**Tenant Fees Bill**

**Analysis on the application of Standing Order No 83L of the Standing Orders of the House of Commons relating to Public Business in respect of Government Amendments tabled at Report stage**.

***Commons Report stage amendments***

The following is the Department’s assessment of the Tenant Fees Bill and Government amendments tabled to the Bill for consideration at Report Stage[[1]](#footnote-1).

Summary

1. 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.
2. 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 sections 6(6), 7(4) and 24(10).
3. 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.
4. 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.

The above assessment is represented 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? |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Part 1 (Clauses 1- 5) | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 2  (Clauses 6 – 17) | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 3  (Clauses 18- 20 | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 4  (Clause 21) | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 5  (Clauses 22-24 ) | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 6 (Clauses 25-26) | Yes | No | No | No | Yes | Yes | Yes | No |
| Part 7  (Clauses 27- 33) | Yes | No | No | No | Yes | Yes | Yes | No |
| Schedules  1-3 | Yes | No | No | No | Yes | Yes | Yes | No |

***Territorial application***

1. The Government amendments tabled at Report stage do not change the territorial application of the Tenant Fees Bill. The territorial extent of the amendments is England and Wales, but these apply in relation to housing in England only.
2. The territorial extent of this Bill is majority England and Wales, with the exception of the amendments to schedule 5 of the Consumer Rights Act 2015 made by sections 6(6), 7(4) and 24(10) and the amendments made by clauses 18 to 20 to Chapter 3 of Part 3. Schedule 5 has a UK wide extent. Chapter 3 of Part 3 of the Consumer Rights Act 2015 extends to and applies in England and Wales.
3. Sections 6(6), 7(4) and 24(10) have the effect of extending the investigatory powers set out in Schedule 5 of that Act to the duties and powers to enforce under sections 6, 7 and 24 of the Bill. Schedule 5 has UK-wide extent, although the enforcement duties and powers under section 6, 7 and 24 apply only to trading standards authorities or district councils in England or the Secretary of State in relation to housing in England. 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.
4. 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.
5. The Bill will apply in relation to housing in England only.

***Subject matter and legislative competence of devolved legislatures***

1. Housing is a devolved matter in relation to Scotland, Wales and Northern Ireland. 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.
2. 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 s.32) and amongst other things imposes several requirements on landlords (see part 4).
3. Housing is within the legislative competence of the National Assembly for Wales as it is listed under Part 1 of Schedule 7 to the Government of Wales Act 2006. Part One of the Housing (Wales) Act 2014, which came into force in November 2015, requires amongst other things letting agents in Wales to be licensed.
4. 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 or excepted under Schedule 2 to that Act. The Rent (Northern Ireland) Order 1978 and the Private Tenancies (Northern Ireland) Order 2006 set out the law on the current 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.

1. 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. [↑](#footnote-ref-1)