



# Tenant Fees Act 2019

## 2019 CHAPTER 4

### *Enforcement*

#### **10 Recovery by enforcement authority of amount paid**

- (1) Subsection (2) applies where an enforcement authority—
  - (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching section 1 or 2,
  - (b) is satisfied on the balance of probabilities that the breach resulted in a relevant person making a prohibited payment to a landlord, letting agent or third party, and
  - (c) is satisfied on the balance of probabilities that all or part of the prohibited payment has not been repaid to the relevant person.
- (2) The enforcement authority may require the landlord or letting agent to pay to the relevant person—
  - (a) if none of the prohibited payment has been repaid to the relevant person, the amount of the prohibited payment;
  - (b) if part of the prohibited payment has been repaid to the relevant person, the remaining part of the prohibited payment.
- (3) But subsection (2) does not apply in relation to a prohibited payment if or to the extent that, with the consent of the relevant person—
  - (a) the prohibited payment, or the remaining part of it, has been applied towards a payment of rent under the tenancy, or
  - (b) the prohibited payment, or the remaining part of it, has been applied towards the tenancy deposit in respect of the tenancy.
- (4) Subsection (5) applies where an enforcement authority—
  - (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching section 1 or 2,
  - (b) is satisfied on the balance of probabilities that the breach resulted in a relevant person entering into a contract with a third party, and

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*Status: This is the original version (as it was originally enacted).*

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- (c) is satisfied on the balance of probabilities that the relevant person has made a payment or payments under the contract.
- (5) The enforcement authority may require the landlord or letting agent to pay to the relevant person an amount which does not exceed the amount of the payment or (as the case may be) the aggregate amount of the payments that the relevant person has made.
- (6) Subsection (8) applies where an enforcement authority—
- (a) imposes a financial penalty under section 8 on a landlord or letting agent for breaching Schedule 2 (treatment of holding deposit), and
  - (b) is satisfied on the balance of probabilities that all or part of the holding deposit has not been repaid to the relevant person.
- (7) Subsection (8) also applies where an enforcement authority—
- (a) could have imposed a financial penalty under section 8 on a landlord or letting agent for breaching paragraph 3 of Schedule 2 but for subsection (5) of that section (incorrect belief that immigration-related prohibition on granting tenancy applied), and
  - (b) is satisfied on the balance of probabilities that all or part of the holding deposit has not been repaid to the relevant person.
- (8) The enforcement authority may require the landlord or letting agent to pay to the relevant person—
- (a) if none of the holding deposit has been repaid to the relevant person, the amount of the holding deposit;
  - (b) if part of the holding deposit has been repaid to the relevant person, the remaining part of the holding deposit.
- (9) But subsection (8) does not apply in relation to a holding deposit if or to the extent that, with the consent of the relevant person—
- (a) the holding deposit, or the remaining part of it, has been applied towards a payment of rent under the tenancy, or
  - (b) the holding deposit, or the remaining part of it, has been applied towards the tenancy deposit in respect of the tenancy.
- (10) Subsection (2), (5) or (8) does not apply if the relevant person has made an application under section 15 (application to the First-tier Tribunal) for recovery of all or part of the amount or (as the case may be) the aggregate amount referred to in that subsection.