

# TENANT FEES BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Tenant Fees Bill as brought from the House of Commons on 6 September 2018 (HL Bill 129).

- These Explanatory Notes have been prepared by the Ministry of Housing, Communities and Local Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

# Table of Contents

Subject	Page of these Notes
<b>Overview of the Bill</b>	<b>3</b>
<b>Policy background</b>	<b>5</b>
<b>Legal background</b>	<b>6</b>
<b>Territorial extent and application</b>	<b>6</b>
<b>Commentary on provisions of Bill</b>	<b>8</b>
Clause 1: Prohibitions applying to landlords	8
Clause 2: Prohibitions applying to letting agents	8
Clause 3: Prohibited and permitted payments	9
Schedule 1: Permitted Payments	9
Clause 4: Effect of a breach of section 1 or 2	10
Clause 5: Treatment of holding deposit	11
Schedule 2: Treatment of holding deposit	11
Clause 6: Enforcement by weights and measures authorities	11
Clause 7: Enforcement by district councils	12
Clause 8: Financial Penalties	12
Schedule 3: Financial Penalties	12
Clause 9: Power to amend maximum financial penalties	14
Clause 10: Recovery by enforcement authority of amount paid	14
Clause 11: Interest on payments under section 10	14
Clause 12: Offences	14
Clause 13: Offences by bodies corporate	14
Clause 14: Duty to notify when taking enforcement action	15
Clause 15: Recovery by relevant person of amount paid	15
Clause 16: Assistance to recover a prohibited payment or holding deposit	16
Clause 17: Restriction on terminating a tenancy	16
Clause 18: Duty to publicise fees on third party websites	16
Clause 19: Information about membership of client money protection scheme	16
Clause 20: Penalties for continuing breach of duty	16
Clause 21: Enforcement of client money protection schemes for property agents	17
Clause 22: Lead enforcement authority	17
Clause 23: General Duties of the lead enforcement authority	17
Clause 24: Enforcement by the lead enforcement authority	17
Clause 25: Meaning of “letting agent” and related expressions	18
Clause 26: Interpretation	18
Clause 27: Consequential Amendments	18
Clause 28: Transitional Provisions	18
Clause 29: Financial Provisions	19
Clause 30: Crown Application	19
Clauses 31 to 33: Extent, Commencement, Short title	19
<b>Commencement</b>	<b>19</b>

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<b>Financial implications of the Bill</b>	<b>19</b>
<b>Parliamentary approval for financial costs or for charges imposed</b>	<b>20</b>
<b>Compatibility with the European Convention on Human Rights</b>	<b>20</b>
<b>Annex A – Territorial extent and application in the United Kingdom</b>	<b>21</b>
Subject matter and legislative competence of devolved legislatures	22

## Overview of the Bill

- 1 Through this Bill, the Government aims to make renting fairer and more affordable for tenants by reducing the costs at the outset of a tenancy. This Bill also aims to improve transparency and competition in the private rental market. The Bill implements the manifesto commitment to ban letting fees paid by tenants in England and includes other measures to improve fairness, competition and affordability in the lettings sector.
- 2 This Bill seeks to achieve the above by banning landlords and their agents from requiring tenants and licensees of privately rented housing in England and persons acting on their behalf or guaranteeing their rent (together referred to as “relevant persons”) to make any payments in connection with a tenancy with the exception of:
  - the rent;
  - a refundable tenancy deposit (reserved for any damages or defaults on the part of the tenant) capped at no more than six weeks’ rent;
  - a refundable holding deposit (to reserve a property) capped at no more than one week’s rent;
  - certain payments on assignment, novation or variation of a tenancy when requested by the tenant capped at £50, or reasonable costs incurred if higher;
  - payments associated with early termination of the tenancy, when requested by the tenant;
  - payments in respect of utilities, communication services and council tax; and
  - payments in the event of a default of the tenant (such as replacing a lost key or late rent payment fine) limited to the landlord’s or agent’s reasonable incurred costs, which must also be evidenced in writing.
- 3 In the Bill “in connection with a tenancy” includes when the above are required:
  - by a landlord in consideration of the grant, renewal, continuance, variation, novation, assignment or termination of a tenancy;
  - by a letting agent in consideration of arranging the grant, renewal, continuance, variation, novation, assignment or termination of a tenancy;
  - on entry into a tenancy agreement containing relevant provisions;
  - pursuant to a provision of a tenancy agreement that requires, or purports to require, the person to do any of those things in the event of an act or default of the person or if the tenancy is varied, assigned, novated or terminated;
  - pursuant to an agreement relating to such a tenancy with a letting agent which requires, or purports to require, the person to do any of those things in the event of an act or default of the person or if the tenancy is varied, assigned, novated or terminated;
  - as a result of an act or default related to the tenancy unless pursuant to, or for breach of, the tenancy agreement; and
  - in consideration of providing a reference for a former tenant.
- 4 The ban applies in relation to assured shorthold tenancies, tenancies of student accommodation and licences to occupy. In this memorandum “tenant” includes licensees.
- 5 The Bill bans landlords and their agents from requiring tenants and other relevant persons to secure and pay for services from any third party (other than landlords in relation to utilities and communication services) or to make a loan.
- 6 The Bill requires agents and landlords to refund the holding deposit except in circumstances where the tenant withdraws, fails a right-to-rent check or provides false or misleading

information, which the landlord is reasonably entitled to take into account in deciding whether to grant the tenancy because this materially affects their suitability to rent the property.

