

CLAS CIRCULAR 2023/04 (27 February 2023)

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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CHARITIES & CHARITY LAW

Charities' Annual Return 2023

For information

The Charity Commission has published [Charity Annual Return 2023: question guide](#) to help charities in England and Wales understand what information they will need to prepare for the 2023 Annual Return.

The updated Annual Return will apply to charities' financial years ending on or after **1 January 2023**.

[Source: Charity Commission, 24 February]

EMPLOYMENT

Human Rights at Work

For information **and possibly for action**

Parliament's Joint Committee on Human Rights has opened an [inquiry into Human Rights at Work](#). In the call for evidence, it points out that:

“... the inequality of economic power between workers and employers may leave workers vulnerable to human rights infringements ... Human rights have a role to play in the regulation of all employment relationships. Although, human rights are generally thought of as applying between the individual and the State, rather than to private businesses, the European Court of Human Rights has recognised that States have positive duties to protect workers from breaches of the rights set out in the European Convention on Human Rights.”

Member denominations may wish to submit their views to the Joint Committee. The call for evidence closes on **Friday 24 March**.

[Source: Joint Committee on Human Rights, 10 February]

FAITH & SOCIETY

Marriage and Civil Partnership (Minimum Age) Act 2022

For action

The [Marriage and Civil Partnership \(Minimum Age\) Act 2022](#), which was given Royal Assent in April last year, has come into force today, **27 February**.

From now on, 16- and 17-year-olds will no longer be allowed to marry or enter a civil partnership in England and Wales, *even if they have parental consent*. The anticipated effect of this change in the common law also means that any marriage that takes place overseas or in Scotland or Northern Ireland involving under 18s where one of the parties is domiciled in England and Wales, will not be recognised in England and Wales.

Under the Act, it is an offence to cause a child under the age of 18 to enter a marriage *in any circumstances*, without the need to prove that a form of coercion was used. This includes non-legally binding 'traditional' ceremonies which would still be viewed as marriages by the parties and their families. Those found guilty of arranging child marriages face sentences of up to 7 years in prison.

This change in recognition also applies to civil partnerships. However, it does not affect the validity of any marriage or civil partnership entered before the Act came into force.

The Act does not change the age of marriage in Scotland or Northern Ireland, as marriage is a devolved matter.

(For a helpful explainer on the Scottish dimension, see Joshua Rozenberg, [Forget Gretna Green](#).)

[Source: MoJ, 27 February]

NORTHERN IRELAND

Annual reporting by registered charities

For information **and possibly for action**

The Charity Commission for Northern Ireland is reminding charity trustees about their legal duty to submit their charity's accounts and reports each year, starting with the first full financial year beginning on or after 1 April 2022.

In recent years, some charities have not been under a legal duty to submit their accounts and reports to the Commission each year; however, that has now changed, and all charities are once again legally required to report annually to the Commission. There is further information on the financial years to which annual reporting applies [here](#).

The Commission also points out that charities have the option to backfill accounts and reports for years which they may not have had to submit reports, if this is a feasible option for them. That is *not* a legal requirement, but the Commission considers it to be best practice that would support the charity in demonstrating it is open, transparent and accountable to the public, including the charity's own supporters, funders and service users.

Further information on this backfilling option, along with guidance on how to submit information voluntarily for applicable years, is available [here](#).

[Source: CCNI, 22 February]

PROPERTY & PLANNING

Dampness and mould in rented housing

For information and possibly for action

DLUHC has [announced](#) that it has tabled amendments to the Social Housing Regulation Bill which, if agreed to, will require landlords to fix reported health hazards in rented accommodation within specified timeframes.

A consultation will be launched later this year to set the timeframes within which landlords will have to act to investigate hazards and make repairs. The new rules will form part of the tenancy agreement.

[Source: DLUHC, 9 February]

LUHC Committee: Reforming the Private Rented Sector

For information

The Levelling Up, Housing and Communities Committee (LUHC) has [published](#) a report on reforming the private rented sector. In summary:

- The Committee recommends that the Government should retain fixed-term contracts in the student private rented sector.
- On the repeal of section 21 of the Housing Act 1988, though most private landlords are responsible, have no desire or financial incentive to evict tenants without good reason and believe that section 21 is an indispensable means of evicting bad tenants, the Committee believes that the blight of unfair eviction and insecurity of tenure experienced by too many tenants can only be remedied by its repeal.
- Because the proposed sales and occupation grounds could be too easily exploited by bad landlords and become a backdoor to “no fault” evictions, the Committee recommends that the Government should increase from six months to one year the period at the start of a tenancy during which the landlord may not use either ground and increase from three months to six months the period following the use of either ground, during which the landlord may not market or relet the property.
- The Committee recommends that the Government should significantly increase the courts' ability to process possession claims quickly and efficiently and in a way that is fair to both landlords and tenants.

