



Letting Centre Tenancy Agreements 2020 - Schedule of Changes

The Letting Centre have carried out the annual review of the Professional Series Tenancy Agreements and have made some minor improvements and changes, and also some specific changes with reference to new legislation including the Homes (Fitness for Human Habitation) Act 2018 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. The Letting Centre have also made a substantial change to the format of our Assured Shorthold Tenancy agreements with a move towards using contractual periodic continuations to the tenancy agreements as standard for 2020 onwards. Please refer to the end of this document for details of legislation changes and more detail on contractual periodic tenancies.

Schedule of Changes:

Withdrawal of A03 TDS Agreement:

As all three deposit schemes provide a deposit information certificate or prescribed information template either part or fully populated when the deposit is protected the Letting Centre will no longer be updating The Dispute Service version of the tenancy agreement. Historically, this was only provided to assist customers when The Dispute Service required certain clauses to be added to the tenancy agreement but these clauses are only now suggested and no longer mandatory. Customers will be able to use the Letting Centre standard A03 Agreement for all three deposit schemes and obtain the prescribed information template from the appropriate scheme and either send it separately to the tenant or attach it to the A03 AST agreement.

Changes to A03 Agreement (Standard AST Agent Version)

We have amended the wording at the top of page 2. Revised wording reads as follows:

THIS AGREEMENT is made BETWEEN the Landlord and the Tenant. It is intended that the tenancy created by this Agreement is and shall be an assured shorthold tenancy within the meaning of the Housing Acts

Reason for Change: We have been informed that, when using electronic signing, a date is brought through with the signature when the document is signed and the previous wording stating that the agreement is made on the date specified below may not work for non AST tenancies where electronic signing is used as you could create an invalid lease if the agreement is dated before occupation as previously explained in our guidance notes. Multiple dates on an AST agreement may also cause confusion. We have updated the guidance notes to explain this in more detail and that where a date is provided with the signature, it may be necessary to remove the date field on page 2 or leave it blank. See our A02/A03 drafting and guidance notes for information on dating the agreement and electronic signatures.

Definitions – Term now reads:

Term For the term of _____ commencing on _____ 20 *and thereafter shall continue as a [monthly/weekly (delete as appropriate)] contractual periodic tenancy on the same terms and conditions until terminated by either party. See note 8.*

Reason for Change: We have included wording to allow the tenancy agreement to run contractual periodic at the end of the fixed term. This will assist landlords in recovering possession costs where the tenant does not vacate the property upon expiry of a validly served section 21 notice. A contractual periodic tenancy also has other advantages over a statutory periodic tenancy. See page 55 of our A02/A03 drafting and guidance notes for more information and also page 62 on rent review. If you have previously added the Letting Centre additional clause allowing the tenancy to run contractual periodic we would suggest that you remove that clause and use the new 2020 wording for future tenancies.

Clause 5.2 has been revised to refer to the Tenant's family, or his visitors to be consistent with other clauses. As previously confirmed this costs clause is compliant with the Tenant Fees Act 2019 as a landlord can make a charge for reasonable costs for breach of tenancy. Amended wording in red italics below:

Not to remove or permit to be removed any furniture or other contents from the Property and to pay the reasonable costs incurred by the Landlord or his Agent in replacing or repairing, or at the option of the Landlord, replace immediately, any furniture or other contents, lost, damaged or destroyed by the Tenant, a member of the Tenant's family or his visitors or any other permitted occupiers

New Clause 7.8 reads as follows:

To give the Landlord vacant possession of the Property upon expiry of a valid notice seeking possession served by the Landlord or his Agent. Where the Tenant does not give vacant possession, and the Landlord is subsequently granted an order for possession, the Court may order the Tenant to pay the Landlord's reasonable costs of obtaining and enforcing the possession order

Reason for Change: As the Letting Centre AST tenancy agreement runs contractual periodic after the initial fixed term this clause will assist landlords in recovering possession costs if the Tenant remains in the property. A clause which requires the tenant to leave the property upon expiry of a validly served section 21 notice is not suitable where the tenancy becomes statutory periodic, as section 5 of the Housing Act 1988 provides that a tenancy may not be brought to an end except by order of the court, or surrender or other action on the part of the tenant, and the tenant is entitled to remain in possession until any court order is executed under a statutory periodic tenancy.

Changes to A02

We have made the same amendments as in A03 Agreement but have not included references to the Agent.

