# Tenant Fees Act 2019

**2019 CHAPTER 4**

*Prohibitions etc applying to landlords and letting agents*

## 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 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.

**Commencement Information**

**I1** S. 1 in force at 1.6.2019 by S.I. 2019/857, **reg. 3(a)**

## 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.

(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.

**Commencement Information**

**I2** S. 2 in force at 1.6.2019 by S.I. 2019/857, **reg. 3(b)**

## 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**

**I3** S. 3(2)-(7) in force at Royal Assent, see s. 34(3)(a)

**I4** S. 3(1) in force at 1.6.2019 by S.I. 2019/857, **reg. 3(c)**

## 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.

**Commencement Information**

**I5** S. 4 in force at 1.6.2019 by S.I. 2019/857, **reg. 3(d)**

## 5 Treatment of holding deposit

Schedule 2 makes provision about the treatment of holding deposits.

**Commencement Information**

**I6** S. 5 in force at 1.6.2019 by S.I. 2019/857, **reg. 3(e)**

**Changes to legislation:**
There are currently no known outstanding effects for the Tenant Fees Act 2019, Cross Heading: Prohibitions etc applying to landlords and letting agents.