Torgersens
CHARTERED ACCOUNTANTS

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Property Newsletter

2020 INNOVATION PROPERTY EXPERT

Welcome to our monthly newsletter for property landlords.
We hope you find this informative.

Andy Burnham indicates increase to Capital Gains Tax Rates

Andy Burnham has publicly indicated support for increasing Capital Gains Tax (CGT) rates and bringing them closer to, or in line with, Income Tax rates, although the exact policy details are unknown.

He has argued that the UK "over-taxes labour and under-taxes wealth", suggesting that gains from assets should not be taxed significantly more favourably than earnings from work.

Recent reports have linked his administration and close advisers to proposals that would align CGT rates with Income Tax bands of **20%, 40% and 45%**.

Several news articles reported Burnham describing this approach as a form of "wealth tax that works", on the basis that income from assets should not receive a materially lower tax rate than employment income.

Current CGT rates for residential property gains are 18% for gains falling within the basic rate band and 24% for higher and additional rate taxpayers. If CGT rates were fully aligned with Income Tax rates, the biggest impact would be on higher and additional-rate taxpayers disposing of investment properties, as these may be subject to CGT rates of 40% or 45%.

It’s important to remember that media reports have only discussed policy proposals and political statements. Actual CGT rates would depend on legislation introduced through a Budget and approved by Parliament.

NOTE: Autumn Budget 2026 is set to take place on 28 October.

HMRC updates guidance on Incorporation Relief

HMRC updated its Capital Gains Manual on 21 August 2026, revising its guidance on when a property letting activity can qualify as a "business" for Incorporation Relief purposes. The change is particularly relevant for landlords who are considering transferring their property portfolio to a company.

Incorporation Relief can defer capital gains when a business is transferred to a company in exchange for shares. A long-standing difficulty for landlords has been demonstrating that a property letting operation amounts to a "business" rather than simply holding investment properties.

The leading case is **Ramsay v HMRC [2013] UKUT 226 (TCC)**. Mrs Ramsay owned and managed a portfolio of furnished holiday lets and spent around 20 hours a week personally undertaking substantial management activities. The Upper Tribunal concluded that the overall level of activity was sufficient for a business to exist for Incorporation Relief purposes. Importantly, the tribunal stated that the correct test is the degree of activity undertaken, not whether those activities are merely "normal" for a property owner.

HMRC's updated guidance highlights a range of factors that indicate whether activities would be considered a business, including whether there is a serious and ongoing undertaking, continuity of activity, commercial substance, regular management and recognised business practices.

Most significantly, HMRC confirms that Incorporation Relief should generally be accepted where an individual spends **20 hours or more per week** personally carrying out activities indicative of a business. However, the guidance also makes clear that spending less than 20 hours does not automatically prevent relief. Such cases should be considered on their own facts.

For landlords contemplating incorporation, the update provides helpful support for claims where there is substantial personal involvement in managing the portfolio. Keeping detailed records of time spent and activities undertaken may be increasingly important in demonstrating that a genuine property business exists.

Housing (Scotland) Act 2025: What landlords need to know

The Housing (Scotland) Act 2025 represents one of the most significant changes to Scotland's private rented sector in recent years. While many of the headlines have focused on rent controls, landlords should be aware that most of the Act's practical effects will be introduced in stages over the coming years.

For now, the key message is that the framework is in place, but the most widely discussed measure, rent control areas, has not yet been implemented anywhere in Scotland.

Rent control areas

Part 1 of the Act introduces a new system allowing Scottish Ministers to designate specific geographical areas as rent control areas. Before any designation can be made, local authorities must assess rent conditions in their area and report their findings to Ministers.

The framework came into force on 1 April 2026. However, local authorities do not have to submit their first assessments until 31 May 2027. Any designation would then be subject to consultation and ministerial approval. As a result, no rent control areas currently exist in Scotland.

This means that landlords are not currently subject to rent caps under the new regime.

Nevertheless, those with portfolios in areas experiencing significant rental growth may wish to monitor developments closely over the next 12 to 24 months.

What could happen if an area is designated?

Where a rent control area is introduced, annual rent increases would generally be capped at Consumer Prices Index (CPI) inflation plus 1%, with an overall maximum increase of 6%. The Scottish Government has also consulted on exemptions for certain categories of property.

Importantly, the legislation adopts a local approach rather than imposing a nationwide cap. This means the impact could vary significantly depending on where properties are located.

Other changes taking effect

The Act contains a range of additional provisions affecting the housing sector, including measures relating to tenant protections, homelessness prevention and landlord regulation.

From 1 August 2026, further provisions came into force, including changes to tenancy succession rules and greater flexibility around the electronic service of certain notices.

Practical points for landlords

For most landlords, there is no immediate need to change rent-setting practices solely because of the Act. However, now is a good time to:

- Review portfolio profitability and future rent assumptions.
- Keep records supporting rent increases and property investment decisions.
- Monitor local authority announcements regarding rent condition assessments.
- Fact-check advice obtained from England-focused sources, as Scottish rules are increasingly distinct.

The Act creates a framework for future change rather than an immediate overhaul. However, landlords who stay informed and plan ahead will be better placed to respond if rent controls are introduced in their area.