

HAMILTON
FRASER



Publishing
Fee Schedules
England ONLY

Publishing Fee Schedules

The Law

With the Tenant Fees Act 2019 (the Act) now in force in England, it is important for landlords and letting agents to understand that the transparency of fees in the Consumer Rights Act 2015 requiring fees be 'displayed clearly' has not changed, but is extended.

The Act extends the requirement to include any third party sites where details of a property are advertised e.g. a property portal or other similar websites. However, it is acceptable for the advert to include a link to another website where fees are clearly displayed but they must be transparent and obvious to the prospective tenant.

Although the Act bans the majority of fees to tenants for new tenancies, signed on or after 1st June 2019, the Act also provides a transition period for existing tenancies signed before this date. This means separate fees schedules for tenants are required for each of the following scenarios, as well as the on-going schedule(s) for tenancies that fall outside the Act, and landlord fees.

Fee Schedules required from 1st June 2019 on:

1. Existing tenancies

The Act contains a transition period, for tenancies signed before the 1st June 2019. Reasonable fees in these contracts will still be permitted up to the time the tenancy expires, is renewed or terminates up to 31st May 2020.

From the 1st June 2020 the fee ban will apply to all pre-existing tenancies including statutory and contractual periodic tenancies.

2. Post 1st June 2019 tenancies

The Act bans all fees on tenancies signed on, or after, the 1st June 2019 unless they are 'permitted', and those which are permitted, (listed below), must be justifiable and reasonable. The Government Guidance provides more in-depth information [here](#).

3. Assured tenancies, company lets

As the Act does not apply to non-Housing Act tenancies or common law tenancies, there is still a requirement to display any fees under the 2015 provisions.

Penalties

Failure to display fees correctly could result in a fine of up to £5,000.

Permitted Fees

Refundable holding deposit – up to 1 weeks' rent per property

Tenancy Deposit – up to 5 weeks where the annual rent is up to £50k / up to 6 weeks where the annual rent is up to £100k

Rent

Changes to a tenancy i.e. of sharer, pet, permission to sub-let, permission to run a business from the property; any other amend that changes the contractual responsibilities (capped at up to £50 per change UNLESS the landlord or agent can prove the cost was higher and reasonable);

Utilities (gas/electric/water),

Council tax, TV licence, communication services

Early termination/surrender fee

('reasonable' loss suffered by the landlord) e.g. referencing, advertising, rent until the next tenant moves in (or until the fixed end date)

Default fees – should be written into the tenancy agreement:

- **Late payment of rent** only apply after 14 days (interest @ max 3% above base rate)
- **Replacing locks/security fobs** (a new standard door key £3 - £10, a specialist door key £5 - £20, replacement key fob could be up to £50, with evidence)



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