

# TENANT FEES ACT 2019

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Tenant Fees Act 2019 (c. 4) which received Royal Assent on 12 February 2019.

- These Explanatory Notes have been prepared by the Ministry of Housing, Communities and Local Government in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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## Overview of the Act

- 1 Through this Act, the Government aims to make renting fairer and more affordable for tenants by reducing the costs at the outset of a tenancy. This Act also aims to improve transparency and competition in the private rental market. The Act implements the commitment to ban letting fees paid by tenants in England and includes other measures to improve fairness, competition and affordability in the lettings sector.
- 2 This Act seeks to achieve the above by banning landlords and their agents from requiring tenants and licensees of privately rented housing in England and persons acting on their behalf or guaranteeing their rent (together referred to as “relevant persons”) to make any payments in connection with a tenancy with the exception of:
  - the rent;
  - a refundable tenancy deposit capped at no more than five weeks’ rent where the annual rent for the property is less than £50,000 and no more than six weeks’ rent where the annual rent for the property is £50,000 or more;
  - a refundable holding deposit (to reserve a property) capped at no more than one week’s rent;
  - payments in the event of a tenant losing their key, losing a security device giving access to housing or paying rent more than 14 days late (default payments);
  - certain payments on assignment, novation or variation of a tenancy when requested by the tenant capped at £50, or reasonable costs incurred if higher;
  - payments associated with early termination of the tenancy, when requested by the tenant; and
  - payments in respect of utilities, communication services, television licence and council tax.
- 3 In the Act “in connection with a tenancy” includes when the above are required:
  - by a landlord in consideration of the grant, renewal, continuance, variation, novation, assignment or termination of a tenancy;
  - by a letting agent in consideration of arranging the grant, renewal, continuance, variation, novation, assignment or termination of a tenancy;
  - on entry into a tenancy agreement containing relevant provisions;
  - pursuant to a provision of a tenancy agreement that requires, or purports to require, the person to do any of those things in the event of an act or default of the relevant person or if the tenancy is varied assigned, novated or terminated;
  - pursuant to an agreement relating to such a tenancy with a letting agent which requires, or purports to require, the person to do any of those things in the event of an act or default of the relevant person or if the tenancy is varied assigned, novated or terminated;

- as a result of an act or default related to the tenancy or agreement with a letting agent unless pursuant to, or for breach of, the tenancy agreement or agreement; and
  - in consideration of providing a reference for a former tenant.
- 4 The ban applies in relation to assured shorthold tenancies, tenancies of student accommodation and licences to occupy. In this memorandum “tenant” includes licensees.
  - 5 The Act bans landlords and their agents from requiring tenants and other relevant persons to secure and pay for services from any third party (other than landlords in relation to utilities and communication services) or to make a loan.
  - 6 The definition of ‘relevant persons’ under this Act does not include local housing authorities, the Greater London Authority, or any person acting on their behalf.
  - 7 The Act requires agents and landlords to refund the holding deposit except in circumstances where the tenant withdraws, fails a right-to-rent check or fails to take all reasonable steps to enter into the tenancy when the landlord or agent has done so. The agent or landlord may also retain the holding deposit if the tenant provides false or misleading information and the landlord is reasonably entitled to take into account that false or misleading information or the tenant’s behaviour in providing it in deciding whether to grant the tenancy because this materially affects their suitability to rent the property.
  - 8 Landlords and agents can only accept one holding deposit at any one time unless otherwise permitted to retain an earlier deposit and must provide reasons in writing to the tenant or other relevant person if the holding deposit is retained.
  - 9 The Act places a duty on trading standards authorities to enforce the Act but district councils that are not trading standards authorities will have power to enforce if they choose to do so. The Act also makes provision for tenants and other relevant persons to be able to recover unlawfully charged fees through the First-tier Tribunal and prevents landlords from recovering possession of their property via the procedure set out in section 21 of the Housing Act 1988 until they have repaid any prohibited payment or unlawfully retained holding deposit.
  - 10 A breach of the fee ban will usually be a civil offence with a financial penalty of up to £5,000, but if a breach is committed within 5 years of the imposition of a financial penalty or conviction for a previous breach this will be a criminal offence. The penalty for the criminal offence, which will be a banning order offence under the Housing and Planning Act 2016, is an unlimited fine.
  - 11 Where an offence is committed, local authorities may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, local authorities will have discretion about whether to prosecute or impose a financial penalty. Where a financial penalty is imposed instead of a prosecution this does not amount to a criminal conviction.
  - 12 A breach of the requirement to repay a holding deposit will be a civil offence and will be subject to a financial penalty of up to £5,000.
  - 13 Local authorities will be able to retain the money raised through financial penalties with this money reserved for future local housing enforcement.

- 14 The Act makes some amendments to the transparency requirements in Chapter 3 of Part 3 of the Consumer Rights Act 2015, which require an agent in England to display any relevant fees, the redress scheme of which they are a member and whether they have client money protection prominently in their office and on their website. The amendments made will apply those requirements in relation to property portals (e.g. Rightmove, Zoopla), to make new provision regarding fines in the event of a continuing breach of the requirements in England and to require letting agents to display the name of their Client Money Protection scheme.
- 15 The Act also amends the client money protection legislation as set out in Part 5 of the Housing and Planning Act 2016, the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 and the Client Money Protection Schemes for Property Agents (Requirement to belong to a Scheme etc) Regulations 2019.
- 16 Finally, the Act makes provision for the Secretary of State or a trading standards authority designated by the Secretary of State to be a Lead Enforcement Authority to provide oversight, guidance and support with the enforcement of requirements on letting agents. This includes the ban on letting fees and related provisions.
- 17 The proposals to ban letting fees were subject to a public consultation, which ran for 8 weeks from 7 April until 2 June 2017. The consultation received 4,724 responses from stakeholders across the private rented sector.
- 18 The Act was published in draft on 1 November 2017 and was subject to pre-legislative scrutiny by the Housing, Communities and Local Government Committee.<sup>1</sup> The Committee published their report and recommendations on 29 March 2018 further to receiving over 60 written submissions and holding five oral evidence sessions with a range of stakeholders across the private rented sector.<sup>2</sup>
- 19 Note: In the following sections of these Explanatory Notes “tenancy” refers to assured shorthold tenancies, tenancies of student accommodation and licences to occupy but excludes long leaseholds, tenancies of social housing and holiday lets. “Landlord” and “tenant” have the corresponding meanings.

