



LANDLORD AND TENANT GUIDE (ENGLAND)



SAFEGUARDING YOUR MONEY

TENANT FEES

Since 1 June 2019, agents and landlords are limited to what they can charge tenants as a condition of granting, renewing or continuing a tenancy.

The Tenant Fees Act 2019 does not affect how Security Deposits are protected, or the tenant's duty to comply with the terms of their tenancy agreement.

The only fees that tenants can be charged are:

- Rent
- A refundable Security Deposit (capped at five week's rent where annual rent is below £50,000, or six week's rent if higher)
- A refundable Holding Deposit (capped at one week's rent)
- Default payments (limited to

replacement of lost key(s) or other security device(s) and late rent charges capped at 3% above the Bank of England base rate)

- Payment on variation, assignment or novation of a tenancy (capped at £50 incl VAT per agreed change)
- Payment on termination (surrender) of tenancy
- Council Tax
- Utilities (electricity, gas or other fuel, water or sewerage)
- Television Licence
- Communication Services (telephone other than mobiles, Internet, cable and satellite TV)
- Green Deal charge

Anything that is not stated as a 'Permitted Payment' under the Tenant Fees Act 2019 is a prohibited fee. If a Prohibited Payment is charged to a tenant, it must be refunded in full immediately.

HOLDING DEPOSIT

The tenant's Holding Deposit may be retained if the tenant:

- Pulls out
- Fails a Right to Rent check
- Provides false or misleading information
- Fails to take all reasonable steps to enter into the tenancy agreement

Agents must give tenants a minimum of 15 calendar days to enter into a tenancy agreement. If the tenant enters into the agreement, agents must refund their Holding Deposit within seven calendar days. The tenant may also choose for this to go towards the first month's rent or the Security Deposit.

CLIENT MONEY PROTECTION (CMP)

Letting agents who are ARLA Propertymark members protect tenants and landlords through Client Money Protection (CMP).

This ensures that funds are held in a designated client account and in the event of a letting agency going bust or misappropriating funds, Propertymark will reimburse any money lost.

Since 1 April 2019, membership of a government-approved CMP scheme is a mandatory requirement for all letting agents in England.

REPLACEMENT OF DOMESTIC ITEMS

In April 2016, the Wear and Tear Allowance for fully furnished properties was replaced with a relief that enables all landlords of residential houses to deduct the costs they actually incur on replacing furnishings, appliances and kitchenware in the property.

The relief given is for the cost of a like-for-like, or nearest modern equivalent, plus any costs incurred to dispose the old item. If the item is sold, this sale price must be deducted from the purchase price of the replacement—tax relief is then claimed from the remainder.

PROFESSIONAL INDEMNITY INSURANCE

All letting agents who are ARLA Propertymark members must have Professional indemnity insurance.

This provides financial recompense for landlords and tenants should an agent be negligent or breach any statutory duties to their clients.

PUBLICISING FEES

Since May 2015, all letting agents in England must publicise their fees. Letting agents must openly display a list of all fees, charges or penalties which may be incurred by a landlord or tenant—fees should be displayed including VAT. Agents must display fees at each of their premises and on their websites.

Under the Tenant Fees Act, since 1 June 2019 agents must also display fees on all third-party websites, e.g. portals. This includes links from the third-party website to the appropriate fee schedule on the agent's own website.



ALLOWABLE COSTS FOR LANDLORDS

From the tax year beginning in April 2020, the amount of Income Tax relief that landlords can claim on residential property finance costs will be restricted to the basic rate of tax (currently at 20%).

Before April 2017, landlords could claim full tax relief on residential property finance costs—this is being phased out.

In tax year 2018/19 landlords received tax relief from 50% of finance costs deductible from rental income and 50% of basic rate tax reduction.

In tax year 2019/20, landlords will receive tax relief from 25% of finance costs deductible from rental income and 75% of basic rate tax reduction.

REDRESS SCHEMES

Since 1 October 2014 it has been a legal requirement for all letting agents in England to belong to a government-approved redress scheme.



NON-RESIDENT LANDLORDS

Determining whether a landlord falls within the HMRC non-resident tax scheme is based on where the landlord's 'usual place of abode' is.

For an individual, an annual absence from the UK of six months or more is normally regarded as meaning that the usual place of abode is outside the UK and thus the relevant tax regime applies to the landlord.

Letting agents are required by law to retain basic rate tax from the rental income received from properties owned by non-resident landlords.

This retention must be made unless HMRC issue the relevant documentation to the agent relating to the non-resident landlord.

This absolves the agent from the requirement to deduct tax from

the individual landlord's income. In some cases, where a tenant is paying rent directly to a non-resident landlord, the tenant may have to take this responsibility and may have to retain the tax from their rent.

DEPOSIT PROTECTION

If the property is let on an Assured Shorthold Tenancy which started on or after 6 April 2007, the landlord must put the tenant's deposit in one of the three government-authorised Tenancy Deposit Protection (TDP) schemes:

- Deposit Protection Service (DPS)
- mydeposits
- Tenancy Deposit Scheme (TDS)

A landlord or letting agent must put a tenant's deposit into the scheme within 30 days of receiving it. The landlord must return the deposit within 10 days of agreeing with the tenant how much they will get back at the end of the tenancy.

If a tenant has a dispute with their landlord, the TDP scheme will adjudicate the dispute and allocate the amount of the deposit to be returned to the landlord and tenant based on their findings.



STAMP DUTY LAND TAX (SDLT) FOR LANDLORDS

Since 1 April 2016, anyone purchasing an additional residential property (that is not their only or main residence) for £40,000 or more must pay an extra 3% stamp duty above the current Stamp Duty Land Tax (SDLT) residential rates.



MORE INFORMATION

Propertymark: propertymark.co.uk/advice-and-guides

How to let: www.gov.uk/government/publications/how-to-let

How to rent: www.gov.uk/government/publications/how-to-rent

Tenancy deposit protection: www.gov.uk/tenancy-deposit-protection

Find a solicitor: lawsociety.org.uk



USEFUL CONTACTS

Citizens Advice: **03444 111 444**

Money Advice Service: **0800 138 7777**



OUR CONTACT DETAILS

arla | propertymark

PROTECTED

Check your agent is Propertymark Protected:
propertymark.co.uk/find-an-expert

DISCLAIMER

These notes attempt to summarise complex legal issues but have been written in plain English. Details of where to obtain full copies of relevant legislation have been provided.

ARLA Propertymark can take no responsibility for loss occasioned to any person acting or refraining from acting as a result of any material contained in this publication.