



# Newsletter: February 2020

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## Payroll

On 23 January 2020, more details were given of **statutory parental bereavement leave (SPBL)** which starts from 6 April 2020.

SPBL gives a worker the right to statutory parental bereavement pay if their child dies under the age of 18 or if a baby is stillborn after 24 weeks of pregnancy.

Details announced so far:

- SPBL is for two whole weeks which may be taken together
- the right to SPBL arises from the first day of employment
- the right to statutory parental bereavement pay (SPBP) applies to workers employed for 26 weeks
- the rules for SPBP are modelled on statutory paternity pay and paid at the same rate. In 2019/20, this is £148.68 a week.

More details will follow in coming months.

The government has called these provisions Jack's Law in memory of Lucy Herd's son Jack who died in 2010.

Each year, there are 7,500 child deaths including 3,000 stillbirths.

About 11,000 businesses failed to pay the **national minimum wage** in 2018/19 according to the Resolution Foundation in January 2020.

A separate Apprenticeship Pay Survey from Department for Business, Energy and Industrial Strategy shows that one in five apprentices is paid less than the national minimum wage.

From 20 February 2020, there is a new fast-track **visa system** for scientists, including researchers and mathematicians. There is no cap on the number of visits. This is called the Global Talent route which replaces the previous Tier 1.

From September 2020, students studying nurses and some other medical disciplines will receive a £5,000 a year support payment while at university.

The qualifying disciplines are:

- dietetics
- dental hygiene or dental therapy (level 5 courses)
- midwifery
- nursing (adult, child, mental health, learning disability, joint nursing/social work)
- occupational therapy

- operating department practitioner (level 5 courses)
- orthoptics
- orthotics and prosthetics
- paramedicine
- physiotherapy
- podiatry or chiropody
- radiography (diagnostic and therapeutic)
- speech and language therapy

In addition, students may qualify for up to a further £3,000:

- £1,000 towards childcare costs
- £1,000 if studying in a region that is struggling to recruit
- £1,000 if studying in a shortage specialism. These are mental health nursing, learning disability nursing, radiography, prosthetics and orthotics, orthoptics and podiatry.

The **Alchemy tax scheme** involving spread betting failed at the first tier tribunal.

The scheme basically involved an employer placing a spread bet against a basket of shares. If the bet won, the winnings were paid to the employer to pass to the individuals. If it lost, it was run again until the desired result was achieved.

It was argued that the winnings were not taxable as they arose from gambling.

The tribunal found that this was disguised remuneration.

The case report can be downloaded from

<https://www.bailii.org/uk/cases/UKFTT/TC/2019/TC07502.html>

*Root 2 Tax Ltd [2020] TC 7502*

## Business tax

There was no reasonable excuse when an accountant did not file a corporation tax return because its **fees had not been paid**.

A property developer had a corporation tax liability of £348,705 for the year to September 2016.

In 2017, it ran out of funds which it attributed to a loss of confidence in the property market after the EU referendum. The company could not pay its accountants who accordingly did not file the corporation tax return.

The return was eventually filed on 1 May 2018, seven months late. HMRC imposed penalties of more than £43,000. The tribunal dismissed the company's appeal, launched by the same accountant. The tribunal noted that if the tax had been paid within 18 months, the tax-gear penalty of £34,870 would not have been imposed.

*Caris Properties Ltd [2019] TC 7481*

HMRC has stated that the place where **bitcoins** or other cryptocurrency are held is determined by the residence of their holder.

Although this appears to be logical, it has no strict basis in law, and so may be litigated.

Corporation tax in **Northern Ireland** could be reduced to 12.5% following restoration of the devolved Northern Ireland Assembly on 13 January 2020.

In 2015, a law was passed to allow for a separate rate of corporation tax in Northern Ireland if the Assembly so chose. The Assembly said it would choose 12.5% which is the main rate in the Irish Republic. So far, the Assembly has shown no inclination to do so.

The Assembly had been suspended for three years because of a dispute. Arlene Foster of the DUP returns as first minister. Michelle O'Neill of Sinn Fein is the deputy first minister.

**Contractors** will be phased out by 41% of British businesses, according to research by Be Digital UK following a small survey. This is because of IR35 rules due to start from 6 April 2020. [This start date has subsequently been postponed to 6 April 2021.]

An agent for a **corporate non-resident landlord** may elect to deduct 30% of rental income in respect of interest charges. This applies from 6 April 2020 when such income is subject to corporation tax rather than income tax. This change means there is a limit on the amount of interest that is tax-deductible. It does not affect the allowability of other expenses such as insurance and maintenance. The 30% is calculated on net rent after deducting allowable expenses.

This election is an alternative to deducting the actual interest charge to the extent that they are allowable.

The election must be notified to HMRC in the first quarter to which the election applies. This is allowed by statutory instrument SI 2020 No 151.

## Personal tax

HMRC has given more details about provisions relating to the **loan charge**. This arises when an individual had funds that would otherwise represent their income paid to a third party, often an offshore trust. That party would then "lend" the funds to the individual with no expectation that the loan would ever be repaid. This sought to avoid income tax and national insurance. The scheme was widely used by high earners, including television presenters and professional footballers.

The law changed so that any balance of loan outstanding at 5 April 2019 is added to a person's taxable income. The law was subsequently amended to bring forward the date from which such loans are brought within the loan charge, and to allow more time to pay the tax. No tax arises where the loan was made before 9 December 2010.

First, HMRC confirms that the election to spread the loan charge over three tax years (2018/19, 2019/20 and 2020/21) is irrevocable. This election requires an additional page to the tax return which will be available from April 2020.

Second, for loans made in 2010/11, which straddles the new watershed date of 9 December 2010, a just and reasonable apportionment of the loan should be made for that year.

A claim for **main residence relief** from capital gains tax failed because there was no evidence that the taxpayer had resided there.

The tribunal found that the property was sparsely furnished in a way that was inconsistent with anyone living there. The utility bills were not transferred to the taxpayer. Another property was the taxpayer's main residence.

The case report can be downloaded from  
<https://www.bailii.org/uk/cases/UKFTT/TC/2019/TC07476.html>  
*Cornelia Simpson [2020] TC 7476*

**Main residence relief** was denied when a tribunal did not accept the taxpayer's evidence of residence.

The taxpayer's oral evidence was contradicted by documentary evidence. For example, she asserted that she did renovation work herself when there was evidence that builders were engaged to do it.