- 7 The Bill places a duty on trading standards authorities to enforce the Bill but district councils that are not trading standards authorities will have power to enforce if they choose to do so. The Bill also makes provision for tenants and other relevant persons to be able to recover unlawfully charged fees through the First-tier Tribunal and prevents landlords from recovering possession of their property via the procedure set out in section 21 Housing Act 1988 until they have repaid any unlawfully charged fees.
- 8 A breach of the fees ban will usually be a civil offence with a financial penalty of £5,000, but if a breach is committed within 5 years of the imposition of a financial penalty or conviction for a previous breach this will be a criminal offence. The penalty for the criminal offence, which will be a banning order offence under the Housing and Planning Act 2016, is an unlimited fine.
- 9 Where an offence is committed, local authorities may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, local authorities will have discretion about whether to prosecute or impose a financial penalty but guidance on this will be issued. Where a financial penalty is imposed instead of a prosecution this does not amount to a criminal conviction.
- 10 A breach of the requirement to repay a holding deposit will be a civil offence and will be subject to a financial penalty of £5,000.
- 11 Local authorities will be able to retain the money raised through financial penalties with this money reserved for future local housing enforcement.
- 12 The Bill makes some amendments to the transparency requirements in Chapter 3 of Part 3 of the Consumer Rights Act 2015, which require an agent in England to display any relevant fees, the redress scheme of which they are a member and whether they have client money protection prominently in their office and on their website. The amendments are to apply those requirements in relation to property portals (e.g. Rightmove, Zoopla), to make new provision regarding fines in the event of a continuing breach of the requirements in England and to require letting agents to display the name of their Client Money Protection scheme.
- 13 The Bill also amends the Housing and Planning Act 2016, which will have the effect of moving the enforcement responsibility for mandatory Client Money Protection scheme membership from district councils to county councils (in non-unitary authorities).
- 14 Finally, the Bill makes provision for the Secretary of State or a trading standards authority designated by the Secretary of State to be a Lead Enforcement Authority to provide oversight, guidance and support with the enforcement of requirements on letting agents. This includes the ban on letting fees and related provisions.
- 15 The Bill proposals were subject to a public consultation, which ran for 8 weeks from 7 April until 2 June 2017. The consultation received 4,724 responses from stakeholders across the private rented sector.
- 16 The Bill was published in draft on 1 November 2017 and was subject to pre-legislative scrutiny by the Housing, Communities and Local Government Committee.<sup>1</sup> The Committee

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<sup>1</sup> Draft Tenant Fees Bill is accessible at: <https://www.gov.uk/government/publications/draft-tenants-fees-bill>.

published their report and recommendations on 29 March 2018 further to receiving over 60 written submissions and holding five oral evidence sessions with a range of stakeholders across the private rented sector.<sup>2</sup>

17 Note: In the following sections of these Explanatory Notes “tenancy” refers to assured shorthold tenancies, tenancies of student accommodation and licences to occupy but excludes long leaseholds, tenancies of social housing and holiday lets. “Landlord” and “tenant” have the corresponding meanings.

## Policy background

18 The private rented sector is an important part of the national housing market. It houses 4.7 million households in England and now represents 20% of all households.<sup>3</sup>

19 Letting agents are engaged by many private landlords to let and manage rental accommodation on their behalf. Good agents provide a valuable service in ensuring that properties are safe, compliant and professionally managed; they help landlords comply with their legal responsibilities and help tenants secure safe and good quality homes.

20 The duties of letting agents might include finding tenants, collecting rent, and responding to queries from tenants (for example, in relation to repairs). Landlords pay fees to letting agents for carrying out these duties on their behalf. Letting agents also charge fees to tenants for a variety of reasons, including seeking references, inventory services and contract negotiations.

21 Letting agent fees are not always clearly or consistently explained with the result that many tenants are unaware of the true costs of renting a property. The competitive pressure on tenant fees is weak as agents are chosen by landlords. Letting agents may therefore impose unfair or excessive fees because tenants have a very limited ability to negotiate or opt-out.

22 Renters pay an average of £200-£300 in letting fees per tenancy although many pay significantly more than this. The English Housing Survey 2014-15 found that the mean average fee paid by a household in 2014-15 was £223, while the median was £200.<sup>4</sup>

23 There is also evidence that letting agent fees paid by tenants have increased significantly in recent years and that many tenants have experienced problems paying letting agents’ fees. The English Housing Survey 2014-15 reports that median fees charged by agents increased by 60% between 2009-10 and 2014-15 (14% increase in mean) and that a third (34%) of private renters said that fees would stop them moving into a new home.

24 It is not simple for tenants to understand and compare agent fees since there is significant variation in the way that agents charge for their services. Further, agents charging fees to both landlords and tenants increases the risk of unfair practices in the form of double charging.

25 The Government announced at the 2016 Autumn Statement that it would introduce a ban on letting agent fees paid by tenants in England to improve competition in the private rental

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<sup>2</sup> The Committee’s pre-legislative scrutiny report was published on 29 March 2018 and is accessible at <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/583/583.pdf>

<sup>3</sup> English Housing Survey 2016-17

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/570848/Private\\_Rented\\_Sector\\_Full\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/570848/Private_Rented_Sector_Full_Report.pdf)

market and give renters greater clarity and control over what they will pay. The commitment to make renting fairer for tenants was reaffirmed in the Conservative Party Manifesto.

## Legal background

### *Letting Fees and Letting Agent Transparency requirements*

- 26 The existing legislation relevant to letting fees is Chapter 3 of Part 3 of the Consumer Rights Act 2015 which, in England and Wales, requires a letting agent to display prominently at its client facing premises and, if it has a website, to publish on its website, a list of its relevant fees.
- 27 The same provisions also require a letting agent engaging in letting agency or property management work in relation to housing in England to publish, in the same manner:
  - a. a statement of whether the agent is a member of a Client Money Protection scheme (if it holds money on behalf of clients); and
  - b. a statement that indicates that the agent is a member of a redress scheme, including the name of the scheme (if the agent is required to be a member of a redress scheme for dealing with complaints in respect of its lettings work).

### *Holding deposits*

- 28 There is no legislation on holding deposits.

### *Tenancy deposits*

- 29 Chapter 4 of Part 6 of the Housing Act 2004 makes provision relating to tenancy deposits for assured shorthold tenancies. Section 213(1) provides that any tenancy deposit paid to a person in connection with an assured shorthold tenancy must be dealt with in accordance with an authorised scheme.

## Territorial extent and application

- 30 Clause 31 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The territorial extent of this Bill is England and Wales only apart from Clauses 6(6), 7(4), 24(10), 28(12), and 29, 31 to 33 which extend to the whole of the United Kingdom. Clauses 6(6), 7(4) and 24(10) amend Schedule 5 to the Consumer Rights Act 2015 which extends to the whole of the United Kingdom and the supplementary provisions in Clauses 28(12) and 29, 31 to 33 require the same extent as a result. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. The Bill will apply in relation to housing in England only.
- 31 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned. The subject matter of this Bill is housing – a devolved matter in Scotland, Wales and Northern Ireland.
- 32 Clauses 18 to 20 make amendments to the provisions of the Consumer Rights Act 2015 which concern the duty of letting agents to publicise information about their fees and certain other matters. Although the provisions of the Consumer Rights Act 2015 apply to England and Wales, the amendments in Clauses 18 to 20 will apply in relation to housing in England only.

