



# Tenant Fees Act 2019

## 2019 CHAPTER 4

### *Prohibitions etc applying to landlords and letting agents*

VALID FROM 01/06/2019

#### **1 Prohibitions applying to landlords**

- (1) A landlord must not require a relevant person to make a prohibited payment to the landlord in connection with a tenancy of housing in England.
- (2) A landlord must not require a relevant person to make a prohibited payment to a third party in connection with a tenancy of housing in England.
- (3) A landlord must not require a relevant person to enter into a contract with a third party in connection with a tenancy of housing in England if that contract is—
  - (a) a contract for the provision of a service, or
  - (b) a contract of insurance.
- (4) Subsection (3) does not apply if the contract is for—
  - (a) the provision of a utility to the tenant, or
  - (b) the provision of a communication service to the tenant.
- (5) A landlord must not require a relevant person to make a loan to any person in connection with a tenancy of housing in England.
- (6) For the purposes of this section, a landlord requires a relevant person to make a payment, enter into a contract or make a loan in connection with a tenancy of housing in England if and only if the landlord—
  - (a) requires the person to do any of those things in consideration of the grant, renewal, continuance, variation, assignment, novation or termination of such a tenancy,
  - (b) requires the person to do any of those things pursuant to a provision of a tenancy agreement relating to such a tenancy which requires or purports to

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- require the person to do any of those things in the event of an act or default of a relevant person,
- (c) requires the person to do any of those things pursuant to a provision of a tenancy agreement relating to such a tenancy which requires or purports to require the person to do any of those things if the tenancy is varied, assigned, novated or terminated,
  - (d) enters into a tenancy agreement relating to such a tenancy which requires or purports to require the person to do any of those things other than in the circumstances mentioned in paragraph (b) or (c),
  - (e) requires the person to do any of those things—
    - (i) as a result of an act or default of a relevant person relating to such a tenancy or housing let under it, and
    - (ii) otherwise than pursuant to, or for the breach of, a provision of a tenancy agreement, or
  - (f) requires the person to do any of those things in consideration of providing a reference in relation to that person in connection with the person's occupation of housing in England.
- (7) For the purposes of this section, a landlord does not require a relevant person to make a payment, enter into a contract or make a loan if the landlord gives the person the option of doing any of those things as an alternative to complying with another requirement imposed by the landlord or a letting agent.
- (8) Subsection (7) does not apply if—
- (a) the other requirement is prohibited by this section or section 2 (ignoring subsection (7) or section 2(6)), or
  - (b) it would be unreasonable to expect a relevant person to comply with the other requirement.
- (9) In this Act “relevant person” means—
- (a) a tenant, or
  - (b) subject to subsection (10), a person acting on behalf of, or who has guaranteed the payment of rent by, a tenant.
- (10) The reference in subsection (9)(b) to a person does not include—
- (a) a local housing authority within the meaning of the Housing Act 1985 (see section 1 of that Act),
  - (b) the Greater London Authority, or
  - (c) a person acting on behalf of an authority within paragraph (a) or the Greater London Authority.

VALID FROM 01/06/2019

## **2 Prohibitions applying to letting agents**

- (1) A letting agent must not require a relevant person to make a prohibited payment to the letting agent in connection with a tenancy of housing in England.
- (2) A letting agent must not require a relevant person to make a prohibited payment to a third party in connection with a tenancy of housing in England.

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- (3) A letting agent must not require a relevant person to enter into a contract with the agent or a third party in connection with a tenancy of housing in England if the contract is—
  - (a) a contract for the provision of a service, or
  - (b) a contract of insurance.
- (4) A letting agent must not require a relevant person to make a loan to any person in connection with a tenancy of housing in England.
- (5) For the purposes of this section, a letting agent requires a relevant person to make a payment, enter into a contract or make a loan in connection with a tenancy of housing in England if and only if the letting agent—
  - (a) requires the person to do any of those things in consideration of arranging the grant, renewal, continuance, variation, assignment, novation or termination of such a tenancy,
  - (b) requires the person to do any of those things pursuant to a provision of an agreement with the person relating to such a tenancy which requires or purports to require the person to do any of those things in the event of an act or default of a relevant person,
  - (c) requires the person to do any of those things pursuant to a provision of an agreement with the person relating to such a tenancy which requires or purports to require the person to do any of those things if the tenancy is varied, assigned, novated or terminated,
  - (d) requires the person to do any of those things—
    - (i) as a result of an act or default of a relevant person relating to such a tenancy or housing let under it, and
    - (ii) otherwise than pursuant to, or for the breach of, an agreement entered into before the act or default, or
  - (e) requires the person to do any of those things in consideration of providing a reference in relation to that person in connection with the person's occupation of housing in England.
- (6) For the purposes of this section, a letting agent does not require a relevant person to make a payment, enter into a contract or make a loan if the letting agent gives the person the option of doing any of those things as an alternative to complying with another requirement imposed by the letting agent or the landlord.
- (7) Subsection (6) does not apply if—
  - (a) the other requirement is prohibited by this section or section 1 (ignoring subsection (6) or section 1(7)), or
  - (b) it would be unreasonable to expect a relevant person to comply with the other requirement.
- (8) This section does not apply to a requirement imposed by a letting agent on a relevant person if—
  - (a) the requirement is imposed by the letting agent in consideration of providing a service to a tenant,
  - (b) as part of that service the agent finds housing for the tenant to rent and the tenant rents that housing, and
  - (c) the agent does not act on behalf of the landlord of that housing, whether in relation to that housing or any other housing.

