Lords**

- Captain of the Honourable Corps of Gentlemen at Arms (Lords Chief Whip) – Lord Ashton of Hyde
- Captain of The Queen's Bodyguard of the Yeomen of the Guard (Deputy Chief Whip) – Earl of Courtown

**Baronesses and Lords in Waiting**

- Baroness in Waiting – Baroness Berridge of the Vale of Catmose
- Baroness in Waiting – Baroness Bloomfield of Hinton Waldrist
- Lord in Waiting – Rt Hon Lord Young of Cookham CH
- Lord in Waiting – Lord Bethell of Romford

**Law Officers**

- Attorney General – Rt Hon Geoffrey Cox QC MP\*\*
- Solicitor General – Michael Ellis MP
- HM Advocate General for Scotland and Ministry of Justice spokesperson for the Lords – Rt Hon Lord Keen of Elie QC

\*\*attends Cabinet

## CHARITIES AND CHARITY LAW

### Charity Commission: consultation on safeguarding guidance

**Possibly for action**

In October 2018, the Charity Commission launched refreshed guidance on [Safeguarding and protecting people for charities and trustees](#). The Commission now wants to find out how the guidance is used and whether it is useful. Does it cover the matters you need to know more about? If you used the links to specialist information on other websites, was there a link to the information you needed?

The Commission has now posted a [short survey on how you use the guidance](#), which will take approximately 5 to 10 minutes to complete. Answers will be completely anonymous, and no personal data will be collected.

[Source: Charity Commission, 6 August]



## EMPLOYMENT

### Part-time working and holiday pay

For information

In *The Harpur Trust v Brazel* [2019] EWCA Civ 1402, the Court of Appeal has held that a music teacher engaged on a term-time only zero-hours contract was entitled to 5.6 weeks' holiday per year, *even though she did not work for the whole year*. The key issue was whether term-time only workers (or others who only work for part of the year on permanent contracts) can have their holiday entitlement pro-rated to reflect the number of weeks that they actually work each year, and – separately – how their pay should be calculated. The Court held that pro-rating holiday entitlement was not permitted under the Working Time Regulations 1998:

'there is ... no requirement as a matter of EU law to give effect to the *pro rata* principle or, more particularly, to pro-rate the entitlement of part-year workers to that of full-year workers' [69].

Further:

'On any natural construction the WTR make no provision for pro-rating. They simply require ... the straightforward exercise of identifying a week's pay in accordance ... and multiplying that figure by 5.6. Attempting to build in a pro-rating requirement or an accrual system would not ... be an exercise in construction ... *but the substitution of an entirely different scheme*' [73: emphasis added].

So, the minimum requirement could not be applied *pro rata* to reflect the number of weeks that Ms Brazel actually worked, nor could the Trust apply a 12.07% 'formula' for working out her holiday entitlement. And as to the issue of pay, the Court ruled that workers should receive their 'normal pay' when they take a holiday.

**Comment:** All that may seem slightly obscure and technical – except for the fact that many charities (including, we would guess, some members of CLAS) employ people either for one or two days a week or on zero-hours contracts as and when required. Unless the matter is appealed and the Supreme Court takes a different view, *any employer that pro-rates holiday entitlement and holiday pay for those employees should stop doing so*.

[Source: BAILII, 6 August]

## FAITH & SOCIETY

### Marriage registration in England and Wales

**For action**

The Faculty Office, the Church of England and the Church in Wales have issued a [joint statement](#) on forthcoming changes to the system of marriage registration in England and Wales. Following is the gist of the statement as it applies to religious marriages generally, rather than to the C of E and the C in W specifically.

Marriage registration is set to change following the enactment of the [Civil Partnerships, Marriages and Deaths \(Registration etc\) Act 2019](#) – which, as well as providing for opposite-sex couples to be able to enter into civil partnerships, will allow for mothers' names to be included in Marriage Registers as well as (or in place of) fathers' names. It also makes provision for significant changes in the way that marriages are registered. The Government is keen for the changes to be brought in as soon as possible; and the Faculty Office and the Legal Offices of the Church of England and Church in Wales have been in discussion with the General Register Office about the proposed changes.

