



Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 4

TENANCY DEPOSIT SCHEMES

212 Tenancy deposit schemes

- (1) The appropriate national authority must make arrangements for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies.
- (2) For the purposes of this Chapter a “tenancy deposit scheme” is a scheme which—
 - (a) is made for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies and facilitating the resolution of disputes arising in connection with such deposits, and
 - (b) complies with the requirements of Schedule 10.
- (3) Arrangements under subsection (1) must be arrangements made with any body or person under which the body or person (“the scheme administrator”) undertakes to establish and maintain a tenancy deposit scheme of a description specified in the arrangements.
- (4) The appropriate national authority may—
 - (a) give financial assistance to the scheme administrator;
 - (b) make payments to the scheme administrator (otherwise than as financial assistance) in pursuance of arrangements under subsection (1).
- (5) The appropriate national authority may, in such manner and on such terms as it thinks fit, guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with arrangements under subsection (1).

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- (6) Arrangements under subsection (1) must require the scheme administrator to give the appropriate national authority, in such manner and at such times as it may specify, such information and facilities for obtaining information as it may specify.
- (7) The appropriate national authority may make regulations conferring or imposing—
- (a) on scheme administrators, or
 - (b) on scheme administrators of any description specified in the regulations, such powers or duties in connection with arrangements under subsection (1) as are so specified.
- (8) In this Chapter—
- “authorised”, in relation to a tenancy deposit scheme, means that the scheme is in force in accordance with arrangements under subsection (1);
- “custodial scheme” and “insurance scheme” have the meaning given by paragraph 1(2) and (3) of Schedule 10);
- “money” means money in the form of cash or otherwise;
- “shorthold tenancy” means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988 (c. 50);
- “tenancy deposit”, in relation to a shorthold tenancy, means any money intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant, or
 - (b) the discharge of any liability of his, arising under or in connection with the tenancy.
- (9) In this Chapter—
- (a) references to a landlord or landlords in relation to any shorthold tenancy or tenancies include references to a person or persons acting on his or their behalf in relation to the tenancy or tenancies, and
 - (b) references to a tenancy deposit being held in accordance with a scheme include, in the case of a custodial scheme, references to an amount representing the deposit being held in accordance with the scheme.

213 Requirements relating to tenancy deposits

- (1) Any tenancy deposit paid to a person in connection with a shorthold tenancy must, as from the time when it is received, be dealt with in accordance with an authorised scheme.
- (2) No person may require the payment of a tenancy deposit in connection with a shorthold tenancy which is not to be subject to the requirement in subsection (1).
- (3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, the initial requirements of an authorised scheme must be complied with by the landlord in relation to the deposit within the period of 14 days beginning with the date on which it is received.
- (4) For the purposes of this section “the initial requirements” of an authorised scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.
- (5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—

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- (a) the authorised scheme applying to the deposit,
 - (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
 - (c) the operation of provisions of this Chapter in relation to the deposit,
- as may be prescribed.
- (6) The information required by subsection (5) must be given to the tenant and any relevant person—
- (a) in the prescribed form or in a form substantially to the same effect, and
 - (b) within the period of 14 days beginning with the date on which the deposit is received by the landlord.
- (7) No person may, in connection with a shorthold tenancy, require a deposit which consists of property other than money.
- (8) In subsection (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant, or
 - (b) the discharge of any liability of his,
- arising under or in connection with the tenancy.
- (9) The provisions of this section apply despite any agreement to the contrary.
- (10) In this section—
- “prescribed” means prescribed by an order made by the appropriate national authority;
 - “property” means moveable property;
 - “relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.

214 Proceedings relating to tenancy deposits

- (1) Where a tenancy deposit has been paid in connection with a shorthold tenancy, the tenant or any relevant person (as defined by section 213(10)) may make an application to a county court on the grounds—
- (a) that the initial requirements of an authorised scheme (see section 213(4)) have not, or section 213(6)(a) has not, been complied with in relation to the deposit; or
 - (b) that he has been notified by the landlord that a particular authorised scheme applies to the deposit but has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.
- (2) Subsections (3) and (4) apply if on such an application the court—
- (a) is satisfied that those requirements have not, or section 213(6)(a) has not, been complied with in relation to the deposit, or
 - (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,
- as the case may be.
- (3) The court must, as it thinks fit, either—

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- (a) order the person who appears to the court to be holding the deposit to repay it to the applicant, or
 - (b) order that person to pay the deposit into the designated account held by the scheme administrator under an authorised custodial scheme,
- within the period of 14 days beginning with the date of the making of the order.
- (4) The court must also order the landlord to pay to the applicant a sum of money equal to three times the amount of the deposit within the period of 14 days beginning with the date of the making of the order.
 - (5) Where any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), the property in question is recoverable from the person holding it by the person by whom it was given as a deposit.
 - (6) In subsection (5) “deposit” has the meaning given by section 213(8).

215 Sanctions for non-compliance

- (1) If a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when—
 - (a) the deposit is not being held in accordance with an authorised scheme, or
 - (b) the initial requirements of such a scheme (see section 213(4)) have not been complied with in relation to the deposit.
- (2) If section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.
- (3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.
- (4) In subsection (3) “deposit” has the meaning given by section 213(8).
- (5) In this section a “section 21 notice” means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).