## Policy background

- 20 The private rented sector is an important part of the national housing market. It houses 4.7 million households in England and now represents 20% of all households.<sup>3</sup>
- 21 Letting agents are engaged by many private landlords to let and manage rental accommodation on their behalf. Good agents provide a valuable service in ensuring that properties are safe, compliant and professionally managed; they help landlords comply with their legal responsibilities and help tenants secure safe and good quality homes.

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<sup>1</sup> Draft Tenant Fees Act is accessible at: <https://www.gov.uk/government/publications/draft-tenants-fees-bill>.

<sup>2</sup> The Committee’s pre-legislative scrutiny report was published on 29 March 2018 and is accessible at <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/583/583.pdf>

<sup>3</sup> English Housing Survey 2016-17

- 22 The duties of letting agents might include finding tenants, collecting rent, and responding to queries from tenants (for example, in relation to repairs). Landlords pay fees to letting agents for carrying out these duties on their behalf. Letting agents also charge fees to tenants for a variety of reasons, including seeking references, inventory services and contract negotiations.
- 23 Letting agent fees are not always clearly or consistently explained with the result that many tenants are unaware of the true costs of renting a property. The competitive pressure on tenant fees is weak as agents are chosen by landlords. Letting agents may therefore impose unfair or excessive fees because tenants have a very limited ability to negotiate or opt-out.
- 24 Renters pay an average of £200-£300 in letting fees per tenancy although many pay significantly more than this. The English Housing Survey 2014-15 found that the mean average fee paid by a household in 2014-15 was £223, while the median was £200.<sup>4</sup>
- 25 There is also evidence that letting agent fees paid by tenants have increased significantly in recent years and that many tenants have experienced problems paying letting agents' fees. The English Housing Survey 2014-15 reports that median fees charged by agents increased by 60% between 2009-10 and 2014-15 (14% increase in mean) and that a third (34%) of private renters said that fees would stop them moving into a new home.
- 26 It is not simple for tenants to understand and compare agent fees since there is significant variation in the way that agents charge for their services. Further, agents charging fees to both landlords and tenants increases the risk of unfair practices in the form of double charging.
- 27 The Government announced at the 2016 Autumn Statement that it would introduce a ban on letting agent fees paid by tenants in England to improve competition in the private rental market and give renters greater clarity and control over what they will pay. The commitment to make renting fairer for tenants was reaffirmed in the 2017 Conservative Party Manifesto.

## Legal background

### Letting Fees and Letting Agent Transparency requirements

- 28 The existing legislation relevant to letting fees is Chapter 3 of Part 3 of the Consumer Rights Act 2015 which, in England and Wales, requires a letting agent to display prominently at its client facing premises and, if it has a website, to publish on its website, a list of its relevant fees.
- 29 The same provisions also require a letting agent engaging in letting agency or property management work in relation to housing in England to publish, in the same manner:
  - a. a statement of whether the agent is a member of a client money protection scheme (if it holds money on behalf of clients); and
  - b. a statement that indicates that the agent is a member of a redress scheme, including the name of the scheme (if the agent is required to be a member of a redress scheme for dealing with complaints in respect of its lettings work).

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<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/570848/Private\\_Rented\\_Sector\\_Full\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/570848/Private_Rented_Sector_Full_Report.pdf)

### **Holding deposits**

30 There is no legislation on holding deposits.

### **Tenancy deposits**

31 Chapter 4 of Part 6 of the Housing Act 2004 makes provision relating to tenancy deposits for assured shorthold tenancies. Section 213(1) provides that any tenancy deposit paid to a person in connection with an assured shorthold tenancy must be dealt with in accordance with an authorised scheme.

### **Client Money Protection**

32 Part 5 of the Housing and Planning Act 2016 makes provision relating to client money protection for property agents in the private rented sector. The Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 sets out the conditions that scheme providers of client money protection must meet. The Client Money Protection Schemes for Property Agents (Requirement to belong to a Scheme etc) Regulations 2019 require property agents belong to an approved client money protection scheme.

## **Territorial extent and application**

33 Section 33 sets out the territorial extent of the Act, that is the jurisdictions in which the Act forms part of the law. The territorial extent of this Act is England and Wales only apart from Sections 6(6), 7(4), 26(10), 30(12), and 31, 33 to 35 which extend to the whole of the United Kingdom. Sections 6(6), 7(4) and 26(10) amend Schedule 5 to the Consumer Rights Act 2015 which extends to the whole of the United Kingdom and the supplementary provisions in Sections 30(12) and 31, 33 to 35 require the same extent as a result. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect. The Act will apply in relation to housing in England only.



# Commentary on provisions of Act

## Section 1: Prohibitions applying to landlords

- 34 This section provides that a landlord of housing in England must not require a tenant or other relevant person to make a payment or a loan in connection with a tenancy.
- 35 This section also provides that such a landlord must not require, except in the case of utilities, or communication services, a tenant to secure and pay for services from any third party in connection with a tenancy, for example a reference provider, an inventory service or an insurer.
- 36 This section sets out that a landlord is considered to have required a relevant person to make a payment, a loan or enter into a contract with a third party in connection with a tenancy if they have:
- a. required the person to do any of those things in consideration of the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
  - b. entered into a tenancy agreement that requires, or purports to require, the person to do any of those things;
  - c. required the person to do any of those things pursuant to a provision of a tenancy agreement in the event of an act or default by a relevant person or if the tenancy is varied, assigned, novated or terminated;
  - d. required the person to do any of those things as a result of an act or default of a relevant person relating to the tenancy unless pursuant to, or for the breach of a tenancy agreement; or
  - e. charged the person in consideration of providing a reference in relation to occupation of housing.
- 37 This section provides that a landlord can require a relevant person to make a payment, enter into a contract or grant a loan if it is an alternative to another requirement that is not unreasonable or prohibited. It must not simply be a different means of requiring a relevant person to do any of those things.
- 38 This section and Section 2 apply to a tenant as well as a person acting on behalf of a tenant and a person guaranteeing a tenant's rent. Tenants and such persons are referred to collectively in the Act as "relevant persons".
- 39 Subsection 10 sets out that "relevant persons" when used in this Act excludes local housing authorities, the Greater London Authority or persons acting on their behalf. Such local authorities and persons can make payments in connection with a tenancy when acting on behalf of a tenant or guaranteeing their rent.

