

New laws applicable to business leases



On 1 June 2004 the Regulatory Reform (Business Tenancies) (England & Wales) Order 2003 comes into force. The Order contains significant amendments to those sections of the Landlord and Tenant Act 1954 relating to business leases.

Easier to let your surplus accommodation

In the past, occupiers have been reluctant to let surplus accommodation due to the need to apply, in most cases, to the County Court for approval. This 'contracting out' obviously increases the cost and thus can render uneconomic what might only be a short term arrangement. The advantage of contracting out is that it enables the lessor to regain possession at the end of the lease without the payment of any compensation, which otherwise is the case.

From 1 June a relatively simple process will enable a contracted out lease to be granted without the need to go to Court. This will enable even short term tenancy arrangements to be entered into, with the lessor being secure in the knowledge that they can regain possession of their property. Thus contracting out surplus

accommodation now becomes an economic proposition, even in the short term.

Renewals of protected business leases

Prior to the new legislation, the statutory process of renewing a lease necessitated an exchange of formal notices, governed by strict time limits. Breaching the time limits could easily result in a lessee losing their right to a further protected lease.

Under the new law, where the lessor does not oppose the renewal of a lease, their initial notice will set out the proposed rent and the other terms of the new lease, but make it clear that these proposals are a basis for negotiation. The tenant will no longer have to serve a counter notice to protect their position and either party can apply to the Court for an order for the grant of a new lease.

Interim rent applications

These are made when the lessor and lessee are negotiating the renewal of a lease but negotiations become protracted. The present position is that only the lessor can apply to the Court to determine an interim rent. If

the rent currently paid is higher than the open market rental value, there is clearly no incentive for the lessor to make such an application. It is in their interest to receive the higher rent for as long as possible.

The new provisions will enable the lessee, as well as the lessor, to apply for the interim rent to be fixed, which will clearly be of benefit should a new lease have to be negotiated at a time when rental values are in decline.

Vacating the property at the end of the business lease

Problems can arise if the lessee remains in the property beyond the last date of the original tenancy, this is known as 'holding over', but eventually decides to leave.

Under the present law, the lessee who is holding over must give the lessor three months notice of his intention to vacate and that notice must expire on a quarter day, one of the traditional rent collection days of bygone years. Effectively that means that the outgoing lessee may have to give up to six months notice.

The new law will provide for a straightforward three months

notice with no requirement that the notice period must end on a quarter day. The new law will mean that three months notice is simply that.

"Problems can arise if the lessee remains in the property beyond the last date of the original tenancy."

The new legislation also contains a number of other more specialist provisions of which both lessors and lessees will need to be aware but, as with all legal matters affecting your business, the only way to be sure of your position is to take specialist advice at the appropriate time.

For more information please contact Richard Malone on 01923 809405 or email richard.malone@hhlip.co.uk

Display through innovation



Hillier Hopkins LLP have acquired a minor commercial interest in the innovative design and display organisation, Blue Touch Technologies. Founders Andy Smart and Mat Stanley spent 18 months researching the methods of window display and design: 'We established fairly early on in our research that customers want to access information which is personal to them at a time which suits their lifestyles' said Andy Smart. Mat added, 'the key was to look for products which solved particular display problems for example: a 24hr window screen with a search facility which can offer 'real time' details on estate agents properties.' The unique perspective of the Blue Touch team is their approach to client care. 'As we are not tied to a particular system or technology, we can offer each client a bespoke solution made up of products and services

which suit both their objectives and their budgets' Mat Stanley said.

Currently the systems are making an impact in estate agents and the mobile phone industry, however, due to the bespoke nature of the product Blue Touch can scale the products to fit the objectives of different organisations regardless of their size, location or nature of business.

A demonstration of the systems and applications will be available in the Hemel Hempstead office from May onwards and all Hillier Hopkins LLP clients will receive an invitation to attend.

