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Contents in order:

1. Vetting and barring scheme on hold – what this means for churches
2. Charities and VAT on property rentals and purchases
3. What are the requirements for reporting public benefit in an annual report?
4. Substantial donors to charities
5. When do empty church buildings become rateable?
6. Using empty shops for charitable purposes
7. Use of private cars for church transport and lifts
8. Surface water drainage charges
9. Government guidance on swine flu
10. Implications of Community Infrastructure Levy
11. Free on-line payroll products
12. Tax issues applicable to ministers of religion
13. Ministers of religion to be exempt from immigration cap
14. Less carbon, less cost

1. Vetting and barring scheme on hold – what this means for churches

The government has put on hold the implementation of the registration phase of the Vetting & Barring Scheme that was due to commence in July 2010. There will be a full review of the scheme and it is now likely to be scaled back before being implemented. No new dates for implementation have been announced. Those parts of the scheme which took effect in November 2009 remain in force. (see *Green Pages*, November 2009 or the Independent Safeguarding Authority web site - www.isa.gov.org.uk for details)

So, for the time being the existing system of CRB Disclosure checks will remain in place. However the Criminal Records Bureau has gone ahead with the launch of new format Disclosure application forms. Those sections of the form which refer to ISA Registration will be ignored by the CRB. **All** Disclosure applications must now be made on the new format forms.

2. Charities and VAT on property rentals and purchases

Where charities rent or buy property, they can opt not to have VAT charged provided the amount of any non-charitable use of the property does not exceed a given percentage of the total use. Up until 30 June this percentage was 10%, but from 1 July 2010 it was reduced to 5%.

This change in the percentage, which is calculated on the basis of use of staff time or office space, will bring a number of charities into the VAT net. There is also now a requirement to monitor usage for 10 years to make sure the charity doesn't carry out more non-charitable activities than originally anticipated.

3. What are the requirements for reporting public benefit in an annual report?

A Trustees' Annual Report has to be prepared by all registered charities and it has to be sent to the Charity Commission by all registered charities with an annual income of £25,000 or more. It would usually be sent to the Commission with the annual accounts, and could either be part of those accounts or a separate document.

A report for any period starting on or after 1 April 2008 must include :

1. a report of the activities undertaken by a charity to further its charitable purposes for the public benefit;
2. a statement by the charity trustees as to whether they have complied with the duty in section 4 of the Charities Act 2006 to have due regard to public benefit guidance published by the Commission.

"Excepted" churches – i.e. those not required to register – are not required to produce a Trustees' Annual Report.

4. Substantial donors to charities

Readers of *Green Pages* will know that for some years there has been considerable dissatisfaction with the current legislation, arising from the Finance Act 2006, which imposed a complex bureaucracy to monitor the financial relationships between charities and their substantial donors.

Although HMRC pledged last year not to enforce the current law relating to substantial donors, it is disappointing that the promised revised legislation has been further delayed.

The latest news, issued by HMRC on the day of the government's emergency budget (22 June 2010) is that the changes to the substantial donor rules would not be included in the Finance Bill 2010 but that it would publish final legislation in the Autumn after a Summer consultation process.

A working group, representing charities, accountants and other professionals, has been applying itself to the question of what should replace the present cumbersome requirements and has developed the idea of a "purpose test" which would make it the responsibility of the substantial donor to clarify the intentions of his charitable giving, rather than of the charity to keep and monitor records of giving by substantial donors over a period which could amount to 18 years.

A number of small churches are kept in being by the substantial giving of generous donors. In addition to the bureaucracy of the current legislation, they were concerned that under the current bureaucratic requirements, there was a loss of confidentiality and anonymity which could affect the relationship between a church and its financial supporters.

Green Pages will inform readers of the final legislation when it emerges.

5. When do empty church buildings become rateable?

It is well known that places of religious worship, if registered under the Places of Worship Registration Act 1855, are not given a rateable value under the rating system, and therefore pay no rates. However it is also well-known that empty properties generally are now subject to stricter rating obligations, being subject to the payment of business rates after they have been empty for three months.

This invites the question: "When does an empty church property, no longer in continuing use as a place of religious worship, come to be regarded as an empty property subject to rates?"

The answer is that an empty church building will, indefinitely, continue not to be subject to rates for as long as it has not been converted to another use. Empty church buildings converted into homes or business premises or for other community purposes will be rated, or be subject to Council Tax, as appropriate, in their new applicable categories. Buildings which are still church premises but unused and unoccupied will not be rated at all. However other obligations will apply, and trustees could face local authority action if empty buildings are left to become a safety risk or an environmental nuisance.

