



Tenant Fees Bill

Report stage

Citizens Advice helps people find a way forward.
We advocate for our clients and consumers on the issues that matter to them.

Overview

- Government has closed one loophole on default fees and opened another on damages, undermining the main aim of the Bill - to end tenant fees and prevent unfair practices.
- We are extremely pleased to see the significantly tightened definition around default fees, and fully support proposed amendment 54.
- However, the suggested amendment 57 *'Payment of damages'* would allow landlords and agents to write 'cover-all' clauses into contracts and bypass independent arbitration.
- **Government should either withdraw this amendment, or re-table it ahead of Third Reading with a tighter definition. Suggested wording is provided overleaf.**
- We are pleased to see the amendment capping deposits at 5 weeks (amendment 42). This will go a long way to help renters with costs at the start of their tenancy.

Closing the new loophole on damages

The suggested amendment 57 - *'Payment of damages'* - creates a new loophole on fees as it does not provide a comprehensive definition of 'damages'.

As drafted, this would allow tenancy agreements to contain a 'cover-all clause', which means that all breaches could have a damages fee attached. These will be particularly difficult for tenants to dispute. For example *"Pay damages to cover the Landlord's reasonable legal and/or other costs reasonably incurred as a result of any breaches by the tenant of his obligation under this Agreement."* Other specific examples include:

- *"The tenant agrees to either give 2 months notice before expiry of the fixed term and allow viewings of the property, or sign a new tenancy agreement 2 months before the expiry of the fixed term. If they do not, the tenant agrees to pay damages to cover any void period prior to reletting, and if necessary to pay damages relevant to the costs of serving notice and regaining possession."*
- *"You should not damage the property - if you do you will be charged any damages incurred by the landlord to carry out the repairs plus unexpected call outs."*

This would limit tenants' ability to dispute the charge, and allow landlords to bypass independent arbitration such as deposit schemes.

This sets a dangerous precedent as it takes away the independent arbitrator. We do not believe that this is the government's intention with this paragraph, as demonstrated in the Department's [press release](#):

"...during the tenancy landlords and agents will only be able to charge fees to replace lost keys or for late rent. Landlords will still be able to claim back costs for damage through the tenancy deposit at the end of the tenancy. However, landlords and agents will not be able to write lots of different default fees into a tenancy contract and tenants cannot be charged hundreds of pounds for a damaged item that actually only costs a few pounds to replace."

There already exists a mechanism for recouping these payments - via deposits. s212(8) of Housing Act 2004 defines a 'tenancy deposit' as money held as security for the performance of any tenant obligations or the discharge of liability under the tenancy agreement.

The government should either remove this paragraph entirely to allow relevant charges to be dealt with independently through the deposit scheme, or tighten the definition ahead of Third Reading. Suggested amendment wording can be found below.

Suggested amendment wording for Third Reading

Payment of damages

A payment of damages for breach of a tenancy agreement or an agreement between a letting agent and a relevant person is a permitted payment.

In this sub-paragraph the relevant person may recover the amount or part for damages where a claim for damages has been determined by the court, or settled by agreement between the parties.

Supporting amendments 42 and 54

Amendment 42, which aims to cap deposits at five weeks' rent where the annual rent is less than £50,000, is also a welcome move for renters. Setting the cap at six weeks' rent, as previously proposed, would only have helped 8% of renters.

Amendment 54, the government's suggested amendment on default fees, would significantly strengthen the paragraph both for landlords and renters. This is welcome news, and we fully support this amendment.

With the changes above and adequate enforcement, this Bill should fix a dysfunctional feature of the rental market, helping the 4.7 million households who privately rent. It will also make it easier for renters on lower incomes to meet the upfront costs of renting.

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