## Section 2: Prohibitions applying to letting agents

- 40 This section provides that a letting agent of housing in England must not require a tenant or other relevant person to make a payment or a loan in connection with a tenancy.
- 41 This section also provides that such a letting agent must not require a tenant or other relevant person to secure and pay for services from themselves or any third party, for example a reference provider, an inventory service or an insurer, in connection with a tenancy.

- 42 This section sets out that an agent is considered to have required a relevant person to make a payment, a loan or enter into a contract with themselves or a third party in connection with a tenancy if they have:
- a. required the person to do any of those things in consideration of the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
  - b. required the person to do any of those things pursuant to an agreement related to the tenancy which requires, or purports to require, the person to do any of those things in the event of an act or default by a relevant person or if the tenancy is varied, assigned, novated or terminated;
  - c. required the person to do any of those things as a result of an act or default by a relevant person relating to a tenancy unless pursuant to, or for the breach of an agreement; or
  - d. charged the person in consideration of providing a reference in relation to occupation of housing.
- 43 This section provides that an agent may require a relevant person to make a payment, enter into a contract or grant a loan if it is an alternative to another requirement that is not unreasonable or prohibited. It must not simply be a different means of requiring a relevant person to do any of the prohibited things.
- 44 This section does not apply to a requirement imposed on a tenant or other relevant person by any agent who provides a service to a tenant, and as part of that service finds housing which that tenant agrees to rent, provided that the agent does not act for the landlord with whom the tenancy is agreed (for that or any other housing).

### Section 3: Prohibited and permitted payments

- 45 This section defines prohibited and permitted payments. The list of permitted payments is set out in Schedule 1. Any payment that is not a permitted payment is a prohibited payment.
- 46 This section provides that the Secretary of State may amend the list of permitted payments described in Schedule 1 by regulations. Regulations are subject to the affirmative procedure, meaning that they must be approved by a resolution of each House of Parliament except in the case of an amendment to the maximum amount of permitted payment on assignment, variation or novation of a tenancy for the purposes only of reflecting changes in the value of money. If that applies the regulations may be made by negative procedure meaning that they can be annulled by resolution of either House of Parliament.

### Schedule 1: Permitted Payments

- 47 The list of permitted payments set out in this Schedule is exhaustive. Any other payment a landlord or letting agent requires in connection with a tenancy to themselves or a third party which is not described in this Schedule is prohibited.
- 48 The permitted payments are:
- a. the rent;
  - b. a refundable tenancy deposit of no more than five weeks' rent where the annual rent for the property is less than £50,000 or a refundable tenancy deposit of no more than six weeks' rent where the annual rent for the property is £50,000 or more;
  - c. a refundable holding deposit of no more than one week's rent;

- d. a payment that is required in the event of a default by the tenant for a lost key, a lost security device giving access to housing or a payment of rent that is late by 14 days or more;
  - e. payments on assignment, variation or novation of a tenancy at the tenant's request, capped at £50 or the reasonable costs incurred if greater;
  - f. payments in respect of early termination of a tenancy agreement at the tenant's request capped at the landlord's loss;
  - g. payments to a local authority in respect of council tax;
  - h. payments in respect of energy and other utilities;
  - i. payments to the BBC in respect of a television licence; and
  - j. payments in respect of communication services.
- 49 Paragraph 1 of this Schedule sets out that where any payment of rent is greater than the amount of rent payable in a later period during the tenancy, the difference is a prohibited payment. This applies unless the rent has been varied by subsequent agreement between the landlord and the tenant or in accordance with a rent review section in the tenancy agreement that enables both an upward or downward variation of the rent.
- 50 A tenancy deposit under paragraph 2 is money intended to be held for the duration of the tenancy as security for performance of any obligations of the tenant and the discharge of any liability on the part of the tenant arising under or in connection with the tenancy.
- 51 A holding deposit under paragraph 3 is a payment made by or on behalf of a tenant to a landlord or agent to 'reserve' that property. The holding deposit demonstrates a tenant's intention to rent a certain property. Acceptance of a holding deposit confirms the landlord or letting agent's intention to accept an individual as a tenant (subject to the satisfactory completion of reference checks etc.). A landlord or letting agent may not accept more than one holding deposit for the same housing unless they have previously had grounds to retain an earlier holding deposit.
- 52 Landlords and letting agents may require a tenant to make a payment in the event of a default. Such a payment is only a permitted payment in the circumstances of the loss of a key, a lost security device to give access to housing of for late payment of rent where that payment has been outstanding for 14 days or more. The amount charged for a lost key or security device giving access to housing cannot exceed the reasonable costs incurred by the landlord or agent, which must also be supported by evidence provided in writing to the person who is liable for the payment.
- 53 In the case of a payment in the event of a default for late payment of rent, landlords and agents cannot charge interest at more than an annual percentage rate of 3% above the Bank of England's base rate for each day that the payment is outstanding. Further, a landlord and agent cannot both require a tenant to pay a payment in the event of a default for late payment of rent.
- 54 Paragraph 5 clarifies that the Act does not impact on a landlord or agent's right to recover damages for breach of contract of a tenancy agreement or agreement with the letting agent.
- 55 Landlords and letting agents may require a payment for assignment, variation, or novation of a tenancy which was at the tenant's request. Under paragraph 6 this is capped at either £50 or the reasonable costs incurred if greater.

- 56 Landlords and letting agents may also require a payment for an early termination of the tenancy agreement at the tenant's request. Under paragraph 7 the payment may not exceed the loss suffered by the landlord or, if applicable the letting agent's reasonable costs.
- 57 Landlords and letting agents may require a payment for council tax to the local authority (paragraph 8).
- 58 Landlords and letting agents can require a payment in respect of utilities. Such payments include electricity, gas or other fuel, water and sewage and payments towards energy efficiency improvements under a Green Deal plan (paragraph 9).
- 59 Landlords and letting agents may require a payment to the BBC in respect of a television licence (paragraph 10).
- 60 Landlords and letting agents may require a payment in respect of communication services including telephone, internet, cable television and satellite television (paragraph 11).

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

- 61 This section provides that any term of a tenancy agreement or agreement between a letting agent and tenant which breaches section 1 or 2, for example, by requiring a tenant or other relevant person to make a prohibited payment is not binding on the tenant or relevant person. The rest of the agreement will continue to apply (so far as practicable).
- 62 This section provides any prohibited loan made by a relevant person is repayable on demand.

#### Section 5: Treatment of holding deposit

- 63 Schedule 2 makes provision about the treatment of holding deposits.

