

## Home Information Packs on Trial

by Elaine Gates

A trial of Home Information Packs began in six areas in November 2006, with a view to ironing out any problems before the full introduction, scheduled for June 2007.

The trials, in Southampton, Newcastle, Northampton, Bath, Huddersfield and Cambridge, are including the use of the Home Condition Report. This was originally intended as a compulsory part of the packs. But a Government U-turn in the summer means the Home Condition Reports will now be voluntary, at least at first.



The Home Condition Report would be the most expensive part of the pack. But in July, Housing Minister Yvette Cooper, announced that this part of the scheme needed further testing and would not come into force in June 2007.

This does not mean, however, that the Home Condition Reports, which are basically a type of survey paid for by the seller rather than the buyer, will never be compulsory.

The Home Information Packs make it the seller's responsibility to collate information about the property before it is sold. From June the packs will include:

- Terms of sale
- Evidence of title
- Copies of planning, listed building or building regulations consents
- A local search
- Guarantees for any work on the property
- An energy performance certificate.

The Government favours Home Information Packs as a way to combat gazumping, to save buyers from wasted expenses, and to combat the problem of house-buying chains that collapse.

If you have any questions about the new Home Information Packs, please contact Elaine on **01753 774010**, or email [egates@hclaw.co.uk](mailto:egates@hclaw.co.uk). Our conveyancers are, of course, perfectly placed to help you with all your house buying and selling requirements.

### Also in this issue:

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## Paul Norris re-elected as Chairman of LawNet

We congratulate Paul Norris, our Chief Executive, on being re-elected for his third term as Chairman of LawNet by the members at their AGM in November 2006.



## Promotions and New Starters

Congratulations to Nina Gurney on being appointed an Associate.



Nina Gurney



Kate Major

We welcome Kate Major who joins us as a Solicitor in the Clinical Negligence Department.

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# Concern over Bill to Fast Track Low Value Clinical Negligence Claims

by Chris Gooderidge

The Government has published a Bill to introduce a faster system which it says will deal with low value claims for clinical negligence without going to court, saving time and reducing the amount spent on legal fees.

But some experts are sceptical whether it will bring all the changes promised, given the conservatism of the NHS.

Ministers said the NHS Redress Bill, which was recently published, is aimed at providing a "quick and appropriate" response to "low value" negligence claims of less than £20,000.

However the Bill does not specify any amount, and leaves it for ministers to set by statutory instrument in time to have the new body up and running by April 2007. There will then be a review in 2010, when the maximum claim could be extended upwards without further legislation.

The new body would be responsible for compensation awards and providing explanations and giving apologies to patients in England. It is to be overseen by the NHS Litigation Authority.

There are worries that giving the oversight role to the body which currently defends claims runs the risk of giving patients advice which is not necessarily in their best interests. There is a risk that it will be judge, jury and defence in cases. Whatever organisation oversees it should be independent.

If cases are decided to be too serious to come within the £20,000 limit, the Authority then becomes the body which defends them.

The devil will be in the detail which will not become clear until after the Bill has been passed by Parliament, but it is envisaged that there may be a panel of specialist lawyers including those which have historically been plaintiff as well as defendant, to assess the claims. But if that is the case, where is the saving?

There are also worries that the patient will not necessarily be getting the best advice, as cases which currently go to court, more are won by the claimant than lost, indicating that the NHS Litigation Authority's position in resisting the claim has often been wrong.

Although applying to the new body does not take away the right

to litigate, it is not clear that, if a patient rejects an offer, whether that may influence the Legal Services Commission when they decide whether a case has sufficient cost benefit to justify granting legal aid.

The Health Minister Jane Kennedy said the system may lead to a greater volume of minor claims which are deterred by the cost and delay of using the courts.

For further information, please contact Chris on **01753 734821** or email [cgooderidge@hclaw.co.uk](mailto:cgooderidge@hclaw.co.uk).



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## ISA Changes from April 2007

by David McIntosh

Having drawn back from the threat of reducing the annual ISA allowance from £7,000 a year to £5,000 a year, the Government has unexpectedly taken major steps to encourage ISA savings.



The changes, which will come into effect on 6 April 2007, will do away with the distinctions between mini and maxi ISAs and will permit old PEP holdings to be rolled into ISA tax-wrappers. In consequence, ISAs which are invested in cash accounts will be able to be transferred into potentially more attractive equity and property based funds, as also will maturing Tax Exempt Special Savings Accounts ('TESSAs').

However, this is a one-way street. Equity holdings cannot be transferred into cash holdings within the ISA wrapper - which might concern some investors seeking the safe haven of a cash fund with tax-free income on reaching retirement.

The Government has also announced that the time limit on the availability of ISAs has been removed. Until now, the intention had been to make ISAs available only until the year 2010.

# The CGT and IHT Tax Advantages of the Alternative Investment Market (AIM)

by Ron Kerslake

I suppose the first reaction individuals have when the AIM is mentioned is to shy away in horror at the supposed investment risk. However, whilst acknowledging that the AIM does constitute a higher risk investment, it is important to appreciate that the risk can be managed.