- The Committee recommends that the Government should ensure that the courts prioritise and fast-track all possession claims in respect of rent arrears and antisocial behaviour.
- The Committee recommends that the Government introduce a specialist housing court.
- In consultation with landlords, the Government should agree how quickly the courts need to be processing possession claims before landlords can have confidence in the system, then commit to meeting this target before it repeals section 21.
- The Government should consult local authorities on what amendments are needed to the civil penalties regime and include any necessary legislative changes in the proposed Renters Reform Bill.
- The Government should take action to ensure that courts require offenders to pay costs to local authorities that reflect the actual cost of the enforcement action when local authorities choose to prosecute.
- The Government should introduce a single ombudsman for the whole of the private rented sector.
- The Government should review the impact of recent tax changes in the buy-to-let market with a view to making changes that make it more financially attractive to smaller landlords.

[Source: LUHC Committee, 9 February]

Minimum Energy Efficiency Standards (MEES)

For information and possibly for action

Minimum Energy Efficiency Standards (MEES) were introduced in March 2015 by the [Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#), which followed the Energy Act 2011.

The current effect of the Regulations is that landlords of buildings within their scope must not renew existing tenancies or grant new tenancies of a building if the building has less than the minimum energy performance certificate (or EPC) of rating E (unless the landlord registered an exemption).

However, from 1 April 2023, the MEES requirements for a building to have no less than an EPC rating of E, will extend to *all* existing commercial leases, even where there is no change in tenancy arrangements (such as a renewal or new lease being granted), and landlords may not continue to let a commercial property with an EPC rating below E unless a valid exemption is registered.

Anthony Collins Solicitors has a helpful briefing on the Regulations, [here](#).

[Source: Anthony Collins Solicitors, 10 February]

Rent Standard

For information and possibly for action

DLUHC has [published](#) the Rent Standard to apply from 1 April 2023 to 31 March 2024. Registered providers of social housing must comply with the Rent Standard. Guidance on how to apply for an exemption from the Standard is available [here](#).

[Source: DLUHC, 16 February]

Social Housing (Regulation) Bill [HL] 2022-23

For information

The House of Commons Library has [published](#) a briefing on the progress of the Social Housing (Regulation) Bill [HL] 2022-23, which provides the legal basis for many of the measures set out in the 2020 Social Housing White Paper. The briefing provides an overview of the Bill and summarises its passage through Parliament prior to Report stage in the House of Commons, which is scheduled for 1 March 2023.

On 26 February, DLUHC announced that amendments are being tabled to the Bill which will require social housing managers to have an appropriate-level housing management qualification regulated by Ofqual, equivalent to a Level 4 or 5 Certificate or Diploma in Housing or a foundation degree from the Chartered Institute of Housing. This has obvious implications for social housing schemes provided and managed by CLAS members.

[Source: DLUHC, 26 February]

TAXATION

Gift Aid claims on digital donations

For information **and possibly for action**

Churches and chapels that have installed card-readers to take casual donations by visitors should note the following:

HMRC has issued new [guidance](#) which states: "Donations made using digital platforms, credit card or debit card may incur an administration fee which reduces the actual amount received by the charity. Subject to the normal qualifying conditions, *the gross donation paid is eligible for Gift Aid*, regardless of any processing fees incurred by the charity. The charity may treat these administrative fees as charitable expenditure. Where the charity is unable to demonstrate a clear audit trail of administration fees incurred Gift Aid should only be claimed on the net donation received" [our emphasis].

This might be an opportunity to claim more Gift Aid.

[Source: HMRC, 20 January]

WALES

Reforming non-domestic rates in Wales

For information

The Welsh Government has [published](#) a summary of responses to a consultation on reforming non-domestic rates in Wales. The proposals include the following.

- More frequent revaluation cycles.
- Improving the flow of information between government and ratepayers.
- Providing the Welsh Government with more flexible legislation to amend reliefs and exemptions in future years.
- A review of reliefs and exemptions to ensure the arrangements align to the Programme for Government and that available support is targeted in the most effective way.
- Providing greater scope to vary the multiplier to help align annual increases with economic development priorities.
- Improving the administration of valuation functions and rating lists to streamline processes and reduce the burden on government and ratepayers.
- Further measures to continue tackling rates avoidance.
- Consideration of an alternative approach, such as a local land value tax, to raising local taxes over the longer-term.

[Source: Welsh Government, 9 February]