



# Tenant Fees Act 2019

## 2019 CHAPTER 4

### *Final provisions*

#### **29 Consequential amendments**

- (1) In section 87 (enforcement of duty of letting agents to publicise fees etc) of the Consumer Rights Act 2015—
- (a) after subsection (1) insert—

“(1A) The duty in subsection (1) is subject to section 26 (enforcement by the lead enforcement authority) of the Tenant Fees Act 2019.”;
  - (b) in subsection (9), after “guidance issued by the Secretary of State” insert “ or the lead enforcement authority (if not the Secretary of State) ”;
  - (c) after subsection (12) insert—

“(13) For provisions about enforcement of this Chapter by the lead enforcement authority, see sections 24 to 26 of the Tenant Fees Act 2019.

(14) In this section “lead enforcement authority” has the meaning given by section 24(1) of the Tenant Fees Act 2019.”
- (2) In section 85 (enforcement of requirements relating to redress orders) of the Enterprise and Regulatory Reform Act 2013—
- (a) after subsection (4) insert—

“(4A) A person on whom functions are conferred under subsection (4) must have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if not the Secretary of State) relating to the enforcement of an order under section 83(1) or 84(1).”;
  - (b) after subsection (5) insert—

“(6) For provisions about enforcement of an order under section 83(1) or 84(1) by the lead enforcement authority, see sections 24 to 26 of the Tenant Fees Act 2019.

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- (7) In this section “lead enforcement authority” has the meaning given by section 24(1) of the Tenant Fees Act 2019.”
- (3) In article 7 of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (S.I. 2014/2359), after paragraph (2) insert—
- “(3) The duty referred to in paragraph (1) is subject to section 26 (enforcement by the lead enforcement authority) of the Tenant Fees Act 2019.”
- (4) The amendment made by subsection (3) is without prejudice to any power to make an order or regulations amending or revoking the order mentioned in that subsection.
- (5) In section 135 (enforcement of client money protection scheme regulations) of the Housing and Planning Act 2016—
- (a) in subsection (3), after “the Secretary of State” insert “ or the lead enforcement authority (if not the Secretary of State) ”;
- (b) after subsection (5) insert—
- “(6) For provisions about enforcement of regulations under section 133 or 134 or under this section by the lead enforcement authority, see sections 24 to 26 of the Tenant Fees Act 2019.
- (7) In this section “lead enforcement authority” has the meaning given by section 24(1) of the Tenant Fees Act 2019.”
- (6) In regulation 5 of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (enforcement)—
- (a) in paragraph (1) omit “, subject to regulation 8(3)”;  
(b) after that paragraph insert—
- “(1A) Paragraph (1) is subject to—
- (a) regulation 8(3), and  
(b) section 26 of the Tenant Fees Act 2019.”;
- (c) in paragraph (3), after “the Secretary of State” insert “ or the lead enforcement authority (if not the Secretary of State) ”.
- (7) The amendments made by subsection (6) are without prejudice to any power to make an order or regulations amending or revoking the regulations mentioned in that subsection.

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**Commencement Information**

**II** S. 29 in force at 15.4.2019 by S.I. 2019/857, reg. 2(d)

**30 Transitional provision**

- (1) Subject as follows, section 1 (prohibitions applying to landlords) does not apply to—
- (a) a requirement imposed before the coming into force of that section, or  
(b) a requirement imposed by or pursuant to a tenancy agreement entered into before the coming into force of that section.

