

LANDLORD AND TENANT - DISABILITY DISCRIMINATION ACT 1995

Property owners and occupiers need to be aware of provisions in this Act which will take effect in October 2004.

From 1 October 2004 'service providers' will be required to make reasonable adjustments to the physical features of premises to overcome physical barriers to access or to provide a reasonable alternative way of making the service available to disabled people. 'Service providers' means people and organisations that provide goods, facilities or services to members of the public with or without payment. 'Service' means the provision of such goods, facilities or services.

The duty to comply with the Act will fall upon the service provider. So, in a multi-let building, such as a shopping centre, these obligations may fall upon both the landlord and the tenant in relation to different parts of the building.

The Act will have an impact right across the range of commercial leases and its effect will be far-reaching. In light of this, when negotiating new leases, it will be prudent for landlords and tenants to consider who will be responsible for carrying out and bearing the cost of alterations which may have to be made to premises in order to comply with the Act.

E CONVEYANCING - THE DREAM OF AN IT ENGINEER?



On 26 February 2002 the Land Registration Bill received Royal Assent. For property lawyers this was a milestone. The last major statutory reform was on 1 January 1926 when seven Acts of Parliament came into force laying the foundations for property ownership as we now know it.

Some provisions of the new Act are expected to come into effect in Autumn 2003. However, it is the foundation for the introduction of e-conveyancing on which this article concentrates.

We already work with electronic lodgement at the Land Registry for some matters. For example notification of a change of name by marriage or deed poll, death of a joint owner and change of a description of a property. Electronic Notification of Discharges (confirmation or repayment of a registered mortgage) has been operating since 1998.

Rollits has been one of the leading firms to subscribe to Land Registry Direct which enables us to view online information held by the Land Registry. We are now reviewing in some detail the National Land Information Service (NLIS) and looking at the services offered by the three separate

providers. This will provide speedier access to certain property information such as local searches. However, the new Act is far more radical and introduces an e-conveyancing network which it is hoped will speed up the existing paper based system of conveyancing. All communications and documentation will be dealt with through such network. The Land Registry will be part of the network to monitor and validate the documentation as the transaction progresses. A matrix will be provided to show the progress and this matrix will also detail the progress of any related transactions. The system will also see that post completion formalities of stamping and registration of title will occur automatically.

There are various issues to be resolved before a workable system can be implemented. Who will sign the documentation electronically? Will homeowners be happy for their solicitors or lenders to sign legal charges or for their solicitors to sign transfers on their behalf? How will the UK banking system be able to offer an immediate system of electronic funds transfer? The current bank clearing system takes several hours for the money transfer to be effective.

It is clear that the days of electronic conveyancing are drawing closer and Rollits intend to be at the forefront in providing clients with all the benefits of the new system.

ACCESS OVER COMMON LAND

Those living next to common land may be surprised to know that it is a criminal offence to drive over the common land to access their property. The problem originates with the Law of Property Act 1925 which made it an offence to drive on common land without lawful authority.

Case law decided that despite regular use of access over common land the use could not be recognised in order to obtain a prescriptive right, as such usage amounted to a criminal offence.

Section 68 of the 'right to roam' Countryside and Right of Way Act 2000 has however been introduced to help property owners acquire a right of way. This will be a welcome change. Section 68 came into force in April 2001 and the necessary regulations to implement it are being considered.

The 'right to roam' Act will introduce charges that owners of common land may levy to grant permanent rights of way over common land.

Whilst the new rules are not expected to become law until the summer, Alun Michael, the Rural Affairs Minister announced some details in May. It is likely that owners of houses built before 1930 will be liable to pay 0.25% to 0.5% of their property's value. Those with houses built after 1930 are likely to have to pay 2% of their home's value.

It is beneficial to owners of houses that the new rules will put a cap on the charges that an owner of common land may charge. However concern has been expressed by local parish councillors that by charging less than the recommended fee they may be called to account by the District Valuer for failing to achieve value for money from a public asset. The question also arises whether these charges are a fair balance between the interests of landowners and those households needing access.

ASBESTOS

Under the Control of Asbestos at Work Regulations 1987 responsibility for asbestos management rested with employers. Under changes that are being introduced the main obligation to comply with the regulations will fall on the party responsible for the repair and maintenance of the building, which in many cases will be the building owner.



In multi-let buildings where the landlord has a responsibility for the maintenance and repair of the structural and common parts of the building this liability will fall on the landlord. In the case of a building which is let to a single tenant who is responsible for its maintenance and repair under the terms of his lease the landlord will still be under a duty to supply any relevant information in order to assist his tenant in determining where asbestos may be

found in the building. The main responsibility will be to arrange for surveys in order to assess whether asbestos is present and to keep a written register of the location of any suspected asbestos.



There is a transitional period to allow asbestos surveys to be carried out with the changes being implemented in full in 2004. In the

circumstances it would be sensible for building owners to anticipate the requirements of the new regulations and arrange to implement plans for carrying out appropriate surveys in order to establish whether asbestos is present in their buildings.

NEW COMMERCIAL PROPERTY LAWYER



David Chan has recently joined the firm as a solicitor in the commercial property team. A law graduate from the University of Manchester and The College of Law in London, David qualified as a solicitor in 2000 and joins Rollits from a firm in Doncaster. He will work within the property department at the firm's Hull office.

INFORMATION

If you have any queries on any aspect of Property Law please contact:

**Martyn Justice at Hull on (01482) 323239
Carol Bailey at York on (01904) 625790**

This bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form. Action should not be taken without obtaining specific advice.

We hope you have found this bulletin useful. If, however, you do not wish to receive further mailings from us, please write to Mrs. Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

The law is stated as at 1 July 2002.

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