



Thursday 17 December 2015

Let it snow

This Christmas we are looking ahead to some new rules coming on stream in 2016, and fortifying you with a recipe for mulled wine.

There are a number of statutory changes affecting the real estate sector which will start to impact on investors and occupiers in 2016, covering a diverse range of issues including energy efficiency, corporate transparency, immigration, tax and planning. We also highlight how the threat of payment fraud is changing procedures around the completion of real estate transactions.

TRANSPARENCY OF COMPANY OWNERSHIP

The Small Business, Enterprise and Employment Act 2015 ("SBEE Act") places an obligation on unlisted UK companies to keep a public register of "persons exercising significant control" (the "PSC Register") from April 2016. A prohibition on corporate directors comes into force in October 2016. Please see our client briefing on this topic which contains further information on the SBEE Act more widely, including practical advice on identifying PSCs in corporate group structures and understanding what should appear on the PSC Register itself.

ENERGY EFFICIENCY

Minimum Energy Efficiency Standards

Property owners are starting to review their properties in light of new regulations which mean that from 1 April 2018 it will be illegal for a landlord to let out an F or G EPC-rated property, except for (i) lettings to new tenants with a fixed term of fewer

MULLED WINE FOR 6



Pour one bottle of red wine into a non-corrodible pan over a low heat, and add:

- 2 whole cloves;
- 2 blades of mace;
- 2 allspice berries;
- 1 broken stick of cinnamon;
- 6 cardamom pods; and
- the finely grated zests of 1 lemon and 1 orange.

Warm to just below boiling point. Remove from the heat and leave to infuse for 10 to 15 minutes. Return to a low heat. When hot, but not boiling, sweeten to taste. Strain and serve immediately.

than six months, and (ii) long leases of 99 years or more. At first these rules will only apply to new lettings and lease renewals, but by April 2023 properties let on existing leases which have an EPC must be brought up to the same standard. The Government will review the system in 2020.

Owners will only have to carry out those energy efficiency measures that are specified in the regulations if within seven years they are likely to lead to energy-bill savings which are at least equal to the cost of purchasing and installing them, plus interest. There are some exemptions, which must be logged in a public register, and will last for 5 years at the end of which the landlord has to ascertain whether the exemption still applies. Each new owner must establish and register its own exemption.

Heat Network (Metering and Billing) Regulations 2014

In multi-let properties in which heating, cooling or hot water is provided and billed centrally, landlords will have to:

- Install meters to measure the supply of heating, cooling and hot water to each individual occupier, or "heat cost allocators" and thermostatic radiator valves at each room-heating radiator in order to determine and enable the control of the consumption of heating by each final customer and also a hot water meter, unless it is not "technically feasible and cost-effective to do so".
- Ensure that, where meters and/or heat cost allocators are installed, bills and billing information for the consumption of heating, cooling or hot water by a final customer accurately reflect its actual consumption, provided that it is technically possible and economically justified to do so.
- Register each affected building with the National Measurement and Regulation Office ("NMRO") by 31 December 2015.

RESIDENTIAL PROPERTY

Restriction of tax relief for finance costs incurred in relation to residential property income

From 2020, relief for finance costs on residential rental properties will be restricted to the basic rate of Income Tax. The transitional rules progressively disallow a greater percentage of the costs of a dwelling-related loan so that the percentage of these costs that is allowable in each tax year is:

2017–18: 75 per cent
2018–19: 50 per cent
2019–20: 25 per cent

From now on, landlords will consider owning rental properties through corporate vehicles, although see ATED below.

POINTS TO NOTE IN THE CURRENT REGIME FOR ENERGY EFFICIENCY IN BUILDINGS

MEES

From 1 April 2018, a landlord of a property with an EPC rating of below E must not let that property unless:

- it has made all the energy efficiency improvements to the property that are required in the regulations; or
- an exemption applies.

Heat networks

Landlords of multi-let properties where heat and hot water is provided centrally must:

- register each building by 31 December 2015 with the NMRO; and
- install separate meters (or heat cost allocators and thermostatic valves) in each separate demise by 31 December 2016.



NEW REGULATIONS AFFECTING RESIDENTIAL PROPERTY INVESTMENTS

- Phased restriction on tax relief for individual landlords on interest costs from 2017.
- 3% additional SDLT on the purchase of additional homes.
- "Right to rent" regime to be extended nationwide.
- ATED extended from April 2016.

Stamp duty land tax (SDLT) on second homes and buy-to-let properties

From 1 April 2016, higher rates of SDLT will be charged on purchases of additional residential properties (above £40,000), such as buy-to-let properties and second homes. The higher rates will be 3 percentage points above current SDLT rates, and will not apply to corporates or funds making significant investments in residential property. It will apply to foreign investors and people not domiciled in the UK as well as to UK residents, and will apply to people who own another property overseas. The government will issue a

The annual tax on enveloped dwellings ("ATED")

ATED is an annual tax which applies to dwellings held by corporate rather than natural persons. The amount of the annual charge varies according to the value of the property. Two changes are anticipated from 1 April 2016:

- A new band of liability will be introduced, including within the ambit of the tax for the first time dwellings valued at between £500,000 and £1m, in respect of which the annual charge will be £3,500.
- There will be a new relief for residential property held for the purposes of a regulated equity release scheme, occupied by certain employees, or acquired for demolition or conversion into non-residential use.

Office-to-residential development

The government announced in October that it will introduce a permanent permitted development right for change of use from class B1(a) to class C3 from May 2016. This will replace the existing temporary right.

It is now good practice for a paying party to ask for confirmation and evidence of a firm's bank account details, such as a copy bank statement, before making an online payment.

PAYMENT FRAUD

As part of the growing awareness of the threat from cyber criminals, the process of sending completion monies from buyer to seller via their respective solicitors is increasingly coming under scrutiny. The funds are at risk of being intercepted through a number of techniques including:

- Spear phishing emails and phone calls to accounts staff and senior management seeking to persuade them to transfer funds or to authorise the transfer of funds to a bank account which belongs to the fraudsters. Some simple questions to consider when receiving an email or phone call dealing with transferring funds include the following:
 - Has the email or phone call really come from the purported sender and is that someone with whom they would expect to deal on this subject?
 - Does anything appear unusual about the style, tone, spelling, or urgency of the communication?

RIGHT TO RENT



From 1 February 2016 it will be an offence for landlords in England to grant a residential tenancy agreement to an adult whose immigration status disqualifies them from occupying those premises, if the landlord knows of or has reasonable cause to be aware of the tenant's immigration status.

The Government issued a [code of practice](#) on 4 December explaining the checks and procedures that landlords must carry out. This is phase 2 of a regime which started with a pilot scheme in parts of the West Midlands in December 2014.

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- Is the request out of the ordinary and does it follow internal protocols, for instance has the right accounts procedure been followed? Paper authorisation forms are coming back into use again as they are harder to manipulate than electronic processes.
- Have other colleagues received similar emails or phone calls?
- Fraudsters gaining access to email exchanges and travelling draft documents and inserting their own account details in place of bona fide account numbers. All parties are now very cautious with the details of their bank accounts and before payments are made extra steps are being taken to verify account details. It is now good practice for a paying party to ask for confirmation and evidence of a party's or solicitor's bank account details (such as a voided cheque or deposit slip, a copy bank statement or a screenshot of the online bank account) before transferring funds. Changes in bank account details during a transaction are treated with caution and investigated thoroughly.

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