

Tenant Fees Bill – Analysis on the application of Standing Order No.830 of the Standing Orders of the House of Commons relating to Public Business in respect of Government amendments made in the House of Lords

Commons consideration of Lords' Amendments stage

The following is the Department's assessment of the Bill and of Government Amendments made in the House of Lords for consideration by the House of Commons.

Territorial application

1. The Government amendments made at Report Stage in the House of Lords apply as follows:
 - Lords Amendments 1 to 4 amend Clause 1 which extends to England and Wales and applies to England only. Lords Amendments 3 and 4 apply to local authorities in Wales but the result of this is to exclude Welsh local authorities from the application of the Bill;
 - Lords Amendments 5 to 8 amend Clause 2 which extends to England and Wales and applies to England only;
 - Lords Amendments 9 to 12 amend Clause 4 which extends to England and Wales and applies to England only;
 - Lords Amendment 13 amends Clause 8 which extends to England and Wales and applies to England only;
 - Lords Amendments 14 amends Clause 10 which extends to England and Wales and applies to England only;
 - Lords Amendments 15 to 20 amend Clause 11 which extends to England and Wales and applies to England only;
 - Lords Amendment 21 amends Clause 21 which extends to England and Wales and applies to England only;
 - Lords Amendments 22 and 23 insert two new clauses after Clause 21 regarding client money protection legislation which will both extend to England and Wales and apply to England only;
 - Lords Amendments 24 to 26 amend Clause 26 which extends to England and Wales and applies to England only;
 - Lords Amendment 27 amends Clause 27 which extends to England and Wales and applies to England only;
 - Lords Amendments 28 to 35 amends Clause 28 which primarily extends to England and Wales and applies to England only although subsection 12 extends to England, Wales, Scotland and Northern Ireland but applies to England only.
 - Lords Amendments 36 to 50 amend Schedule 1 which extends to England and Wales and applies to England;
 - Lords Amendments 51 to 60 amend Schedule 2 which extends to England and Wales and applies to England only.
2. The above clause numbers are those included in the Bill as introduced into the Lords. The Lords Amendments can be summarised as follows:

- Lords Amendments 1, 2, 6 to 12 and 28 to 35 would replace references to tenant with a reference to relevant person.
- Lords Amendments 3 and 4 would exclude local housing authorities, the Greater London Authority or organisations acting on their behalf from the definition of relevant person under the Act.
- Lords Amendment 5 would clarify that letting agents are prohibited from requiring a tenant or other relevant person from entering into a contract with themselves in connection with a tenancy of housing in England.
- Lords Amendments 13, 14, 19, 20, 38 to 41, 50 to 54 and 56 to 59 relate to holding deposits. Amendments 19, 20 and 54 would introduce a formal requirement for landlords and agents to set out in writing why they are retaining a deposit. Lords Amendments 38 to 41 would ensure that a landlord or agent can only take one holding deposit at any one time for a property unless permitted to retain an earlier deposit. Lords Amendments 50 to 53 would ensure that a tenant always receives their holding deposit back when a tenancy agreement is entered into. Lords Amendments 56 to 59 would clarify that a holding deposit must be refunded if the landlord or agent imposes a requirement on a tenant or relevant person that breaches the ban or behaves in an unreasonable manner such that it would be unreasonable to expect the tenant to enter the tenancy.
- Lords Amendments 15 to 18 would ensure the language in clause 11 is consistent and that all references to the date from which interest is paid refer instead to the day from which interest is paid.
- Lords Amendments 21 to 23 and 27 would amend client money protection legislation. Amendment 21 includes a new enabling power to confer a discretion on the Secretary of State in the approval or designation of a client money protection scheme. Amendments 22 and 23 would clarify that the definition of client money does not include any money that has already been protected through a Government approved tenancy deposit scheme, would allow schemes to set limits per individual claimant and in aggregate up to such an amount that the Secretary of State considers appropriate and would allow for the exclusion of risks.
- Lords Amendments 24 to 26 would exclude certain licences to occupy housing from the Bill where particular conditions surrounding the grant, renewal and continuation of that licence are met. These conditions would include a requirement for a charity or a community interest company to give advice or assistance to the licensee or licensor in connection with the grant, renewal, or continuation of the license and where the only consideration provided by the licensee is companionship or companionship and care or assistance, together with one or more payments in respect of council tax or utilities.
- Lords Amendments 36 and 37 would lower the maximum amount of tenancy deposit that could be requested for properties with an annual rent of less than £50,000 from six weeks' rent to five weeks' rent. Where the annual rent is £50,000 or more the maximum amount of tenancy deposit that could be requested would remain six weeks' rent.
- Lords Amendments 42 to 47 relate to default payments and would provide that a landlord or agent can only charge a tenant a payment in the event of a default in the

circumstances of the loss of a key, a lost security device to give access to the housing or for late payment of rent where that payment has been outstanding for 14 days or more. Lords Amendments 48 would clarify that the Bill does not impact on a landlord or agent's right to recover damages for breach of contract of a tenancy agreement or agreement with the agent.

- Lords Amendment 49 would clarify that the definition of a television licence in paragraph 9(2) of Schedule 1 applies to the entire Bill.
- Lords Amendment 55 would correct a reference to 'incorrect and misleading' to 'false and misleading' to align with other references in Schedule 2.
- Lords Amendment 60 would amend the title of the Bill to reflect that the Bill not only amends the provisions of the Housing and Planning Act 2016 about client money protection schemes but makes further provisions about such schemes.

3. There are no changes to the territorial application of the clauses in the Bill as a result of these amendments.

The above assessment for amended clauses is presented in tabular form below.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clauses 1 to 33	Yes	No	No	No	Yes	Yes	Yes	No
Schedules 1 to 3	Yes	No	No	No	Yes	Yes	Yes	No

The above assessment for new clauses is presented in tabular form below.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Client money protection schemes: approval and designation	Yes	No	No	No	Yes	Yes	Yes	No

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
After Clause 21								
Client money protection schemes: requirement to belong to a scheme etc After Clause 21	Yes	No	No	No	Yes	Yes	Yes	No

