



Consumer Rights Act 2015

2015 CHAPTER 15

PART 3

MISCELLANEOUS AND GENERAL

CHAPTER 3

DUTY OF LETTING AGENTS TO PUBLICISE FEES ETC

83 Duty of letting agents to publicise fees etc

- (1) A letting agent must, in accordance with this section, publicise details of the agent's relevant fees.
- (2) The agent must display a list of the fees—
 - (a) at each of the agent's premises at which the agent deals face-to-face with persons using or proposing to use services to which the fees relate, and
 - (b) at a place in each of those premises at which the list is likely to be seen by such persons.
- (3) The agent must publish a list of the fees on the agent's website (if it has a website).
- (4) A list of fees displayed or published in accordance with subsection (2) or (3) must include—
 - (a) a description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed (as the case may be),
 - (b) in the case of a fee which tenants are liable to pay, an indication of whether the fee relates to each dwelling-house or each tenant under a tenancy of the dwelling-house, and
 - (c) the amount of each fee inclusive of any applicable tax or, where the amount of a fee cannot reasonably be determined in advance, a description of how that fee is calculated.

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- (5) Subsections (6) and (7) apply to a letting agent engaging in letting agency or property management work in relation to dwelling-houses in England.
- (6) If the agent holds money on behalf of persons to whom the agent provides services as part of that work, the duty imposed on the agent by subsection (2) or (3) includes a duty to display or publish, with the list of fees, a statement of whether the agent is a member of a client money protection scheme.
- (7) If the agent is required to be a member of a redress scheme for dealing with complaints in connection with that work, the duty imposed on the agent by subsection (2) or (3) includes a duty to display or publish, with the list of fees, a statement—
 - (a) that indicates that the agent is a member of a redress scheme, and
 - (b) that gives the name of the scheme.
- (8) The appropriate national authority may by regulations specify—
 - (a) other ways in which a letting agent must publicise details of the relevant fees charged by the agent or (where applicable) a statement within subsection (6) or (7);
 - (b) the details that must be given of fees publicised in that way.
- (9) In this section—
 - “client money protection scheme” means a scheme which enables a person on whose behalf a letting agent holds money to be compensated if all or part of that money is not repaid to that person in circumstances where the scheme applies;
 - “redress scheme” means a redress scheme for which provision is made by order under section 83 or 84 of the Enterprise and Regulatory Reform Act 2013.

84 Letting agents to which the duty applies

- (1) In this Chapter “letting agent” means a person who engages in letting agency work (whether or not that person engages in other work).
- (2) A person is not a letting agent for the purposes of this Chapter if the person engages in letting agency work in the course of that person’s employment under a contract of employment.
- (3) A person is not a letting agent for the purposes of this Chapter if—
 - (a) the person is of a description specified in regulations made by the appropriate national authority;
 - (b) the person engages in work of a description specified in regulations made by the appropriate national authority.

85 Fees to which the duty applies

- (1) In this Chapter “relevant fees”, in relation to a letting agent, means the fees, charges or penalties (however expressed) payable to the agent by a landlord or tenant—
 - (a) in respect of letting agency work carried on by the agent,
 - (b) in respect of property management work carried on by the agent, or
 - (c) otherwise in connection with—
 - (i) an assured tenancy of a dwelling-house, or

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(ii) a dwelling-house that is, has been or is proposed to be let under an assured tenancy.

(2) Subsection (1) does not apply to—

- (a) the rent payable to a landlord under a tenancy,
- (b) any fees, charges or penalties which the letting agent receives from a landlord under a tenancy on behalf of another person,
- (c) a tenancy deposit within the meaning of section 212(8) of the Housing Act 2004, or
- (d) any fees, charges or penalties of a description specified in regulations made by the appropriate national authority.

86 Letting agency work and property management work

(1) In this Chapter “letting agency work” means things done by a person in the course of a business in response to instructions received from—

- (a) a person (“a prospective landlord”) seeking to find another person wishing to rent a dwelling-house under an assured tenancy and, having found such a person, to grant such a tenancy, or
- (b) a person (“a prospective tenant”) seeking to find a dwelling-house to rent under an assured tenancy and, having found such a dwelling-house, to obtain such a tenancy of it.

(2) But “letting agency work” does not include any of the following things when done by a person who does nothing else within subsection (1)—

- (a) publishing advertisements or disseminating information;
- (b) providing a means by which a prospective landlord or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or a prospective landlord;
- (c) providing a means by which a prospective landlord and a prospective tenant can communicate directly with each other.

(3) “Letting agency work” also does not include things done by a local authority.

(4) In this Chapter “property management work”, in relation to a letting agent, means things done by the agent in the course of a business in response to instructions received from another person where—

- (a) that person wishes the agent to arrange services, repairs, maintenance, improvements or insurance in respect of, or to deal with any other aspect of the management of, premises on the person’s behalf, and
- (b) the premises consist of a dwelling-house let under an assured tenancy.