#### Schedule 2: Treatment of holding deposit

- 64 This Schedule imposes requirements on a landlord or letting agent who receives a holding deposit.
- 65 Paragraphs 3 and 4 require the landlord or letting agent to refund the holding deposit within 7 days of the parties entering into the tenancy agreement.
- 66 Paragraphs 3 and 4 also requires the holding deposit to be refunded if the parties do not enter into the tenancy agreement for reasons, broadly, under the landlord or agent's control.
- 67 If the landlord decides not to rent the property to the tenant, or the landlord and, if applicable, the agent fails to take reasonable steps to enter into the tenancy agreement by the deadline for agreement then the holding deposit must be refunded within 7 days of the date of that decision or the deadline, as applicable.
- 68 "Deadline for agreement" is defined in paragraph 2 and is the day by which the landlord must enter into an agreement with the tenancy to grant the tenancy. The default deadline for agreement is 15 days following the receipt of the holding deposit but the landlord or agent may agree a longer deadline with the tenant.
- 69 Paragraph 5 requires the person who received a holding deposit to refund it if they believe they are able to retain it under paragraphs 8 to 12 but they do not provide reasons in writing to the person who paid the deposit within the relevant period as to why the deposit is being retained. The relevant period to provide reasons within would be:
  - a. where the landlord decides not to enter into a tenancy agreement before the deadline for the agreement 7 days beginning with the date on which the landlord decides not to do so; or

- b. if the landlord and tenant fail to enter into a tenancy agreement before the deadline for the agreement 7 days beginning with the deadline for agreement.
- 70 Paragraph 6 provides that the landlord may, with the consent of the person who paid the holding deposit, 'repay' the holding deposit by deducting the equivalent sum from the first payment of rent or the tenancy deposit. If the holding deposit is applied to the tenancy deposit paragraph 7 provides that for the purposes of the deposit protection requirements of section 213 of the Housing Act 2004 that money is received on the date of the tenancy agreement.
- 71 Paragraph 8 provides that the landlord or letting agent do not have to refund a holding deposit if a tenant does not have the right to rent property under the Immigration Act 2014 provided that the landlord and agent did not know, and could not have been expected to know that, prior to accepting the deposit.
- 72 Paragraph 9 provides that the landlord or letting agent does not have to refund a holding deposit if the tenant provides false or misleading information, which the landlord is reasonably entitled to take into account in deciding whether to grant the tenancy, because this or their conduct in providing the information materially affects their suitability to rent the property.
- 73 Paragraphs 10, 11 and 12 provide that the landlord or letting agent does not have to refund a holding deposit if the tenant decides not to enter into a tenancy agreement or fails to take all reasonable steps to enter into a tenancy agreement when the landlord or letting agent have done so.
- 74 Paragraph 13 provides that a holding deposit must be refunded if the landlord or letting agent imposes a requirement on the tenant or relevant person that breaches the ban on letting fees as set out under clauses 1 and 2. Paragraph 13 also sets out that a holding deposit must be refunded if the landlord or letting agent behaves in an unreasonable way such that it would be unreasonable to expect the tenant to enter the tenancy

## Section 6: Enforcement by weights and measures authorities

- 75 This section provides that enforcement of the prohibitions in Sections 1 and 2 and requirements relating to holding deposits under Schedule 2 will be the duty of local weights and measures authorities (trading standards authorities) in England.
- 76 Each local weights and measures authority is responsible for enforcement in its area, and subsection (3) makes provision for the circumstance where a breach relates to housing located in more than one authority's area.
- 77 Subsection (4) requires a local weights and measures authority in England to have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if that is not the Secretary of State) about how it should carry out its enforcement duties.
- 78 The investigatory powers available to a local weights and measures authority for the purposes of enforcing the Tenant Fees Act are set out in Schedule 5 of the Consumer Rights Act 2015, which this section amends.

## Section 7: Enforcement by district councils

- 79 This section provides that a district council, which is not a local weights and measures authority, may enforce the prohibitions in Sections 1 and 2 and requirements relating to holding deposits under Schedule 2.
- 80 Subsection (2) requires a district council to have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if that is not the Secretary of State) about how it should carry out its enforcement duties.

- 81 The investigatory powers available to a district council for the purposes of enforcing the Tenant Fees Act are set out in Schedule 5 of the Consumer Rights Act 2015, which this section amends.
- 82 Subsection (5) explains that “enforcement authority” refers to both a local weights and measures authority in England and a district council that is not a local weights and measures authority.

### Section 8: Financial Penalties

- 83 This section provides that an enforcement authority may impose a financial penalty of up to £5,000 on a landlord or letting agent if it is satisfied beyond reasonable doubt that that person has breached the prohibitions in Section 1 or 2. Similarly, an enforcement authority may impose a financial penalty of up to £5,000 if satisfied beyond reasonable doubt that a landlord or letting agent has breached the requirements relating to holding deposits (Schedule 2).
- 84 This section also provides that an enforcement authority may impose a financial penalty of up to £30,000 on a landlord or letting agent as an alternative to prosecution if it is satisfied beyond reasonable doubt that an offence under Section 12 (offences) has been committed.
- 85 An enforcement authority may not impose a financial penalty if the landlord or letting agent has already been convicted or acquitted of an offence in relation to the conduct, or criminal proceedings for the offence have been commenced.
- 86 Subsection (5) places restrictions on the imposition of a financial penalty for a breach of paragraph 3 of Schedule 2. An enforcement authority cannot impose a financial penalty if the landlord or letting agent failed to return the holding deposit because of incorrect information provided by the Secretary of State about the tenant’s right to rent status.
- 87 Where a financial penalty is imposed, only one such penalty may be imposed in respect of the same breach and only one enforcement authority may impose a penalty for the same breach.
- 88 This section provides that an enforcement authority may impose a penalty in respect of a breach that occurs outside of its local area.
- 89 Schedule 3 sets out the procedure to be followed by an enforcement authority where it imposes a financial penalty.

### Schedule 3: Financial Penalties

- 90 This Schedule sets out the procedure to be followed by an enforcement authority where it imposes a financial penalty on a landlord or letting agent. The same procedure applies if the authority also requires the landlord or letting agent to repay any amount to a tenant (or other relevant person).
- 91 Before imposing a financial penalty, the enforcement authority must give the landlord or letting agent notice of their intention to do so. This notice must be given within a period of 6 months, beginning with the first day on which the authority has evidence that the person has breached the prohibitions in Sections 1 or 2 or the requirements relating to holding deposits (Schedule 2) or, if the breach is a continuing breach, while the breach is continuing or within 6 months of the last day on which the breach occurred. The notice of intent must set out the date on which the notice of intent is served, the amount of the penalty, the reasons for imposing the penalty and information about the right to make representations.
- 92 A person who is given a notice of intent has 28 days to make representations to the local authority (paragraph 3). After the end of the period for representations, the enforcement authority must decide whether or not to impose a financial penalty and if so, the amount of the penalty.

