

## Briefing Note Tenant Fees Act 2019

### **What is the Tenant Fees Act 2019?**

The Tenant Fees Act bans unfair lettings fees and sets out the fees that landlords and agents can still charge private tenants in the Private Rented Sector. It is part of a range of government reforms aimed at making private renting fairer and more secure.

The Act came into force on 1 June 2019. The Act will:

- Put a stop to the unfair practice of landlords and letting agents charging private tenants unnecessary, expensive fees in addition to requiring them to pay a deposit and rent upfront.
- Ban unfair lettings fees and cap tenancy deposits at 5 weeks' rent, with the ban on fees to take effect from 1 June 2019.
- Cap a refundable holding deposit (to reserve accommodation) at no more than one week's rent.

### **Why was it brought in?**

Letting agents and landlords in England were able to charge a range of fees at the start, renewal and termination of a tenancy. This included fees for references, credit checks, renewal, administration and inventory checks. These fees were in addition to requiring a deposit and rent upfront. Along with the high costs of private rents, these fees added up to hundreds of pounds, placing a huge financial burden on private tenants.

The Tenancy Fees Act will make the system of charging fees in private lets simpler and fairer. It will bring much relief to private tenants as it will reduce the costs they face in private renting.

### **Does this apply to my tenancy?**

The ban on fees will apply to most private tenants, including tenants of assured shorthold tenancies, tenancies of student accommodation and licences to occupy housing (for example, if you are a lodger) granted on or after 1 June 2019. Tenancies granted before 1<sup>st</sup> June 2019 are liable for contracted fees up until 31 May 2020. After this time, no tenant should be paying unfair fees to agents or landlords.

### **What payments are prohibited?**

From 1 June 2019, private landlords or letting agents will be prohibited from charging private tenants the following fees relating to:

- Reference Checks

- Credit Checks
- Administration
- Renewal of contract
- Guarantor
- Tenancy set up fees

This means that private tenants will no longer have to pay these upfront fees in addition to their rent and refundable deposits when they sign a new tenancy contract or move into a new home.

### **What payments are permitted?**

- Rent
- Refundable tenancy deposit – this is capped at no more than five weeks' rent if the yearly rent of the property is less than £50,000; and six weeks' rent if the yearly rent is more than £50,000
- Refundable holding deposit – caps a holding deposit at no more than one week's rent, and stipulates conditions around this
- Charges related to the changing or ending of a tenancy requested by a tenant
- Charges related to the early termination of a tenancy
- Charges related to council tax/utilities/communications, if they are not included in the rent
- Default fees related to the late payment of rent of more than 14 days; and fees related to the replacement of a lost key

Default fees can only be charged if they are stipulated in the tenancy agreement. They must be reasonable, and landlords must provide evidence of these fees before they can impose them.

Fees that are not listed in the permitted payments are prohibited.

### **Who enforces the Act?**

The Act places a duty on Trading Standards authorities – and district councils - to enforce the ban. At Reading Borough Council this duty will fall to the Private Sector Housing Team.

Landlords and letting agents who breach the ban by making a request for a prohibited payment will be liable to pay a financial penalty of up to £5,000 for an initial breach. They will be liable to pay fines of up to £30,000 for further breaches or face criminal prosecution.

The Act also makes provision for tenants to recover any unlawfully charged fees from the First Tier Tribunal. It prevents landlords from gaining possession of their property using the Section 21 eviction process, if they have not repaid any fees or returned any deposit or holding deposit to the tenant.

### **How this Act links in to the bigger picture?**

As mentioned earlier, It is part of a range of government reforms aimed at making private renting fairer and more secure.

We have already seen the arrival of the ***Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014***. This places a legal obligation on all Letting Agents and Property Management businesses to belong to a redress scheme and has already been successfully used against agents who fall foul of the law.

The recent ***The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2018*** has complimented the above by requiring agents to belong to an approved or designated scheme which insures clients' money against theft, agents going out of business etc

**The Consumer Rights Act 2015** was brought in to ensure that Agents and Landlords were being transparent about the fees that they were charging and that these fees were fair.

The ***Consumer Protection from Unfair Trading Regulations 2008*** has ensured that tenants are protected against aggressive and misleading practices from their landlords or agents.

### **Will rents go up?**

Fortunately we can look to Scotland for guidance. Since a ruling in 2012, tenants in Scotland can only be asked for just the rent and the deposit – everything else has to be paid by the landlord.

Housing charity Shelter has carried out detailed research on the impact. It found that landlords in Scotland were no more likely to have increased rents after the ban came into force than landlords elsewhere in the UK.

But Scottish letting agent groups disagree, arguing that rents rose when fees were banned. A House of Commons select committee decided the evidence was inconclusive.

What will happen in England and Wales? Letting agencies will probably see their profit margins shaved. Many landlords will have to accept a rise in fees. And in places rents will no doubt rise. But tenants will argue, understandably, that this is a much fairer outcome than the current mish-mash of largely inexplicable charges.

### **Any Questions?**

**For more information please contact**

**Paul Evans**  
**Private Sector Housing**  
[paul.evans@reading.gov.uk](mailto:paul.evans@reading.gov.uk)

**Tel: 07595092364**