Southern Landlords Association

From the Desk of Mike Stimpson

This “e-letter” has been prepared following the election of the Conservative/Liberal Democrat coalition together with important changes affecting Landlords resulting from the recent emergency budget.

CHANGES TO PLANNING LEGISLATION

Members will be well aware that as from the 6th April 2010 planning permission is required for the change of use of a family house to a small HMO of between three and six persons. Planning permission is not required if prior to April 2010 the property was occupied as a shared house, neither is planning permission required to change the use from a small shared house/HMO back to a family house. Government do not intend to repeal the legislation however, Government proposes to amend the legislation to make changes from a dwelling house to a small HMO as permitted development. It will however allow local authorities where they consider there is a problem concerning small HMOs in a particular area to use their existing powers in the form of Article 4 directions to remove the permitted development rights and require planning permission for a change of use from family to small HMO. What this in effect means is that the vast majority of local authorities will not require planning permission for conversion of family houses to small HMO’s occupied by between 3 and 6 unrelated persons, This will be deemed as permitted development, however where a local authority considers that there is a specific problem it will be able to implement an Article 4 direction removing permitted development rights and requiring Planning Permission.

Currently the regulations requiring planning permission are still in force and members are advised to consult with their local planning authority should they be considering purchasing a property to use as a small HMO or converting a family house to that use to ensure that the local authority will permit the development. There is to be a short period of consultation after which it is anticipated that the amended regulations will be brought into effect by the 1st October 2010.

SLA comment, we had hoped that this unnecessary legislation brought in without consultation would have been repealed by the current administration, however the proposed changes are an acceptable alternative. Members who have any concerns/queries on this matter can seek advice from the SLA helpline (0845 475 24 83).

BUDGET REVIEW

CAPITAL GAINS TAX

Members will be aware that prior to the emergency budget there was serious concerns regarding increases in Capital Gains Tax. Your association working with the British Property Federation made strong representation that long term investors should not be confused with speculators or second home owners, working and with the industry as a whole called for Landlords to be treated as an “entrepreneurial business activity” for capital gains purposes and not simply as an “Investors”. We also strongly advocated roll over relief for landlords and lower Capital Gain Tax rates the longer the investment was held. Members will be aware that Capital Gains Tax was increased to a maximum of 28%, the effect of the change is as follows:

If you are a lower tax payer the 18% CGT will remain so long as your combined income and gains after your CGT annual allowance does not exceed the basic rate band of £36,400 together with your annual income tax allowance (£6475 for most tax payers) The annual exemption for CGT remains at £10,100.
For the higher and additional rate tax payer the rate has increased to 28%. There is no indexation or tapering, although rebasing remains, therefore the gain is based on the original purchase price (or re based value) plus the cost of any acceptable improvements, in all cases the Capital Gain is added to income and that part of the Capital Gain which falls within the basic rate band is taxed at 18% and the remainder at 28%.

Members will be well advised that they plan for the disposal of property well in advance of doing so to ensure they make best use of tax planning opportunities available, such planning can include that both spouses basic rate bands and annual allowances are used together with the use of private residence relief for a period of occupation in the property as applicable.
There has been speculation that the treasury will introduce some form of entrepreneur’s relief for the private rented sector and our representatives will continue to negotiate with Government for such relief however there are no indications of movement by Government in this area, although the increase in CGT is not welcomed the industry considers that the Government set it at a level which will not deter investors who will see it as an attractive rate of tax when compared with 40-50% on earned income levels.

Members are also well advised that they seek an Accountant who has appropriate expertise in this area.

Our representatives will continue to press Government to give the option for Landlords to be treated as businesses and therefore secure entrepreneurial and roll over relief.

LOCAL HOUSING ALLOWANCE,
Members who house tenants in receipt of the local housing allowance will wish to know about the changes that are to occur, all of which are to be implemented to reduce the amount payable in local housing allowance. The changes in April 2011 and are as follows:

From October 2011 local housing rates will be set at the 30th percentile of local rents, this will mean that there will be a reduction in the local housing allowance for all properties in all areas of the Country.

See http://www.voa.gov.uk/lhadirect/lha-emergency-budget-news-2010.htm for full list of **anticipated** new rates by Broad Market Rental Area (BRMA). See also https://lha-direct.voa.gov.uk/Secure/LHARateSearch.aspx?SearchType=PostCode to get your BRMA.

Any member housing tenants in receipt of the local housing allowance will understand that many recipients of the allowance will have to find extra money to pay their rent, in the current climate this will be difficult and rent arrears are very likely to increase. Members will need therefore to decide whether they should remain in this market or whether they should only accept persons not in receipt of housing allowance into their accommodation. It seems that the only other alternative is to reduce the rent payable. In addition, to the above and from April 2011 **national** local housing allowance rates will be capped at a maximum of:-

- £250.00 per week for a one bedroom property,
- £290.00 per week for a two bedroom property,
- £340.00 for a three bedroom property and
- £400.00 per week for any property of four bedrooms or more.

This may not affect many landlords except those letting properties in the Greater London area. The Government is increasing the discretionary payment fund by £40 million per year and this could well be allocated to those regions with high property prices, but the reality means as has been speculated in the press that people living in high priced accommodation will have little option but to move into accommodation that is more affordable. Any member letting a property above these levels will need to seriously consider whether to continue letting to persons in receipt of housing benefit.

Other changes from April 2011 are as follows:
Deductions for non dependants occupying a property where a tenant is in receipt of housing allowance will be up-rated in April 2011 on the basis of prices.

From the same date housing benefit claimants with a disability and a non resident carer will be entitled to housing allowance for an extra bedroom.

Future changes from 2013/14 housing allowance rates will be up-rated in line with the Consumer Price Index (CPI) and not based on average rents. Members will wish to know that in the last twenty years the CPI has only been higher than the Retail Price Index (RPI) on three occasions. Also from April 2013 housing benefit awards will be reduced to 90% of the initial ward after 12 months of claimants receiving Job Seekers Allowance. There are also proposals to restrict housing benefit for working age claimants in the social rented sector who are occupying larger properties than the household size warrants.

OVERALL COMMENT

There is little doubt that the Government intends to reduce the cost of housing benefit which is estimated to be £21 billion in the current year. Your representatives will be seeking moderation to some of the proposals especially the linking of rents to CPI and the reduction to 90% in respect of claimants who have been out of work for twelve months. As already mentioned there is little doubt that tenants in receipt of housing allowance are going to be squeezed and will find it most difficult if not impossible to pay the rent. Landlords in turn will have to make decisions as to whether they wish to remain in the housing benefit market and if not what other opportunities are there outside that market for letting their properties. In areas of low demand it is unlikely that housing benefit tenants can be replaced and those Landlords might be forced in these circumstances to reduce rents in order to keep their accommodation occupied. This is not good news but we must all as Landlords face the reality of the situation and ensure that we are prepared for the outcomes.

FURNISHED HOLIDAY LETS

Currently there is no plan to remove the favourable treatment available to owners of furnished holiday lets and such activity remains as a business activity with the benefits accruing from such an occupation although it will remain under review. The quite proper retention of holiday lets as a business may well be useful to promote Landlords as a business rather than an investment for tax purposes. Should members have any questions/queries on any of the subjects mentioned our helpline advisors will be pleased to assist.

Mike Stimpson
For Southern Landlords Association