- 93 If the enforcement authority decides to impose a penalty or require the landlord or letting agent to repay a prohibited payment, holding deposit or an amount paid under a prohibited contract, it must give the person a final notice. The final notice must require payment of the penalty within 28 days if the authority has imposed a financial penalty and if ordered to repay a prohibited payment, holding deposit or an amount paid under a prohibited contract the period specified in the notice which will be between 7 to 14 days. The notice must set out certain information, including the date on which the final notice is served, the amount of the penalty, the reasons for imposing it, how and when to pay, the rights of appeal and consequences of failing to comply with the notice.
- 94 Under paragraph 5, an enforcement authority may at any time withdraw a notice of intent or a final notice. The authority may also reduce the amount specified in a notice of intent or a final notice or amend a notice to remove a requirement to repay a prohibited payment or holding deposit. The person who has received the notice must be notified in writing of any such withdrawal, reduction or amendment.
- 95 There is a right to appeal to the First-tier Tribunal against a final notice. An appeal must be brought within 28 days from the day after the final notice was served if appealing against a financial penalty. If appealing against an order to repay a prohibited payment, holding deposit or an amount paid under a prohibited contract, the landlord or letting agent must appeal within the period specified in the final notice as the period within which that payment, deposit or amount must be repaid. A landlord or letting agent may appeal against the decision to impose the penalty or the amount of the penalty. An appeal is to be a re-hearing of the enforcement authority's decision and may take into account additional evidence of which the enforcement authority was unaware.
- 96 If a landlord or letting agent makes an appeal, the final notice or part of the final notice which is the subject of the appeal is suspended until the appeal is determined or withdrawn. On appeal, the First-tier Tribunal may confirm, vary or quash the final notice. The maximum penalty that the First-tier Tribunal can impose is the same as the maximum amount that the enforcement authority could have imposed.
- 97 If a landlord or letting agent fails to pay all or part of a financial penalty, the enforcement authority may recover the outstanding amount on the order of the county court, as if it were payable under an order of that court.
- 98 Paragraph 8 provides that if the authority requires the landlord or letting agent to pay an amount to a relevant person and the landlord or letting agent fails to pay all or part of that amount then the relevant person may recover the outstanding amount on the order of the county court, as if it were payable under an order of that court. The enforcement authority may help the relevant person to do this (paragraph 9).
- 99 Where an enforcement authority in England imposes a financial penalty it may retain the proceeds of the penalty and use this money for the purposes of any of its enforcement functions in relation to the private rented sector. Any excess must be paid to the Secretary of State (paragraphs 10 to 12).

## Section 9: Power to amend maximum financial penalties

- 100 This section provides that the Secretary of State may, where it is considered expedient to do so, make regulations to amend the maximum amount of the financial penalties for the purposes of reflecting changes in the value of money. These regulations may also make transitional, transitory or saving provision to ensure that there is a smooth transition from one upper limit to another. Regulations under this section are to be made by negative procedure and can be annulled by resolution of either House of Parliament.



## Section 10: Recovery by enforcement authority of amount paid

- 101 This section enables an enforcement authority to require a person who has committed a breach to pay to the tenant or other relevant person any outstanding prohibited payment or holding deposit. Similarly, if the landlord or agent required a relevant person to enter into a contract in breach of Section 1 or 2, they may be required to pay compensation.
- 102 The landlord or letting agent can repay the prohibited payment or holding deposit by applying it towards a payment of rent under the tenancy or applying it towards the tenancy deposit. The landlord or letting agent must obtain consent from the tenant or other relevant person as to how the prohibited payment or holding deposit is to be repaid.
- 103 An enforcement authority may not require the landlord or letting agent to make such a payment if the relevant person has made an application to the First-tier Tribunal to recover the payment.

## Section 11: Interest on payments under section 10

- 104 This section provides that where an enforcement authority requires a landlord or letting agent to make a payment to a tenant or other relevant person under Section 10, the enforcement authority may require the landlord or letting agent to pay interest on that payment.

## Section 12: Offences

- 105 This section provides that a landlord or letting agent who breaches the prohibitions in Sections 1 and 2, and who has had a financial penalty imposed or been convicted for a different breach within the last five years, commits an offence and is liable on summary conviction to an unlimited fine.
- 106 An enforcement authority has discretion to decide whether to impose a financial penalty or to pursue a prosecution in each individual case. A person cannot be convicted of an offence if a financial penalty has already been imposed in respect of the same breach.
- 107 Subsection (6) amends the Housing and Planning Act 2016 to provide that an offence under this section is a banning order offence for the purposes of Part 2 of that Act. This means that if a landlord or agent is convicted of such an offence a local housing authority may apply to the court to ban them from letting housing and/or acting as a letting agent and/or property manager in England for at least a year.
- 108 If the court makes a banning order on that application, the local housing authority must make an entry in the database of rogue landlords and property agents under that Act. An entry may also be made if a person is convicted of a banning offence committed at the time they are a residential landlord or property agent or if two financial penalties have been imposed on a person for such an offence in a 12-month period.

## Section 13: Offences by bodies corporate

- 109 This section provides that if an offence under Section 12 is committed by a body corporate then an officer or member who commits the offence is liable as well as the body corporate. This is only the case if it is proved that the offence was committed with the approval or connivance of the officer or member of the body corporate in question or where the body corporate is managed by its members, a member, or is attributable to that person's negligence.

## Section 14: Duty to notify when taking enforcement action

- 110 This section makes provision for the circumstances in which an enforcement authority must notify another body of enforcement action.



