

CLAS CIRCULAR 2021/12 (12 May 2021)

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.

THE QUEEN'S SPEECH	2
CHARITIES & CHARITY LAW	5
Amendment to standard 12.6.2 (free draws) of the Code of Fundraising Practice	5
FAITH & SOCIETY	6
Contested Heritage in Cathedrals and Churches.....	6
ODDS & ENDS	7
Labour Shadow Cabinet reshuffle	7
PROPERTY & PLANNING	9
Building safety: planning gateway one.....	9
SCOTLAND.....	10
Restarting Fundraising Activities	10
TAXATION	11
Simplifying the VAT Land Exemption - call for evidence	11

THE QUEEN'S SPEECH

For information

The [Queen's Speech](#) was delivered to a limited, socially-distanced House of Lords. The following are the items that may be of particular interest to members of CLAS:

Boycotts, Divestment and Sanctions: The measures (which do not appear to require primary legislation) will prevent public bodies from taking a different approach from that of the UK Government on sanctions and foreign relations by preventing public institutions from carrying out independent boycotts, divestments and sanctions against foreign countries, or those linked to them, the sale of goods and services from foreign countries and UK firms which trade with such countries – where such an approach is not in line with UK Government sanctions. The measures will cover purchasing, procurement and investment decisions which undermine cohesion and integration.

It will be interesting to see how the Government chooses to define “public bodies”. The accompanying Notes say: ‘It is a long-standing principle that there may be restrictions on taxpayer-funded public bodies that do not apply to private bodies; for example, where public bodies cannot engage in party political campaigning.’

Building Safety Bill: The Bill will establish the Building Safety Regulator and implement the recommendations made in the Independent Review of Building Regulations and Fire Safety led by Dame Judith Hackitt. It will make ‘fundamental changes to the regulatory framework for higher-risk buildings’ and ensure that ‘products used in the construction of buildings will be held to rigorous safety standards’. It will also establish ‘a new homes ombudsman’ and simplify ‘the process to log complaints to the Housing Ombudsman for social housing tenants’.

Charities Bill: The Bill will implement the majority of the recommendations in the Law Commission’s 2017 report ‘Technical Issues in Charity Law’ in England & Wales. It will:

- make it easier for charities to amend their governing documents, with Charity Commission oversight where appropriate;
- give charities more flexibility to obtain tailored advice when they sell land, and removing unnecessary administrative burdens; increase flexibility for charities to use their permanent endowment (assets or investments where the capital value must be preserved), with checks in place to ensure its protection in the long term;
- remove legal barriers to charities merging when a merger is in their best interests; and
- give trustees advance assurance that litigation costs in the Charity Tribunal can be paid from the charity’s funds.

Dissolution and Calling of Parliament Bill: The Bill will, in essence, repeal the Fixed-term Parliaments Act 2011.

Dormant Assets Bill: The main purpose of the Bill is to expand the Dormant Assets Scheme into the insurance and pensions, investment and wealth management, and securities sectors. It will enable the social and environmental focus of the English portion of funds to be set through secondary legislation so that, over time, the Scheme will be able to respond more flexibly to changing social and environmental needs in England. This is in line with the model used in the devolved administrations. The Bill:

- will expand the Scheme into new asset classes and improve consumer protection in reuniting people with forgotten money;
- will align the model for how dormant assets funding is allocated in England with that used in the devolved administrations; and
- will improve the Scheme's operation, for example by allowing the Scheme's administrator, Reclaim Fund Ltd, to accept transfers only from participants who have undertaken appropriate efforts to trace, verify and reunite the asset with its rightful owner.

The Bill will also designate Reclaim Fund Ltd as the Scheme's authorised reclaim fund.

The Bill will apply to the whole of the UK, with the exception of the provision on the distribution of money in England, which (unsurprisingly) will only apply to England. Should the Bill be enacted, the Government intends to launch a public consultation on the causes to which future funding can be distributed.

Electoral Integrity Bill: The Bill will, *inter alia*, require voters to produce identification to vote in a polling station, 'as already required in Northern Ireland'. It is not yet clear what mechanism will be provided for those – mostly elderly – who do not drive and do not have a passport.

Environment Bill: The Bill will introduce a framework for legally-binding environmental targets and establish a new, independent Office for Environmental Protection. It will also introduce measures to enhance local powers to tackle sources of air pollution, secure long-term, resilient water supplies and wastewater services and protect nature and improve biodiversity.