Changes to A03 Room Only

We have made the same amendments as in A03 Agreement except Clause 7.8 is Clause 7.9 in the A03 Room Only agreement.

We have also removed clause 7.3 as this is a duplication of clause 7.2. We have renumbered clauses 7.4-7-10 which are now clauses 7.3-7.9.

Changes to A01 Agreement (General Tenancy)

We have amended the wording at the top of page 2. Revised wording reads as follows:

THIS AGREEMENT is made BETWEEN the Landlord and the Tenant

Reason for Change: See A03 above.

Clause 5.2 has been revised to refer to the Tenant's family, or his visitors to be consistent with other clauses. As previously confirmed this costs clause is compliant with the Tenant Fees Act 2019 as a landlord can make a charge for reasonable costs for breach of tenancy. Amended wording is below:

Not to remove or permit to be removed any furniture or other contents from the Property and to pay the reasonable costs incurred by the Landlord or his Agent in replacing or repairing, or at the option of the Landlord, replace immediately, any furniture or other contents, lost, damaged or destroyed by the Tenant, a member of the Tenant's family or his visitors or any other permitted occupiers

Reason for Change: See A03 above.

Clause 9 has been revised to correct a typo. We have added the word 'or' at the end of 9 (b).

Clause 12.1 has been revised to provide improved wording as notice is not required to end a fixed term general tenancy agreement. Amended wording in red italics below:

That any notice(s) served on the Tenant to end the tenancy shall be sufficiently served if served at the last known address of the Tenant in accordance with section 196 of the Law of Property Act 1925 - see note 5 (subject to the clause below)

Reason for Change: Improved wording as the landlord is not generally required to give notice to end a fixed term general tenancy agreement and although previous clause did not require him to do so it required him to serve 'any notice(s)' the new wording is clearer.

Changes to A05 Agreement (Company Let)

We have amended the wording at the top of page 2. Revised wording reads as follows:

THIS AGREEMENT is made BETWEEN the Landlord and the Tenant (otherwise known as the Company). It is intended that the tenancy created by this Agreement shall be a company letting. Accordingly, this tenancy is not an assured tenancy within the meaning of the Housing Act 1988

Reason for Change: We have been informed that, when using electronic signing, a date is brought through with the signature when the document is signed and the previous wording stating that the agreement is made on the date specified below may not work for non AST tenancies where electronic signing is used as you could create an invalid lease if the agreement is dated before occupation as previously explained in our guidance notes. Multiple dates on an AST agreement may also cause confusion. We have updated the guidance notes to explain this in more detail and that where a date is provided with the signature, it may be necessary to remove the date field on page 2 or leave it blank.

Clause 6.2 has been revised to refer to the Approved Occupier's family, or his visitors to be consistent with other clauses. Amended wording is below:

Not to remove or permit to be removed any furniture or other contents from the Property and to pay the reasonable costs incurred by the Landlord or his Agent in replacing or repairing, or at the option of the Landlord, replace immediately, any furniture or other contents, lost, damaged or destroyed by the Approved Occupier, a member of the Approved Occupier's family or his visitors or any other permitted occupiers

Clause 7.3 has been removed as not necessary in a company let. The clause was originally inserted as part of a standard update. We have renumbered Clauses 7.4-7-8 to 7.3-7.7.

Clause 13 has been revised to provide improved wording as notice is not required to end a fixed term general tenancy agreement. Amended wording in red italics below:

That any notice(s) served on the Tenant to end the tenancy shall be sufficiently served if served at the last known address of the Tenant in accordance with section 196 of the Law of Property Act 1925 - see note 5 (subject to the clause below)

Reason for Change: Improved wording as the landlord is not generally required to give notice to end a fixed term general tenancy agreement and although previous clause did not require him to do so it required him to serve 'any notice(s)' the new wording is clearer.

Changes to A06 Agreement (Licence)

We have amended the wording at the top of page 2. Revised wording reads as follows:

THIS AGREEMENT is made BETWEEN the Owner and the Occupier

Reason for Change: To assist with electronic signing where there may be more than one date specified in the agreement. See updated A06 drafting and guidance notes on using Letting Centre tenancy agreements for electronic signing.