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### 3 Prohibited and permitted payments

- (1) For the purposes of this Act a payment is a prohibited payment unless it is a permitted payment by virtue of Schedule 1.
- (2) The Secretary of State may by regulations made by statutory instrument amend Schedule 1 by adding, modifying or removing a reference to a permitted payment.
- (3) The power in subsection (2) does not extend to removing rent from the categories of payment which are permitted payments under this Act.
- (4) Regulations under this section—
  - (a) may make different provision for different purposes;
  - (b) may make supplemental, incidental, consequential, transitional, transitory or saving provision.
- (5) Subject to subsection (6), a statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Subsection (5) does not apply to a statutory instrument containing only regulations under this section which amend the amount for the time being set out in paragraph 6(2)(a) of Schedule 1 (maximum amount of permitted payment on variation, assignment or novation of a tenancy) for the purposes only of reflecting changes in the value of money.
- (7) A statutory instrument to which subsection (6) applies is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

II S. 3(2)-(7) in force at Royal Assent, see s. 34(3)(a)

VALID FROM 01/06/2019

### 4 Effect of a breach of section 1 or 2

- (1) A term of a tenancy agreement which breaches section 1 is not binding on a relevant person.
- (2) A term of an agreement between a letting agent and a relevant person which breaches section 2 is not binding on a relevant person.
- (3) Where a term of an agreement is not binding on a relevant person as a result of this section, the agreement continues, so far as practicable, to have effect in every other respect.
- (4) If a relevant person makes a loan to a person pursuant to a requirement which breaches section 1(5) or 2(4), the loan is repayable by the borrower to the relevant person on demand.

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## **5 Treatment of holding deposit**

Schedule 2 makes provision about the treatment of holding deposits.

### *Enforcement*

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## **6 Enforcement by local weights and measures authorities**

- (1) It is the duty of every local weights and measures authority in England to enforce in its area—
  - (a) section 1 (prohibitions applying to landlords),
  - (b) section 2 (prohibitions applying to letting agents), and
  - (c) Schedule 2 (treatment of holding deposit).
- (2) The duty in subsection (1) is subject to sections 14(5) (enforcement by another enforcement authority) and 26 (enforcement by the lead enforcement authority).
- (3) Where a breach of section 1 or 2 or Schedule 2 relates to housing which is located in the area of more than one local weights and measures authority, the breach is taken to have occurred in each of those areas.
- (4) A local weights and measures authority in England must have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if not the Secretary of State) about the exercise of its functions under this Act.
- (5) For the investigatory powers available to a local weights and measures authority in England for the purposes of enforcing this Act, see Schedule 5 to the Consumer Rights Act 2015.
- (6) In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (duties and powers to which Schedule 5 applies), at the appropriate place insert “ section 6 of the Tenant Fees Act 2019 ”.

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## **7 Enforcement by district councils**

- (1) A district council which is not a local weights and measures authority may enforce sections 1 and 2 and Schedule 2.
- (2) A district council must have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if not the Secretary of State) about the exercise of its functions under this Act.

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- (3) For the investigatory powers available to a district council for the purposes of enforcing this Act, see Schedule 5 to the Consumer Rights Act 2015.
- (4) In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (duties and powers to which Schedule 5 applies), at the appropriate place insert “ section 7 of the Tenant Fees Act 2019 ”.
- (5) In this Act “enforcement authority” means—
  - (a) a local weights and measures authority in England, or
  - (b) a district council which is not a local weights and measures authority.

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## 8 Financial penalties

- (1) Where an enforcement authority is satisfied beyond reasonable doubt that a person has breached section 1 or 2 or Schedule 2, the authority may impose a financial penalty on the person in respect of the breach.
- (2) The financial penalty—
  - (a) may be of such amount as the authority determines, but
  - (b) subject to subsection (3), must not exceed £5,000.
- (3) If the enforcement authority is satisfied beyond reasonable doubt that the person has committed an offence under section 12, the financial penalty—
  - (a) may exceed £5,000, but
  - (b) must not exceed £30,000.
- (4) An enforcement authority may not impose a financial penalty under this section on a person in respect of any conduct amounting to an offence under section 12 if—
  - (a) the person has been convicted of an offence under that section in respect of the conduct,
  - (b) criminal proceedings for an offence under that section in respect of the conduct have been instituted against the person and the proceedings have not been concluded, or
  - (c) criminal proceedings for an offence under that section in respect of the conduct have been concluded and the person has not been convicted of the offence.
- (5) An enforcement authority may not impose a financial penalty under this section on a person for a breach of paragraph 3 of Schedule 2 in relation to a holding deposit if—
  - (a) the person failed to return the deposit in accordance with that Schedule because the person believed that the landlord was prohibited by section 22 of the Immigration Act 2014 from granting a tenancy of the housing to the tenant, and
  - (b) the person's belief was based on incorrect information provided by the Secretary of State.
- (6) Only one financial penalty under this section may be imposed in respect of the same breach.

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- (7) An enforcement authority may impose a financial penalty under this section in respect of a breach which occurs outside that authority's area (as well as in respect of a breach which occurs within that area).
- (8) Schedule 3 makes further provision about financial penalties under this section and other payments required to be made under this Act.