There is, however, a minor/consequential effect in relation to Wales as pursuant to section 87(4) of that Act where a local weights and measures authority in Wales may take enforcement action in respect of a breach which occurs in England.

- 33 Clause 21 makes amendments to the provisions of the Housing and Planning Act 2016, which concerns the enforcement of the requirement on property agents in the private rented sector to belong to a Client Money Protection scheme. The amendment in Clause 21 will apply in relation to housing in England only.
- 34 As the matters to which the provisions of the Bill relate are not within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly no legislative consent motion is being sought. If there are amendments relating to matters within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly, the consent of the relevant devolved legislature(s) will be sought for the amendments.
- 35 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

# Commentary on provisions of Bill

## Clause 1: Prohibitions applying to landlords

- 36 This clause provides that a landlord of housing in England must not require a tenant to make a payment or a loan in connection with a tenancy.
- 37 This clause also provides that such a landlord must not require, except in the case of utilities, or communication services, a tenant to secure and pay for services from any third party in connection with a tenancy, for example a reference provider, an inventory service or an insurer.
- 38 This clause sets out that a landlord is considered to have required a tenant to make a payment, a loan or enter into a contract with a third party in connection with a tenancy if they have:
- a. required the tenant to do any of those things in consideration of the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
  - b. entered into a tenancy agreement that requires, or purports to require, the tenant to do any of those things;
  - c. required the tenant to do any of those things pursuant to a provision of a tenancy agreement in the event of an act or default by the tenant or if the tenancy is varied, assigned, novated or terminated;
  - d. required the tenant to do any of those things as a result of an act or default relating to the tenancy unless pursuant to, or for the breach of a tenancy agreement; or
  - e. charged the tenant in consideration of providing a reference.
- 39 This clause provides that a landlord can require the tenant to make a payment, enter into a contract or grant a loan if it is an alternative to another requirement that is not unreasonable or prohibited. It must not simply be a different means of requiring a tenant to do any of those things.
- 40 This clause and Clause 2 also apply to a person acting on behalf of a tenant and a person guaranteeing a tenant's rent. Tenants and such persons are referred to collectively in the Bill as "relevant persons".

## Clause 2: Prohibitions applying to letting agents

- 41 This clause provides that a letting agent of housing in England must not require a tenant to make a payment or a loan in connection with a tenancy.
- 42 This clause also provides that such a letting agent must not require a tenant to secure and pay for services from any third party, for example a reference provider, an inventory service or an insurer, in connection with a tenancy.
- 43 This clause sets out that an agent is considered to have required a tenant to make a payment, a loan or enter into a contract with a third party in connection with a tenancy if they have:
- a. required the tenant to do any of those things as a condition of the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
  - b. required the tenant to do any of those things pursuant to an agreement related to the tenancy which requires or purports to require the person to do any of those things in the event of an act or default of the person or if the tenancy is varied assigned, novated or terminated;

- c. by requiring the tenant to do any of those things as a result of an act or default relating to a tenancy unless pursuant to, or for the breach of a tenancy agreement; or
- d. charged the tenant for the provision of a reference in relation to occupation of housing.

44 This clause provides that an agent may require the tenant to make a payment, enter into a contract or grant a loan if it is an alternative to another requirement that is not unreasonable or prohibited. It must not simply be a different means of requiring a tenant to do any of the prohibited things.

45 This clause does not apply to a requirement imposed on a tenant or relevant person by any agent who provides a service to a tenant, and as part of that service finds housing which that tenant agrees to rent, provided that the agent does not act for the landlord with whom the tenancy is agreed (for that or any other housing).

### Clause 3: Prohibited and permitted payments

46 This clause defines prohibited and permitted payments. The list of permitted payments is set out in Schedule 1. Any payment that is not a permitted payment is a prohibited payment.

47 This clause provides that the Secretary of State may amend the list of permitted payments described in Schedule 1 by regulations. Regulations are subject to the affirmative procedure, meaning that they must be approved by a resolution of each House of Parliament except in the case of an amendment to the maximum amount of permitted payment on assignment, variation or novation of a tenancy for the purposes only of reflecting changes in the value of money. If that applies the regulations may be made by negative procedure meaning that they can be annulled by resolution of either House of Parliament.

### Schedule 1: Permitted Payments

48 The list of permitted payments set out in this Schedule is exhaustive. Any other payment a landlord or letting agent requires in connection with a tenancy to themselves or a third party which is not described in this Schedule is prohibited.

49 The permitted payments are:

- a. the rent;
- b. a refundable tenancy deposit of no more than six weeks' rent;
- c. a refundable holding deposit of no more than one week's rent;
- d. a payment that is required in the event of a default by the tenant, such as a late payment or breach of the tenancy agreement by the tenant provided this is no more than the landlord's or agent's reasonable incurred costs;
- e. payments on assignment, variation or novation of a tenancy at the tenant's request, capped at £50 or the reasonable costs incurred if greater;
- f. payments in respect of early termination of a tenancy agreement at the tenant's request capped at the landlord's loss;
- g. payments to a local authority in respect of council tax;
- h. payments in respect of energy and other utilities;
- i. payments to the BBC in respect of a television licence; and
- j. payments in respect of communication services.