Clause 5.2 has been revised to refer to the Occupier's family, or his visitors to be consistent with other clauses which now reads as follows:

Not to remove or permit to be removed any furniture or other contents from the Property and to pay the reasonable costs incurred by the Owner or his Agent in replacing or repairing, or at the option of the Owner, replace immediately, any furniture or other contents, lost, damaged or destroyed by the Occupier, a member of the Occupier's family or his visitors

Changes to Example Agency Agreement

Scale of Fees. Additional charges now includes a Right to Rent check for follow up checks and a Pre-letting Regulation Check fee as an example. Agents may wish to charge the landlord to check that the property meets the current letting standards. We have also updated the maintenance repair clause references in the scale of fees which is now clause 4.2.

Clause 1.2. We have moved the indemnity wording from Clause 1.3 to 1.2 as it relates to let only situations. Clause 1.2 now reads as follows. Amended wording in red italics below:

Where the Landlord does not wish the Agent to undertake full management (the Standard Management Service), the Agent can provide a Letting Only Service. The Letting Only Service includes only items 1 to 6 of the Standard Management Service as listed above. The Landlord would remain responsible for all other aspects of the letting including the maintenance of the Property and any gas and electrical appliances. The Landlord would remain responsible for complying with the Deposit protection requirements of the Housing Act 2004 and must provide the Agent with written confirmation of this together with a receipt for the Deposit monies received by the Agent on his behalf. *The Landlord agrees to indemnify the Agent for any losses suffered by the Agent as a result of the Landlord's failure to comply with the Deposit protection requirements of the Housing Act 2004.* The Letting Only Service Fee is payable at the commencement of the tenancy and will be deducted from monies received by the Agent on the Landlord's behalf. If the Tenant leaves prior to the end of the term of the tenancy the Landlord shall not be entitled to reimbursement of any fees paid.

Clause 1.3 now reads as follows:

Where the Landlord requires the Agent to deal with his legal responsibilities for the protection of tenancy deposits under the Housing Act 2004 (item 7 of the Standard Management Service) then the Tenancy Deposit Service Fee will be charged in addition to the Letting Only Service Fee.

Clause 4.1 has been split into two clauses and improved to include a pre-letting regulation check fee. **Clause 4.1** now reads as follows. See amended wording in red italics below:

The Landlord agrees to provide the Property in *a good, fit* and lettable condition and that the Property, beds, sofas and all other soft furnishings conform to the current fire safety regulations. *It is generally necessary to check the Property meets all current letting standards and this check will be carried out by the Agent, as appropriate, and in such cases the Pre-letting Regulation Check fee will be payable.* The Landlord agrees to make the Agent aware of any ongoing maintenance problems.

Clause 4.2 now reads as follows. See amended improved wording in red italics below:

Subject to a retained maximum expenditure limit (Maintenance Repair Limit) on any single item or repair, and any other requirements or limits specified by the Landlord, the Agent will administer any miscellaneous *repair and* maintenance work that needs to be carried out on the Property (although the administration of major works or refurbishment will incur an additional charge - see Scale of Fees above) *and keep appropriate records*. ‘Retained maximum expenditure limit’ means that the Agent has authority to spend up to this amount (or other amount as individually agreed) on reasonable improvements or repairs in any single monthly accounting period without prior reference to the Landlord.

Clause 4.2 is now **Clause 4.3** and reads as follows. See amended improved wording in red italics below:

For expenditure in excess of the agreed expenditure limits, the Agent would normally request authorisation in advance, although it is agreed that in an emergency or for reasons of contractual or legal necessity where reasonable endeavours have been made to contact the Landlord, the Agent may reasonably exceed the limits specified. By law, it is necessary to carry out an annual gas safety check on any gas appliances and flues to ensure that all gas appliances, flues and associated pipe work are maintained in a safe condition. The Agent will carry this out on the Landlord's behalf and expense, *where the Agent is managing the Property*, and administer the necessary inspection and maintenance records. The reasonable costs involved will be debited to the Landlord's account.

Clause 4.3 is now **Clause 4.4**.

Clause 9 has been revised to provide improved wording. The amended wording is in red italics below:

The *Agent will prepare* a tenancy agreement in the Agent's standard form(s) and *provide* a copy of this agreement to a designated advisor or building society *where required*. Should the Landlord, advisors or mortgagees require amendment of the contract or require the Agent enter into further work or correspondence, a fee for this extra work may be requested (or you may have the tenancy agreement amended by your own adviser at your own expense). It is agreed that the Agent may sign the tenancy agreement(s) on behalf of the Landlord.