## Background to AIM

The AIM was launched in June 1995 and now has more than 2,500 companies.

The tax benefit obtained by investing in the AIM is that the investment qualifies for “Business Property Relief” provided that the investment is made into “qualifying” companies. “Qualifying” companies are those carrying on a trade and will exclude financial services companies, investment companies and certain others.

This means that Business Asset Taper Relief is available to investors

when disposing of qualifying AIM shares and this effectively reduces the rate of Capital Gains Tax to only 20% for AIM investments held for a period of one year and to only 10% for Aim investments held for a period of two or more years.

Furthermore, unlimited exemption from Inheritance Tax is available to private individuals provided that the investor has held shares in a qualifying company for at least two years. After the two year holding period, the shares should be retained throughout life by the investor and will no longer be considered part of the investor’s estate for IHT purposes. This represents an Inheritance Tax saving of 40% under current legislation.

In the event of death within the two year holding period, the shares will be treated in the same manner as if invested in companies quoted on the Stock Exchange, in which case the share value at the date of death would form part of the investor’s estate for Inheritance Tax purposes. However, a surviving spouse who inherited the shares would only have to survive the balance of the two years to qualify for the Business Property Relief.



Because of the need for proper research to identify suitable companies and crucially, the need to invest in qualifying companies, investors really should make these investments through investment managers who specifically specialise in this area. They will construct a portfolio of shares for the investor.

## For whom is this suitable?

This tax solution is only suitable for individuals with total financial security, completely independent of any investment undertaken in the scheme.

Within that pre-condition, it can be used for individuals who wish to avoid Inheritance Tax and

- are elderly, or ill, and do not realistically expect to survive the seven years necessary for a “potentially exempt transfer” to become effective
- and/or have substantial PEPs/ ISAs which are bought for tax reasons. Although, they may be exempt from Capital Gains Tax, they are not exempt from IHT. Changing the “tax wrapper” is thus often an attractive consideration.

The change means that ISAs can now take their place alongside pensions as the other main method of saving for retirement - pensions offering tax relief on contributions but taxable income; and ISAs denying tax relief on contributions but permitting tax-free income.

Estate planning may also be a consideration. Withdrawals from pension funds are restricted and penal tax is levied on the fund on death (see below), whereas ISAs can be encashed at any time and the value can be passed to investors’ dependants on death, albeit subject to Inheritance Tax.

Some commentators had hoped that the Chancellor might also raise the annual investment limit for ISAs from £7,000 to, say, £10,000, and this may yet happen. However, for the time being the limit stays at £7,000 per individual – i.e. £14,000 p.a. for spouses and civil partners.

For further information, please contact David on **01753 733169**, or email [dmcintosh@hclaw.co.uk](mailto:dmcintosh@hclaw.co.uk).

Please contact Ron on **01753 734894** or email [rkerslake@hclaw.co.uk](mailto:rkerslake@hclaw.co.uk).

# Buddying for the BackUp Trust

by Joanna Duncan

Harris Cartier LLP is a keen supporter of charitable causes and just one of those is the Back Up Trust. The Back up Trust was set up 20 years ago to provide victims of serious back injury both the physical and psychological support they need to cope with their injuries. Back Up is there to prove that life in a wheelchair will never be a barrier to leading a fun, vibrant and active lifestyle.

In September 2006, I was lucky enough to take part in one of Back Up's activity weeks set in the wilds of Exmoor. My role on the course was as a "buddy" to assist the spinally injured participants in the variety of outdoors activities.

Each day started at 8am and the breathless timetable of activities included rock climbing, abseiling, horse-riding, kayaking, hand cycling, swimming, hiking, camping, practising wheelchair skills and wheelchair basketball. By the time we got back to our base in the evening it took all our energies

just to refresh our thirst with a few alcoholic beverages – although we did occasionally manage to summon the energy for late night karaoke sessions.

what life is like for the spinally injured, and what's more it's damn good fun too! I, and indeed the whole group, returned home with great memories, new friends and



A week spent buddying with Back Up is a life-changing experience and given the opportunity it's one that anyone should grasp wholeheartedly. It makes you appreciate

most of all, the urge to go and do it all again.

For more information on BackUp, visit [www.backuptrust.org.uk](http://www.backuptrust.org.uk)

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**Sharon Quarterman at [squarterman@hclaw.co.uk](mailto:squarterman@hclaw.co.uk)**

For more information about Harris Cartier LLP, visit [www.hclaw.co.uk](http://www.hclaw.co.uk)

Harris Cartier LLP  
Queens House  
55-56 Lincoln's Inn Fields  
London  
WC2A 3LJ

Harris Cartier LLP  
Windsor Crown House  
7 Windsor Road  
Slough  
SL1 2DX

**Main Switchboard: +44 (0)1753 810710**

**Email: [enquiries@hclaw.co.uk](mailto:enquiries@hclaw.co.uk)**

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