The case report can be downloaded from  
<http://financeandtax.decisions.tribunals.gov.uk/judgmentfiles/j11509/TC07552.pdf>  
*Carol Adamas [2020] TC 7552*

A couple were allowed to claim a **capital loss** on amounts paid to developers to build villas in Barbados that were never built.

The case report can be downloaded from  
<https://www.bailii.org/uk/cases/UKFTT/TC/2019/TC07488.html>  
*Lloyd-Webber [2020] TC 7488*

The law on **corresponding deficiency relief** (CDR) does not have the effect of widening a taxpayer's basic rate band. The Court of Appeal so ruled in a case where it upheld the decisions of the first tier tribunal and upper tier tribunal.

CDR may be claimed in limited circumstances at the end of an insurance policy.

A taxpayer took part in a scheme using insurance policies. The scheme generated more CDR than the taxpayer's income. The taxpayer claimed that his chargeable gains of £8.8 million in 2006/07 and £14.7 million in 2007/08 should be taxed at the basic rate. His claims were made under Income Tax (Trading and Other Income) Act 2005 s539.

The Court disagreed. While CDR can reduce the total amount of income for the purposes of calculating the available base rate band, it cannot be reduced below zero. The judge said that if Parliament had wanted to extend a taxpayer's basic rate band by the amount of CDR, it would have said so clearly.

The case report can be downloaded from  
<https://www.bailii.org/ew/cases/EWCA/Civ/2020/21.pdf>  
*Andrew Scott v HMRC [2020] EWCA Civ 21*

## Valued added tax

There has been a change in EU law regarding VAT on **chain transactions** that cross a state border.

A chain transaction is where goods are transported directly from original supplier to final customer, but are bought and sold by several businesses. So A supplies D directly, but A invoices B, who invoices C, who invoices D. for example.

There must be at least three links in the chain, but there is no upper limit.

The European court has ruled that only one link may be treated as an intracommunity supply.

The default position is that the intracommunity supply is the one that crosses into the final customer's state. All other supplies up to and including the intracommunity supply are regarded as within the original supplier's state.

These new provisions apply from 1 January 2020 by amending Part 4 of SI 2004 No 3148.

The supply by a company of **medical staff** to a Health Board was an exempt supply of medical care, and not a standard-rated supply of staff.

As such the company did not need to register for VAT. Accordingly, HMRC should not compulsorily have registered them.

The case report can be downloaded from

<http://financeandtax.decisions.tribunals.gov.uk//judgmentfiles/j11514/TC07557.pdf>

*Archus Trading Ltd [2020] TC 7557*

The EU has changed the rules on how to account for VAT on **call-off stocks**. The provisions relate to when a business in one state buys goods from a business state and those goods are not immediately delivered to the customer. Instead the supplier delivers the goods to its own premises in the customer's state, the destination state. The customer calls off the stocks for delivery as required.

The normal approach is to regard the goods as having been supplied when sold, even though they have not been delivered to the customer.

The supply is regarded as having been made to the *supplier* in the customer's country. This usually requires the supplier to be VAT registered in the supplier country. The subsequent delivery is then accounted for as a domestic supply.

The new rules provide an option for the supply to be taxed as the goods are called off.

The new options is subject to conditions. Where those conditions cannot be met, the previous provisions must still be followed.

The conditions for the new option are that:

- at the time of the supply, the goods were under the directions of the supplier
- a call-off stock agreement is in place with the customer
- the supplier moves the goods to the destination state
- the supplier does not have a business establishment or similar in the

destination state

- the customer is VAT-registered in the destination state
- the supplier knows the customer's VAT number
- the supplier records the removal of goods to the destination state as

prescribed

- the customer's VAT number is recorded in the supplier's EC sales list.

VAT Notice 725 has been amended to reflect this new provision.

The government has produced a note on how to account for VAT on **services from abroad**.

The note is reproduced below:

"If your business buys services from outside the UK a rule called the 'reverse charge' applies.

1. Convert the value of the services into sterling.
2. Calculate the amount of VAT due and include this in your VAT Return.

3. Credit your VAT account with the amount of VAT due (as if you had supplied the services).

4. Debit your VAT account with the amount of VAT due.

This means there will be no tax for you to pay, unless your business is partially exempt from paying VAT.

If you're selling services to non-business customers in EU countries, you'll need to charge VAT at the usual rate.

There are different rules for some types of service, including:

- hiring transport
  - land and property services
  - 'electronically supplied services' where there's nobody directly involved in providing them (for example web hosting or music downloads)
  - events
- restaurant or catering services."

The upper tier tribunal held that an internal **ski lift** was entitled to the 5% reduced rate of VAT for cable cars and similar. This is given in Value Added Tax Act 1994 Sch 7A Group 13 Item 1.

HMRC refused the claim, arguing that the supply is for the use of the internal ski slope, which is standard-rated. Access to the slopes was free.

It is possible to use the slope without using the ski lift, though only about 1% of users do so. This is because it is tiring to wade through snow at a 15 degree incline while carrying skiing equipment.

The upper tier tribunal held that a supply means something done for a consideration. Where something is provided free, that cannot be part of the supply for VAT purposes. On this basis, the charge was for the ski lift and not for use of the slopes.

The case report can be downloaded from

[https://assets.publishing.service.gov.uk/media/5e26e9c0e5274a6c42dcd0bf/Snow\\_Factor\\_Ltd\\_v\\_HMRC.pdf](https://assets.publishing.service.gov.uk/media/5e26e9c0e5274a6c42dcd0bf/Snow_Factor_Ltd_v_HMRC.pdf)

*Snow Factor Ltd [2020] UKUT 0025*

A supplier of holiday lettings had reasonable excuse for **underdeclaring** VAT when he relied on his bookkeeper who was a former HMRC officer.

The issue related to 20% retention kept by an agent as commission. The underdeclaration came to light in 2017.

HMRC had known about the retention since a previous visit in 2007.

In all the circumstances, the taxpayer had a reasonable excuse.

*Udlaw Ltd [2020] TC.*

The upper tier tribunal found that a rowing club had reasonable excuse for incorrectly issuing a zero-rating certificate for construction of a building that it said was to be used by a charity and not a business. HMRC had imposed a penalty of £279,866 which the first tier tribunal upheld.