Clause 11 has been revised to provide improved wording. The amended wording is in red italics below:

A holding deposit is generally taken from a tenant applying to rent a property. The purpose of the holding deposit is to reserve the property and to verify the Tenant's serious intent to proceed, and to protect the Agent against *reasonable expenses (carrying out references*, conducting viewings, re-advertising) that may be incurred should the Tenant decide to withdraw the application. The holding deposit does not protect the Landlord against loss of rent due to the Tenant deciding to withdraw, or references proving unsuitable although early acceptance of rent from the applicant would not be advisable until satisfactory references have been received. Landlords should notify the Agent where they wish insurance to be undertaken to protect against loss of rents. This fee is not a tenancy deposit until it is transferred on the establishment of the tenancy.

Clause 12.2 has been revised to refer to a short reference for AST – see wording in red italics below for the change:

Statutory Tenancy Deposit Protection. Where the tenancy is an assured shorthold tenancy (*AST*), the Landlord or Agent is legally required to ensure that any tenancy deposit taken under the tenancy is protected within one of three statutory tenancy deposit schemes within 30 days of receipt and comply with the rules of the scheme. The schemes are The Deposit Protection Service (DPS), My Deposits and Tenancy Deposit Scheme (TDS).

Clause 12.4 has been revised to refer to the Agent holding the tenancy deposit as Stakeholder for non AST tenancies. See revised wording in red italics below:

Agent Deposit Protection. Where a tenancy deposit has been received by the Agent and not passed to the Landlord, the deposit will be kept in a separate and secure client account ready for refunding (less any charges due) at the end of the tenancy, or forwarded to one of the Government-regulated deposit schemes listed above. The Agent will also provide the Tenant and any other Relevant Person with the prescribed information. The Landlord agrees that the Agent may use information given, including information about the Landlord, for the purposes of performing the Agent's obligations to the Landlord and supply such information as is reasonably required to the scheme. *Where the tenancy deposit is not held under a tenancy deposit scheme (e.g. non AST tenancies) it will be held by the Agent as 'Stakeholder' on behalf of the Landlord and the Tenant.*

Reason for Change: For non AST tenancies a tenancy deposit is not protected in a statutory deposit scheme and if the agreement is silent on whether the agent holds the deposit as 'stakeholder' on behalf of the landlord and tenant or as 'agent' for the landlord it will make things more difficult for the agent in any dispute. The guidance notes explain in more detail the difference and the example agency agreement can be amended accordingly.

Clause 13.2 has been revised to provide improved wording where the agent is managing the property. See amended wording in red italics below:

Following the departure of tenants, a final inspection of the Property is carried out by the Agent, *where the Agent is managing the Property*. Testing of all the electrical appliances, heating system and plumbing is not feasible during this inspection; a qualified contractor should be appointed for this purpose should it be required by the Landlord. The Agent will endeavour to report any apparent deficiencies or dilapidations to the Landlord (and, if appropriate, to the relevant tenancy deposit scheme administrator) together with any recommended deductions or replacement values.

Clause 17.1 has been revised in light of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and the Homes (Fitness for Human Habitation) Act 2018. Revised wording is in italics below:

The letting of property is now closely regulated with respect to consumer safety. The law makes particular demands regarding *the condition and safety of rented property* and the safety, servicing and inspection of the gas and electric appliances and installations within a property, and with respect to the safety of furniture and soft furnishings provided.

The key regulations that apply will include (but are not limited to):

- *Homes (Fitness for Human Habitation) Act 2018*
- *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015*
- Furniture and Furnishings (Fire)(Safety) Regulations 1988
- General Product Safety Regulations 2005
- Gas Safety (Installation and Use) Regulations 1998 & 2018
- Electrical Equipment (Safety) Regulations 1994 & 2016
- *Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*
- Plugs and Sockets (Safety) Regulations 1994

Clause 17.2 has been revised to provide improved wording following review of the safety standards clauses. Clause 17.2 now reads as follows with amended wording in red italics below:

The Landlord confirms that they are aware of these obligations and that the Agent has provided sufficient information to assist with compliance. It is agreed that the Landlord shall ensure that the Property is made available for letting in a *fit and safe* condition and in compliance with the above regulations (*wording removed from here*). The Landlord agrees to repay the Agent's costs incurred including any expenses or penalties (whether civil or criminal) that may be suffered as a result of non-compliance of the Property *with the relevant legislation*.

