



Small Firms Legal News Update

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Cases

Landlord and Tenant

Marks and Spencer Plc v BNP Paribas Securities Services Trust Co (Jersey) Ltd.

2013 WL 1904328. Chancery Division (Ch D). Morgan, J.. 16 May 2013

Where a commercial tenant exercised a break clause to determine its lease before the end of the natural term, it was not normally entitled to a refund of sums paid in advance and relating to a period after the break date unless there was an express right in the lease. The court found that the circumstances of the instant case required there to be an implied term in favour of such repayment in order to give business efficacy to the lease.

Judgment for claimant.

Legislation

Criminal Law

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 8) Order 2013.

SI 2013/1127 (C.50)

The Stationery Office

This Order brings into force the Legal Aid, Sentencing and Punishment of Offenders Act 2012 s.148, which amends the Criminal Justice and Immigration Act 2008 s.76 as regards the law concerning self-defence and related defences.

[Read the full text here](#)

In Force: Bringing into operation various provisions of the 2012 Act on 14 May 2013.

Made under Legal Aid, Sentencing and Punishment of Offenders Act 2012 s.151(1)



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Regulatory Developments

Legal Advice and Funding

Civil Justice Council response to Ministry of Justice consultation paper Fee Remissions for the Courts & Tribunals.

Issued by Civil Justice Council. 21 May 2013

Responding to the Ministry of Justice's consultation paper "Fee Remissions for the Courts and Tribunals", the Civil Justice Council (CJC) criticises the potential impact of the proposals on access to justice for those on low incomes, including the most deprived and vulnerable sections of the community.

[Read the full text here](#)

News

Social Security

Four families to challenge "cruel and misguided" benefit cap. Guardian, 24 May 2013, 26.

By Owen Bowcott; Amelia Gentleman.

Permission has been granted for a judicial review of four families' claims that the GBP 500 a week benefits cap is discriminatory. Lawyers are also examining a further 15 similar claims. The Department for Work and Pensions said that it was confident that the measures were lawful and did not discriminate against any groups.

Mental Health

"Fit for work" test for mentally ill ruled unfair. Times, May 23, 2013, 24.

By Rosemary Bennett. Also Reported in Daily Telegraph, May 23, 2013, 22

A three-judge panel has ruled that the Government's work capability assessment, which determines whether disabled people are fit for work, "substantially disadvantages" people with mental illnesses. The Department for Work and Pensions is appealing against the decision to cease testing mentally ill people before changes are implemented.

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Further Reading

Administration of Justice

Expert comment. F.O.I. 2013, 9(5), 2. By Robin Hopkins.

Reports on developments in tribunals procedure, notably the First-tier Tribunal's increasing focus on enhancing procedural user-friendliness, the Upper Tribunal's continued warnings that First-tier Tribunal decisions are not precedents to be relied upon, and the application of the Practice Note on closed material in information rights cases which was issued in May 2012.

Civil Procedure

Budget control: a sceptic's view. N.L.J. 2013, 163(7561), 9-10. By Richard Harrison.

Criticises the over-simplistic approach to costs management following the Jackson reforms and the judiciary's tendency to believe that costs budgets can be both realistic and straightforward. Identifies the shortcomings of Precedent H, the form for completion at the time of the first directions questionnaire, and suggests reforms, focusing on the division of litigation into artificial stages, inaccuracies in hourly rates, and the treatment of contingencies and assumptions.