The club had sought professional advice from specialist lawyers and accountants, including from the barrister who was taking a separate but similar to the Court of Appeal. It had not sought advice from HMRC.

The upper tier tribunal found that the club had acted reasonably and removed the penalty.

The case report can be downloaded from

<https://www.bailii.org/uk/cases/UKUT/TCC/2020/20.html>. [20.02/17]

*Marlow Rowing Club*. [2020] UKUT 20 (TCC).

A village cricket club was liable for a penalty of £20,937 for incorrectly issuing a **zero-rating certificate** to builders erecting a new cricket pavilion.

The club wrote to HMRC asking whether this would be zero-rated.

HMRC replied: "HM Revenue & Customs policy prevents this Department from providing a definitive response where we believe that the point is covered by our Public Notices or other published guidance, which, in this case, I believe it is.

"In view of the above, please refer to section 16 of Public Notice 708 Buildings and construction. This explains when you can issue a certificate. Section 17 includes the certificates. Furthermore, I would refer you to sub-paragraph 14.7.4 which covers what is classed as a village hall or similar building. Providing the new pavilion meets the conditions set out, and it appears to do so, the construction work will be zero-rated for VAT purposes."

The first tier tribunal considered that this letter was not intended to provide a definitive response to the query, nor to provide advice. The writer of the HMRC letter had wrongly assumed that the club was a charity. HMRC was criticised for offering an opinion.

The case report can be downloaded from

<https://www.bailii.org/uk/cases/UKFTT/TC/2019/TC07484.html>.

*Westow Cricket Club* [2019]. TC 7484.

There can be no **judicial review** when HMRC withdrew an agreement on VAT as allowed by that agreement, even though the withdrawal notice was late.

The taxpayer provided home study materials, some of which were exempt and others standard-rated for VAT. In 2000, the taxpayer and HMRC reached an agreement on how course fees were to be taxed.

In 2009, HMRC ended the agreement. HMRC asserted that the whole of the taxpayer's suppliers were standard-rated.

This was a consequence of the House of Lords decision in *College of Estate Management* [2005] four years earlier. That case considered that a residential college was making wholly standard-rated supplies. HMRC and the taxpayer discussed the case in 2006 when, the taxpayer asserted and the tribunal accepted, HMRC said that it considered the situations were different. There was a further meeting in 2007.

At first, HMRC sought to apply their new view retrospectively from 2006. HMRC then accepted that the taxpayer had a legitimate expectation that the 2000 agreement would not be withdrawn with retrospective effect and so removed the earlier assessments. The taxpayer appealed in 2017 but the first tier tribunal held that HMRC's view was correct in that all supplies were standard-rated. The Court of Appeal also found for HMRC on the one issue of legitimate expectation.

HMRC then started insolvency proceedings against the taxpayer. These were struck out as an abuse of process. HMRC had to indemnify the taxpayer's legal costs.

The taxpayer started judicial review proceedings in 2010 which were stayed while tribunal proceedings took their course.

The taxpayer is seeking judicial review that it should have been allowed a transition period, and suggested that should be two quarters.

The upper tier tribunal found that HMRC was entitled to end the agreement as it did.

The case report can be downloaded from

[https://assets.publishing.service.gov.uk/media/5e09e7b8e5274a34b5faad9d/Metropolitan\\_International\\_Schools\\_v\\_HMRC\\_.pdf](https://assets.publishing.service.gov.uk/media/5e09e7b8e5274a34b5faad9d/Metropolitan_International_Schools_v_HMRC_.pdf)

*Metropolitan International Schools Ltd [2019] UKUT 407*

A business was not able to claim VAT exemption for private tuition in **kick-boxing** as it is not a subject commonly taught in schools. This exemption is given in the VAT Directive Article 132(1)(j) and Value Added Tax Act 1994 Sch 9 Group 6 Item 2.

The word “subject” is not confined to academic areas. Sports and recreational activities can be included, but not in this case.

The case report can be downloaded from

<http://financeandtax.decisions.tribunals.gov.uk/judgmentfiles/j11466/TC07509.pdf>

*Premier Family Martial Arts LLP [2020] TC 7509*

HMRC had a technical problem with **VAT filing** on 7 January 2020, the date when VAT for the quarter to November 2019 was payable electronically.

Accordingly, a business will not incur a penalty for paying the VAT on 8 January 2020.

## National insurance

The employee’s national insurance threshold for 2020/21 will rise from £8,632 a year to £9,500.

This higher threshold will also apply to class 4 national insurance paid by the self-employed.

This is part of a phased increase to align the earnings threshold for employees and self-employed to the income tax personal allowance of £12,500.

## Inheritance tax

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## Stamp taxes

The first appeal against **land transaction tax** (LTT) has been heard. LTT is the Welsh devolved equivalent to stamp duty land tax.

The case was permission to make a late appeal against a penalty. The application was refused.

*Alexandra Winfield v Welsh Revenue Authority [2020] TC 7511*

## Other taxes

From April 2020, the **business rates** of small pubs will be reduced by a further £1,000 a year, the Chancellor of the Exchequer said on 25 January 2020. About 18,000 pubs are expected to benefit. With reliefs previously announced, this can save a pub £13,500 a year in business rates.

On 9 January 2020, Oxford City Council said that, from 1 December 2021, drivers will be charged £10 to enter **Oxford** city centre unless they are driving a non-polluting car, which includes a hybrid. The charge will rise to £20 in 2024.

The rates for **landfill disposals tax** (LDT) from 1 April 2020 are:

- standard rate £94.15 a tonne
- lower rate: £3.00 a tonne
- unauthorised disposals rate: £141.20 a tonne.

LDT applies only in Wales, where it is the devolved equivalent to landfill tax.

*The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations SI 2020 No 95*

A **mastectomy bra** has been classified as clothing, subject to 6.5% Customs duty rather than as a duty-free orthopaedic appliance.

In 2016, the Supreme Court of the UK held that they were duty free. The Customs Code Committee met and decided the Supreme Court got it wrong. The bra was not an accessory to the breast forms it held in place as they did not improve their intrinsic function.

## Tax administration

The next **Budget** will be on Wednesday, 11 March 2020, the Chancellor of the Exchequer announced on 7 January 2020. This will be the first Budget since October 2018. Chancellor Sajid Javid said it will usher in a decade of renewal.

From 29 January 2020, it is possible to set up a **Time To Pay** arrangement online.