Clause 23 has been revised to provide improved wording regarding right to rent follow up checks. Clause 23 now reads as follows with amended wording in red italics below:

It is agreed that the Agent will carry out any checks required under the Immigration Act on the proposed Tenants and any permitted occupiers at the start of or prior to the commencement of the Tenancy. *Where the Agent is managing the Property and the Tenant has a limited right to rent, the Right to Rent Check fee will be payable where a follow up check is required*. The Agent's responsibilities for such checks will only extend to the duration of this Agreement and at the termination of this Agreement the Agent will transfer the status evidence to the Landlord and the responsibility for maintaining immigration status checks will return to the Landlord.

Clause 26 has been revised to provide improved wording to make it clearer to the landlord that he will be responsible for the reasonable costs during the 14 day cooling off period under the Cancellation of Contracts Regulations if he waives his rights. We have also updated the clause references following our 2020 update and review. The clause reads as follows and amended wording is in red italics below:

No amendments or variation to this Agency Agreement will have any contractual effect unless agreed by the parties in writing. This Agreement shall be governed by and construed in accordance with the laws of England and Wales, and each of the parties submits to the exclusive jurisdiction of the courts in England and Wales.

This Agency Agreement constitutes the entire written agreement between the parties and supersedes any previous agreement, discussion, correspondence or understanding between the parties but this will not affect any obligations in any such prior agreement which are expressed to continue after termination. In the event that any part of this Agreement is held to be void or unenforceable it will be severed from the Agreement and the remainder of the Agreement will continue in force to the fullest extent possible.

The terms and conditions of this Agreement may be varied by the Agent, but only with two months' prior written notice.

[] I consent to the Agent carrying out work immediately following the date of this Agreement and waive my rights to a 'cooling off' period under Clause 15.6. I understand that by doing so I will be responsible for any reasonable costs incurred by the Agent in carrying out their duties during the 14 day 'cooling off' period. (Tick box if this applies).

I wish the Agent to undertake the following service:

- [] Standard Management Service*
- [] Letting Only Service – see Clause 1.2*
- [] Letting Only plus Deposit Protection – see Clause 1.3*
- [] Letting and Rent Collection – see Clause 1.4*

[] I agree that my personal contact details and relevant information may be shared with trusted third parties as necessary (the Agent will not share any personal information with third party organisations for marketing purposes).

[] I/we confirm that we are the sole/joint owners of the Property.

Agent Details Box: We have added a space so the agent can insert client money protection scheme details. This is not a legal requirement but in response to a customer request. The Client Money Protection Regulations 2019 require the agent to obtain a certificate confirming the membership. The certificate must be displayed at each of the offices and on the website and a copy provided to anyone who may reasonably require it.

G02 Form – Deed of Guarantee

We have made some minor grammar changes to the explanatory notes on page 3. Bullet points 6, 8 and 10 have been updated to capitalise the words landlord and tenant and bullet points 2,10 and 11 have been updated to include some commas and brackets.

Statutory Notices

There are no changes to the statutory forms. The section 8 and section 21 notices are not required to be amended under the Coronavirus Act 2020 they are to be read as referring to three months. The Letting Centre are aware that the Government have amended the version on their website to refer to three months even though, at the time of writing, the actual prescribed form has not been amended through legislation. The version available in the download area or on your software system is, at the time of writing, the legally correct form to use until we are made aware that the actual prescribed form has been formally updated. You should ensure that the notice period you give the tenant is at least three months.

Changes to Management Letters and Forms

TINFO. We have revised the right to rent checks, insurance, gas appliances and the inspections and maintenance clause to make minor improvements to the wording.

CHECKOUT1 - We have revised the letter to include helpful information for the tenant regarding the check-out.

SURRENDER – We have revised the last paragraph to refer to ‘reasonable’ re-letting costs. Although re-letting costs are allowed where the tenant has requested early termination these should be reasonable. The 2019 version refers to ‘if any’ but we have made the amendment to air on the side of caution in light of the Tenant Fees Act 2019.

DATATEN has been updated to include an option for the guarantor and **GUARSENQ** has been updated to refer to the DATATEN letter.

COVIDTADVICE. New example letter to the tenant providing advice and information during the coronavirus outbreak.

COVIDTRENT. New example letter to the tenant where the landlord has agreed to a rent reduction or rent deferment during the coronavirus outbreak.

