

## PRIVATE RENTED SECTOR: TENANCY FEES ACT 2019 – ENGLAND

### INTRODUCTION

The Tenancy Fees Act bans unfair lettings fees and sets out the fees that landlords and agents in England are still permitted to charge tenants in the Private Rented Sector.

The Act will come into force on **1 June 2019**.

This briefing sets out the main provisions of the new legislation, and what UNISON members can do to raise awareness of the new protections won for private tenants.

### BACKGROUND

Currently, letting agents and landlords in England are able to charge a range of fees at the start, renewal and termination of a tenancy. This includes fees for reference, credit checks, renewal, administration and inventory checks, which landlords must set out clearly to private tenants. These fees are in addition to requiring a deposit and rent upfront. Along with the high costs of private rents, these fees can add up to hundreds of pounds, placing a huge financial burden on private tenants.

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

The Act only applies to England. Different rules on lettings fees apply in devolved nations: The Welsh Government is passing a different version of the lettings fees ban. In Scotland lettings fees were banned in 2012, and in Northern Ireland they are still legal. You can find out more about the situation on lettings fees in England, Scotland, Wales and Northern Ireland here:

[https://www.generationrent.org/can\\_letting\\_agents\\_charge\\_tenants\\_fees](https://www.generationrent.org/can_letting_agents_charge_tenants_fees)

### THE TENANCY FEES ACT 2019

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

The main provisions of the Act will come into effect on 1 June 2019. The Act will:

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

## **ABOUT THE TENANT FEES BAN**

The ban on fees will apply to most private tenants, including tenants of assured shorthold tenancies, tenancies of student accommodation and licences to occupy housing (for example, if you are a lodger) granted on or after 1 June 2019.

### **What fees will tenants be required to pay by landlords or agents?**

**From 1<sup>st</sup> of June 2019 private tenants who sign new tenancies on or after this date will only be required to make the following payments in respect of their tenancy:**

#### **Permitted Payments**

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

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

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

#### **Prohibited Payments**

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

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

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

**If you are already in a tenancy agreement with a private landlord before 1 June 2019, then you are liable for any fees, such as administration fees, if these are stipulated in your existing tenancy agreement up until 31 May 2020 – unless you sign a new contract.**

From **1 June 2020** the ban on fees will apply to **all** assured shorthold tenancy contracts, including those entered into before the commencement date of the Act. This means that any term in the tenancy

agreement that existed before the ban came into force requiring a tenant to pay a fee that is prohibited under the Act will be outlawed.

## **ENFORCEMENT**

The Act places a duty on Trading Standards authorities – and district councils - to enforce the ban. Landlords and letting agents who breach the ban by making a request for a prohibited payment will be liable to pay a financial penalty of up to £5,000 for an initial breach. They will be liable to pay fines of up to £30,000 for further breaches or face criminal prosecution.

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

**A detailed government guide on the Act is available [here](#):**

## **WHAT UNISON MEMBERS CAN DO:**

- ❖ Share this briefing to raise awareness of the Act
- ❖ Find out about your rights and responsibilities under the Act if you are a private tenant or landlord [here](#)

### **If you are a private tenant:**

- ❖ Claim back any fees that you have been illegally charged by a letting agent or landlord under the terms of the Act
- ❖ Complain to your landlord/letting agent if you disagree with their fees or find them unfair
- ❖ Complain to a letting agents' redress scheme if they are breaking existing laws around publishing their fees
- ❖ Report an agent breaching existing laws using Generation Rent's Reporting tool here: [https://www.generationrent.org/report\\_an\\_agent](https://www.generationrent.org/report_an_agent)

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