## 9 Power to amend maximum financial penalties

- (1) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being set out in section 8(2)(b) or (3)(a) or (b) (financial penalties).
- (2) The power in subsection (1) may be exercised only where the Secretary of State considers it is expedient to do so to reflect changes in the value of money.
- (3) Regulations under this section may make transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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## 10 Recovery by enforcement authority of amount paid

- (1) Subsection (2) applies where an enforcement authority—
  - (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching section 1 or 2,
  - (b) is satisfied on the balance of probabilities that the breach resulted in a relevant person making a prohibited payment to a landlord, letting agent or third party, and
  - (c) is satisfied on the balance of probabilities that all or part of the prohibited payment has not been repaid to the relevant person.
- (2) The enforcement authority may require the landlord or letting agent to pay to the relevant person—
  - (a) if none of the prohibited payment has been repaid to the relevant person, the amount of the prohibited payment;
  - (b) if part of the prohibited payment has been repaid to the relevant person, the remaining part of the prohibited payment.
- (3) But subsection (2) does not apply in relation to a prohibited payment if or to the extent that, with the consent of the relevant person—
  - (a) the prohibited payment, or the remaining part of it, has been applied towards a payment of rent under the tenancy, or
  - (b) the prohibited payment, or the remaining part of it, has been applied towards the tenancy deposit in respect of the tenancy.
- (4) Subsection (5) applies where an enforcement authority—
  - (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching section 1 or 2,

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- (b) is satisfied on the balance of probabilities that the breach resulted in a relevant person entering into a contract with a third party, and
  - (c) is satisfied on the balance of probabilities that the relevant person has made a payment or payments under the contract.
- (5) The enforcement authority may require the landlord or letting agent to pay to the relevant person an amount which does not exceed the amount of the payment or (as the case may be) the aggregate amount of the payments that the relevant person has made.
- (6) Subsection (8) applies where an enforcement authority—
- (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching Schedule 2 (treatment of holding deposit), and
  - (b) is satisfied on the balance of probabilities that all or part of the holding deposit has not been repaid to the relevant person.
- (7) Subsection (8) also applies where an enforcement authority—
- (a) could have imposed a financial penalty under section 8 on a landlord or letting agent for breaching paragraph 3 of Schedule 2 but for subsection (5) of that section (incorrect belief that immigration-related prohibition on granting tenancy applied), and
  - (b) is satisfied on the balance of probabilities that all or part of the holding deposit has not been repaid to the relevant person.
- (8) The enforcement authority may require the landlord or letting agent to pay to the relevant person—
- (a) if none of the holding deposit has been repaid to the relevant person, the amount of the holding deposit;
  - (b) if part of the holding deposit has been repaid to the relevant person, the remaining part of the holding deposit.
- (9) But subsection (8) does not apply in relation to a holding deposit if or to the extent that, with the consent of the relevant person—
- (a) the holding deposit, or the remaining part of it, has been applied towards a payment of rent under the tenancy, or
  - (b) the holding deposit, or the remaining part of it, has been applied towards the tenancy deposit in respect of the tenancy.
- (10) Subsection (2), (5) or (8) does not apply if the relevant person has made an application under section 15 (application to the First-tier Tribunal) for recovery of all or part of the amount or (as the case may be) the aggregate amount referred to in that subsection.

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## 11 Interest on payments under section 10

- (1) Where an enforcement authority requires a landlord or letting agent to pay an amount under section 10, the authority may require the landlord or letting agent to pay interest on that amount.



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- (2) If an enforcement authority requires a landlord or letting agent to pay interest on an amount under subsection (1)—
  - (a) the amount carries interest from the day specified in subsection (3) until the day on which the amount is paid;
  - (b) the rate of interest is the rate for the time being specified in section 17 of the Judgments Act 1838.
- (3) That day is—
  - (a) where the amount is required to be paid under section 10(2), the day on which the prohibited payment was made;
  - (b) where the amount is required to be paid under section 10(5), the day on which the payment or (as the case may be) the first of the payments under the contract was made;
  - (c) where the amount is required to be paid under section 10(8)—
    - (i) in a case within paragraph 4 of Schedule 2, the day after the end of the period within which the holding deposit is required to be repaid in accordance with that paragraph, or
    - (ii) in a case within paragraph 5 of that Schedule, the day after the end of the relevant period within the meaning of that paragraph.
- (4) The total amount of interest imposed under subsection (1) must not exceed the amount required to be paid under section 10.

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## 12 Offences

- (1) A person commits an offence if—
  - (a) the person breaches section 1 or 2,
  - (b) a relevant penalty has been imposed on the person in respect of a different breach of the same section and the final notice imposing the penalty has not been withdrawn, or the person has been convicted of an offence in respect of such a breach, and
  - (c) the breach mentioned in paragraph (a) occurs within the period of five years beginning with the day on which the relevant penalty was imposed or the person was convicted.
- (2) For the purposes of subsection (1)(c) a relevant penalty is imposed on the date specified in the final notice in respect of that penalty as the date on which it is served.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (4) A person may not be convicted of an offence under this section in respect of the breach mentioned in subsection (1)(a) if a financial penalty has been imposed under section 8 in respect of that breach.
- (5) In this section “relevant penalty” means a financial penalty which is imposed under section 8 where—

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- (a) the period for bringing an appeal against the penalty under paragraph 6 of Schedule 3 has expired without an appeal being brought,
  - (b) an appeal against the financial penalty under that paragraph has been withdrawn or abandoned, or
  - (c) the final notice imposing the penalty has been confirmed or varied on appeal.
- (6) In section 14 of the Housing and Planning Act 2016, after subsection (4) insert—
- “(5) An offence under section 12 of the Tenant Fees Act 2019 is also a banning order offence for the purposes of this Part.”

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### 13 Offences by bodies corporate

- (1) Where an offence under section 12 (offences) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of a body corporate, the officer as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were an officer of the body corporate.