If you would like to find out more information log on to www.bluetouch-online.co.uk or call Mat Stanley on 01442 266630



Using web design and digital technology, Blue Touch offer ways for companies to display, promote and allow clients to interact with their websites in public locations. Such as window displays in shop fronts. Blue Touch offer bespoke solutions, state of the art innovation along with a user friendly experience.

To book your place on a demonstration in May or to find out more, please contact Mat Stanley on 01442 266630 or email info@bluetouch-online.co.uk

Blue Touch Technologies
www.bluetouch-online.co.uk

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News update from Hillier Hopkins LLP Spring 2004

Time to change the rules of the game

One of the budget announcements with the biggest impact is the proposal about disclosure of tax avoidance schemes. Tax advisers and the Inland Revenue have for many years been playing a catch up game. Sophisticated tax planners have dreamt up schemes, many of them artificial, which in due course have been disclosed on tax returns and have been challenged by the Inland Revenue. Invariably the transactions were complicated and several years could elapse before legislation was enacted to counteract their effect. Meanwhile, much tax revenue was lost.

The Inland Revenue has made known its desire to introduce measures to stop the perceived drain on tax revenues. It is proposed that, in future, a US style disclosure procedure should operate, so that all schemes have to be disclosed to the Inland Revenue immediately they are implemented.

This will enable immediate steps to be taken to legislate, if schemes are perceived to be costly in terms of tax loss.

What constitutes a tax avoidance scheme? We will know more when the Finance Bill is published but, potentially, this may lead to the perceived loopholes being closed much more quickly than hitherto. Big businesses especially will be reading the small print with much interest.

For more information please contact David Nye on 01442 220712 or email david.nye@hhlip.co.uk



All stick, no carrot

So, do the government want to promote an enterprise culture?

You could be forgiven for thinking so when they introduced the 'incentive' of a zero % tax rate for very small companies with profits under £10,000.

The traditional tax planning model uses family companies. Significant tax savings can be made by allotting shares to spouses and paying dividends (thus avoiding national insurance and making use of two helpings of personal allowance and basic rate bands).

The authorities however have progressively attacked this by:

- Introducing IR35 in April 2000, in an attempt to remove the tax advantage of dividend payments from one man 'personal service' companies.
- Attacking dividend payments to spouses under s660 (settlement) legislation.
- And, most recently, in the March 2004 budget, removing the benefit of the zero % corporation tax rate if small companies pay out their profit as dividend.

This last action means that the government has in one easy step changed an incentive (which they introduced) into a loophole that needed closing.

In most cases a Limited company trading vehicle will still be advantageous even after the most recent budget change; BUT FOR HOW MUCH LONGER? Has the Chancellor finished tinkering, or is he just waiting until after an election to introduce more penal measures?

For more information please contact Colin Howe on 01442 220738 or email colin.howe@hhlip.co.uk



COLIN HOWE,
MANAGING PARTNER

When was your last check-up?

Security, safety and confidentiality are paramount in today's business world. Are your IT systems adequately geared towards the protection of your business? Chartered IT Solutions Limited ensure your systems are up-to-date and run effectively to eliminate any potential threats, allowing you to remain focussed upon your customers.

To arrange a free health-check please telephone 01442 220770.



Aylesbury office: 01296 484831 Hemel Hempstead office: 01442 269341 Watford office: 01923 232938
www.hillierhopkinsllp.co.uk



Is your payroll system prepared?



As part of the government's measures to make greater use of technology, all employers will be required to file their end of year returns electronically from 2010. Some larger employers will be required to do this as early as 2005.

There are financial incentives for employers with fewer than 50

employees who successfully e-file. The sooner you commence the more reward you gain.

Hillier Hopkins' payroll clients are already benefiting from our online system. To find out more contact Cathy Leach on 01442 269341 or email payroll@hhlip.co.uk



The Budget and financial planning



The 2004 Budget is likely to have a significant effect on the financial planning of many private clients. Some of the least welcome predictions did not come to pass, thank goodness, but there is still a lot to think about - and a lot of that thinking will have to wait for the full Finance Bill. The most significant areas are the new 'disclosable' schemes legislation and the pre-owned asset legislation; both of these are covered elsewhere in this edition of Newsline.