- 111 Subsection (1) provides that where a local weights and measures authority proposes to take enforcement action in respect of a breach that occurs outside of its local area, it must notify the local weights and measures authority of its intention to do so. When such a notification is received the latter is relieved of its duty. This duty is reinstated if the local weights and measures authority is informed that the enforcing local weights and measures authority has not taken the enforcement action proposed.
- 112 Subsection (3) provides that where a district council proposes to take enforcement action in respect of a breach, it must notify the local weights and measures authority of its intention to do so. When such a notification is received the latter is relieved of its duty. This duty is reinstated if the local weights and measures authority is informed that the district council has not taken the enforcement action proposed.
- 113 Subsection (6) requires an enforcement authority to notify the lead enforcement authority as soon as reasonably practicable whenever it imposes a financial penalty. This is to ensure that when an enforcement authority becomes aware of a breach it is able to check to see if a financial penalty has been issued previously by another authority. This will inform whether the breach is dealt with as an offence under Section 12. The enforcement authority must also notify the lead enforcement authority as soon as reasonably practicable if it withdraws the financial penalty or it is quashed on appeal.
- 114 An enforcement authority must also notify the lead enforcement authority whenever it brings proceedings for an offence under Section 12 and the defendant is convicted of the offence.
- 115 Subsections (7) and (9) require an enforcement authority to notify the local housing authority (if that is a different authority) as soon as reasonably practical if it has imposed a financial penalty or secured a conviction against a person for an offence under Section 12. Subsections (8) and (10) specify when such notifications must be made.

### Section 15: Recovery by relevant person of amount paid

- 116 This section enables a tenant or other relevant person to apply to the First-tier Tribunal for compensation from the landlord or letting agent for payments they have been required to make because of a breach of Section 1 or 2 and for recovery of a holding deposit that has been unlawfully withheld.
- 117 Subsection (3) enables a relevant person that has been required to make a prohibited payment to apply to the First-tier Tribunal to recover their money provided that it has not already been repaid or with the consent of the relevant person applied to rent or the tenancy deposit. It also enables a relevant person to apply to the First-tier Tribunal to recover any holding deposit that has been unlawfully withheld by a landlord or letting agent and not repaid or with the consent of the relevant person applied to rent or the deposit.
- 118 Subsection (5) enables a relevant person to apply to the First-tier Tribunal to recover any sums paid under a contract that they had been unlawfully required to enter into by a landlord or letting agent.
- 119 A relevant person cannot apply to the First Tier Tribunal for compensation if an enforcement authority has, in relation to the relevant breach, commenced criminal proceedings or required the landlord or letting agent in question to compensate the relevant person.
- 120 The tribunal may order the landlord or letting agent to compensate the relevant person within 7 to 14 days.
- 121 If a landlord or letting agent fails to pay the compensation ordered by the tribunal, the relevant person may recover it on the order of the county court, as if it were payable under an order of that court.

## Section 16: Assistance to recover a prohibited payment or holding deposit

122 This section provides that an enforcement authority may help a tenant or other relevant person to make an application under Section 15, for example by providing advice or by conducting proceedings.

123 This section also provides that an enforcement authority may help a tenant or other relevant person to recover all or part of an amount which the First-tier orders to be paid.

## Section 17: Restriction on terminating a tenancy

124 This section provides that a landlord may not give a section 21 notice in relation to an assured shorthold tenancy if the landlord has previously required a tenant to make a prohibited payment and failed to repay this payment or apply it, with the consent of the tenant or other relevant person, to the rent or the deposit.

125 Similarly, a landlord may not give a section 21 notice in relation to an assured shorthold tenancy if the landlord has breached the requirement to repay a holding deposit to a tenant or relevant person and it has not been applied, with the consent of the tenant or other relevant person, to the rent or the deposit. A section 21 notice is defined in subsection (6).

## Section 18: Duty to publicise fees on third party websites

126 This section amends section 83 of the Consumer Rights Act 2015 to require a letting agent of housing in England that advertises on a third party website (such as a property portal) to, on that website, publish details of any relevant fees and client money and redress scheme memberships or a link to those details, as well as on its own website and in its offices.

## Section 19: Information about membership of client money protection scheme

127 This section amends section 83 of the Consumer Rights Act 2015 to specify that where a letting agent of housing in England is required to be a member of a Client Money Protection Scheme it must give the name of the scheme of which it is a member.

## Section 20: Penalties for continuing breach of duty

128 This section amends section 87 of the Consumer Rights Act 2015 to make new provision enabling a local weights and measures authority in England to impose more than one financial penalty in respect of a continuing breach of the requirement to publicise fees etc. in England. An additional penalty may be imposed if 28 days has passed since the date that the final notice was sent regarding the earlier breach or, if an appeal is lodged, after that appeal is determined or withdrawn. A financial penalty may not be imposed if the previous penalty was withdrawn or quashed on appeal.

## Section 21: Enforcement of client money protection schemes for property agents

129 This section amends the Housing and Planning Act 2016. Subsection (2) amends section 134 of the Housing and Planning Act 2016 to provide that regulations under this clause may confer a discretion on the Secretary of State in connection with the approval or designation of a client money protection scheme, the conditions which must be complied with by the administrator of such a scheme, the amendment of such a scheme or the withdrawal of approval or revocation of designation of such a scheme. This amendment would not give the Secretary of State any additional powers but would provide clarification on those already in the Housing and Planning Act 2016.

130 Subsection (3) amends section 135 of the Housing and Planning Act 2016 to specify enforcement of the requirement on property agents in the private rented sector to belong to a client money protection scheme will be undertaken by local weights and measures authorities. This has the effect of moving client money protection enforcement from district council to county council level (in non-unitary authorities).

## Section 22: Client money protection schemes: approval and designation

- 131 This section amends the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 (the Approval Regulations).
- 132 Subsection (2) provides that the definition of client money does not include any money that has already been protected through a Government approved tenancy deposit scheme.
- 133 Subsection (3) amends Regulation 4 of the Approval Regulations (amendments to an approved scheme) to clarify that the consent of the Secretary of State would not be required if the amendment had been made by the scheme administrator in accordance with a notice served on the scheme administrator by the Secretary of State pursuant to Regulation 8 of the Approval Regulations.
- 134 Subsection (4) (a) to (c) amends Regulation 5 of the Approval Regulations (Conditions which must be satisfied before approval may be given) to provide that client money protection schemes can allow limits per individual claimant and scheme aggregate limits up to such an amount as the Secretary of State considers appropriate, which would be intended to be no less than the scheme's maximum probable loss. It also provides that client money protection schemes are not required to provide cover for risks that the Secretary of State consider it inappropriate for the scheme to insure against.
- 135 Subsection (4)(d) provides that for a transitional period of 12 months until 1 April 2020 property agents are permitted to join a scheme if they are making all efforts to apply for a client account with a bank or building society authorised by the Financial Conduct Authority but have not yet obtained one.
- 136 Subsection (5) amends Regulation 8 of the Approval Regulations (conditions with which scheme administrators must comply) to clarify that a certificate confirming a property agent's membership of the scheme must be provided as soon as reasonably practicable after that agent joins a scheme or after the scheme rules are amended. This certificate includes information on the individual claimant and scheme aggregate limits and details of where to find information on excluded risks.
- 137 Subsection (5) also provides that the Secretary of State may serve a notice on the scheme administrator requiring that person to amend the scheme rules to replace the limits per individual claimant or scheme aggregate limits with such an amount as the Secretary of State considers appropriate, or to amend the risks covered. Any such notice needs to be complied with within 30 days or such a longer period as the Secretary of State may specify.
- 138 Subsection (5)(c) provides that the scheme administrator must maintain insurance that covers any foreseeable liability and that is appropriate with regard to the size and number of scheme members and the amount of client money held by these members. It also clarifies that the Secretary of State must approve the renewal of the scheme's insurance to ensure continued compliance with the obligation to maintain cover which is appropriate.