Judicial Review Bill: The Bill 'will extend and apply UK wide, with the majority of the provisions likely to apply to England and Wales'. It will allow courts to make suspended Quashing Orders, suspending for a specified time the effect of an order quashing a decision or action. That would give the errant public authority time to rectify the identified errors; if not rectified within the specified timeframe, the quashing order would become effective. It will also reverse the judgment in *Cart*, under which the High Court may review certain decisions of the Upper Tribunal.

Leasehold Reform (Ground Rent) Bill: The Bill will restrict the charging of ground rents on new long residential leases in England and Wales and will enforce the charging of a prohibited ground rent by way of a civil penalty regime, including fines of up to £5,000 for freeholders that charge ground rent in contravention of the Bill. It will ensure that there can be no financial demand for ground rent for all future qualifying leases so that future leaseholders do not face unfair terms or significant ground rent liabilities.

However, there will be selected exemptions, including one for 'Some parts of the community-led housing sector, so they can retain the right to levy ground rent to maintain their ability to further promote community activities.'

National Insurance Contributions Bill: The main purpose of the Bill, which applies to the whole of the UK, is to provide National Insurance Contributions relief for employers of veterans, for employers in Freeports and for the self-employed who receive NHS Test and Trace Payments. It will also strengthen current powers to tackle attempts to avoid tax and NICs. The aspect probably of most interest to CLAS is the intention to ensure that self-employed people who must, or have had to, self-isolate due to COVID-19 do not pay NICs on their self-isolation support payments. The measure is intended to have retrospective effect from 6 April 2020 in respect of the English, Welsh and Scottish schemes which were implemented in autumn 2020. The exemption mirrors legislation already in place for NICs for the employed.

New Plan for Immigration Legislation': The purpose of the proposed legislation is to deter illegal entry into the UK and make it easier to remove those without a right to be in the UK.

Planning Bill: The Bill will reform the Town and Country Planning Act 1947. The Bill will extend to the whole of the UK; however, the majority of provisions will apply only to England – planning being a matter that is largely devolved.

Procurement Bill: The Bill will reform the UK's public procurement regime and make it more accessible for new entrants such as voluntary, charitable and social enterprises to compete for and win public contracts.

In addition, the Government has announced its intention to proceed with further **Renters Reforms** in England. The Government will:

- Publish its consultation response on reforming tenancy law to abolish Section 21 'no fault' evictions;
- Outline proposals for a new 'lifetime' tenancy deposit model that eases the burden on tenants when moving from one tenancy to the next;
- Bring forward reforms to drive improvements in standards in rented accommodation, including by ensuring all tenants have a right to redress, and ensuring well targeted, effective enforcement that drives out criminal landlords, for example exploring the merits of a landlord register; and
- A White Paper will be published in the autumn, and legislation will follow in due course.

[Source: Commons *Hansard*, 11 May]

CHARITIES & CHARITY LAW

Amendment to standard 12.6.2 (free draws) of the Code of Fundraising Practice

For information **and possibly for action**

The Fundraising Regulator has made [amendments](#) to standard 12.6.2 (free draws) of the Code of Fundraising Practice. Standard 12.6.2 will be amended on two key points to remain in line with the Gambling Act provisions:

- the inclusion of a letter by ordinary post (either first-class or second-class) as an acceptable free method of entry; and
- the revision of the current wording on acceptable selection criteria for the draw.

[Source: Fundraising Regulator, 5 May]

FAITH & SOCIETY

Contested Heritage in Cathedrals and Churches

For information

The Church of England's Church Buildings Council and Cathedrals Fabric Commission for England have published guidance on [Contested Heritage in Cathedrals and Churches](#). The guidance 'addresses issues of contested heritage in the Church of England's cathedral and church buildings, their settings and their historic interiors', and we note it here on the basis that it might possibly be of interest to other member Churches.

According to the Introduction:

'It is written primarily for parishes and cathedral chapters who need to address their contested heritage, and for the advisory and decision-making committees and individuals that support them within the Church and in the heritage sector. This is a complex subject that requires a thorough discussion of the issues and this guidance is necessarily long. A shorter guide, intended as an introduction for those considering this subject for the first time, is available on our [website](#).