An upper tier tribunal held that a taxpayer's accountant's actions were **careless**. As such they allowed HMRC to issue a discovery assessment up to six years after the returns were issued.

A discovery assessment may not be issued in respect of a matter that has been fully disclosed on the tax return. The first tier tribunal found that there had been full disclosure. A discovery assessment may be made if new evidence, or a new view of existing evidence, is discovered up to four years after the return, or six years if there has been carelessness.

In this case, the upper tier tribunal, disagreeing with the first tier tribunal, held that the taxpayer's accountant had been careless in that he gave advice he was not qualified to give.

The case report can be downloaded from

[https://assets.publishing.service.gov.uk/media/5e1de05740f0b6115499f4d5/HMRC\\_v\\_John\\_Hicks.pdf](https://assets.publishing.service.gov.uk/media/5e1de05740f0b6115499f4d5/HMRC_v_John_Hicks.pdf)

*John Hicks. [2020] UKUT 0012*

There was no reasonable excuse for late filing penalties when a taxpayer had opted to "go **paperless**" but subsequent emails from HMRC went to the spam file on his computer.

HMRC had sent three emails to the taxpayer between June 2016 and April 2017 to a secure mailbox. In addition, the taxpayer had received some phishing emails purporting to be from HMRC.]

The issue was whether HMRC had given notice to the taxpayer to file. The taxpayer asserted that merely posting a notice on HMRC's own computer system and alerting the taxpayer to this did not comply with Taxes Management Act 1970 s8.

After the hearing, the judge investigated the position. She concluded that in Taxes Management Act 1970 s115(2), the words "give" and "serve" in the context of HMRC's documents had the same meaning. A notice is not "given" if all HMRC does is to provide a signpost as to where the document or notice may be found.

Statute law allows HMRC to communicate by electronic means. In this case, a notice was properly sent by email to a secure mailbox. Although there is case law to support the taxpayer's view, statute law prevails over case law.

The case report can be downloaded from

<http://financeandtax.decisions.tribunals.gov.uk//judgmentfiles/j11467/TC07510.pdf>

*Benjamin Liam Smith [2020] TC 7510*

In January 2020, **Jersey** said it plans to scrap the rule whereby it will only discuss a wife's tax affairs if her husband agrees. The UK introduced separate taxation for wives in 1990.

New regulations deal with **double taxation disputes** from 14 February 2020.

These changes implement EU Council directive 2017/1852 of 10 October 2017.

*The Double Taxation Dispute Resolution (EU) Regulations SI 2020 No 51*

In January 2020, it was reported that tax scammers are targeting **students**. They pretend to be HMRC and send emails with connections supposedly to get tax refunds. HMRC never sends emails about tax refunds.

HMRC has secured an additional £5 billion in taxes from **multinationals**, HMRC said on 27 Jan= 2020. It attributes much of this to the newly introduced diverted profits tax (DPT). This is charged at 25%, which is higher than the 19% rate of corporation tax.

Since DPT was introduced in 2015:

- HMRC has settled an additional 60 corporation tax investigations, yielding £2.2 billion
- HMRC has secured almost £2 billion additional VAT as a consequence of investigations
- collected £369 million in DPT itself.

**Financial services companies** paid £75.5 billion in tax during 2019, according to the City of London Corporation and accounting firm PwC in January 2020. This represents about 10% of all tax collected.

Three restaurateurs were **disqualified** from acting as directors for six years for submitting false tax returns, the Insolvency Service said on 7 January 2020.

Jala Ahmed, Singh Dhanda and Mohammed Motiur Rahman were all directors of Rancho Steak House in Poole. Between April 2012 and July 2017, they submitted tax returns totalling

£410,000 against which they paid tax of £375,000. They later admitted they had underdeclared their tax by £120,000.

The government has confirmed that it will not raise the **rates** of income tax, VAT or national insurance during the lifetime of this Parliament.

HMRC expects to receive £70 million in **late filing penalties** after more than 700,000 taxpayers missed the 1 January 2020. They are each liable to a £100 penalty unless they can show reasonable excuse. About 250,000 do not owe any tax, but are still liable to a penalty.

HMRC was reported in January 2020 to be looking at purchasing **cryptoanalysis** software to identify criminals trading in bitcoin and other cryptocurrencies. It believes that buying a commercial product could help it to plug gaps in its own intelligence systems.

Accounting firm EY has launched **TaxChat**. It is an on-demand tax service to help individuals complete their tax returns. It does not give prices but says it charges “a reasonable cost”. The firm says that a third of people completing a tax return worry about getting something wrong. It also found 15% find it complicated, and 12% do not have the funds to get accounting advice.

Jim Harra has been appointed **HMRC’s chief executive** and permanent secretary. He replaces Sir Jonathan Thompson who became chief of the Financial Reporting Council.

HMRC has published its annual list of bizarre **excuses** for late filing of a tax return:

- I was up a mountain in Wales and couldn’t find a postbox or get an Internet signal
- my dog ate the post [this one appears every year]
- my hamster ate the post [a new one]
- I’ve been cruising round the world in my yacht and only picking up post when I’m on dry land
- I am a DJ and was too busy with a party lifestyle in a bowls club
- my mother-in-law is a witch and put a curse on me.

None of these excuses was accepted.

HMRC also published two disallowed **expense claims**:

- £4.50 for sausage and chips each day for 250 days
- music subscription “so I can listen to music while I work”.

Russian President Putin nominated his tax chief Mikhail Mishustin as **Russian prime minister** in January 2020

## Pensions

The **self-employed** could miss out on state pensions, according to an article in *The Guardian* in January 2020.

If an employee files a tax return online when they have not registered as self-employed, a message can appear saying they need not pay class 2 national insurance. The taxpayer should register as self-employed and pay class 2, which is a small weekly amount. Class 2 earns entitlement to the state pension. A person must have at least 35 full years of national insurance contributions by their state pension age to qualify for the state pension.

Some taxpayers may have overpaid tax because they did not realise that the **pension scheme** had paid the penalty for breaching the annual limit, according to insurer Royal London.

A taxpayer may put as much as he or she wishes into a pension fund, but is restricted on the amount that qualifies for tax relief. The annual limit is £40,000, which can reduce to £10,000 for higher earners. If contributions exceed the limit, a pension tax charge is paid. Some taxpayers may be unaware that this has been paid by the pension scheme.