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

- 139 This section amends the Client Money Protection Schemes for Property Agents (Requirement to belong to a Scheme) Regulations 2019.
- 140 Subsection (2) clarifies that the definition of client money does not include any money that has already been protected through a Government approved tenancy deposit scheme.

141 Subsection (3) provides that property agents will not be required to ensure that their membership of a client money protection scheme results in a level of compensation being available which is no less than the maximum amount of client money that the agent may from time to time hold. Instead, property agents will be required to belong to an approved client money protection scheme, which under section 22, would need to hold a level of insurance that is proportionate to the risk of client money being lost.

142 Subsection (4) clarifies that the requirement on property agents to display a certificate with information about their client money protection scheme membership only applies if the scheme administrator had provided such a certificate.

## Section 24: Lead enforcement authority

143 This section establishes a lead enforcement authority for the purposes of the relevant letting agency legislation.

144 The lead enforcement authority may be the Secretary of State, or, a local weights and measures authority with which the Secretary of State makes arrangements to be the lead enforcement authority.

145 This section provides that the lead enforcement authority has enforcement functions in relation to:

- a. this Act;
- b. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to housing in England;
- c. the requirements on letting agents to be a member of a redress scheme under an order under section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013; and
- d. the requirements to be a member of a client money protection scheme under regulations under sections 133 to 135 of the Housing and Planning Act 2016.

146 This section also gives the Secretary of State the power, by regulations, to make transitional or saving provisions when there is a change in lead enforcement authority.

## Section 25: General duties of the lead enforcement authority

147 This section sets out the duties of the lead enforcement authority, which are to:

- oversee the operation of relevant letting agent legislation;
- issue guidance to enforcement authorities about the exercise of their functions under this Act; and
- provide information and advice to relevant authorities and the public about the operation of the relevant letting agent legislation.

148 If the lead enforcement authority is not the Secretary of State, it must also keep under review and, as necessary, advise the Secretary of State about the operation of the relevant letting agent legislation and related market developments.

149 Subsection (6) gives the Secretary of State power to direct the lead enforcement authority (if that is not the Secretary of State) to issue guidance to relevant authorities, and as to the content of that guidance.

## Section 26: Enforcement by the lead enforcement authority

- 150 This section gives the lead enforcement authority the power to take steps to enforce the relevant letting agent legislation where necessary or expedient to do so. If such action is taken the lead enforcement authority may exercise the same powers as the relevant local authority and must notify that authority. The latter is relieved of the duty to enforce the breach, but must assist the lead enforcement authority if it so requires.
- 151 This section also provides that local authorities with enforcement responsibilities for letting agent legislation in England must report to the lead enforcement authority when requested to do so.
- 152 The investigatory powers available to the lead enforcement authority are set out in Schedule 5 of the Consumer Rights Act 2015, which is amended by this section.

## Section 27: Meaning of “letting agent” and related expressions

- 153 This section defines “letting agent” and “letting agency work”. The definition of “letting agent” excludes a person who carries out letting agency work under their employment contract and legal professionals when conducting legal activity on behalf of a client, provided they are not also instructed in relation to other letting agency work by that client.

## Section 28: Interpretation

- 154 This section explains key terms for the purposes of this Act. Importantly it defines “tenancy” for the purposes of the Act as an assured shorthold tenancy, a licence to occupy housing or a tenancy which meets the conditions set out in paragraph 8 (letting to students) of Schedule 1 to the Housing Act 1988. It does not include a long lease, a tenancy of social housing, or a licence to occupy holiday accommodation.
- 155 This section also excludes certain licences to occupy housing from the Act. These are defined as an “excluded licence”. An excluded licence is a licence granted to the licensee by a licensor, who resides in the housing, where particular conditions surrounding the grant, renewal and continuation of that licence are met. These conditions are a requirement for a charity or a community interest company to give advice or assistance to the licensee or licensor in connection with the grant, renewal, or continuation of the license and where the only consideration provided by the licensee is companionship or companionship and care or assistance, together with one or more payments in respect of council tax or utilities for example.

## Section 29: Consequential Amendments

- 156 This section makes amendments consequential on the lead enforcement authority’s enforcement functions in respect of the relevant letting agency legislation to:
- a. section 87 of the Consumer Rights Act 2015
  - b. section 85 of the Enterprise and Regulatory Reform Act 2013
  - c. article 7 of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order
  - d. section 135 of the Housing and Planning Act 2016
  - e. regulation 5(1) of the Client Money Protection Schemes for Property Agents (Requirement to belong to a Scheme etc.) (enforcement) Regulations 2019.

## Section 30: Transitional Provisions

157 This section provides for how the prohibitions in Sections 1 and 2 will apply in relation to agreements between landlords or agents and tenants or other relevant persons entered into before the commencement of those provisions. It also makes transitional provision in relation to holding deposits.

158 Subsections (1) to (6) makes transitional provision for the application of the prohibitions in Section 1 to certain tenancy agreements, referred to in this note as “pre-commencement tenancies”. They are:

- a. tenancies entered into before the commencement of Section 1; and
- b. statutory periodic tenancies that arose during the year after commencement when such a tenancy came to an end.

159 For the first year after commencement the prohibitions in Section 1 will not apply to pre-commencement tenancies. After the end of that period those prohibitions will apply, but with some modifications in respect of requirements imposed pursuant to a pre-commencement tenancy agreement.