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### 14 Duty to notify when taking enforcement action

- (1) Where a local weights and measures authority in England (“LA1”) proposes to take enforcement action in respect of a breach which occurs (or which also occurs) in the area of a different local weights and measures authority in England (“LA2”), LA1 must notify LA2 that it proposes to do so.
- (2) If LA1 notifies LA2 under subsection (1) but does not take the action referred to in that subsection, LA1 must notify LA2 of that fact.
- (3) Where a district council proposes to take enforcement action in respect of a breach, the district council must notify the local weights and measures authority for the area in which the breach occurs (or in which the breach also occurs) that it proposes to do so.
- (4) If a district council notifies a local weights and measures authority under subsection (3) but does not take the action referred to in that subsection, the district council must notify the local weights and measures authority of that fact.
- (5) Where a local weights and measures authority receives a notification under subsection (1) or (3), the authority is relieved of its duty to take enforcement action in relation to the breach unless the authority receives a notification under subsection (2) or (4).

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- (6) An enforcement authority must notify the lead enforcement authority as soon as reasonably practicable if—
- (a) the enforcement authority imposes a financial penalty under section 8 (financial penalties),
  - (b) a financial penalty imposed under that section by the enforcement authority is withdrawn,
  - (c) a financial penalty imposed under that section by the enforcement authority is quashed on appeal, or
  - (d) the enforcement authority brings proceedings for an offence under section 12 and the defendant in the proceedings is convicted of the offence.
- (7) Subsection (8) applies where—
- (a) an enforcement authority has imposed a financial penalty under section 8(3),
  - (b) the breach to which the penalty relates occurred in the area of a local housing authority which is not the enforcement authority which imposed the penalty, and
  - (c) the final notice imposing the penalty has not been withdrawn.
- (8) The enforcement authority must notify the local housing authority as soon as reasonably practicable if—
- (a) the period for bringing an appeal against the penalty under paragraph 6 of Schedule 3 expires without an appeal being brought,
  - (b) an appeal against the penalty is withdrawn or abandoned, or
  - (c) the final notice imposing the penalty is confirmed or varied on appeal.
- (9) Subsection (10) applies where—
- (a) an enforcement authority has brought proceedings against a person for an offence under section 12, and
  - (b) the conduct to which the offence relates occurred in the area of a local housing authority which is not the enforcement authority which has brought the proceedings.
- (10) The enforcement authority must notify the local housing authority as soon as reasonably practicable if the person is convicted of the offence.
- (11) In this section—
- (a) “local housing authority” has the meaning given by section 1 of the Housing Act 1985, and
  - (b) a reference to an enforcement authority taking enforcement action is a reference to that authority—
    - (i) imposing a financial penalty under section 8, or
    - (ii) bringing proceedings against a person for an offence under section 12.

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## 15 Recovery by relevant person of amount paid

- (1) Subsection (3) applies where—

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- (a) a landlord or a letting agent breaches section 1 or 2, as a result of which the landlord or letting agent, or a third party, receives a prohibited payment from a relevant person, and
  - (b) all or part of the prohibited payment has not been repaid to the relevant person.
- (2) Subsection (3) also applies where—
  - (a) a landlord or letting agent breaches Schedule 2 in relation to a holding deposit paid by a relevant person, and
  - (b) all or part of the holding deposit has not been repaid to the relevant person.
- (3) The relevant person may make an application to the First-tier Tribunal for the recovery from the landlord or letting agent of—
  - (a) if none of the prohibited payment or holding deposit has been repaid to the relevant person, the amount of the prohibited payment or holding deposit;
  - (b) if part of the prohibited payment or holding deposit has been repaid to the relevant person, the remaining part of the prohibited payment or holding deposit.
- (4) Subsection (5) applies where—
  - (a) a landlord or letting agent breaches section 1 or 2, as a result of which a relevant person enters into a contract with a third party, and
  - (b) the relevant person has made a payment or payments under the contract.
- (5) The relevant person may make an application to the First-tier Tribunal for the recovery from the landlord or letting agent of the amount of the payment or (as the case may be) the aggregate amount of the payments that the relevant person has made.
- (6) Subsection (3) does not apply in relation to a prohibited payment or holding deposit if or to the extent that, with the consent of the relevant person—
  - (a) the prohibited payment or holding deposit, or the remaining part of it, has been applied towards a payment of rent under the tenancy, or
  - (b) the prohibited payment or holding deposit, or the remaining part of it, has been applied towards the tenancy deposit in respect of the tenancy.
- (7) Subsection (3) or (5) does not apply where an enforcement authority has commenced criminal proceedings against the landlord or the letting agent for the same breach.
- (8) Subsection (3) or (5) does not apply where an enforcement authority has required the landlord or letting agent to pay to the relevant person all or part of the amount or (as the case may be) the aggregate amount referred to in that subsection.
- (9) On an application under subsection (3) or (5), the First-tier Tribunal may order the landlord or the letting agent to pay all or any part of the amount or (as the case may be) the aggregate amount referred to in that subsection to the relevant person within the period specified in the order.
- (10) A period specified under subsection (9) must be a period of at least 7 days but not more than 14 days beginning with the day after that on which the order is made.
- (11) An order of the First-tier Tribunal under this section is enforceable by order of the county court as if the amount payable under the order were payable under an order of that court.

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## 16 Assistance to recover amount paid

- (1) An enforcement authority may help a relevant person—
  - (a) to make an application under section 15 (recovery by relevant person of amount paid), or
  - (b) to recover all or part of an amount which the First-tier Tribunal orders to be paid to the relevant person under that section.
- (2) An enforcement authority may, for example, help a relevant person by conducting proceedings or by giving advice to the relevant person.