6. Using empty shops for charitable purposes

Mention was made in the February issue of *Green Pages* of an arrangement under which charities might occupy empty shops in a way which was financially advantageous both to the charities concerned and the landlords. It was suggested that churches might find ways of using such premises to extend their witness and activities.

However, in the light of the recession, the former government stepped in at around the same time to reduce the impact of the business rate on empty shops for the year 2011-2011. This information was not to hand in time for us to include its significance in the *Green Pages* item.

The position in 2010-2011 is that:

[1] Empty non-domestic properties with a rateable value of £18,000 or less will be exempt from business rates up until 5 April 2011.

[2] For 2011-2012 this threshold will be lowered to £2,600.

The concession in [1] means that the kind of project outlined in the February issue will only be viable in

the current financial year in connection with larger shops, as most small shops have a rateable value of less than £18,000. However, with the dramatic drop in the threshold from April 2011, such projects will become viable again. Of course, it is always possible that the new government may move the goalposts again, in which case we will keep churches informed.

7. Use of private cars for church transport and lifts

Further advice has come to hand about the use of private cars in connection with church activities.

When a private car is used to convey other passengers in the course of church activities, the following applies:

- [1] it is the responsibility of the driver to check with his own insurance company that he or she is covered for the circumstances which apply. In some cases of this kind, insurance companies merely require social, domestic and pleasure cover. Others, however, may require the insurance to include class 1 business use.
- [2] It is the responsibility of the church to verify that all drivers involved in conveying passengers to church activities have had their insurance cover confirmed.

Churches will want to devise as low-key a system as they can for achieving this. However, it is important to do so, as in an extreme case the failure to check that cover is in place may lead to an incident occurring which is not covered by insurance, risking the possibility of the church, as well as the driver, being pursued in law on the basis that this might amount to negligence.

8. Surface water drainage charges

With the intention of putting an end to the long-running "rain tax" controversy, the government has announced a public consultation on surface water drainage charges, closing on 22 October 2010. The good news for churches is that the consultation document makes it clear that the government favours an arrangement under which church premises, village halls, Scout huts and similar premises are charged a lower rate than other consumers for surface water drainage, and that the cost of this concession is spread across the whole of a water company's customer base.

The consultation is into the guidance which the Department of Environment, Food and Rural Affairs will be giving to OFWAT, the industry regulator, and to water companies, in connection with their entitlement under the Flood and Water Management Act 2010 to operate a concessionary scheme. On the basis of whatever guidance is approved following the consultation, the water companies will be preparing their charging strategy for 2011-2012. In formulating their strategies the companies will have to satisfy OFWAT that they have taken proper account of the agreed guidance.

The Consultation addresses three questions in particular:

- What steps should a water undertaking take in deciding whether to operate a concessionary scheme in its area?
- Which community groups should be included in any concessionary scheme?
- What constitutes a fair and affordable charge for community groups?

Copies of the consultation document can be downloaded from the DEFRA web site (www.defra.gov.uk) and responses need to be submitted by the closing date, either by email to swdconcessions.consultations@defra.gsi.gov.uk

or by post to:

Consultation on SWD concessions
Water Charging and Economic Regulation Team
DEFRA
Area 2C Ergon House
Horseferry Road
LONDON
SW1P 2AL

9. Government guidance on swine flu

Although swine 'flu has long since disappeared from the headlines as a world pandemic, *Green Pages* has clarified with the Department for Communities and Local Government that the guidance issued to faith groups in May 2009 has not been rescinded.

In that guidance, which is best accessed by keying *Faith Communities and Pandemic Flu* into a search engine, some of the main points affecting churches are as follows:

Guidance to churches

- [1] Avoid the use of a common cup at Christian Communion Services;
- [2] Ensure adequate facilities for hand-washing or provide opportunity for the use of microbicidal handrubs;
- [3] Clean all hard surfaces frequently.

Guidance to individuals

- [1] Stay at home if presenting symptoms of any kind;
- [2] Use tissues rather than fabric handkerchiefs, and dispose of each tissue after a single use;
- [3] Wash hands or use microbicidal handrubs frequently; always wash hands on arriving home;
- [4] Minimise touching of mouth, eyes and/or nose.

Two other tips for churches (not in the government guidance): It may be time for churches regularly using hard-backed hymnbooks, whether in plastic jackets or not, to clean them with a microbicidal fluid. Hymnbooks are much-handled, and thus a potential source of contamination.

Encourage those serving teas to pick up cups by the base or by the handle, neither of which comes into contact with mouths, rather than by the rim, which does.