The guidance does not attempt to address every type of contested heritage in church buildings: it focuses on the issue of the memorialisation in tangible form of people or events connected with racism and slavery. It is hoped, however, that it may establish a methodology with which other forms of contested heritage in our cathedral and church buildings may also be addressed.'

[Source: Archbishops' Council, 11 May 2021]

ODDS & ENDS

Labour Shadow Cabinet reshuffle

For information

The Leader of the Labour Party has [undertaken](#) a Shadow Cabinet reshuffle. The list of responsibilities is as follows:

- Secretary of State for the Future of Work: Angela Rayner
- Party Chair & Chair of Labour Policy Review: Anneliese Dodds
- National Campaign Coordinator: Shabana Mahmood
- Commons Chief Whip: Alan Campbell
- Shadow Chancellor of the Exchequer: Rachel Reeves
- Shadow Chief Secretary to HM Treasury: Bridget Phillipson
- Shadow Secretary of State for Foreign & Commonwealth Affairs: Lisa Nandy
- Shadow Secretary of State for the Home Department: Nick Thomas-Symonds
- Shadow Secretary of State for Justice: David Lammy
- Shadow Secretary of State for Defence: John Healey
- Shadow Secretary of State for Health and Social Care: Jonathan Ashworth
- Shadow Secretary of State for Business, Energy and Industrial Strategy: Ed Miliband
- Shadow Secretary of State for Work and Pensions: Jonathan Reynolds
- Shadow Secretary of State for International Trade: Emily Thornberry
- Shadow Secretary of State for Education: Kate Green
- Shadow Secretary of State for Digital, Culture, Media and Sport: Jo Stevens
- Shadow Secretary of State for Environment, Food and Rural Affairs: Luke Pollard
- Shadow Secretary of State for Communities & Local Government: Steve Reed
- Shadow Secretary of State for Housing: Lucy Powell
- Shadow Secretary of State for Transport: Jim McMahon

- Shadow Secretary of State for International Development: Preet Gill
- Shadow Secretary of State for Wales: Nia Griffith
- Shadow Secretary of State for Scotland: Ian Murray
- Shadow Secretary of State for Northern Ireland: Louise Haigh
- Shadow Secretary of State for Women and Equalities: Marsha de Cordova
- Shadow Leader of the House of Commons: Thangam Debbonaire
- Shadow Attorney General: Charlie Falconer
- Shadow Secretary of State for Mental Health: Rosena Allin-Khan
- Shadow Secretary of State for Child Poverty: Wes Streeting
- Shadow Secretary of State for Young People and Democracy: Cat Smith
- Shadow Secretary of State for Employment Rights & Protections: Andy McDonald
- Shadow Leader of the House of Lords: Angela Smith
- Lords Chief Whip: Tommy McAvoy

[Source: CLAS, 10 May]

PROPERTY & PLANNING

Building safety: planning gateway one

For information

MHCLG has [set out](#) the Government's plans to introduce "planning gateway one" in England, delivering one of Dame Judith Hackitt's recommendations. Gateway one will form one of three new planning gateways.

Planning gateway one has two key elements:

- to require the developer to submit a fire statement setting out fire safety considerations specific to the development with a relevant application for planning permission for development which involves one or more relevant buildings; and
- to establish the Health and Safety Executive as a statutory consultee for relevant planning applications.

[Source: MHCLG, 10 May]

SCOTLAND

Restarting Fundraising Activities

For action

OSCR has [published](#) a short guidance note on restarting fundraising, following restrictions beginning to ease in Scotland. It will therefore be a priority for many charities to look at how they can restart these fundraising activities.

[Source: OSCR, 5 May]

TAXATION

Simplifying the VAT Land Exemption - call for evidence

For information and possibly for action

HMRC has [published](#) a call for evidence – closing 3 August – on the simplification of the VAT treatment of land and property. The purpose of this call for evidence is to seek opinions on the current VAT rules related to land and property.

The call for evidence is split into two sections:

- the first section (see chapter 2), looks at the history of the VAT land and property rules, highlighting how they have become increasingly complex over time. It considers factors that are driving the need for simplification.
- the second section (see chapter 3), discusses possible solutions for the issues caused by the current complicated nature of the VAT rules for land and property.

It is not intended to make a submission on behalf of CLAS.

[Source: HMRC, 12 May]