VALID FROM 01/06/2019

## 17 Restriction on terminating tenancy

- (1) This section applies if—
  - (a) a landlord breaches section 1(1) by requiring a relevant person to make a prohibited payment in connection with an assured shorthold tenancy, and
  - (b) the relevant person makes a prohibited payment to the landlord as a result of the requirement being made.
- (2) This section also applies if—
  - (a) a landlord breaches Schedule 2 in relation to a holding deposit paid by a relevant person, and
  - (b) the deposit relates to an assured shorthold tenancy.
- (3) No section 21 notice may be given in relation to the tenancy so long as all or part of the prohibited payment or holding deposit has not been repaid to the relevant person.
- (4) Subsection (3) does not apply where none of the prohibited payment or holding deposit has been repaid to the relevant person if, with the consent of the relevant person—
  - (a) the payment or deposit has been applied towards a payment of rent under the tenancy,
  - (b) the payment or deposit has been applied towards the tenancy deposit in respect of the tenancy, or
  - (c) some of the payment or deposit has been applied as mentioned in paragraph (a) and the rest has been applied as mentioned in paragraph (b).
- (5) Subsection (3) does not apply where part of the prohibited payment or holding deposit has been repaid to the relevant person if, with the consent of the relevant person—
  - (a) the remaining part has been applied towards a payment of rent under the tenancy,
  - (b) the remaining part has been applied towards the tenancy deposit in respect of the tenancy, or

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- (c) some of the remaining part has been applied as mentioned in paragraph (a) and the rest has been applied as mentioned in paragraph (b).
- (6) In this section “section 21 notice” means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy).

VALID FROM 01/06/2019

### *Amendments to the Consumer Rights Act 2015*

#### **18 Duty to publicise fees on third party websites**

- (1) Section 83 of the Consumer Rights Act 2015 (duty of letting agents to publicise fees etc) is amended in accordance with subsections (2) to (6).
- (2) After subsection (3) insert—
- “(3A) Subsection (3C) applies to an agent who—
- (a) is carrying on letting agency work in relation to a dwelling-house in England, and
  - (b) advertises the dwelling-house on a third party website as a dwelling-house which a landlord is seeking to let on a tenancy.
- (3B) Subsection (3C) also applies to an agent who, on a third party website, advertises letting agency work carried on by the agent in relation to dwelling houses in England.
- (3C) The agent must ensure that—
- (a) a list of the agent's relevant fees is published on the third party website, or
  - (b) there is a link on that website to a part of the agent's website where a list of those fees is published.”

(3) In subsection (4), in the opening words, for “or (3)” substitute “, (3) or (3C) ”.

(4) In subsection (6), for “or (3)” substitute “, (3) or (3C) ”.

(5) In subsection (7), for “or (3)” substitute “, (3) or (3C) ”.

(6) In subsection (9) at the end insert—

““third party website”, in relation to a letting agent, means a website other than the agent's website.”

(7) In section 87 of that Act (enforcement of duty of letting agents to publicise fees etc), after subsection (2) insert—

“(2A) If a letting agent breaches the duty in section 83(3C) (duty to publish list of fees etc on third party website), that breach is taken to have occurred in each area of a local weights and measures authority in England in which a dwelling-house to which the fees relate is located.”

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## **19 Information about membership of client money protection scheme**

In section 83 of the Consumer Rights Act 2015, in subsection (6) (statement of whether agent is member of client money protection scheme)—

- (a) for the words from “holds money” to “as part of” substitute “ is required to be a member of a client money protection scheme for the purposes of”, and
- (b) for the words from “of whether” to the end substitute “that—
  - (a) indicates that the agent is a member of a client money protection scheme, and
  - (b) gives the name of the scheme.”

## **20 Penalties for continuing breach of duty**

(1) Section 87 of the Consumer Rights Act 2015 (enforcement of duty of letting agents to publicise fees etc) is amended as follows.

(2) In subsection (6), at the end insert “, subject to subsection (6A) ”.

(3) After subsection (6) insert—

“(6A) More than one penalty may be imposed on the same letting agent by a local weights and measures authority in England in respect of a breach which occurs in England where—

- (a) the breach continues after the end of 28 days beginning with the day after that on which the final notice in respect of the previous penalty for the breach was served, unless the letting agent appeals against that notice within that period, or
- (b) if the letting agent appeals against that notice within that period, the breach continues after the end of 28 days beginning with the day after that on which the appeal is finally determined, withdrawn or abandoned.

(6B) Subsection (6A) does not enable a penalty to be imposed after the final notice in respect of the previous penalty has been withdrawn or quashed on appeal.

(6C) In subsections (6A) and (6B) “final notice” has the meaning given by paragraph 3(2) of Schedule 9.”

### *Client money protection schemes*

## **21 Enforcement of client money protection schemes for property agents**

(1) The Housing and Planning Act 2016 is amended as follows.

(2) In section 134 (client money protection schemes: approval or designation), after subsection (2) insert—

“(3) Regulations under this section may confer a discretion on the Secretary of State in connection with—

- (a) the approval or designation of a client money protection scheme,
- (b) conditions which must be complied with by the administrator of such a scheme,
- (c) the amendment of such a scheme, or

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- (d) the withdrawal of approval or revocation of designation of such a scheme.”
- (3) In section 135 (enforcement of client money protection scheme regulations)—
  - (a) in subsection (4)(e), after “for the purposes of any of its functions” insert “ (whether or not the function is expressed to be a function of a local weights and measures authority) ”, and
  - (b) for subsection (5) substitute—
    - “(5) In this section “local authority in England” means a local weights and measures authority in England.”

