

CLAS CIRCULAR

2024/01 (30 January)

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 & CHARITY LAW

Charities Act 2022: further provisions to come into force

For information

The Charity Commission has [published a series of short summaries](#) of the changes to charity law under the Charities Act 2022 that are due to come into force in early 2024. The Commission will publish updated guidance on these topics on the day on which the provisions are implemented.

Making changes to governing documents

The Act is introducing a new statutory power that trusts and unincorporated associations will be able to use to make changes to their governing document. These charities will need to have the Commission's authority to make certain 'regulated alterations' in the same way as charitable companies and Charitable Incorporated Organisations (CIO).

The changes include:

- how unincorporated charities must pass trustee and (where they have members) member resolutions when using the new power
- that the Commission will apply the same legal test when deciding whether to give authority to charitable companies, CIOs, and unincorporated charities changing their charitable purposes
- a power for the Commission to give public notice, or to direct a charity to give notice, of regulated alterations to a governing document

Existing statutory powers for certain (small) unincorporated charities to change their governing document will be repealed.

Selling, leasing or otherwise disposing of charity land

The following provisions (which were due to come into force on 14 June 2023 but did not) will come into force:

- provisions relating to disposals by liquidators, provisional liquidators, receivers, mortgagees or administrators
- provisions relating to the taking out of mortgages by liquidators, provisional liquidators, receivers, mortgagees or administrators
- changes about what must be included in statements and certificates for both disposals and mortgages

Charity mergers

For certain mergers, new rules will allow most gifts to charities that merge to take effect as gifts to the charity they have merged with.

The existing statutory process for certain (small) unincorporated charity mergers will be repealed.

Other provisions

The Act will enable the Commission to:

- authorise a trustee to receive or retain a payment for work completed for the charity where the Commission decides it would be inequitable for a trustee not to be paid.
- confirm defective or potentially defective trustee appointments.

[Source: Charity Commission, 23 January]

PROPERTY & PLANNING

Consultation on timescales for repairs in the social rented sector

For information **and possibly for action**

The Secretary of State for Levelling Up, Housing and Communities, Michael Gove, has launched a [consultation on timescales for repairs in the social rented sector](#). It is proposed to introduce strict time limits for social housing providers that will oblige them to take swift action in addressing dangerous hazards such as damp and mould. The proposals include new legal requirements for social landlords to investigate a hazard within 14 days, to begin fixing the issue within a further 7 days, and to make emergency repairs within 24 hours. According to DLUHC, landlords who fail to comply could be taken to court, where they might be ordered to pay compensation to tenants.

The consultation will run until **5 March**.

[Source: DLUHC, 9 January]

Consultation on transparency of land ownership involving trusts

For information **and possibly for action**

The Government is consulting on the transparency of land ownership when trusts are involved in the ownership structure.

It seeks specific views on options to widen access to trust information held on the Register of Overseas Entities (ROE). It also seeks general views on how ownership of land involving trusts can be made more transparent. To help inform decisions on balancing the making of information available to government and any legitimate concerns in sharing that information publicly, the consultation seeks views on what data would be most useful and why.

The Consultation can be accessed [here](#), and it closes on **21 February at 11:59pm**.

Given that it is about transparency of ownership, and on the assumption that almost all the land held in trusts for CLAS members is held by trusts based in the UK, it is not proposed to submit a response. *If, however, any member has difficulties with the proposals, please get in touch with us as soon as possible, preferably with examples of any deleterious effects.*

[Source: DLUHC, 27 December 2023]

Energy efficiency drive for historic homes

For information and possibly for action

The Government has published new plans increase energy efficiency in historic homes, while also ensuring that their important historical features are properly protected. It has also published a review into the challenges of retrofitting in conservation areas and listed buildings: ['Adapting Historic Homes for Energy Efficiency: A Review of the Barriers'](#).

The review has set out a series of commitments to drive energy efficiency and low carbon heating improvements to listed buildings and buildings in conservation areas across England, as part of the Government's commitment to reach Net Zero by 2050.

[Source: DLUHC, 3 January]

SCOTLAND**HM Treasury consultation on devolving powers for a Scottish Building Safety Levy**

For information

HM Treasury has launched a consultation inviting views and evidence in relation to the proposal to devolve powers to the Scottish Parliament to create a Building Safety Levy.

The UK Government has announced its intentions to introduce a Building Safety Levy in England. The Levy will apply, subject to any agreed exemptions, as a tax on residential buildings requiring building control approval in England, with revenues being used to fund building safety remediation in England, such as those affected by unsafe cladding.

In its 2023-24 Programme for Government, the Scottish Government announced its intention to seek the transfer of powers to introduce a new tax in Scotland, equivalent to the UK Government's Building Safety Levy for England.

This consultation seeks views on the devolution proposal, including any evidence to inform consideration of the potential for the new tax to create or incentivise economic distortions and arbitrage within the UK.

The consultation can be accessed [here](#), and will be open until **19 February**.

[Source: Scottish Government, 8 January]

AND A (BELATED) HAPPY NEW YEAR TO ALL!