The swine 'flu pandemic of 2009-2010 has claimed between 18,000 and 19,000 lives worldwide. As can be seen from the 2009 guidance, the government was expecting far more deaths than that in Britain alone. In spite of this, the government guidance has not been relaxed.

Green Pages advises churches to continue to take all sensible steps to protect the congregation, without being obsessive. We think that the extracts from the guidance which we have quoted are all sensible steps. While we respect the preference of some churches for the stronger symbolism that a common cup represents, this issue is not a test of biblical faithfulness, and on balance we would still encourage churches to heed the government guidance.

However the government guidance has no power in law, and churches are free to make up their own minds on these matters. The Church of England, for instance, relaxed its own stance in respect of the common cup in November 2009. As the law is not involved, the only legal risk to a church would be a claim for negligence, and we do not believe that such a claim could ever succeed, given that it would be difficult for the recipient to prove that the common cup had been the cause of his or her infection, and given also that participation in a Communion Service by the recipient is entirely voluntary.

It is thought that the greater care which people have been taking to combat the spread of swine 'flu has helped to reduce the incidence of other types of 'flu and similar viruses as well.

10. Implications of Community Infrastructure Levy

A new tax, called the Community Infrastructure Levy, was introduced from 6 April 2010. It is levied on developments which require planning permission and it is expected that it will raise £700 million per annum by 2016.

There are exemptions for charities and social housing, but there are strict rules which exempt bodies have to comply with in order to qualify for the exemption. The following conditions must apply in order to qualify for exemption:

- [1] The following must be carried out in the correct order: Obtain planning permission; apply for

charity/social housing relief; obtain a decision on the application for relief; submit a commencement notice; start development. If any of these are done in the wrong order, the exemption will be lost.

[2] To be eligible for exemption, a charity must own a material interest in the land and the development must be used wholly or mainly for charitable purposes. There will be no exemption if there is joint ownership with a non-charity. A charity's trading subsidiary will be a non-charity.

[3] The charity will lose exemption if it uses the development for any ineligible trading activities. An eligible trading activity is described as "trading of goods donated to the charity where the proceeds of sale of the goods are applied to the charity's charitable purposes." Trading of goods not donated to the charity (e.g. Christmas cards bought from suppliers for re-sale), even if the proceeds are applied for the charity's purposes, could therefore mean that the exemption would be lost.

[4] Any exemption granted to a charity will be clawed back if within seven years the property is disposed of to a non-charity. Different clawback provisions apply in the case of social housing.

11. Free on-line payroll products

Small employers now have access to free software which will help them with payroll procedures and to file payroll returns on-line. The two companies offering their products free of charge, with the backing of HMRC, are:

IRIS Software Limited, offering *IRIS Payroll Basics* (www.iris.co.uk/freepayroll)

Payroo Limited, offering *Free Internet Payroll Star* (www.payroo.com)

General information about HMRC's requirements and the options available for making returns can be found on the HMRC web site at <http://www.hmrc.gov.uk/online/index.htm>

12. Tax issues applicable to ministers of religion

On some tax issues, ministers of religion are in a special taxation category, and it is important to have the fullest possible information, in order to ensure that neither too much nor too little tax is being paid. One comprehensive source of guidance on this is the publication *Taxation of Ministers of Religion: A Rough Guide*. This is produced by the Churches' Legislation Advisory Service (CLAS) and the latest issue is dated August 2009. It can be downloaded free from the CLAS web site - www.clas.org.uk Go to publications and booklets, and scroll to the title. Click beneath the title to download.

Ministers of religion may of course prefer to employ professional help with their tax affairs, particularly if they are in any way complex. A number of companies and qualified individuals exist to provide this service.

13. Ministers of religion to be exempt from immigration cap

The government intends to exclude ministers of religion from the cap on immigration into the UK which it is seeking to introduce from 1 April 2011. A Home Office consultation opened on 28 June and closes on 17 September 2010. The consultation document entitled *Limits on Non-EU Economic Migration* (page 9) proposes that the cap on immigration should not apply to "ministers of religion and elite sports people."

14. Less carbon, less cost

Churches are among the fuel-user categories eligible for interest-free loans under a government energy-saving scheme run by the Carbon Trust. Between £3,000 and £100,000 can be borrowed to invest in new energy-saving systems, the maximum loan in each case being assessed on the basis of the expected carbon saving. Loans are repayable over four years, but in many cases the saving on energy bills will offset the repayments on the loan. In effect, where this is the case, churches will in real terms have paid nothing for the capital equipment, and will continue to make savings beyond the period of the loan payback. For more information go to the Carbon Trust's web site and click on 0% Business Loans.

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