#### Commencement Information

**I2** S. 21(1)(3) in force at 1.4.2019 by S.I. 2019/428, reg. 2(a)

## 22 Client money protection schemes: approval and designation

- (1) The Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 (S.I. 2018/751) are amended as follows.
- (2) In regulation 2 (interpretation), in the definition of “client money”—
  - (a) in paragraph (a), for “agency”, in the second place it occurs, substitute “ management ”, and
  - (b) at the end of paragraph (b) insert
    - “
    - but does not include money held in accordance with an authorised tenancy deposit scheme within the meaning of Chapter 4 of Part 6 of the Housing Act 2004 (see section 212 of that Act); ”.
- (3) In regulation 4 (amendments to an approved scheme), after paragraph (3) insert—
  - “(4) This regulation does not apply to an amendment made in accordance with a notice served under regulation 8(1D)(b).”
- (4) In regulation 5 (conditions which must be satisfied before approval may be given)—
  - (a) in paragraph (1)(a)(iii), for “and without any deduction” substitute “ , subject to paragraph (1A) ”,
  - (b) in paragraph (1)(c)(i), for “administration of the scheme” substitute “ failure of scheme members to account for client money to persons entitled to that money ”,
  - (c) after paragraph (1) insert—
    - “(1A) The Secretary of State may determine that the condition in paragraph (1)(a)(iii) is satisfied where the rules of the scheme have the effect that the scheme administrator is required to make good M's liability—
      - (a) only up to such amount as the Secretary of State considers appropriate,
      - (b) only if or to the extent that M's liability can be made good without exceeding such aggregate limit on the liability of



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- the scheme as a whole as the Secretary of State considers appropriate, or
- (c) only if M's liability arises in relation to a risk that the Secretary of State considers it is appropriate for the scheme to insure against.”, and
- (d) after paragraph (2) insert—
- “(2A) The rules of the scheme are to be treated as complying with paragraph (2)(f) if they provide that, until 1 April 2020, they have effect as if they required scheme members to make all reasonable efforts to hold client money in a client money account with a bank or building society authorised by the Financial Conduct Authority.”
- (5) In regulation 8 (conditions with which scheme administrators must comply)—
- (a) in paragraph (1), after “practicable” insert “—
- (a) after that member joins the scheme, and
- (b) after the scheme rules are amended under paragraph (1D)(a) or in accordance with a notice served under paragraph (1D)(b).”,
- (b) after paragraph (1) insert—
- “(1A) Paragraphs (1B) to (1E) apply if the rules of the scheme have the effect of requiring the scheme administrator to make good the liability of a scheme member—
- (a) only up to a certain amount,
- (b) only within an aggregate limit on the liability of the scheme as a whole, or
- (c) only in relation to certain risks.
- (1B) The certificate provided under paragraph (1) must include—
- (a) information about the amount referred to in paragraph (1A)(a),
- (b) information about the limit referred to in paragraph (1A)(b), or
- (c) details of where to find information about the risks referred to in paragraph (1A)(c),
- as the case may be.
- (1C) Paragraphs (1D) and (1E) apply if the Secretary of State considers that—
- (a) the amount referred to in paragraph (1A)(a) is no longer appropriate,
- (b) the limit referred to in paragraph (1A)(b) is no longer appropriate,
- (c) it is no longer appropriate for the rules of the scheme to exclude liability in relation to one or more of the risks referred to in paragraph (1A)(c), or
- (d) it is appropriate for the rules of the scheme to exclude liability in relation to one or more risks that are not among the risks referred to in paragraph (1A)(c).
- (1D) The Secretary of State may—

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- (a) where the Secretary of State is the scheme administrator, amend the scheme rules with the effect that the amount, the limit or the risks are replaced with such different amount, limit or risks (as the case may be) as the Secretary of State considers appropriate;
  - (b) in any other case, serve a notice on the scheme administrator requiring that person to amend the scheme rules with the effect that the amount, the limit or the risks are replaced with such different amount, limit or risks (as the case may be) as the Secretary of State considers appropriate.
- (1E) The scheme administrator must comply with a notice served under paragraph (1D)(b)—
  - (a) within the period of 30 days beginning with the day on which the notice is served, or
  - (b) within such longer period beginning with that day as the Secretary of State may specify in the notice.”
- (c) after paragraph (3) insert—
  - “(3A) The scheme administrator must maintain insurance that—
    - (a) covers any foreseeable liability which may arise in connection with the failure of scheme members to account for client money to persons entitled to that money, and
    - (b) is appropriate with regard to the size and number of scheme members and the amount of client money held by scheme members.
  - (3B) Before renewing the scheme's insurance, the scheme administrator must obtain the approval of the Secretary of State to the type and amount of insurance.
  - (3C) The Secretary of State may approve the renewal of the scheme's insurance only if the Secretary of State is satisfied that, if the insurance is renewed as proposed, the scheme administrator will continue to comply with paragraph (3A).”
- (d) in paragraph (5), at the end of sub-paragraph (a) for “; and” substitute “,
  - (aa) where paragraph (1B) applies—
    - (i) information about the amount referred to in paragraph (1A)(a),
    - (ii) information about the limit referred to in paragraph (1A)(b), or
    - (iii) information about the risks referred to in paragraph (1A)(c),
 as the case may be, and” , and
- (e) after paragraph (6) insert—
  - “(7) In this regulation, references to renewing a scheme's insurance (however expressed) include obtaining new insurance.
  - (8) Paragraphs (2), (3B), (3C) and (4) do not apply where the Secretary of State is the scheme administrator.”

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- (6) The amendments made by this section are without prejudice to any power to make an order or regulations amending or revoking the regulations mentioned in subsection (1).