- 50 Paragraph 1 of this Schedule sets out that where any payment of rent is greater than the amount of rent payable in a later period during the tenancy, the difference is a prohibited payment. This applies unless the rent has been varied by subsequent agreement between the landlord and the tenant or in accordance with a rent review clause in the tenancy agreement that enables both an upward or downward variation of the rent.
- 51 A tenancy deposit under paragraph 2 is money intended to be held for the duration of the tenancy as security for performance of any obligations of the tenant and the discharge of any liability on the part of the tenant arising under or connection with the tenancy.
- 52 A holding deposit under paragraph 3 is a payment made by or on behalf of a tenant to a landlord or agent to 'reserve' that property. The holding deposit demonstrates a tenant's intention to rent a certain property. Acceptance of a holding deposit confirms the landlord or letting agent's intention to accept an individual as a tenant (subject to the satisfactory completion of reference checks etc.).
- 53 Landlords and letting agents may require a tenant to make a payment in the event of a default, for example requesting a replacement for a lost key. A payment in the event of a default by the tenant under paragraph 4 is only a permitted payment if the payment is required under the tenancy agreement. The amount charged cannot exceed the reasonable costs incurred by the landlord or agent as a result of the default. These costs must also be supported by evidence provided in writing to the person who is liable for the payment.
- 54 Landlords and letting agents may require a tenant to make a payment for assignment, variation, or novation of a tenancy which was at the tenant's request. Under paragraph 5 this is capped at either £50 or the reasonable costs incurred if greater.
- 55 Landlords and letting agents may also require a tenant to make a payment for an early termination of the tenancy agreement at the tenant's request. Under paragraph 6 the payment may not exceed the loss suffered by the landlord or, if applicable the letting agent's reasonable costs.
- 56 Landlords and letting agents may require a tenant to pay council tax to the local authority (paragraph 7).
- 57 Landlords and letting agents can require a tenant to make a payment in respect of utilities. Such payments include electricity, gas or other fuel, water and sewage and payments towards energy efficiency improvements under a Green Deal plan (paragraph 8).
- 58 Landlords and letting agents may require a tenant to make a payment to the BBC in respect of a television licence (paragraph 9).
- 59 Landlords and letting agents may require a tenant to make a payment in respect of communication services including telephone, internet, cable television and satellite television (paragraph 10).
- 60 In this description of Schedule 1 references to a requirement for payments by a tenant include references to payments by another relevant person.

#### Clause 4: Effect of a breach of section 1 or 2

- 61 This clause provides that any term of a tenancy agreement or agreement between a letting agent and tenant which breaches Clauses 1 or 2, for example, by requiring a tenant to make a prohibited payment is not binding on the tenant. The rest of the agreement will continue to apply (so far as practicable).
- 62 This clause provides any prohibited loan made by the tenant is repayable on demand.

## Clause 5: Treatment of holding deposit

63 Schedule 2 makes provision about the treatment of holding deposits.

### Schedule 2: Treatment of holding deposit

64 This Schedule imposes requirements on a landlord or letting agent who receives a holding deposit.

65 Paragraph 3 requires the landlord or letting agent to refund the holding deposit within 7 days of the parties entering into the tenancy agreement.

66 Paragraph 3 also requires the holding deposit to be refunded if the parties do not enter into the tenancy agreement for reasons, broadly, under the landlord or agent's control.

67 If the landlord decides not to rent the property to the tenant or the landlord and, if applicable, agent fails to take reasonable steps to enter into the tenancy agreement by the deadline for agreement then the holding deposit must be refunded within 7 days of the date of that decision or the deadline, as applicable.

68 "Deadline for agreement" is defined in paragraph 2. The default deadline for agreement is 15 days following the receipt of the holding deposit for the landlord to enter into an agreement with the tenant to grant the tenancy, but the landlord or agent may agree a longer deadline with the tenant.

69 Paragraph 5 provides that the landlord may, with the consent of the person who paid the holding deposit, 'repay' the holding deposit by deducting the equivalent sum from the first payment of rent or the tenancy deposit. If the holding deposit is applied to the tenancy deposit paragraph 6 provides that for the purposes of the deposit protection requirements of section 213 of the Housing Act 2004 that money is received on the date of the tenancy agreement.

70 Paragraph 7 provides that the landlord or letting agent do not have to refund a holding deposit if a tenant does not have the right to rent property under the Immigration Act 2014 provided that the landlord and agent did not know, and could not have been expected to know that, prior to accepting the deposit.

71 Paragraph 8 provides that the landlord or letting agent does not have to refund a holding deposit if the tenant provides false or misleading information, which the landlord is reasonably entitled to take into account in deciding whether to grant the tenancy, because this materially affects their suitability to rent the property.

72 Paragraphs 9, 10 and 11 provide that the landlord or letting agent does not have to refund a holding deposit if the tenant decides not to enter into a tenancy agreement or fails to take all reasonable steps to enter into a tenancy agreement.

## Clause 6: Enforcement by weights and measures authorities

73 This clause provides that enforcement of the prohibitions in Clauses 1 and 2 and requirements relating to holding deposits under Schedule 2 will be the duty of local weights and measures authorities (trading standards authorities) in England.

74 Each local weights and measures authority is responsible for enforcement in its area, and subsection (3) makes provision for the circumstance where a breach relates to housing located in more than one authority's area.

75 Subsection (4) requires a local weights and measures authority in England to have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if that is not the Secretary of State) about how it should carry out its enforcement duties.

- 76 The investigatory powers available to a local weights and measures authority for the purposes of enforcing the Tenant Fees Bill are set out in Schedule 5 of the Consumer Rights Act 2015, which this clause amends.

### Clause 7: Enforcement by district councils

- 77 This clause provides that a district council, which is not a local weights and measures authority, may enforce the prohibitions in Clauses 1 and 2 and requirements relating to holding deposits under Schedule 2.
- 78 Subsection (2) requires a district council to have regard to any guidance issued by the Secretary of State or the lead enforcement authority (if that is not the Secretary of State) about how it should carry out its enforcement duties.
- 79 The investigatory powers available to a district council for the purposes of enforcing the Tenant Fees Bill are set out in Schedule 5 of the Consumer Rights Act 2015, which this clause amends.
- 80 Subsection (5) explains that “enforcement authority” refers to both a local weights and measures authority in England and a district council that is not a local weights and measures authority.