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- (2) Subject as follows, section 1 does not apply to a requirement imposed by or pursuant to an agreement relating to a periodic tenancy which arises—
  - (a) under section 5(2) of the Housing Act 1988 after the coming into force of section 1, and
  - (b) on the coming to an end of a fixed term tenancy which was entered into before the coming into force of that section,(referred to in this section as a “relevant statutory tenancy”).
- (3) Subsections (5) and (6) apply in relation to a provision of a tenancy agreement entered into before the coming into force of section 1 if, had the agreement been entered into after that time, that section would have applied in relation to the provision or a requirement imposed pursuant to it.
- (4) Subsections (5) and (6) apply in relation to a provision of an agreement relating to a relevant statutory tenancy if, had the provision been included in a tenancy agreement entered into after the coming into force of section 1, that section would have applied in relation to that provision or a requirement imposed pursuant to it.
- (5) After the end of the period of one year beginning with the date on which section 1 comes into force, the provision ceases to be binding on the tenant or a relevant person in relation to the tenant (but the agreement continues, so far as practicable, to have effect in every other respect).
- (6) If, after the end of the period of one year beginning with the date on which section 1 comes into force—
  - (a) the landlord or a letting agent accepts a payment from a relevant person pursuant to the provision, and
  - (b) the landlord or letting agent does not return the payment before the end of the period of 28 days beginning with the day on which it is accepted,the landlord or letting agent is to be treated for the purposes of this Act as having required the relevant person to make a prohibited payment of that amount at that time.
- (7) Subject as follows, section 2 (prohibitions applying to letting agents) does not apply to—
  - (a) a requirement imposed before the coming into force of that section, or
  - (b) a requirement imposed by or pursuant to an agreement between a letting agent and a relevant person entered into before the coming into force of that section.
- (8) Subsections (9) and (10) apply in relation to a provision of an agreement between a letting agent and a relevant person entered into before the coming into force of section 2 if, had the agreement been entered into after that time, that section would have applied in relation to the provision or a requirement imposed pursuant to it.
- (9) After the end of the period of one year beginning with the date on which section 2 comes into force, the provision ceases to be binding on the relevant person (but the agreement continues, so far as practicable, to have effect in every other respect).
- (10) If, after the end of the period of one year beginning with the date on which section 2 comes into force—
  - (a) the letting agent accepts a payment from the relevant person pursuant to the provision, and
  - (b) the letting agent does not return the payment before the end of the period of 28 days beginning with the day on which it is accepted,

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the letting agent is to be treated for the purposes of this Act as having required the relevant person to make a prohibited payment of that amount at that time.

- (11) Schedule 2 (treatment of holding deposit) applies only in relation to a holding deposit paid after the coming into force of that Schedule.
- (12) The Secretary of State may by regulations made by statutory instrument make such other transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

#### Commencement Information

- I2** S. 30(12) in force at Royal Assent, see s. 34(3)(e)
- I3** S. 30(1)-(11) in force at 1.6.2019 by S.I. 2019/857, reg. 3(x)

### 31 Financial provisions

The following are to be paid out of money provided by Parliament—

- (a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

### 32 Crown application

- (1) Sections 1 to 11, 15 to 17 and 30, Schedules 1 to 3 and any regulations made under section 3 or 9 bind the Crown in respect of a Crown tenancy.

This is subject to subsection (2).

- (2) In subsection (3) of section 8 as it applies by virtue of subsection (1), the reference to a person having committed an offence under section 12 is to be read as a reference to a person satisfying the conditions in subsection (1)(a) to (c) of that section.
- (3) In this section—
  - (a) “Crown tenancy” means a tenancy of housing in England in which the interest of the landlord is a Crown interest;
  - (b) “Crown interest” means a Crown interest within the meaning of section 44(3) of the Housing Act 1988 which is capable of granting an assured shorthold tenancy under that Act.

#### Commencement Information

- I4** S. 32 in force at 1.6.2019 by S.I. 2019/857, reg. 3(y)

### 33 Extent

- (1) This Act extends to England and Wales only, subject to subsection (2).
- (2) The following provisions extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 6(6);

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- (b) section 7(4);
- (c) section 26(10);
- (d) section 30(12);
- (e) section 31;
- (f) this section;
- (g) section 34;
- (h) section 35.

### **34 Commencement**

- (1) This Act comes into force on such day as the Secretary of State appoints by regulations made by statutory instrument, subject to subsection (3).
- (2) Regulations under subsection (1) may appoint different days for different purposes.
- (3) The following provisions come into force on the day on which this Act is passed—
  - (a) section 3(2) to (7);
  - (b) section 9;
  - (c) section 24(4) and (5);
  - (d) section 28(1);
  - (e) section 30(12);
  - (f) section 31;
  - (g) section 33;
  - (h) this section;
  - (i) section 35.

### **35 Short title**

This Act may be cited as the Tenant Fees Act 2019.

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