The GRO proposes to bring in the changes on **2 December 2019**. A number of issues remain to be resolved, including the provision of a workable, secure system to produce the new documentation and time to train the 20,000+ clergy who are authorised to conduct weddings in both Churches – and, presumably, training will have to be offered to *all* ministers of religion in *all* denominations who conduct weddings.

In essence, the proposals will replace Marriage Registers and Marriage Certificates (issued at the time of the wedding) with a Marriage Document. The Marriage Document will be prepared by the officiating minister before the wedding and, at the ceremony, will be signed by the couple, their witnesses and the officiant (in much the same way as the Registers are signed currently). *The significant difference is that the couple will then need to ensure that the Marriage Document is deposited at the local Register Office within 7 days of the date of the wedding and the local Superintendent Registrar will then record the details and issue the couple with a Marriage Certificate (for which there will be a fee). The couple can ask someone to lodge the Marriage Document on their behalf (as in many cases, of course, they will be on their honeymoon), but it is their responsibility to ensure that it is done, NOT the responsibility of the officiating minister.*

As an interim measure, the Marriage Document will be available in a number of formats, including a manual format and a 'type and print' facility. The Regulations envisage that, eventually, there will be a secure online portal to which clergy will require access, because there is provision for couples to be reminded by e-mail from the General Register Office if they have not lodged the Marriage Document within the required period.

For marriages that currently take place by Superintendent Registrar's Certificate, the SRC will be replaced by a "Marriage Schedule" which will be produced by the Register Office taking Notice of the Marriage, and that Schedule will then be signed by all the parties – including the officiating minister – once the marriage has taken place and, again, will have to be lodged with the Register Office within 7 days.

Before the new system goes live, some training will be provided by the GRO. However, it is unlikely that the GRO will have the resources to provide face-to-face training for all clergy and there will need to be a degree of co-operation with individual denomination. The GRO will however provide "awareness" (probably online and by mail-out) and a dedicated helpline available from Monday to Saturday and a 24-hour emergency line. It is also intended to provide a printed *aide-mémoire* to be placed in the vestry and which will include the emergency numbers and reminder of the new system. So far as the C of E and C in W are concerned, it has been agreed that the Diocesan Registrars will be the most appropriate point of contact from the GRO to co-ordinate training on the new system.

**These changes are significant both for clergy and the couples concerned; and it essential that all clergy who conduct marriages are aware of them to ensure that the law is complied with and that marriages are validly conducted and properly registered.**

[Source: Faculty Office, Church of England and Church in Wales, 8 August]

**Comment:** What all this does *not* address is the situation of ministers of religion of other denominations (and, for that matter, of non-Christian faiths). CLAS is contacting the General Register Office to seek clarification.

## ODDS & ENDS

### Law Commission: surrogacy law consultation

**For information**

The Law Commission of England & Wales and the Scottish Law Commission have extended their consultation on [Building families through surrogacy: a new law](#) until **11 October**.

[Source: Law Commission, 25 July]

### Minister for Civil Society

**For action**

The Prime Minister has appointed Baroness (Diana) Barran MBE as Minister for Civil Society within DCMS.

A former investment banker with Morgan Grenfell and Enskilda Asset Management, she founded the hedge fund Barran and Partners. She has also an extensive background in the charity sector, having founded and run the domestic abuse awareness charity SafeLives. She has also worked at New Philanthropy Capital (NPC) and has been a trustee of Comic Relief and Chair of the Henry Smith Society

Her new role covers civil society, youth and social action, the Government's inclusive economy unit, loneliness, DCMS business in the Lords and First World War ceremonials.

[Source: *Civil Society*, 30 July]

## PROPERTY & PLANNING

### Lead theft and terne-coated steel

**For information**

The issue of like-for-like replacement of stolen lead is a matter of considerable controversy. Historic England prefers stolen lead on listed buildings to be replaced with lead, while congregations that have had their lead stolen would often prefer to use something less attractive to thieves. However, for the Church of England the final decision turns on whether or not the diocesan consistory court is prepared to grant a faculty.