Inheritance tax remains a very real concern for many of our clients. While the Chancellor advises that only 1 in 20 estates will suffer inheritance tax, this is up from 1 in 45 in 1996/7. The receipts in the same period have jumped from £1,500,000,000 to approximately £2,800,000,000 in 2004/5. In fact, perhaps 1 in 5 households are likely to

suffer inheritance tax. Advanced planning techniques are set to be attacked under the pre-owned asset rules. This planning is often concerned with schemes involving a family's main residence. It is early days yet but the "carve out" solutions involving life assurance policies appear not to be attacked by these rules. Each scheme has its own nuances but they typically involve a gift of capital and the ability to enjoy some 'income', or similar, during the remaining lifetime of the donor.

Relief on Venture Capital Trusts is doubled. One of the few changes from the December statement to the actual Budget was regarding Venture Capital Trusts. From 6 April 2004, these will now qualify for straightforward 40% income tax relief, instead of the proposed 20% to the investor and 20% to the scheme provider. This may make

these volatile investments more attractive to clients.

New life assurance and investment products should be with us in 2005. These products will be similar to stakeholder pensions - simple low cost vehicles that should require little advice from an IFA. Though by 2005, the legal distinction between tied and independent advisers will have gone and, after almost 20 years of regulation, we will be back in a place not that different from where we started.

Hillier Hopkins is authorised and competent to advise on all the matters raised in the above article. We do so on a 'fees only' basis and specialise in holistic financial planning. We sell advice, and nothing else.

For more information please contact Ben Sherwood on 01442 220713 or email ben.sherwood@hhlip.co.uk

West Herts Breakfast Club



Hillier Hopkins LLP are co-sponsors of the West Herts Breakfast Club.

Whilst enjoying a full English breakfast, the club provides an ideal opportunity for business people to network with fellow professionals from the local community, in an informal setting.

Each meeting benefits from an expert speaker. Recent speakers have included Ian Butler, a qualified stress manager and hypnotherapist; Christopher Beazley MEP; Allan Drew, an

Executive Partner at Cote Harvard; and Jane Anderson, former senior valuer at Bonhams Auctioneers. Topics range from 'Stress Management' and 'Customer Loyalty' to 'The Enlargement of the European Union'.

If you would like more information about future meetings, please contact Anna Anderson-Davis on 01442 220718 or email anna.anderson-davis@hhlip.co.uk



Do you sell goods?

DO YOU ACCEPT PAYMENT IN CASH OF MORE THAN £10,000 FOR A SINGLE TRANSACTION?

If you do then you are caught by the 2003 Money Laundering Regulations.

You have a basic choice, either you no longer accept cash of more than EUR 15,000 (approximately £10,000) for any one transaction, in which case you do not have to worry about the money laundering regulations, or, if you are likely to accept cash of more than EUR 15,000 for a single transaction, you must register with Customs and Excise.

If you register, you will then need to appoint a Money Laundering Reporting Officer, who will have to set up procedures for identifying all customers wanting to pay in cash above this limit and for reporting suspicious transactions to NCIS (National Criminal Intelligence Service). The Money Laundering Reporting Officer will also need to make sure that all staff are trained in the 2003 Money Laundering Regulations; 2002 Proceeds of Crime Act Part 7; and the 2000 Terrorism Act. The identification of new customers wanting to pay in cash will include seeing passports and utility bills, exactly the same when trying to open a bank or building society account or, from 1 March 2004, appointing a new accountant, solicitor or estate agent.

"The maximum penalty...is two years imprisonment"

The maximum fine for accepting cash but not registering with Customs and Excise is £5,000. The maximum penalty for not training staff or setting up procedures for identification and reporting is two years imprisonment and an unlimited fine.

For businesses that do want to register, we have extensive experience in the provision of systems and training and would be happy to assist you in meeting your obligations.

For further details contact Graham Sherling on 01923 809407 or email graham.sherling@hhlip.co.uk

Buy now - tax later?



