



# CHANGES FOR LANDLORDS OF RESIDENTIAL PROPERTY

## MAY 2019

The proposed Tenant Fees Bill 2017-2019 has recently passed its final hurdle and received royal assent - becoming the Tenant Fees Act 2019 - which will come into force from the 1<sup>st</sup> June this year. Set to affect assured shorthold tenancies, student accommodation and license agreements, the Act contains provisions that will place fairly tight restrictions on landlords.

### The Act

One of the biggest changes that the industry will see, is the restrictions on a landlord's ability to charge tenants certain fees.

Previously, landlords in the private sector were able to charge their tenants for the likes of credit checks, referencing, inventories, guarantor forms and cleaning and gardening services. This new Act will restrict them from doing so, affecting not only tenants, but also those acting on behalf of them such as a guarantor or parent. A further ban will be imposed on landlords restricting them from setting the rent at a higher amount for the first period of the tenancy and then reducing it afterwards. This is with the aim to prevent landlords trying to compensate for the ban by increasing the rent to make up the costs that they may have incurred through fees.

Fees exempted from the ban will be limited to those associated with the early termination of a tenancy, holding deposits, rent and deposits and charges for defaulting on the contract. Restrictions placed on holding deposits mean that there will be a cap at a maximum of 1 week rent per property, and security deposits will be capped at a maximum of 5 weeks rent.

With the implementation of the provisions due to have effect in just under 4 months, landlords will need to ensure that their current and future agreements reflect the changes. Non-compliance with the ban could potentially lead to a civil offence with fines as high as £30,000 imposed for breaches. Wider implications of the Act include, that any landlord or agent who makes a charge relating to a banned fee will be restricted from serving a Section 21 Notice to Evict, unless the fee is returned to the tenant within 28 days.

In terms of existing agreements, the ban on these fees will only be imposed initially on renewals and new tenancies after the date of the Act's implementation. After one year of implementation, the ban will attach to all pre-existing tenancies. As of 1st June 2020, any clauses imposing any banned charges on a tenant will become ineffective and considered in breach of this legislation.

With this in mind, it is important that landlords be aware of these restrictions and take the time to consider and review all existing and future tenancy agreements. If these changes aren't taken into account, agreements may not be fit for purpose, resulting in a hefty fine.

### Electrical Safety Standards

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As part of the Tenant Fees Act 2019 there will also be a crack down on electrical safety standards in order to protect tenants from renting out unsafe properties.

The tougher standards will require landlords to have mandatory electrical safety checks every five years, providing tenants with a certificate proving that necessary works have been completed. In terms of the electrical works being undertaken on properties, a new scheme – the 'Electrical Testing Competent Person's Scheme – will be set up to ensure that these works are completed by properly trained experts.

In order to avoid confusion when implementing this as a landlord, a clear guidance will be published before this Act comes into effect, which will illustrate the level of inspections needed to comply with the legislation. Non-compliant landlords could face penalties of up to £30,000.

In practice, the majority of landlords already conduct annual electrical testing by registered electricians – which means that the introduction of the mandatory process should not be too burdensome for them. However, for those who may have fallen behind, it is a not-so-gentle reminder that thorough checks and repairs need to be a more regular occurrence, or else you could suffer a pretty significant financial loss.

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