**Commencement Information**

**I3** S. 22 in force at 14.2.2019 by S.I. 2019/260, reg. 2

**23 Client money protection schemes: requirement to belong to a scheme etc**

- (1) The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 are amended as follows.

- (2) In regulation 2 (interpretation)—

- (a) in the definition of “client money”—

(i) in paragraph (a), for “agency”, in the second place it occurs, substitute “management”, and

(ii) at the end of paragraph (b), for “; and” substitute “, but does not include money held in accordance with an authorised tenancy deposit scheme within the meaning of Chapter 4 of Part 6 of the Housing Act 2004 (see section 212 of that Act);”, and

- (b) at the end of the definition of “regulated property agent” insert “;

“scheme administrator” has the same meaning as in the scheme approval regulations (see regulation 2 of those regulations); and

“scheme approval regulations” means the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018.”

- (3) In regulation 3 (requirement to belong to a client money protection scheme), omit paragraph (2).

- (4) In regulation 4 (transparency requirements)—

- (a) before paragraph (1) insert—

“(A1) Paragraph (1) applies if the scheme administrator of an approved or designated client money protection scheme provides a certificate under regulation 8(1) of the scheme approval regulations to a regulated property agent.”, and

- (b) in paragraph (1)—

(i) in the words before sub-paragraph (a), for “A” substitute “The”, and

(ii) omit sub-paragraph (a).

- (5) The amendments made by this section are without prejudice to any power to make an order or regulations amending or revoking the regulations mentioned in subsection (1).

**Commencement Information**

**I4** S. 23 in force at 1.4.2019 by S.I. 2019/428, reg. 2(b)

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### *Lead enforcement authority*

## **24 Lead enforcement authority**

- (1) In this Act “lead enforcement authority” means—
  - (a) the Secretary of State, or
  - (b) a person whom the Secretary of State has arranged to be the lead enforcement authority in accordance with subsection (2).
- (2) The Secretary of State may make arrangements for a local weights and measures authority in England to be the lead enforcement authority for the purposes of the relevant letting agency legislation instead of the Secretary of State.
- (3) The arrangements—
  - (a) may include provision for payments by the Secretary of State;
  - (b) may include provision about bringing the arrangements to an end.
- (4) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision which applies when there is a change in the lead enforcement authority.
- (5) The regulations may relate to a specific change in the lead enforcement authority or to changes that might arise from time to time.
- (6) In this Act “the relevant letting agency legislation” means—
  - (a) this Act,
  - (b) Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to dwelling-houses in England,
  - (c) an order under section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013, and
  - (d) regulations under section 133, 134 or 135 of the Housing and Planning Act 2016.

#### **Commencement Information**

**I5** [S. 24\(4\)\(5\)](#) in force at Royal Assent, see [s. 34\(3\)\(c\)](#)

VALID FROM 15/04/2019

## **25 General duties of the lead enforcement authority**

- (1) It is the duty of the lead enforcement authority to oversee the operation of the relevant letting agency legislation.
- (2) It is the duty of the lead enforcement authority to issue guidance to enforcement authorities about the exercise of their functions under this Act.
- (3) It is the duty of the lead enforcement authority to provide information and advice to relevant authorities in England and to the public in England about the operation of the relevant letting agency legislation, in such form and manner as it considers appropriate.

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- (4) The lead enforcement authority may, amongst other things, disclose information to a relevant authority for the purposes of enabling that authority to determine whether there has been a breach of, or an offence under, the relevant letting agency legislation.
- (5) Subsections (6) to (8) apply if the lead enforcement authority is not the Secretary of State.
- (6) The Secretary of State may direct the lead enforcement authority to issue guidance about the operation of the relevant letting agency legislation to relevant authorities in England and may give directions as to the content of that guidance.
- (7) A direction may relate to all or particular kinds of relevant authorities and may make different provision for different kinds of authority.
- (8) It is the duty of the lead enforcement authority to keep under review and from time to time advise the Secretary of State about—
  - (a) social and commercial developments in England and elsewhere relating to tenancies, the carrying on of letting agency work and related activities, and
  - (b) the operation of the relevant letting agency legislation.
- (9) In this section and section 26 “relevant authority” means—
  - (a) in relation to this Act, an enforcement authority;
  - (b) in relation to Chapter 3 of Part 3 of the Consumer Rights Act 2015, a local weights and measures authority in England;
  - (c) in relation to an order under section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013, a person on whom functions in relation to enforcement of the order are conferred;
  - (d) in relation to regulations under section 133, 134 or 135 of the Housing and Planning Act 2016, a local authority in England (as defined in section 135 of that Act).

VALID FROM 15/04/2019

## **26 Enforcement by the lead enforcement authority**

- (1) The lead enforcement authority may take steps to enforce the relevant letting agency legislation where it considers it is necessary or expedient to do so.
- (2) The lead enforcement authority may, for that purpose, exercise any powers that a relevant authority may exercise for the purpose of the enforcement of the legislation in relation to which it is such an authority.
- (3) Where the lead enforcement authority proposes to take enforcement action in respect of a breach of the relevant letting agency legislation, it must notify the relevant authority in relation to the legislation in whose area the breach has occurred that it proposes to do so.
- (4) If the lead enforcement authority notifies a relevant authority under subsection (3) but does not take the action referred to in that subsection, the lead enforcement authority must notify the relevant authority of that fact.

