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Business Client UPDATE

## Queen's Speech will have an impact on business

New measures announced in the Queen's Speech are likely to have a significant impact on businesses and employers.

The Queen outlined a raft of new Bills which the Government is introducing to strengthen the economy and reduce Britain's deficit.

The Immigration Bill is intended to

reform immigration law so that Britain "attracts people who will contribute and deters those who will not".

The Bill will bring landlords into the fight against illegal immigration by obliging them to check the immigration status of their tenants. Employers will also need to make extensive checks to ensure they aren't employing illegal labour.

Failure to do so could leave them open to substantial fines.

The Deregulation Bill will continue the Government's campaign to remove unnecessary red tape. The main proposals include exempting the self-employed from health and safety law if their activities pose no potential risk to others.



## Letting agents face new regulation

Letting agents are to be regulated to protect both tenants and landlords against unfair practices.

Housing Minister Mark Prisk has promised legislation that will raise standards across the industry. His proposal will oblige letting and managing agents, and agents involved in leasehold management, to offer tenants and landlords access to an approved redress scheme.

It's expected that the new regulations will bring letting agents within the scope of the Consumers, Estate Agents and Redress Act.

The move has been welcomed by the Property Ombudsman Christopher Hamer as a positive measure to raise consumer protection by giving access to an independent disputes resolution mechanism.

Mr Hamer said: "Whilst full regulation is not yet on the agenda, the introduction



of compulsory redress brings about a level playing field for the industry and it will mean that a consumer has access to independent dispute resolution regardless of which agent they use."

The proposal was welcomed as a step forward by the Association of Residential Letting Agents.

We shall keep clients informed of developments.

Please contact us if you would like more information about landlord and tenant issues and commercial property law.

It will also remove the power of employment tribunals to make wider recommendations in successful discrimination cases under the Equality Act 2010.

The Intellectual Property Bill is designed to simplify and strengthen design protection, and make it more accessible to small and medium-sized enterprises. Its main elements include implementing the EU's Unified Patent Court, part of which will be based in London.

This will create a single patent system in almost all EU countries making it possible for British businesses to protect their inventions across much of Europe with a single application.

We shall keep clients informed of developments as the Bills progress through Parliament.

Please contact us if you would like more information about the issues raised in this article.

## Company's confusion over IT contract renewal proves costly

When drawing up contracts with automatic renewal clauses it is important to ensure that you fully understand what is being agreed.

Failure to do so can prove costly, as demonstrated in a recent case before the High Court. It involved an IT company and a bank that had entered into an agreement. There was a clause stating that the agreement would renew automatically for a period

of three years on each anniversary of the renewal date unless either party gave 90 days notice of its intention to terminate.

The renewal date was 30 July, 2009. The bank gave 90 days notice to terminate the agreement on 30 July, 2010. The IT company said that once the renewed contract had begun in 2009, it could not be terminated until the end of the three-year period, which

would be 30 July, 2012. The court found in favour of the IT company.

It held that the relevant clause in the agreement clearly referred to the subsequent renewal period as being three years. 'Anniversary' in this context meant three-year anniversary.

Please contact us if you would like more information about the issues raised in this article.

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## Changes to employment tribunals

The Government has recently announced new measures designed to simplify and improve the employment tribunal system.

The move follows concerns from employers that tribunal cases are both expensive and time-consuming for them.

The proposals include new strike out powers to ensure that weak cases that should not proceed to a full hearing are halted at the earliest possible opportunity.

There will also be a revised procedure for preliminary hearings that combines separate

pre-hearing reviews and case management discussions.

This will reduce the overall number of hearings and lead to a quicker disposal of cases saving time and costs for all parties.

Employment Minister Jo Swinson said: "Employment Tribunals are costly in terms of time, money and stress for everyone and they should always be the last resort, not the first port of call.

"We are committed to finding ways to resolve workplace disputes so they don't end up with two sides in front of a



tribunal. The proposals will help all parties understand what the process involves and what to expect."

Please contact us about the issues raised in this article or any aspect of employment law.

## SMEs at risk as they struggle with cash flow

Many UK small and medium-sized enterprises (SME) are struggling with cash flow and are relying on their reserves to finance growth, according to new research.

The British challenger bank, Aldermore, surveyed 300 SMEs and found that 38% are depending on cash reserves to fund future development. A further 12% said they will turn to a bank loan, and 9% to an overdraft.

Meanwhile, the Baker Tilly SME Distress Monitor, found that 24% of SMEs had insufficient funds to pay their short-term debts.

The research also indicated that sales were holding up better than profitability, which could indicate that businesses are discounting prices, which is leading to an increase in pressure on



their margins. Bruce Mackay, Restructuring and Recovery Partner for Baker Tilly, said: "What concerns me is the large number of SMEs that are struggling to pay their short-term debts. Previous recessions have shown that businesses risk failing due to cash flow constraints as the economy starts to recover."

The perilous state of some SMEs highlights the need for firms to keep a tight rein on credit.

Failure to enforce prompt payment can lead to cash flow problems and may even result in the debt having to be written off if a debtor goes out of business a few months later.

Please contact us if you would like more information about credit control and debt collection.

## Directors disqualified for neglecting creditors

Two directors have been disqualified for five years for taking a total of £59,000 from company funds instead of paying creditors after their business got into financial difficulties.

Neither director disputed that they took the money at a time when the company's tax liabilities had risen to more than £109,000 and when a trade creditor had obtained a court judgment against them for

over £16,000. They have both given undertakings not to act as company directors for five years.

Vicky Bagnall, Director of Investigation and Enforcement Services at The Insolvency Service, said: "The Insolvency Service will rigorously pursue company directors who seek to benefit themselves ahead of their creditors by extracting company funds when others are not being paid.

"Fair treatment of creditors is essential for business confidence, which is, in turn, essential for economic growth. The protection of limited liability should only be available to those who comply with their obligations as company directors. If those obligations are ignored, that protection will be withdrawn."

Please contact us if you would like more information about the issues raised in this article.

Please contact us if you would like more information about the issues raised in this newsletter or if you need advice on any other legal matters.

Our newsletters are designed to highlight legal developments. They should not be taken as a comprehensive analysis of the law. Clients should always obtain professional advice before making decisions on legal matters.