### Clause 8: Financial Penalties

- 81 This clause provides that an enforcement authority may impose a financial penalty of up to £5,000 on a landlord or letting agent if it is satisfied beyond reasonable doubt that that person has breached the prohibitions in Clause 1 or 2. Similarly, an enforcement authority may impose a financial penalty of up to £5,000 if satisfied beyond reasonable doubt that a landlord or letting agent has breached the requirements relating to holding deposits (Schedule 2).
- 82 This clause also provides that an enforcement authority may impose a financial penalty of up to £30,000 on a landlord or letting agent as an alternative to prosecution if it is satisfied beyond reasonable doubt that an offence under Clause 12 (offences) has been committed.
- 83 An enforcement authority may not impose a financial penalty if the landlord or letting agent has already been convicted or acquitted of an offence in relation to the conduct, or criminal proceedings for the offence have been commenced. An enforcement authority is also not allowed to impose a financial penalty if the landlord or agent failed to return the holding deposit because of incorrect information received about the tenant’s right to rent status. Subsection (5) places restrictions on the imposition of a financial penalty for a breach of Schedule 2.
- 84 Where a financial penalty is imposed, only one such penalty may be imposed in respect of the same breach and only one enforcement authority may impose a penalty for the same breach.
- 85 This clause provides that an enforcement authority may impose a penalty in respect of a breach that occurs outside of its local area.
- 86 Schedule 3 sets out the procedure to be followed by an enforcement authority where it imposes a financial penalty.

### Schedule 3: Financial Penalties

- 87 This Schedule sets out the procedure to be followed by an enforcement authority where it imposes a financial penalty on a landlord or agent. The same procedure applies if the authority also requires the landlord or agent to repay any amount to a tenant (or other relevant person).
- 88 Before imposing a financial penalty, the enforcement authority must give the landlord or agent notice of their intention to do so. This notice must be given within a period of 6 months,

beginning with the first day on which the authority has evidence that the person has breached the prohibitions in Clauses 1 or 2 or the requirements relating to holding deposits or, if the breach is a continuing breach, while the breach is continuing or within 6 months of the last day on which the breach occurred. The notice of intent must set out the date on which the notice of intent is served, the amount of the penalty, the reasons for imposing the penalty and information about the right to make representations.

- 89 A person who is given a notice of intent has 28 days to make representations to the local authority (paragraph 3). After the end of the period for representations, the enforcement authority must decide whether or not impose a financial penalty and if so, the amount of the penalty.
- 90 If the enforcement authority decides to impose a penalty or require the landlord or agent to repay a prohibited payment, holding deposit or an amount paid under a contract the landlord or agent required the tenant or relevant person to enter, it must give the person a final notice. The final notice must require payment of the penalty within 28 days if the authority has imposed a financial penalty and 7 to 14 days if ordered to repay a prohibited payment, holding deposit or an amount paid under a contract the landlord or agent required the tenant or relevant person to enter. The notice must set out certain information, including the date on which the final notice is served, the amount of the penalty, the reasons for imposing it, how and when to pay, the rights of appeal and consequences of failing to comply with the notice.
- 91 Under paragraph 5, an enforcement authority may at any time withdraw a notice of intent or a final notice. The authority may also reduce the amount specified in a notice of intent or a final notice or amend a notice to remove a requirement to repay a prohibited payment or holding deposit. The person who has received the notice must be notified in writing of any such withdrawal, reduction or amendment.
- 92 There is a right to appeal to the First-tier Tribunal against a final notice. An appeal must be brought within 28 days from the day after the final notice was served if appealing against a financial penalty. If appealing against an order to repay a prohibited payment, holding deposit or an amount paid under a contract the landlord or agent required the tenant or relevant person to enter, the landlord or agent must appeal within the period specified in the final notice as the period within which that payment, deposit or amount must be repaid. A landlord or agent may appeal against the decision to impose the penalty or the amount of the penalty. An appeal is to be a re-hearing of the enforcement authority's decision and may take into account additional evidence of which the enforcement authority was unaware.
- 93 If a landlord or agent makes an appeal, the final notice is suspended until the appeal is determined or withdrawn. On appeal, the First-tier Tribunal may confirm, vary or quash the final notice. The maximum penalty that the First-tier Tribunal can impose is the same as the maximum amount that the enforcement authority could have imposed.
- 94 If a landlord or agent fails to pay all or part of a financial penalty, the enforcement authority may recover the outstanding amount on the order of the county court, as if it were payable under an order of that court.
- 95 Paragraph 8 provides that if the authority requires the landlord or agent to pay an amount to a relevant person and the landlord or agent fails pay all or part of that amount then the relevant person may recover the outstanding amount on the order of the county court, as if it were payable under an order of that court. The enforcement authority may help the relevant person to do this (paragraph 9).
- 96 Where an enforcement authority in England imposes a financial penalty, it may retain the proceeds of the penalty and use this money for the purposes of any of its enforcement

functions in relation to the private rented sector. Any excess must be paid to the Secretary of State (paragraphs 10 to 12).

### Clause 9: Power to amend maximum financial penalties

97 This clause provides that the Secretary of State may, where it is considered expedient to do so, make regulations to amend the maximum amount of the financial penalties for the purposes of reflecting changes in the value of money. These regulations may also make transitional, transitory or saving provision to ensure that there is a smooth transition from one upper limit to another. Regulations under this clause are to be made by negative procedure and can be annulled by resolution of either House of Parliament.

### Clause 10: Recovery by enforcement authority of amount paid

98 This clause enables an enforcement authority to require a person who has committed a breach to pay to the tenant or other relevant person any outstanding prohibited payment or holding deposit. Similarly, if the landlord or agent required a relevant person to enter into a contract in breach of Clause 1 or 2, they may be required to pay compensation.

99 The landlord or agent can repay the prohibited payment or holding deposit by applying it towards a payment of rent under the tenancy or applying it towards the tenancy deposit. The landlord or agent must obtain consent from the tenant or other relevant person as to how the prohibited payment or holding deposit is to be repaid.

100 An enforcement authority may not require the landlord or agent to make such a payment if the relevant person has made an application to the First-tier Tribunal to recover the payment.

### Clause 11: Interest on payments under section 10

101 This clause provides that where an enforcement authority requires a landlord or letting agent to make a payment to a tenant or other relevant person under Clause 10, the enforcement authority may require the landlord or letting agent to pay interest.

### Clause 12: Offences

102 This clause provides that a landlord or letting agent who breaches the prohibitions in Clauses 1 and 2, and who has had a financial penalty imposed or been convicted for a different breach within the last five years, commits an offence and is liable on summary conviction to an unlimited fine.

103 An enforcement authority has discretion to decide whether to impose a financial penalty or to pursue a prosecution in each individual case. A person cannot be convicted of an offence if a financial penalty has already been imposed in respect of the same breach.