In *Re St Peter Church Lawford* [2019] ECC Cov 4, the Rector and Churchwardens wished to replace the lead on the south aisle and vestry roofs with terne-coated stainless steel. The church had suffered from lead thefts in the past and already had a terne-coated steel roof over the north porch. The remaining lead had been repaired a number of times in recent years and was regarded as having reached the end of its serviceable life after 100 years. Historic England objected, taking the view that the lead should be replaced like-for-like, though Historic England's own advice in its booklet 'Metal Thefts from Historic Buildings' suggested that stainless steel was a suitable alternative to lead where there had been lead theft and repeated attacks.

The Deputy Chancellor, Glyn Samuel, determined that the Petitioners had shown good reason for the replacement of lead with terne-coated stainless steel and he granted a faculty. [*With thanks to Ray Hemingray.*]

[Source: Ecclesiastical Law Association, 9 August]

### Listed Places of Worship Grant Scheme

**For information**

In Circular 2019/07 we wrote that:

"The next meeting of the LPWGS Stakeholders is taking place on 24 May 2019: the Historic Religious Buildings Alliance and the Church of England's Cathedral and Church Buildings Division will be meeting DCMS and HM Treasury to discuss the running and implementation of the Scheme. The key issue will be contributing to the case being made by DCMS, as part of its Spending Review proposals, in relation to the continuation of the LPWGS (and the Memorials Grant Scheme) beyond March 2020. Departments will be expected to submit their spending proposals by June/July 2019: there then follows a few months of negotiation between Departments and HMT before the Spending Review is announced in Autumn 2019."

On 9 August, the Chancellor duly [announced](#) a one-year Spending Review to be completed in September.

We fear that our previous Circular may have given rise to some degree of misunderstanding. We understand that the DCMS is currently making a case for continuing the LPWGS beyond March 2020 but, so far as we are aware, *no decision has yet been made on whether or not the Scheme is to continue after that date*. Given that the Government has announced a Spending Review, we would not expect any decision on the future of the Scheme until after the Review has been completed.

[Source: HM Treasury, 9 August]

## TAX

### HMRC: updates to Gift Aid Donor Benefits guidance

**For information**

Changes have been made to chapters 3.18 to 3.25 of the HMRC Charities guidance to clarify when and how donor benefits should be treated and how they are valued for Gift Aid limits. They include:

- representing the relevant value test as two not three thresholds [\[3.21.1\]](#)
- applying the disregard to electronic literature as well as physical literature [\[3.24\]](#)
- a more flexible approach to valuing benefits where there is no commercial value (ie a non-ticketed event) noting a fair and reasonable method of valuation will suffice [\[3.23.5\]](#).

Changes to the guidance can be read in full [here](#).

We understand that this is the first step in a wider review of HMRC's Chapter 3 Gift Aid guidance.

[Source: HMRC, 8 August]

## WALES

### HMRC: Welsh income tax

Possibly for action

HMRC has tweeted a reminder that [Welsh Rates of Income Tax](#) are now in force. HMRC points out that they will apply to everyone living in Wales, and that to make sure that you pay the right rates, [you need to keep your address details up to date](#).

[Source: HMRC, 8 August]

### Welsh Government: consultation on development

Possibly for action

The Welsh Government has launched a consultation on the 20-year vision for development in Wales. The Framework sets out where new homes, jobs and services will be located and identifies areas for renewable energy generation. It includes:

- A focus on growing existing urban areas and ensuring that homes, jobs and services are located in the same area.
- Three urban areas identified as nationally significant, where large-scale housing and employment growth will be focused: Cardiff, Newport and the Valleys; Swansea Bay and Llanelli; and Wrexham and Deeside. Outside of them, development will meet local need and complement the growing urban areas.
- A focus on decarbonisation and renewable energy, from low-emission transport to Government targets.
- Proposals for new priority areas for large-scale wind and solar energy development to replace Tan 8.
- A focus on delivering more affordable homes, with the aim of affordable housing making up 47% of new development.
- Improving physical and digital infrastructure, including improving broadband and mobile coverage.

The consultation is open until **1 November** and can be read in full [here](#).

[Source: Welsh Government, 8 August]