The recent budget was about politics, not economics. With an election likely next year, the budget was broadly neutral.

The Treasury expects above-trend growth in 2004 and 2005 but the budget deficit is growing and increasing taxes or cutting spending would seem prudent. The January 2004 record trade gap reminds us that the forecast remains unbalanced, with domestic demand, rather than exports, fuelling the economy. Forecast higher interest rates will dent the UK's housing market.

The public finances are weak, with a deficit of £38 billion-3.4% of GDP this year. Deficits are forecast of £33 billion in 2004-05 and £31 billion the year after. The government believes that much of the deficit is cyclical, not structural.

However, the Treasury is forecasting a rise in the tax take from 37.8% of GDP in 2003-04 to 39.9% in 2006-07. We are sceptical about the Treasury's forecasts for increased corporation tax receipts.

The Chancellor's main fiscal rule is to balance the current budget (which excludes investment) over the cycle, which runs from 1999 to

2005. The Chancellor claims he will still meet this 'golden' rule-although his margin for error has diminished.

"Consequently, we believe that taxes will have to rise - but not until after the next election, of course!"

Recently the Organisation for Economic Co-operation & Development said: "Although the golden rule would just be met in the current cycle, a sizeable structural deficit would persist".

Consequently, we believe that taxes will have to rise - but not until after the next election, of course!

For more information please contact Martin Culshaw on 01923 809416 or email martin.culshaw@hhlip.co.uk

Employee benefits news



The Budget brought in no changes to the company car regime; although a major change in the way company vans will be taxed was introduced. The benefit on vans used privately will increase from a fixed scale charge of £500 or £350, depending upon the vehicle's age, to £3,000 or £3,500 if private fuel is provided. This change is not operative until 6 April 2007 however, which leaves a significant window of opportunity to take advantage of the existing, generous tax rules.

As well as the personal tax advantages, companies purchasing vans can also recover the VAT on the vehicles, which makes them

more attractive than cars from this perspective. Whilst most people are not keen to drive a normal van privately, there are some vehicles known as 'double cab pick-ups' which may be more desirable.

It is worth also mentioning the fact that, with effect from 6 April 2005, employers will be able to provide their employees with nursery vouchers without incurring an income tax charge. These vouchers are currently only exempt from National Insurance.

For more information please contact Joel Harding on 01923 809414 or email joel.harding@hhlip.co.uk

Transfer pricing - could new rules affect your business?



Current legislation requires a business to calculate its taxable income by reference to an arm's length price for transactions with connected businesses outside the scope of UK tax.

Measures announced in the recent budget propose to extend the adoption of an arm's length price to transactions between connected UK businesses. These measures will exempt small and medium-sized enterprises from applying the new rules and therefore, at first glance, the new proposals may not appear to hold much relevance for them.

However, the changes announced in the budget will enable the Inland Revenue, in exceptional circumstances, to require a

medium-sized enterprise to apply the transfer pricing rules to relevant UK transactions. The problem here is what exactly is meant by "in exceptional circumstances" and exactly how much freedom will the Inland Revenue have in this area? It is envisaged that the Inland Revenue would only be looking to invoke the new measures where they perceive there to be a blatant manipulation of profits between UK connected parties. However, only time (and, hopefully, the Finance Bill) will provide us with more of an insight into the Inland Revenue's line of attack, when it comes to such transactions.

For more information please contact Jackie Johnstone on 01442 220769 or email jackie.johnstone@hhlip.co.uk

Pensions simplification



A-DAY = 6 APRIL 2006

A fundamental change proposed for A-day, is the imposition of a ceiling, initially £1.5m, on the total of all your accumulated pension rights.

Another proposal is that funds exceeding the £1.5m ceiling, whether accumulated by contributions or growth, will be subjected to an additional "recovery" tax

charge of 25% making a total tax charge of 55%.

This could have significant implications on your income in retirement. If you would like us to review your pension provisions, and advise how A-Day could affect you, please do contact us.

For more information please contact Debbie Wilson on 01442 220710 or email debbie.wilson@hhlip.co.uk