COVIDREPAIR. New example letter to the tenant where the landlord or agent needs to arrange an inspection during the coronavirus outbreak.

Changes to Guidance Notes and Additional Clauses (‘Clauses 2020’)

We have carried out a general update of the following guidance notes:

- A01 notes
- A02/A03 notes
- A05 notes
- A06 notes
- Guarantor notes
- Example Agency Agreement notes
- Possession and Rent Arrears notes

Additional Clauses:

Clause A.1.17. has been revised to refer to Ground 7B.

Clause A.8.2 has been deleted as the standard AST now continues as a contractual periodic tenancy and Clause A.8.3 has been renumbered.

The Letting Centre, April 2020

Legal Notes:

Coronavirus update

The [Coronavirus Act 2020](#) came into force on 25th March 2020 and brings in new provisions with regard to giving notice to tenants and possession claims during Covid-19. We have provided guidance on our website for landlords and agents during Covid-19 which can be [viewed here for more information](#).

We have also drafted some guidance in the possession notes and added some 'letters to tenants' to the management letters as part of the April 2020 update to assist landlords and agents during this time.

Contractual Periodic Tenancies

We have moved towards a contractual periodic tenancy template for our 2020 contracts now that our agreements are for use in England only. A contractual periodic tenancy occurs where both parties agree that the tenancy will continue as a periodic tenancy at the end of the tenancy by way of a clause within the tenancy agreement. There are advantages for the tenancy agreement to run as a contractual periodic rather than a statutory periodic tenancy after the expiry of the fixed term. A statutory periodic tenancy will occur where there is no mention in the agreement that it will become periodic at the end of the fixed term but the tenant stays in the property after expiry of the fixed term and continues to pay rent. There are some advantages to using a contractual periodic tenancy and these are detailed below.

Tenant's right to remain in the property. Under a statutory periodic tenancy landlords may not be able to claim legal costs following a possession action because s5 of the Housing Act 1988 gives a tenant the right to remain in possession of the property let under a statutory periodic tenancy until it is brought to an end by order of the court (unless the tenancy is surrendered or notice is given under section 33D of the Immigration Act 2014) and the tenant is entitled to remain in possession until any court order is executed. S5 does not apply to contractual periodic tenancies.

Council Tax. If the tenancy is for a whole property for a fixed term of at least 6 months then the tenant is liable for council tax until the end of that term even if they move out without giving notice and this rule applies if the tenancy continues as a contractual periodic tenancy as it is classed as a continuation of the tenancy. However, if a tenant leaves during a statutory periodic tenancy without notice then the landlord will be liable for the council tax as a statutory periodic tenancy is a new tenancy and the 6 month fixed term rule is not met (*Leeds City Council v Broadley* [2016] EWHC 1839).

Government Guide 'How to Rent: Checklist for renting in England.' This guide needs to be served on the tenant at the start of the tenancy and any subsequent tenancy where it has been updated. This includes statutory periodic tenancies but not contractual periodic tenancies following on from a fixed term as they are not classed as new or subsequent tenancies.

Deposits. Where a tenancy deposit has been protected late during the original fixed term tenancy a landlord will need to return it before serving a section 21 notice if it has continued as a contractual periodic tenancy. However, with a statutory periodic tenancy as this is a 'new' tenancy the deposit will need to be protected correctly when the fixed term comes to an end so that the landlord will be able to serve a section 21 notice during the statutory periodic tenancy. It is also understood that contractual periodic tenancies will only be subject to 1-3 times the deposit penalty as the fixed term and contractual periodic act as one tenancy but the penalty will be higher for statutory periodic tenancies where there has been non compliance in both the fixed term and statutory periodic tenancies as these are classed as two tenancies.

Rent Increases. A rent increase for a statutory periodic tenancy can take effect as soon as the fixed term has ended using the procedure under s13 Housing Act 1988 (HA 1988) but for contractual periodic tenancies the landlord will have to wait until 12 months from the start of the fixed term before the s13 rent increase can take effect. This wouldn't matter if the landlord has issued a 12 month fixed term tenancy but, if he has issued a six month fixed term tenancy, he won't be able to implement a rent increase for a further six months. However, for these situations a rent review clause can be inserted into the tenancy agreement setting out how and when the rent will be reviewed (e.g. at the end of the fixed term), which will take precedence over section 13, allowing a rent increase to take effect as soon as the tenancy becomes contractual periodic. Any rent review clause in the fixed term tenancy agreement will cease to apply once the tenancy becomes statutory periodic as section 13 will take precedence (*London District Properties Management Ltd & others v Goolamy* [2009] EWCA 1367).