A taxpayer should state on their tax return that the charge has been paid by the scheme to avoid having to pay it again.

Royal London found that about 1,000 taxpayers were affected in 2016/17.

Changes are made to the **pensions levy ceiling** and the compensation cap for the year from 1 April 2020.

*The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order SI 2020 No 101*

## Welfare

UK state pensioners living in the **European Union** or Switzerland will continue to have their state pensions uprated annually, the Department of Work and Pensions confirmed on 31 January 2020.

In January 2020, prime minister Boris Johnson said he hoped to find a permanent solution to funding **social care**. He wants to find an arrangement that the Labour party will also accept.

The **bedroom tax** is unfair on victims of domestic violence, according to the European Court of Human Rights. Bedroom tax is the popular name for the under-occupancy benefit Companies Act 2006p. It reduces benefits if someone has unused bedrooms in council housing or similar. Those affected are those in the sanctuary scheme. This allows someone at risk to live in their house by the provision of a panic room. This has a strengthened door and alarm system. The same case held that there was no unfairness to disabled people who do not need an extra room. *JD and A v United Kingdom [2020] ECHR. The Times 13 January 2020.*

A tribunal should attempt to telephone a claimant who **does not attend** a hearing.

In this case, the person attended late. The tribunal had her telephone number but did not call her. The case was listed for a whole day. When she arrived, she found the tribunal had already decided the case against her.

*KD v SSWO (ESA and IS) and other cases [2020] UKUT 9 (AAC)*

From 11 November 2020, there will be a new **veterans' railcard**, it was announced on 22 January 2020. This will allow veterans to receive a discount of one third on rail fares.

About 1 in 12 adults have **never been employed**, according to official figures released in January 2020.

The **Troubles Permanent Disablement Payment Scheme** is established on various dates from 24 February 2020 to pay compensation for victims of the troubles in Northern Ireland who have become permanently disabled.

Payments will be made by the Victims' Payments Board.

In 2014, an agreement was made between the British and Irish governments that pensions should be paid for severely injured victims. The Northern Ireland Executive did not deliver a scheme, so the UK government is making provisions.

About 400,000 people are estimated to have been permanently disabled by serious physical and psychological injuries which impact on their day-to-day lives.

The assessments will be made by qualified health care professionals who will compare the person's ability to undertake day-to-day activities with those of an injured person. Payments will be backdated to December 2014. Applications must be made within five years of the start of the scheme.

Applicants must prove that they were injured in a troubles-related incident, or its immediate aftermath, between 1 January 1966 and 12 April 2010.

The scheme applies to injuries suffered anywhere in the UK. There is a right of appeal if a claimant disagrees with the decision.

*The Victims' Payment Regulations SI 2020 No 103*

## Accounting

New **money laundering** and terrorism funding rules were introduced on 10 January 2020. The main changes are that:

- the scope of the provisions is extended to anyone who provides advice on direct or indirect tax
- an accountant taking on a new client must check details of persons with significant control against records at Companies House, and notify them of any discrepancies
- electronic ID verification is now considered acceptable.

Wells Fargo has been fined \$3 billion for a 15-year **accounting scandal**, it was revealed in February 2020. The company set its staff unrealistic sales targets. Many "met" their targets by creating false records and misusing client identities. Andrew Murray, the US attorney for the western district of North Carolina said that the penalty "should serve as a stark reminder that no institution is too big, too powerful, or too well-known [not] to be held accountable and face enforcement action for its wrongdoings".

Small businesses spend ten weeks a year, equivalent to 15 hours a week, on **financial administration**, according to digital bank Starling.

One third say that this work impacts on their lives, and one in ten say it affects their sleep.

## Business Finance

Small businesses are owed £50 billion in late payments, according to digital banking platform Tide in January 2020.

It also found that the average small or medium-sized enterprise:

- is chasing five overdue invoices at any one time
- spends 1½ hours a day chasing invoices
- is owed an average £8,500 in overdue debt.

**Scottish National Investment Bank Act 2020**, passed by Scottish Parliament, received Royal Assent on 25 February 2020.

The Act establishes a Scottish National Investment Bank plc. “The Bank’s vision is to provide finance and act to catalyse private investment to achieve a step change in growth for the Scottish economy by powering innovation and accelerating the move to a net-zero emissions, high-tech, connected, globally-competitive and inclusive economy”.

A new **challenger bank** called B-North is to be established in the North of England, it was announced in January 2020. It should open later in 2020.

It will offer loans of between £500,000 and £5 million to companies looking to expand their businesses.

British chief finance officers have reported their biggest increase in **optimism** in 11 years, according to a survey by Deloitte. They no longer regard Brexit as their main concern.

## Personal Finance

In 2018, **credit card debt** fell for the first time in six years as users repaid more than they borrowed.

Card debt reduced by £100 million in November 2019, the first net repayment since July 2013. Credit card debt at the end of 2019 was £72.1 billion.

**Yorkshire Bank** customers were unable to access funds on 2 January 2020 because of a computer glitch.

## Law

**Legal advice privilege** between a company and its solicitors continues after the company has been dissolved. The Court of Appeal so decided.

The case concerned a Cypriot company called Anabus Holdings Ltd. The solicitors were a firm now known as Dentons Europe LLP. The investors brought a claim for deceit or negligence, and sought disclosure of documents from the firm.

*Addlesee v Dentons Europe LLP [2019]. CA. The Times 2 January 2020.*

From 31 December 2019, a heterosexual couple may enter into a **civil partnership**. These were previously only available for same-sex couples. A civil partnership is treated the same as marriage for tax purposes. [20.01/17]

Police cannot cope with **fraud cases** where they are overwhelmed, according to former Metropolitan deputy commissioner Sir Craig Mackey. There were 4 million reported cases of fraud in 2019, yet only one police officer in 200 is trained to deal with it. Many cases are referred to the body Action Fraud which has been criticised in the press for providing poor service.

The **Insolvency Service** warns against a phishing scam where it is impersonated in emails that say funds can be recovered for a fee. The Service does not charge for recovering funds. Most funds that become insolvent have no or few assets to distribute. It is not possible to get a higher ranking as a creditor by paying a fee. The process of recovery from insolvent funds can take years.

A computer user has not consented to accept **cookies** when he or she had to deselect a pre-ticked box, the Court of Justice of the European Union decided. The user must make a positive decision to accept cookies, such as by ticking an empty box.