104 Subsection (6) amends the Housing and Planning Act 2016 to provide that an offence under this clause is a banning order offence for the purposes of Part 2 of that Act. This means that if a landlord or agent is convicted of such an offence a local housing authority may apply to the court to ban them from letting housing and/or acting as a letting agent and/or property manager in England for at least a year.

105 If the court makes a banning order on that application, the local housing authority must make an entry in the database of rogue landlords and property agents under that Act. An entry may also be made if a person is convicted of a banning offence committed at the time they are a residential landlord or property agent or if two financial penalties have been imposed on a person for such an offence in a 12-month period.

### Clause 13: Offences by bodies corporate

106 This clause provides that if an offence under Clause 12 is committed by a body corporate then an officer or member commits the offence and is liable to punishment for the offence as

well as the body corporate. This is only the case if it is proved that the offence was committed with the approval or connivance of the officer or member of the body corporate in question or where the body corporate is managed by its members, a member, or is attributable to that person's negligence.

#### Clause 14: Duty to notify when taking enforcement action

- 107 This clause makes provisions for the circumstances in which an enforcement authority must notify another body of enforcement action.
- 108 Subsection (1) provides that where a local weights and measures authority proposes to take enforcement action in respect of a breach that occurs outside of its local area, it must notify the local weights and measures authority of its intention to do so. When such a notification is received the latter is relieved of its duty. This duty is reinstated if the local weights and measures authority is informed that the enforcing local weights and measures authority has not taken the enforcement action proposed.
- 109 Subsection (3) provides that where a district council proposes to take enforcement action in respect of a breach, it must notify the local weights and measures authority of its intention to do so. When such a notification is received the latter is relieved of its duty. This duty is reinstated if the local weights and measures authority is informed that the district council has not taken the enforcement action proposed.
- 110 Subsection (6) requires an enforcement authority to notify the lead enforcement authority as soon as reasonably practicable whenever it imposes a financial penalty. This is to ensure that when an enforcement authority becomes aware of a breach it is able to check to see if a financial penalty has been issued previously by another authority. This will inform whether the breach is dealt with as an offence under Clause 12. The enforcement authority must also notify the lead enforcement authority as soon as reasonably practicable if it withdraws the financial penalty or it is quashed on appeal.
- 111 An enforcement authority must also notify the lead enforcement authority whenever it brings proceedings for an offence under Clause 12 and the defendant is convicted of the offence.
- 112 Subsections (7) and (9) require an enforcement authority to notify the local housing authority (if that is a different authority) as soon as reasonably practical if it has imposed a financial penalty or secured a conviction against a person for an offence under Clause 12. Subsections (8) and (10) specify when such notifications must be made.

#### Clause 15: Recovery by relevant person of amount paid

- 113 This clause enables a tenant or other relevant person to apply to the First-tier Tribunal for compensation from the landlord or agent for payments they have been required to make because of a breach of Clause 1 or 2 and for recovery of a holding deposit that has been unlawfully withheld.
- 114 Subsection (3) enables a relevant person that has been required to make a prohibited payment to apply to the First-tier Tribunal to recover their money provided that it has not already been repaid or applied to rent or the deposit. It also enables a relevant person to apply to the First-tier Tribunal to recover any holding deposit that has been unlawfully withheld by a landlord or letting agent and not repaid or applied to rent or the deposit.
- 115 Subsection (5) enables a relevant person to apply to the First-tier Tribunal to recover any sums paid under a contract that they had been unlawfully required to enter into by a landlord or agent.
- 116 Subsection (6) provides a relevant person may not apply to the First-tier Tribunal for the recovery of prohibited payment or holding deposit if with the consent of the relevant person

the prohibited payment or holding deposit has been applied towards a payment of rent under the tenancy or applied towards the tenancy deposit.

117 A relevant person cannot apply to the First Tier Tribunal for compensation if an enforcement authority has, in relation to the relevant breach, commenced criminal proceedings or required the landlord or letting agent in question to compensate the relevant person.

118 The tribunal may order the landlord or letting agent to compensate the relevant person within 7 to 14 days.

119 If a landlord or agent fails to pay the compensation ordered by the tribunal, the relevant person may recover it on the order of the county court, as if it were payable under an order of that court.

#### Clause 16: Assistance to recover a prohibited payment or holding deposit

120 This clause provides that an enforcement authority may help a tenant or other relevant person to make an application under Clause 15, for example by providing advice or by conducting proceedings.

121 This clause also provides that an enforcement authority may help a tenant or other relevant person to recover all or part of an amount which the First-tier orders to be paid.

#### Clause 17: Restriction on terminating a tenancy

122 This clause provides that a landlord may not give a section 21 notice in relation to an assured shorthold tenancy if the landlord has previously required a tenant to make a prohibited payment and failed to repay this payment or apply it, with the consent of the tenant or other relevant person, to the rent or the deposit.

123 Similarly, a landlord may not give a section 21 notice in relation to an assured shorthold tenancy if the landlord has breached the requirement to repay a holding deposit to a tenant and it has not been applied, with the consent of the tenant or other relevant person, to the rent or the deposit. A section 21 notice is defined in subsection (6).

#### Clause 18: Duty to publicise fees on third party websites

124 This clause amends section 83 of the Consumer Rights Act 2015 to require a letting agent of housing in England that advertises on a third-party website (such as a property portal) to, on that website, publish details of any relevant fees and client money and redress scheme memberships or a link to those details, as well as on its own website and in its offices.

#### Clause 19: Information about membership of client money protection scheme

125 This clause amends section 83 of the Consumer Rights Act 2015 to specify that where a letting agent of housing in England is required to be a member of a Client Money Protection Scheme it must give the name of the scheme of which it is a member.

#### Clause 20: Penalties for continuing breach of duty

126 This clause amends section 87 of the Consumer Rights Act 2015 to make new provision enabling a local weights and measures authority in England to impose more than one financial penalty in respect of a continuing breach of the requirement to publicise fees etc. in England. An additional penalty may be imposed if 28 days has passed since the date that the final notice was sent regarding the earlier breach or, if an appeal is lodged, after that appeal is determined or withdrawn. A financial penalty may not be imposed if the previous penalty was withdrawn or quashed on appeal.

## Clause 21: Enforcement of client money protection schemes for property agents

127 This clause amends section 135 of the Housing and Planning Act 2016 to specify enforcement of the requirement on property agents in the private rented sector to belong to a Client Money Protection scheme will be undertaken by local weights and measures authorities. This has the effect of moving client money protection enforcement from district council to county council level (in non-unitary authorities).

