

A man in a dark blue suit and red tie is smiling and pointing at a document held by a woman in a white ribbed sweater. Another woman in a blue and white striped shirt is looking on. They are standing in front of a bookshelf filled with books.

# Tenant Fees Act 2019 – A Guide for Landlords

Letting agents deliver a hugely valuable service. Agents who display the ARLA Propertymark Protected logo are up to date with the latest legal changes. They ensure that tenants living in your property are safe and the tenancy is legally compliant and professionally managed.

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## WHAT IS CHANGING?

The Tenant Fees Act 2019 came into force on 1 June 2019. It sets out rules to ban letting agents and landlords from charging fees to tenants in England as well as setting a cap for tenancy deposits. The ban will apply to new tenancies and renewals (new Fixed Term) signed on or after 1 June 2019.

## IMPACT ON TENANTS

Although renters will experience reduced up-front fees, many will experience increased rents. ARLA Propertymark commissioned independent research which found that each tenant is likely to pay an additional £103 per annum.

## IMPACT ON LETTING AGENTS

Letting agents have always performed a dual role, representing the interests of landlords but also supporting the needs of tenants. All the core functions involved in managing properties, complying with legislation and safeguarding tenancies need to be continued. Agents will be engaging with landlords to discuss management fees, rent levels and their business costs.

# WHAT PAYMENTS ARE ALLOWED?

The only payments that tenants can be charged are those expressly permitted under the Tenant Fees Act, all other charges are prohibited. The Act prevents landlords and their agents from requiring tenants to make any payment as a condition of granting, renewing or continuing a tenancy apart from:

- Rent
  - Tenancy Deposit
  - Holding Deposit
  - Variation, assignment or novation of a tenancy
  - Termination (surrender) of a tenancy
  - Default fees
  - Council Tax
  - Utilities (electricity, gas or other fuel, water or sewerage)
  - Television licence
  - Communication services
  - Green Deal charges
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## RENT

Increases or reductions of rent are allowed but landlords cannot generate additional income by charging a higher rent in any one period compared to any other period in the tenancy.

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# WHAT PAYMENTS AREN'T ALLOWED?

Tenants cannot be asked to pay any fees apart from the permitted payments specified. Your agent is NOT allowed to charge a tenant for any of the following:

- Referencing (for a tenancy in your property or an onward reference)
- Any application fees
- Any set up costs for a tenancy
- Any fees for contract negotiation
- Any fees for inventory checks



## TENANCY TYPES AND THE BAN

The ban will apply to:

- Assured Shorthold Tenancies (ASTs)
- Licences to occupy (e.g. lodgers)

## WHAT ABOUT TENANCIES SIGNED BEFORE 1 JUNE 2019?

There is a 12-month transitional arrangement for existing tenancies. If a tenancy was signed before 1 June 2019 tenants will still be required to pay fees written into that tenancy agreement until 31 May 2020 when the transition period ends. This includes Fixed Terms which become Statutory or Contractual Periodic tenancies during this time.

After one year (from 31 May 2020) the ban will apply to all tenancies (both Fixed Term and Periodic) regardless of when the tenancy started. This means that any tenancy clauses that charge fees in them will become unenforceable. If a landlord or agent takes a prohibited payment after that date, they will have 28 days to return it or be considered in breach of this legislation.

# HOLDING DEPOSIT

A landlord or agent can take a refundable Holding Deposit from a tenant to reserve a property, but this cannot exceed one week's rent. Agents can only accept one holding deposit per property.

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# TENANCY DEPOSIT

The new rules state that Tenancy Deposits are capped at five weeks' rent where the annual rent is less than £50,000 a year, and six-weeks' rent where the annual rent is higher. For detailed advice on transitioning existing deposits beyond 1 June 2019 speak to your ARLA Propertymark agent.

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# BREACHES OF THE TENANCY AGREEMENT – DAMAGES

Where the tenant has breached their tenancy agreement and caused damage, landlords can still require tenants to pay for the costs of the damage as well as seek deductions from the tenancy deposit or take court action. Agents cannot charge tenants for additional penalty fees because of damage.

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# BREACHES OF THE TENANCY AGREEMENT – DEFAULT FEES

There are two situations where tenants can be required to pay default fees – lost keys (or security device) and late payment of rent. Both are subject to restrictions and landlords should consult their ARLA Propertymark agent for further details.

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# UTILITIES

Government guidance imposes strict criteria on reimbursement for utility services and landlords are not permitted to overcharge for energy, water or communications services. If tenants pay the energy bills directly, they must be allowed to choose the supplier themselves.



## PRACTICAL ISSUES

### CHANGES TO THE TENANCY

When a tenant requests it, landlords and letting agents can charge them to vary, assign or replace a tenancy but this payment cannot exceed £50 (including VAT) or reasonable costs if higher. Landlords and letting agents must provide receipts and supporting evidence to demonstrate any costs in excess of £50.

### EARLY SURRENDER OF TENANCY

If a tenant wants to end a tenancy early (surrender of tenancy) charges must not exceed the loss suffered by the landlord or reasonable costs incurred by the letting agent.

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## IMPACT ON REGAINING POSSESSION OF THE PROPERTY

Section 21 notices cannot be issued in relation to the tenancy if Prohibited Payments or Holding Deposits need to be repaid.

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## PENALTIES

The Government is determined that this legislation will end excessive housing costs for tenants, therefore any breach of the fee ban will incur a penalty of up to £5,000. Successive breaches can result in a criminal offence and an unlimited fine.

A woman with long blonde hair is looking down at a brown leather wallet she is holding in her hands. The background is a soft, out-of-focus landscape with hills and a body of water.

## CLIENT MONEY PROTECTION

ARLA Propertymark has been providing financial protection for landlords and tenants for years and in 2017 our campaign to make Client Money Protection mandatory for lettings agents led to Government agreeing to change the law.

Client Money Protection is a compensation scheme which reimburses both the landlord and the tenants if an agent goes out of business or misuses client money (loss, theft, misappropriation).

Client money can include:

- Rent
- Cash float to pay for maintenance and repairs
- Unprotected deposits
- Sale proceeds
- Any interest earned which is due to the client

Since 1 April 2019, all property agents in England holding client money must belong to a government-approved Client Money Protection scheme.

**PROPERTYMARK IS A GOVERNMENT-APPROVED  
SCHEME FOR CLIENT MONEY PROTECTION**



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advice from your ARLA  
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