*Bundesverband der Verbraucherzentrale — Verbraucherzentrale Bundesverband eV v Planet 49 GmbH. [2019] CJEU. Case C-673/17. The Times 9 January 2020*

A person's views on copyright law is not a **protected philosophy** for the purposes of equality law. An employee refused to sign an employee copyright agreement because she disagreed with it. Her employer made luxury handbags and fashion accessories. The employee had access to the designs before they were released. She believed that the agreement would mean that her employers would own the copyright in her non-employment work as a writer and film maker. The employer rewrote her agreement to make clear that they were only protecting the intellectual property in their own products, but she still refused to sign. *Gray v Mulberry Co (Design) Ltd [2020] CA. The Times 24 January 2020.*

**Ethical veganism** was held to be a protected philosophical belief at an employment tribunal on 21 January 2020. Philosophical beliefs are protected in employment by Equalities Act 2010 s10. This allows an employee to claim that he or she was discriminated against. In practice, very few views have met the required standard. This case does not establish that veganism is always a protected view.

In this case, the employee followed the ancient concept of Ahimsa, part of the religion of Jainism. The tribunal said "ethical vegans could be said to be moralistically orientated and opposed to all forms of exploitation of all animals and to embody genuine philosophical concern for all sentient life". The employee adopted this concept in 2000. He changed his diet immediately. He got rid of all clothes with animal products. He avoids leather seats and leather straps on transport. He avoids using a bus in case it hits a bird or squashes an insect.

*Casta v The League Against Cruel Sports [2020] Norwich Employment Tribunal. Case 3331129/2018.*

Provisions allowing **damaging material** to be removed from the register at Companies House includes material that could damage it because of its continuing existence as an active entity, the Court of Appeal decided. The case concerned the provisions of Companies Act 2006 s1096(3) in relation to a limited liability partnership that had been restored to the register having been struck off. *In re Infund LLP [2020] CA. The Times 16 January 2020.*

From 27 January 2020, **Courts and Tribunal Service Centres** have longer opening hours. They will be open from 8am to 8pm Monday to Friday, and 8am to 2pm on Saturday. Previously they were only open from 9am to 5pm Monday to Friday. In 2019, the Centres answered 500,000 queries.

A person granted **derived refugee status** under a family reunion policy was not a refugee for the purposes of international conventions, the Court of Appeal decided. This means that the person does not have enhanced protection against deportation.

*JS (Uganda) v Secretary of State for the Home Department [2019] CA. The Times 10 January 2020*

Applications for **court refund fees** may be made from 16 January 2020 for anyone who believes they paid too much for court services between April 2014 and March 2018. These charges were found in 2018 to be above actual costs.

Fees covered include those for:

- certain proceedings in the Court of Protection
- certain civil proceedings in the magistrates' court
- general applications in insolvency proceedings
- High Court judges sitting as arbitrators.

On 8 January 2020, the Competition and Markets Authority (CMA) reached agreement with online marketing platforms about **fake reviews**. Facebook has removed 188 groups and disabled 24 accounts. eBay has permanently banned 140 users.

The "**right to be forgotten**" under EU law only applies within the EU. It does not apply on a global basis. The Court of Justice of the European Union has so decided.

The right to be forgotten means that negative private information about an individual must be removed from search engines such as Google. The information is still available on the Internet but cannot be readily found using search engines. The right is largely derived from a European case in 2014. Google, or other search engine, asks the applicant to state what links they wish to be removed. There is a panel that decides whether the balance lies between the public's right to know and the individual's right not to have the information publicised.

The right is really an extension of the law on rehabilitation of offenders in that it regards misconduct as having a time limit. The right also complements other laws, such as privacy and data protection.

*Google v Commission Nationale de l'Information et des Libertés [2019] CJEU. Case 5017/17. The Times 1 January 2020.*

The Metropolitan Police said on 24 January 2020 that they will be using live **facial recognition** to identify wanted people from crowds.

**Stalking protection orders (SPOs)** were introduced on 20 January 2020. They allow police to impose a restriction on someone accused of stalking. This bans the alleged stalker from contacting a victim, or visiting their home or place of work. An SPO lasts for two years. Breach of an SPO can attract a prison sentence of five years.

On 29 January 2020, Royal Assent was given to the Referendums (Scotland) Act 2020 passed by the Scottish Parliament.

This sets out the rules for any **referendum** ordered by the Parliament. It must be on a date where there are no other elections. Residents may vote at 16.

The **Land Registry** is changing its email address from 2 March 2020. The word "mail" is added after the @ sign which changes from "landregistry.gov.uk" to "mail.landregistry.gov.uk".

Philip King was appointed **small business commissioner** in January 2020. He is currently the chief executive of the Chartered Institute of Credit Management. The commissioner's role was created in 2017 to assist small businesses involved in pay disputes with large businesses.

Various amendments have been made to the **Civil Procedure Rules** from 30 March 2020 and later dates.

*The Civil Procedure (Amendment) Rules SI 2020 No 82*

## **Other changes**

The UK finally left the **European Union** at 11pm on 31 January 2020, after 47 years of membership. The UK remains bound by EU rules until the end of a transition period, due to end on 31 December 2020. The withdrawal agreement was signed on 24 January 2020. The last session of the European Parliament attended by UK MEPs was on 29 January 2020. It ended with the Parliament singing *Auld Lang Syne*. Celebrations were largely muted. The Royal Mint produced a commemorative 50p coin.

Plans to introduced **green number plates** for environmentally friendly vehicles are not supported by the Surveillance Camera Commissioner, who believes it could compromise the ability of automatic number plate recognition.

Christopher Woolard will become the interim chief executive of the **Financial Conduct Authority** from 16 March 2020. He replaces Andrew Bailey who becomes the next governor of the Bank of England.

**Boeing** faces an \$8 billion compensation claim in respect of its 737 Max aircraft. This is believed to be the biggest compensation claim. Compensation includes 317 aircraft now grounded, 394 undelivered, and two crashes which killed all 346 people on board.

**Equity Life** ceased to exist at midnight 31 December 2019. It was formed in 1762 and was the world's oldest member-owned insurance group. It was damaged beyond repair in 2000 by a House of Lords ruling that it was wrong to have cut bonuses on policies. The remaining 176,000 policy holders have been transferred to another company.