160 Subsection (5) provides that the term of a tenancy agreement that would have been prohibited if the tenancy had been entered into after the commencement date is not binding on the tenant or other relevant person. Where a landlord or agent accepts a payment under such a term and does not return it to the relevant within 28 days, this is a prohibited payment.

161 Subsections (7) to (10) make transitional provision for the application of Section 2 in relation to pre-commencement agreements between a letting agent and relevant person.

162 The effect of subsection (11) is that the requirements of the Act relating to holding deposits do not apply to holding deposits paid before the coming into force of Schedule 2.

163 Subsection (12) provides that other transitional provision may be made by regulations to ensure that the provisions of the Act are brought into force smoothly.

## Section 31: Financial Provisions

164 Section 31 recognises that, as a matter of House of Commons procedure, a financial resolution needed to be agreed for the Bill from which the Act resulted.

## Section 32: Crown Application

165 This section provides that the Tenant Fees Act will apply in relation to the tenancies of those Crown interests that are capable of granting an assured shorthold tenancy but that the Crown will not be criminally liable for any breach.

## Sections 33 to 35: Extent, Commencement, Short title

166 Sections 33-35 are self-explanatory.

## Commencement

167 Section 31 (financial provisions) and the provisions about interpretation, extent, commencement and short title of this Act, together with the powers conferred by the Act to make secondary legislation come into force on the day the Act is passed. Other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.



## Annex A – Overview of the Act’s passage through Parliament

168 The table below sets out the dates and Hansard References for each stage of the Act’s passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
First Reading	2 May 2018	<a href="#">Vol 640 Col 336</a>
Second Reading	21 May 2018	<a href="#">Vol 641 Col 641-672</a>
Public Bill Committee	1st Sitting: 5 June 2018	<a href="#">Col 1- 30</a>
	2nd Sitting: 7 June 2018	<a href="#">Col 31 - 58</a>
	3rd Sitting: 7 June 2018	<a href="#">Col 59 - 114</a>
	4th Sitting: 12 June 2018	<a href="#">Col 115 - 150</a>
	5th Sitting: 12 June 2018	<a href="#">Col 151 - 174</a>
Report Stage	5 September 2018	<a href="#">Vol 646 Col 201 - 247</a>
Third Reading	5 September 2018	<a href="#">Vol 646 Col 247 - 252</a>
<i>House of Lords</i>		
First Reading	6 September 2018	<a href="#">Vol 792</a>
Second Reading	10 October 2018	<a href="#">Vol 793 Col 130 - 162</a>
Grand Committee	1st Sitting: 5 November 2018	<a href="#">Vol 793 Col 168GC – 228GC</a>
	2nd Sitting: 20 November 2018	<a href="#">Vol 794 Col 143 - 158</a>
Report Stage	11 December 2018	<a href="#">Vol 794 Col 1254 - 1284</a>
Third Reading	15 January 2019	<a href="#">Vol 795 Col 133 - 136</a>
Commons Consideration of Lords Amendments	23 January 2019	<a href="#">Vol 653 Col 258 - 281</a>
Royal Assent	12 February 2019	<a href="#">Vol 654 Col 771</a>

*These Explanatory Notes relate to the Tenant Fees Act 2019 (c. 4) which received Royal Assent on 12 February 2019*



## Annex B – Progress of Act Table

169 The table below summarises how each Section of the Act was numbered during its passage through Parliament.

Section of the Act	Bill as Introduced in the Commons/Lords	Bill as amended on Report in the Lords
Section 1: Prohibitions applying to landlords	Clause 1	Clause 1
Section 2: Prohibitions applying to letting agents	Clause 2	Clause 2
Section 3: Prohibited and permitted payments	Clause 3	Clause 3
Section 4: Effect of a breach of section 1 or 2	Clause 4	Clause 4
Section 5: Treatment of holding deposit	Clause 5	Clause 5
Section 6: Enforcement by local weights and measures authorities	Clause 6	Clause 6
Section 7: Enforcement by district councils	Clause 7	Clause 7
Section 8: Financial Penalties	Clause 8	Clause 8
Section 9: Power to amend maximum financial penalties	Clause 9	Clause 9
Section 10: Recovery by enforcement authority of amount paid	Clause 10	Clause 10
Section 11: Interest on payments under section 10	Clause 11	Clause 11
Section 12: Offences	Clause 12	Clause 12
Section 13: Offences by bodies corporate	Clause 13	Clause 13
Section 14: Duty to notify when taking enforcement action	Clause 14	Clause 14
Section 15: Recovery by relevant person of amount paid	Clause 15	Clause 15
Section 16: Assistance to recover amount paid	Clause 16	Clause 16
Section 17: Restriction on terminating tenancy	Clause 17	Clause 17
Section 18: Duty to publicise fees on third party websites	Clause 18	Clause 18
Section 19: Information about membership of client money protection scheme	Clause 19	Clause 19
Section 20: Penalties for continuing breach of duty	Clause 20	Clause 20
Section 21: Enforcement of client money protection schemes for property agents	Clause 21	Clause 21
Section 22: Client money protection schemes: approval and designation	n/a	Clause 22
Section 23: Client money protection schemes: requirement to belong to a scheme etc	n/a	Clause 23
Section 24: Lead Enforcement Authority	Clause 22	Clause 24
Section 25: General duties of the lead enforcement authority	Clause 23	Clause 25
Section 26: Enforcement by the lead enforcement authority	Clause 24	Clause 26
Section 27: Meaning of “letting agent” and related expressions	Clause 25	Clause 27
Section 28: Interpretation	Clause 26	Clause 28
Section 29: Consequential amendments	Clause 27	Clause 29

*These Explanatory Notes relate to the Tenant Fees Act 2019 (c. 4) which received Royal Assent on 12 February 2019*

<b>Section of the Act</b>	<b>Bill as Introduced in the Commons/Lords</b>	<b>Bill as amended on Report in the Lords</b>
Section 30: Transitional provision	Clause 28	Clause 30
Section 31: Financial provisions	Clause 29	Clause 31
Section 32: Crown application	Clause 30	Clause 32
Section 33: Extent	Clause 31	Clause 33
Section 34: Commencement	Clause 32	Clause 34
Section 35: Short title	Clause 33	Clause 35
Schedule 1: Permitted Payments	Schedule 1	Schedule 1
Schedule 2: Treatment of holding deposit	Schedule 2	Schedule 2
Schedule 3: Financial penalties etc	Schedule 3	Schedule 3

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