## Clause 22: Lead enforcement authority

128 This clause establishes a lead enforcement authority for the purposes of the relevant letting agency legislation.

129 The lead enforcement authority may be the Secretary of State, or, a local weights and measures authority with which the Secretary of State makes arrangements to be the lead enforcement authority.

130 This clause provides that the lead enforcement authority has enforcement functions in relation to:

- a. this Bill;
- b. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to housing in England;
- c. the requirements on letting agents to be a member of a redress scheme under an order under section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013; and
- d. the requirements to be a member of a Client Money Protection scheme under regulations under sections 133 to 135 of the Housing and Planning Act 2016.

131 This clause also gives the Secretary of State the power, by regulations, to make transitional or saving provisions when there is a change in lead enforcement authority.

## Clause 23: General Duties of the lead enforcement authority

132 This clause sets out the duties of the lead enforcement authority, which are to:

- oversee the operation of relevant letting agent legislation;
- issue guidance to enforcement authorities about the exercise of their functions under this Bill; and
- provide information and advice to relevant authorities and the public about the operation of the relevant letting agent legislation.

133 If the lead enforcement authority is not the Secretary of State, it must also keep under review and, as necessary, advise the Secretary of State about the operation of the relevant letting agent legislation and related market developments.

134 Subsection (6) gives the Secretary of State power to direct the lead enforcement authority (if that is not the Secretary of State) to issue guidance to relevant authorities, and as to the content of that guidance.

## Clause 24: Enforcement by the lead enforcement authority

135 This clause gives the lead enforcement authority the power to take steps to enforce the relevant letting agent legislation where necessary or expedient to do so. If such action is taken the lead enforcement authority may exercise the same powers as the relevant local authority and must notify that authority. The latter is relieved of the duty to enforce the breach but must assist the lead enforcement authority if it so requires.

136 This clause also provides that local authorities with enforcement responsibilities for letting agent legislation in England must report to the lead enforcement authority when requested to do so.

137 The investigatory powers available to the lead enforcement authority are set out in Schedule 5 of the Consumer Rights Act 2015, which is amended by this clause.

### Clause 25: Meaning of “letting agent” and related expressions

138 This clause defines “letting agent” and “letting agency work”. The definition of “letting agent” excludes a person who carries out letting agency work under their employment contract and legal professionals when conducting legal activity on behalf of a client, provided they are not also instructed in relation to other letting agency work by that client.

### Clause 26: Interpretation

139 This clause explains key terms for the purposes of this Bill. Importantly it defines “tenancy” for the purposes of the Bill as an assured shorthold tenancy, a licence to occupy or a tenancy which meets the conditions set out in paragraph 8 (letting to students) of Schedule 1 to the Housing Act 1988. It does not include a long lease, a tenancy of social housing, or a licence to occupy holiday accommodation.

### Clause 27: Consequential Amendments

140 This clause makes amendments consequential on the lead enforcement authority’s enforcement functions in respect of the relevant letting agency legislation to:

- a. section 87 of the Consumer Rights Act 2015
- b. section 85 of the Enterprise and Regulatory Reform Act 2013
- c. article 7 of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order
- d. section 135 of the Housing and Planning Act 2016.

### Clause 28: Transitional Provisions

141 This clause provides for how the prohibitions in Clauses 1 and 2 will apply in relation to agreements between landlords or agents and tenants entered into before the commencement of those provisions. It also makes transitional provision in relation to holding deposits.

142 Clause 28(1) to (6) makes transitional provision for the application of the prohibitions in Clause 1 to certain tenancy agreements, referred to in this note as “pre-commencement tenancies”. They are:

- a. tenancies entered into before the commencement of Clause 1; and
- b. statutory periodic tenancies that arose during the year after commencement when such a tenancy came to an end.

143 For the first year after commencement the prohibitions in Clause 1 will not apply to pre-commencement tenancies. After the end of that period those prohibitions will apply, but with some modifications in respect of requirements imposed pursuant to a pre-commencement tenancy agreement.

144 Subsection (5) provides that the term of a tenancy agreement that would have been prohibited if the tenancy had been entered into after the commencement date is not binding on the tenant. Where a landlord or agent accepts a payment under such a term and does not return it to the tenant within 28 days, this is a prohibited payment.

145 Clause 28(7) to (10) make transitional provision for the application of Clause 2 in relation to pre-commencement agreements between a letting agent and tenant.

146 The effect of Clause 28(11) is that the requirements of the Bill relating to holding deposits do not apply to holding deposits paid before the coming into force of Schedule 2.

147 Subsection (12) provides that other transitional provision may be made by regulations to ensure that the provisions of the Bill are brought into force smoothly.

### Clause 29: Financial Provisions

148 This clause is self-explanatory.

### Clause 30: Crown Application

149 This clause provides that the Tenant Fees Bill will apply in relation to the tenancies of those Crown interests that are capable of granting an assured shorthold tenancy but that the Crown will not be criminally liable for any breach.

### Clauses 31 to 33: Extent, Commencement, Short title

150 Clauses 31-33 are self-explanatory.

## Commencement

151 Clause 29 (financial provisions) and the provisions about interpretation, extent, commencement and short title of this Bill, together with the powers conferred by the Bill to make secondary legislation come into force on the day the Bill is passed. Other provisions of this Bill come into force on such day as the Secretary of State may by regulations appoint.

## Financial implications of the Bill

152 An Impact Assessment has been prepared for the Bill and covers the implications for private sector bodies, landlords and local authorities, which derive from this Bill.<sup>5</sup> The Impact Assessment has been verified by the Regulatory Policy Committee and published alongside the Bill.

153 The Government estimate that local authorities will incur a new burden in respect of enforcement costs in year one of the policy only and it estimates this to be no more than £500,000. The enforcement of the provisions contained in this Bill by enforcement authorities is intended to be fiscally neutral from year two since enforcement authorities may retain the proceeds of any financial penalties for the purposes of any of its enforcement functions relating to the private rented sector under this Bill or any other legislation.

154 The designation of a lead enforcement authority, if this is not the Secretary of State, will have a financial implication, which is estimated to be no more than £300,000 per annum.