New Legislation. Legislation brought in by the Government usually refers to 'new' tenancies which often includes statutory periodic tenancies so there is some argument towards using a contractual periodic tenancy.

The Tenant Fees Act 2019

As customers will be aware the [Tenant Fees Act 2019](#) came into force on 1st June 2019 and applies to new and renewal tenancies. Certain fees are prohibited under the Act which applied to new and renewal tenancies from 1st June 2019. Any existing tenancies were not required to comply until 1st April 2020. These existing tenancies will now fall under the requirements of the Tenant Fees Act from 1st April 2020. Where a landlord or letting agent accepts a prohibited payment from a relevant person on or after 1st April 2020 and the payment is not returned to the relevant person within 28 days of acceptance the landlord or agent will be treated as having required the relevant person to make a prohibited payment. Any

clauses within the tenancy agreement which require a prohibited payment to be made will cease to be binding from 1st April 2020 but the tenancy agreement will remain valid with regards to the other terms set out in the agreement.

Homes (Fitness for Human Habitation) Act 2018

[The Homes \(Fitness for Human Habitation\) Act 2018](#) came into force on 20th March 2019 which implies a term into a tenancy agreement that the landlord (or an agent acting on their behalf) in England provides the property as fit for human habitation at the beginning of the tenancy and that it will remain fit for human habitation during the tenancy.

The provisions initially applied to a new tenancy (including renewals) granted on or after 20th March 2019 and a tenancy which was a fixed term tenancy and becomes periodic after 20th March 2019. The provisions will now apply to periodic tenancies which began prior to 20th March 2019 and landlords and agents will need to ensure that properties comply with the regulations from 20th March 2020. The Government have provided a guidance document for landlords: [Guide for landlords: Homes \(Fitness for Human Habitation\) Act 2018](#). We have made some minor changes to the example agency agreement.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations

The Minimum Energy Efficiency Standard set out in [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015 & 2016](#) (as amended) will apply to all residential properties that are required to have an EPC from 1st April 2020. If the property has an F or G EPC rating the landlord is required to improve the property rating to at least an E or register an exemption before they can let out the property.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

[These regulations](#) are likely to come into force on 1st June 2020 (regulations are draft at time of writing and are proposed to apply to new ‘specified tenancies’ from 1st July 2020 and existing ‘specified tenancies’ from 1st April 2021). Specified tenancies are a tenancy of residential premises in England which grants one or more persons the right to occupy all or part of the premises as their only or main residence; provides for payment of rent (whether or not a market rent); and is not an excluded tenancy in schedule 1. The main exclusion applicable is accommodation where the tenant shares this with the landlord or the landlord’s family. The regulations require landlords to ensure that electrical safety standards are met and electrical installations are inspected and tested before the tenancy commences and at intervals of no more than five years (or the period recommended in the most recent report if less than five years). A copy of the results must be given to the tenant. A copy must also be given to a prospective tenant who requests a copy, within 28 days of receiving the request and to the local housing authority where requested within 7 days of the request. We have made provision for the regulations within the example agency agreement.

Money Laundering and Terrorist Financing (Amendment) Regulations 2019

Previously, letting agents have not been required by legislation to register with HMRC for anti-money laundering purposes unless the company is an estate agency who also arranges lettings or the landlord or letting agent is selling a property to an existing tenant. [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#), which came into force on 10th January 2020, now require letting agents who rent out property for a term of one month or more, at a rent which during at least part of the term, is, or is equivalent to, a monthly rent of £10,000 euros or more to register with HMRC for money laundering supervision. Letting agents that fall into this category will also be required to carry out a risk assessment and conduct training. Letting agents will also need to carry out client due diligence checks on landlords and tenants for money laundering purposes and put policies/procedures in place to satisfy the HMRC approval checks. The online system for letting agencies to register is due to open in May 2020 and [the Government have advised](#) that businesses must register by 10th January 2021. Government have also confirmed that they will be providing updated guidance to assist with compliance but the guidance is not available at the time of writing.

We have added some guidance to the example agency agreement guidance notes and provided an example clause within the notes for those agents that fall under the new regulations.

The Letting Centre, April 2020