87 Enforcement of the duty

(1) It is the duty of every local weights and measures authority in England and Wales to enforce the provisions of this Chapter in its area.

(2) If a letting agent breaches the duty in section 83(3) (duty to publish list of fees etc on agent’s website), that breach is taken to have occurred in each area of a local weights and measures authority in England and Wales in which a dwelling-house to which the fees relate is located.

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- (3) Where a local weights and measures authority in England and Wales is satisfied on the balance of probabilities that a letting agent has breached a duty imposed by or under section 83, the authority may impose a financial penalty on the agent in respect of that breach.
- (4) A local weights and measures authority in England and Wales may impose a penalty under this section in respect of a breach which occurs in England and Wales but outside that authority's area (as well as in respect of a breach which occurs within that area).
- (5) But a local weights and measures authority in England and Wales may impose a penalty in respect of a breach which occurs outside its area and in the area of a local weights and measures authority in Wales only if it has obtained the consent of that authority.
- (6) Only one penalty under this section may be imposed on the same letting agent in respect of the same breach.
- (7) The amount of a financial penalty imposed under this section—
 - (a) may be such as the authority imposing it determines, but
 - (b) must not exceed £5,000.
- (8) Schedule 9 (procedure for and appeals against financial penalties) has effect.
- (9) A local weights and measures authority in England must have regard to any guidance issued by the Secretary of State about—
 - (a) compliance by letting agents with duties imposed by or under section 83;
 - (b) the exercise of its functions under this section or Schedule 9.
- (10) A local weights and measures authority in Wales must have regard to any guidance issued by the Welsh Ministers about—
 - (a) compliance by letting agents with duties imposed by or under section 83;
 - (b) the exercise of its functions under this section or Schedule 9.
- (11) The Secretary of State may by regulations made by statutory instrument—
 - (a) amend any of the provisions of this section or Schedule 9 in their application in relation to local weights and measures authorities in England;
 - (b) make consequential amendments to Schedule 5 in its application in relation to such authorities.
- (12) The Welsh Ministers may by regulations made by statutory instrument—
 - (a) amend any of the provisions of this section or Schedule 9 in their application in relation to local weights and measures authorities in Wales;
 - (b) make consequential amendments to Schedule 5 in its application in relation to such authorities.

88 Supplementary provisions

- (1) In this Chapter—
 - “the appropriate national authority” means—
 - (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Welsh Ministers;
 - “assured tenancy” means a tenancy which is an assured tenancy for the purposes of the Housing Act 1988 except where—

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- (a) the landlord is—
 - (i) a private registered provider of social housing,
 - (ii) a registered social landlord, or
 - (iii) a fully mutual housing association, or
 - (b) the tenancy is a long lease;
 - “dwelling-house” may be a house or part of a house;
 - “fully mutual housing association” has the same meaning as in Part 1 of the Housing Associations Act 1985 (see section 1(1) and (2) of that Act);
 - “landlord” includes a person who proposes to be a landlord under a tenancy and a person who has ceased to be a landlord under a tenancy because the tenancy has come to an end;
 - “long lease” means a lease which—
 - (a) is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993, or
 - (b) in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be a lease within paragraph (a) of this definition if the tenant’s total share (within the meaning given by that section) were 100%;
 - “registered social landlord” means a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996;
 - “tenant” includes a person who proposes to be a tenant under a tenancy and a person who has ceased to be a tenant under a tenancy because the tenancy has come to an end.
- (2) In this Chapter “local authority” means—
- (a) a county council,
 - (b) a county borough council,
 - (c) a district council,
 - (d) a London borough council,
 - (e) the Common Council of the City of London in its capacity as local authority, or
 - (f) the Council of the Isles of Scilly.
- (3) References in this Chapter to a tenancy include a proposed tenancy and a tenancy that has come to an end.
- (4) References in this Chapter to anything which is payable, or which a person is liable to pay, to a letting agent include anything that the letting agent claims a person is liable to pay, regardless of whether the person is in fact liable to pay it.
- (5) Regulations under this Chapter are to be made by statutory instrument.
- (6) A statutory instrument containing (whether alone or with other provision) regulations made by the Secretary of State under section 87(11) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing (whether alone or with other provision) regulations made by the Welsh Ministers under section 87(12) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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- (8) A statutory instrument containing regulations made by the Secretary of State under this Chapter other than one to which subsection (6) applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing regulations made by the Welsh Ministers under this Chapter other than one to which subsection (7) applies is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) Regulations under this Chapter—
 - (a) may make different provision for different purposes;
 - (b) may make provision generally or in relation to specific cases.
- (11) Regulations under this Chapter may include incidental, supplementary, consequential, transitional, transitory or saving provision.