On 31 January 2020, a commemorative **Brexit 50p coin** was minted. The reverse bears the inscription "peace, prosperity and friendship with all nations". The coin was introduced by Chancellor of the Exchequer Sajid Javid who is also Master of the Mint. Three million coins were available on the day, with a further seven million promised for later in 2020.

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## Landmark anniversary

### **17 March 2010: Sian Williams offers to read the news in the nude after losing tax case**

BBC newsreader Sian Williams lost a tax case where she claimed for the cost of clothing. She said she would read the news in the nude, although she did not.

In general, a taxpayer may only claim for clothing if it is protective clothing, a uniform or a costume for performance. A person cannot claim for ordinary clothing as this must be worn for warmth and decency, and so does not meet the "wholly and exclusively" requirement. It is not enough that an employer requires the employee to wear particular clothing, such as a suit and tie. Nor can clothing be justified on the basis that it is subject to heavier wear than in normal living.

The leading case on this is *Mallalieu v Drummond [1983]*. A female barrister claimed for the clothes she was required to wear in court. There was no argument about the gown, tabs and wig. However, she also claimed for black skirts, white blouses, tights and shoes. These were bought from ordinary clothes retailers. The fact that she would not wear such clothes outside court was not sufficient.

A marginal case concerns corporate clothing, such as worn by cashiers in a bank. In general, this will be allowed if such clothing is required by the employer and it contains the name or logo of the employer.

# Articles

## Bitcoin and blockchain

Bitcoin is a cryptocurrency. It functions in a manner similar to a conventional currency in that it performs the two traditional roles of money: means of exchange and store of wealth. There are many other cryptocurrencies which work on the same basis.

The means of exchange is only effective if both parts are prepared to use bitcoins. A growing number do. By 2015, more than 100,000 suppliers did accept bitcoin. A modern coin costs much less to make than its face value. The value of a coin is maintained simply by people being willing to accept it for that value. A similar principle underlies the value of bitcoin.

Bitcoins pass between users directly with no intermediary such as a bank. This is known as a peer-to-peer network, and is untraceable. Because of this, bitcoins have also been used for illegal activities such as ransoms, drug dealing and terrorism.

As a store of wealth, bitcoin can be unreliable as its value depends on other parties being willing to accept it. Bitcoin has seen large fluctuations in value, usually far greater than seen for national currencies.

Increasingly bitcoins may be exchanged for conventional currencies. Research in 2017 suggests that there are between 3 million and 6 million users of the currency worldwide.

It has no physical form in that does not exist as notes or coins. It exists as computer code recorded in a public ledger known as a blockchain. It is also not backed by assets. Nor is it administered or overseen by any central bank, government or single administrator. Some commentators have unkindly compared it to a Ponzi scheme or to tulipmania or South Sea bubble. In 2014, the World Bank concluded that bitcoin was not a Ponzi scheme. It is a legal form of currency.

Bitcoins are created by a process known as mining. An absolute limit of 21 million bitcoins has been set, with the limit designed to hold the value. Bitcoins are divisible into small units. They are held in wallets. Bitcoins are divisible into units as small as one billionth.

Bitcoin was invented by Satoshi Nakamoto and released as open-source software in 2009. It is not known whether Nakamoto is a person or group of people.

The **blockchain** is the heart of the bitcoin system. It validates and records transactions without any central authority.

The blockchain is maintained by a network of communicating nodes using special software. Transactions, in the form of payer X sends N bitcoins to payee Y, are broadcast to the network using readily available software. Network nodes validate transactions, add them to the ledger, and broadcast them to other nodes.

The blockchain is a distributed database that independently verifies the chain of ownership. About six times an hour, a new group of transactions is created known as a block. This is added to the blockchain

and published to all nodes. This determines when bitcoins have been spent and avoids the same amount being spent twice.

Bitcoins are created by a process known as **mining**, computers solving puzzles. This is controlled by software to ensure that not too many bitcoins are created. Otherwise bitcoins are acquired by being bought from an exchange that charges a fee for doing so.

In practice, bitcoins are usually acquired in one of three ways:

- conversion from another currency at a bitcoin exchange
- accepting bitcoin for goods and services you sell
- using a bitcoin ATM. In March 2018, there were 108 such terminals in the UK.

The website <https://bitcoin.org/en/spend-bitcoin> gives details of traders and ATM terminals that use bitcoin.

Bitcoins are stored in **wallets**. As these are already stored on a ledger, a wallet is better seen as storing the digital credentials for the bitcoins, rather than storing the bitcoins themselves.

There are different types of wallet. Wallets can be accessed using a mobile phone. Touching a mobile phone against a bitcoin terminal transfers bitcoins.

Online bitcoins have been hacked and currency stolen. For this reason, some users store their bitcoins on a memory stick.

Bitcoins are not tied to real-world entities but to bitcoin addresses that cannot be explicitly identified. All transactions on the blockchain are public. This means that anyone can see the transactions and balance of any bitcoin address. What they do not know is who owns that bitcoin address.

This anonymity makes bitcoin popular for illegal activities. Bitcoin exchanges, where bitcoins are exchanged for traditional currency, can legally be required to collect personal information. To avoid this, a new bitcoin address may be created for each transaction.

The lack of bank involvement means that bank charges and exchange controls are avoided. It becomes economic to send small amounts internationally. Bitcoin is popular in countries which have strict currency controls.

Bitcoin payments are irreversible once made. Once paid there is no way the sender can reverse the payment or ask a central authority to do so. The sender may ask the person receiving the funds to remit them back, but there is no means of compelling this. Each bitcoin transaction is given a confirmation score indicating how hard it is to reverse during an initial period. The numbers range from 0 to 30, representing periods that range from a few seconds to 90 minutes.

In January 2015, *The Economist* said that bitcoin has three useful qualities:

- hard to earn
- limited in supply
- easy to verify.

Merchants accepting bitcoins usually make a charge for doing so. This is usually less than 2%, making it cheaper than conventional cards.

Banks are reluctant to deal with bitcoins. Several banks have closed accounts with ties to bitcoins. Lloyds will not allow bitcoins to be bought from its accounts.

In countries with high inflation, bitcoin is seen as a safe method for individuals to protect their wealth. It also protects individuals from wealth tax, quantitative easing and any form of seizure of bank deposits.