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- (5) Where a relevant authority receives a notification under subsection (3), the authority is relieved of any duty to take enforcement action in relation to the breach unless the authority receives a notification under subsection (4).
- (6) But the lead enforcement authority may require the relevant authority to assist the lead enforcement authority in taking the enforcement action.
- (7) Every relevant authority in England must report to the lead enforcement authority, whenever the lead enforcement authority requires and in such form and with such particulars as it requires, on the exercise of that relevant authority's functions under the relevant letting agency legislation.
- (8) Section 14(7) to (10) (duty to notify the local housing authority) applies to the lead enforcement authority as it applies to a local weights and measures authority.
- (9) For the investigatory powers available to the lead enforcement authority for the purposes of enforcing the relevant letting agency legislation, see Schedule 5 to the Consumer Rights Act 2015.
- (10) In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (duties and powers to which Schedule 5 applies), at the appropriate place insert “ section 26 of the Tenant Fees Act 2019 ”.

### *General interpretation*

VALID FROM 01/06/2019

#### **27 Meaning of “letting agent” and related expressions**

- (1) In this Act “letting agent” means a person who engages in letting agency work (whether or not that person engages in other work).
- (2) In this Act “letting agency work” means things done by a person in the course of a business in response to instructions received from—
  - (a) a landlord who is seeking to find another person to whom to let housing, or
  - (b) a tenant who is seeking to find housing to rent.
- (3) A person is not a letting agent for the purposes of this Act if the person engages in letting agency work in the course of that person's employment under a contract of employment.
- (4) A person who is an authorised person in relation to a reserved legal activity is not a letting agent when carrying on legal activity in response to instructions from a landlord or tenant who does not instruct that person to do other things within subsection (2).
- (5) In subsection (4)—
  - (a) “legal activity” and “reserved legal activity” have the meanings given by section 12 of the Legal Services Act 2007;
  - (b) “authorised person” has the meaning given by section 18 of that Act.

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## 28 Interpretation

(1) In this Act—

“assured shorthold tenancy” has the same meaning as in Part 1 of the Housing Act 1988;

“communication service” has the meaning given by paragraph 11(3) of Schedule 1;

“enforcement authority” has the meaning given by section 7(5);

“excluded licence” means a licence which is granted to a licensee by a licensor who resides in the housing where—

- (a) a charity or community interest company gives advice or assistance to the licensee or the licensor in connection with the grant, renewal or continuation of the licence, and
- (b) the only consideration for the grant, renewal or continuation of the licence is—
  - (i) the provision by the licensee of companionship to the licensor, or such provision together with the provision by the licensee of care or assistance (other than financial assistance) to the licensor, or
  - (ii) provision of the kind referred to in sub-paragraph (i) together with one or more payments in respect of council tax, a utility, a communication service or a television licence;

“holding deposit” has the meaning given by paragraph 3(2) of Schedule 1;

“housing” means a building, or part of a building, occupied or intended to be occupied as a dwelling;

“landlord” includes—

- (a) a person who proposes to be a landlord under a tenancy,
- (b) a person who has ceased to be a landlord under a tenancy,
- (c) a licensor under a licence to occupy housing,
- (d) a person who proposes to be a licensor under a licence to occupy housing, and
- (e) a person who has ceased to be a licensor under a licence to occupy housing;

“lead enforcement authority” has the meaning given by section 24(1);

“licence to occupy housing”—

- (a) includes a licence which is granted to a licensee by a licensor who resides in the housing unless it is an excluded licence;
- (b) does not include a licence to occupy social housing;
- (c) does not include a licence to occupy housing the purpose of which is to confer on the tenant the right to occupy housing for a holiday;

“long lease” means a lease which—

- (a) is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993, or
- (b) in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be a lease within paragraph (a) if the tenant's total share (within the meaning given by that section) were 100%;

“prohibited payment” has the meaning given by section 3 and Schedule 1;

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“the relevant letting agency legislation” has the meaning given by section 24(6);

“relevant person” has the meaning given by section 1(9) (and see subsection (2) of this section);

“social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008;

“television licence” has the meaning given by paragraph 10(2) of Schedule 1;

“tenancy” means—

- (a) an assured shorthold tenancy other than—
  - (i) a tenancy of social housing, or
  - (ii) a tenancy which is a long lease,
- (b) a tenancy which meets the conditions set out in paragraph 8 (lettings to students) of Schedule 1 to the Housing Act 1988, or
- (c) a licence to occupy housing;

“tenancy agreement” means an agreement granting a tenancy of housing to a tenant;

“tenancy deposit” has the meaning given by paragraph 2(2) of Schedule 1;

“tenant” includes—

- (a) a person who proposes to be a tenant under a tenancy,
- (b) a person who has ceased to be a tenant under a tenancy,
- (c) a licensee under a licence to occupy housing,
- (d) a person who proposes to be a licensee under a licence to occupy housing, and
- (e) a person who has ceased to be a licensee under a licence to occupy housing;

“utility” has the meaning given by paragraph 9(3) of Schedule 1.

(2) In the following provisions references to a relevant person include a person who has ceased to act on behalf of a tenant—

- (a) section 4(4) (repayment of loan);
- (b) section 10 (recovery by enforcement authority of amount paid);
- (c) sections 15 (recovery by relevant person of amount paid) to 17 (restriction on terminating tenancy);
- (d) Schedule 3 (financial penalties etc).

#### Commencement Information

**16** S. 28(1) in force at Royal Assent, see s. 34(3)(d)



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### Final provisions

VALID FROM 15/04/2019

## 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.

(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)”;

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(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.

### 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.

(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).

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- (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,
- 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

I7 S. 30(12) in force at Royal Assent, see s. 34(3)(e)

### 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.

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VALID FROM 01/06/2019

### 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.

### 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);
  - (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;

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- (h) this section;
- (i) section 35.

### **35 Short title**

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

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**Changes to legislation:**

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