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<sup>5</sup> <https://www.gov.uk/government/publications/tenant-fees-bill-impact-assessment>

## Parliamentary approval for financial costs or for charges imposed

155 A money resolution for the Bill was passed in the House of Commons on 21 May 2018.

## Compatibility with the European Convention on Human Rights

156 Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined in section 1 of the Act).

157 In the opinion of the Minister for Faith, Lord Bourne of Aberystwyth, the provisions of the Bill are compatible with the Convention rights and he has made a statement to that effect.

158 The main articles of the Convention that are engaged are Article 1 of Protocol 1, Article 6 and Article 8.

159 Article 1, Protocol 1 is engaged by Clauses 1 and 2 which ban landlords and letting agents from requiring a tenant to make a prohibited payment. This fees ban could potentially interfere with some landlords' and letting agent's Article 1, Protocol 1 rights to recover sums to which they are entitled under a contract. This measure is assessed as compatible with the Convention because the Government has taken measures to mitigate any potential interference as far as possible. Further, if it were shown that any interference did result from the fees ban, the Government's view is that any interference is proportionate and justified in pursuit of the legitimate aims of improving transparency, affordability and competition in the private rental market. It is also the Government's view that if any interference does occur this will be minimal as it is anticipated landlords and letting agents will be able to mitigate any loss through changing their business models.

160 Article 1 of Protocol 1 and Article 8 are engaged by Clause 12 which creates a banning order offence for a repeated breach of the fees ban. Article 1 of Protocol 1 is engaged because a banning order controls the use of a landlord's property by preventing that landlord from renting out their property for the period of the banning order. Article 8 is engaged by Clause 12 as a banning order prevents a letting agent from engaging in letting agency work in England for the period of the banning order. This may deprive them of their livelihood and therefore represent an interference with Article 8 rights. It is the Government's view that these interferences are justified on the basis that the effect of a banning order is proportionate and pursues the legitimate aim of protecting tenants from landlords and letting agents who have been convicted of the offence of breaching the fees ban. A banning order will generally only be made for a specified period of time, after which a landlord or letting agent will be able to resume their activities. Further the decision to make a banning order will be taken by the First-tier Tribunal and persons subject to a banning order will have an opportunity to put their case before the tribunal and have a right of appeal of the decision to the Upper Tribunal. These procedural safeguards help to ensure that any banning order that is made is proportionate.

161 Article 1 of Protocol 1 is engaged by Clause 17 which makes provision that affects a landlord's right to regain possession of their property, which is a control on the landlord's use of the property. It is the Government's view that the interference is justified as it is in the public interest and in pursuit of a legitimate aim. The use of the section 21 eviction procedure under the Housing Act 1988 will have the effect of limiting the landlord's ability to evict their

tenants vexatiously, in retaliation for the tenant lawfully requesting back money paid for a prohibited payment or a holding deposit. It should encourage landlords to repay a prohibited fee to ensure they are able to utilise the section 21 procedure. The interference is also considered proportionate because during any periods where the restriction on use of the section 21 procedure applies landlords will still be able to seek a court order for possession under the procedure set out in section 8 of the Housing Act 1988 if they have grounds to do so. A landlord may therefore still obtain an order for possession when the tenant's behaviour warrants it.

162 Article 6 is engaged by Clause 8, which gives enforcement authorities powers to impose financial penalties (civil sanctions) for breaches of the fees ban or in regards to the mistreatment of a holding deposit. The Government assesses this measure to be compatible with the Convention because the Bill includes appropriate procedural safeguards including a full right of appeal to the Tribunal.

## Annex A – Territorial extent and application in the United Kingdom

163 The subject matter of this Bill is housing – a devolved matter in Scotland, Wales and Northern Ireland and the Bill is of application only in relation to housing in England.<sup>6</sup>

164 The territorial extent of the majority of the Bill is England and Wales, with the exception of the amendments to Schedule 5 of the Consumer Rights Act 2015 made by Clauses 6(6), 7(4) and 24(10).

165 The amendments to the Consumer Rights Act 2015 made by Clauses 18 to 20 have a minor/consequential effect in relation to Wales as pursuant to section 87(4) of that Act a local weights and measures authority in Wales may take enforcement action in respect of a breach which occurs in England.

166 In the UK Government's view all of the provisions of the Bill would be within the legislative competence of the National Assembly for Wales, the Scottish Parliament or the Northern Ireland Assembly.

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

<sup>6</sup> References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

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?
Schedules 1 to 3	Yes	No	No	No	Yes	Yes	Yes	No

## Subject matter and legislative competence of devolved legislatures

167 The subject matter of this Bill is housing – a devolved matter in Scotland, Wales and Northern Ireland.

168 Housing is not a reserved matter under Schedule 5 to the Scotland Act 1998. The Scottish Parliament has competence over housing in Scotland. For example, the Private Rented Housing (Scotland) Act 2011 bans letting fees in Scotland (see section 32) and amongst other things imposes several requirements on landlords (see Part 4).

169 Housing is within the legislative competence of the National Assembly for Wales as it is not one of the reserved matters listed in Schedule 7A to the Government of Wales Act 2006. Part 1 of the Housing (Wales) Act 2014, which came into force in November 2015, requires amongst other things letting agents in Wales to be licensed. Chapter 3 of Part 3 of the Consumer Rights Act 2015 concerns the regulation of letting agents (fees transparency). It extends to and applies in England and Wales but required a legislative consent motion to be passed by the National Assembly for Wales.

170 Housing is within the legislative competence of the Northern Ireland Assembly as it is neither reserved under Schedule 3 to the Northern Ireland Act 1998 nor excepted under Schedule 2 to that Act. The Rent (Northern Ireland) Order 1978 and the Private Tenancies (Northern Ireland) Order 2006 set out the current law on the regulation of the private rented sector and provide councils with powers to enforce the legislation. In 2013 the requirement for landlords to protect their tenants' deposits in a Tenancy Deposit Scheme was added to the Private Tenancies (Northern Ireland) Order 2006. Further, in 2014, the Landlord Registration Scheme was added through the Landlord Registration Regulations 2014.

# TENANT FEES BILL

## EXPLANATORY NOTES

These Explanatory Notes relate to the Tenant Fees Bill as brought from the House of Commons on 6 September 2018 (HL Bill 129).

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