Some people have bought bitcoins as an investment as its value has seen dramatic rises. There have also been some dramatic falls. In 2011, the value of a bitcoin was as low as \$2. By the end of 2017, it had exceeded \$10,000. Its volatility is seven times greater than gold and 18 times greater than the US dollar. The wild fluctuations make it more of a gamble than an investment.

**In the UK**, bitcoin is usually regarded as a currency, though there is no accounting standard on the subject. That means that balances must be converted to sterling on the same basis as any other foreign currency. In January 2017, Eddy James writing on an ICAEW blog suggested that bitcoin was similar to gold, in being like a commodity.

This differs from US accounting practice where bitcoin is regarded as property and not as a currency.

Another issue is that the volatility of bitcoin makes traditional bookkeeping problematic. Stock acquired for £1,000 expressed in bitcoins could make that stock later worth £10,000 or £100. Such valuations, when translated into a reporting currency, would not comply with accounting standards.

If bitcoin is a significant element of any entity's finances, that must be specifically stated in the accounts.

Transactions in bitcoins are still transactions that need to be accounted for. These transactions can create a tax liability in the same way that a liability can be created if an established currency is used.

Some commentators have gone so far as to suggest that bitcoin is a Ponzi scheme or even a latter day tulip mania whose value is based on little more than wishful thinking. The former is not realistic as there is no intrinsic fraud in bitcoin; every participant knows the truth about what it is. As for the tulip mania or bubble notion, that has some credibility as the currency is not asset-backed.

While blockchain was developed for bitcoin, it has been realised that it is capable of wider use for accountancy, particularly **bookkeeping**.

At present if A buys from B, A records a double entry in its accounts, and B records a similar but opposite entry in its accounts. In effect double-entry bookkeeping has become quadruple-entry bookkeeping. There is no guarantee that A and B have recorded the transactions at the same value, or even that they have each recorded the transaction at all.

Blockchain would address both of these issues. The initial transaction from A would automatically record the transaction in both A's and B's accounts.

This could be extended to other ledgers in what the Institute of Chartered Accountants in England and Wales has called universal entry bookkeeping.

The advantages of blockchain are expressed as three Ps:

- a new transaction is **propagated** to a network of ledgers without a central controller
- all transactions and records are **permanent** and protected from tampering
- blockchains are **programmable** in that they allow for automation of new transactions via "smart contracts".

The use of blockchain would revolutionise long-established practices of bookkeeping and auditing. It could also reduce compliance and record-keeping costs. Greater reliance could be given to accounting records for tax and other legal purposes.

There are obvious legal, technological and compliance issues to be addressed. The legal issues would have to ensure there was adequate protection against error, hoax and fraud. There are also situations where the records of B will legitimately not be a mirror image of A's.

As for technology, blockchain is not a single technology but rather a protocol for different technologies.

Solutions to these issues have yet to be worked out, but accounting bodies are engaged in development of blockchain. One has only to look at the development of computers and mobile phones in the last 20 or so years to see how quickly this could happen.

## **Trading and property allowances**

There are two separate allowances that may be claimed against income subject to income tax:

- trading allowance
- property allowance.

Each of these allowances was introduced in 2017 in Finance Act 2017 s17 and Sch 3, and each is for £1,000, but they are separate allowances. Each was introduced to avoid the need for taxpayers with small amounts of income from having to complete a self-assessment tax form.

In each case, the allowance has the effect of reducing the amount of taxable income, possibly to zero, but it does not go below zero to turn a profit into a loss.

The trading allowance means that no tax is payable if trading income is no more than £1,000. #

The taxpayer need not complete a self-assessment return (unless there is another reason to do so). The taxpayer must still keep records of actual expenditure.

This allowance may not be used for any non-trading source of income, such as from investments or employment.

The taxpayer may choose how to allocate the allowance. For example, the taxpayer may allocate it to one source of trading income so as to maximise a capital allowance on another.

Trading allowance may not be claimed by a partnership. It may not be claimed for rent-a-room, nor for income from an employer.

If trading income exceeds £1,000, the taxpayer has a choice. Either he or she may deduct £1,000 from the income, or they may claim actual expenditure, as allowed.

Each tax year is considered separately, so claiming the allowance in one year does not oblige the taxpayer to do the same next year.

Property allowance is similar. Someone receiving up to £1,000 a year does not need to complete a self-assessment form to declare it.

Property allowance may be claimed against income from property in the UK or overseas.

It cannot be claimed in respect of rent-a-room. It cannot be claimed by a partnership, nor by an employee receiving an allowance for working at home.

The allowance cannot be claimed by a taxpayer subject to restrictions on mortgage interest relief, usually for rent-to-buy properties.

A sole trader will usually not claim the property allowance but will instead claim a share of home expenses, provided they meet the “wholly and exclusively” rules.

## **Main residence relief**

One of the most valuable reliefs from capital gains tax is main residence relief. This means that a person or couple do not pay capital gains tax on the gain they make from selling their main home. This does not apply to a second home.

To qualify for this relief, there are two conditions that must be met: it must be a residence, and it must be the main residence.

To be a residence, it must have facilities for daily life. This includes facilities for washing, cooking and sleeping. Somewhere is not a residence because a person camps there. Similarly the absence of a telephone, television licence, and Internet connection suggest that this is not a residence.

There can also be an issue where a dwelling is also used for a business or where it has large grounds. The amount of gain may be reduced if a business is run from there.

To be the main residence means either that the taxpayer has no other home or regards this premises as his or her main home. There is no simple definitive test for this, but these factors can help:

- being registered to vote there
- having a driving licence, memberships and similar using that address
- having cars registered at that address
- where personal possessions are kept
- where the family spends most of its time
- the address from where children go to school
- the address where registered with a doctor, dentist etc
- the address registered as the main address for council tax
- where bank statements and similar correspondence is sent
- entertaining family and friends there.

Paying council tax and utility bills can help establish ownership but not main residence, as these are liabilities for any residence.

Factors that count against main residence include:

- correspondence addressed to “the occupier”
- personal possessions not kept there.

Main residence relief may be denied where there appears to be a commercial motive, such as a property which is renovated and then quickly sold.

As for grounds, the law allows grounds of half a hectare (about 1.2 acres). A larger area is allowed if consistent with the size of the property.

There is no minimum period of occupation, but a very short period is likely to raise suspicions. A property should not be put on the market before the occupation starts. And one claim was refused partly because the estate agent’s pictures showed a lack of personal possessions and empty wardrobes.

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