

TENANCY DEPOSIT SCHEMES (SCOTLAND) REGULATIONS 2011

The Regulations came into force on 7 March 2011 and provide as follows:-

LANDLORD'S DUTIES

Any deposit is to be held by an Approved Scheme until it is repaid in accordance with Regulations.

Within 30 working days of the start of the tenancy the Landlord must:-

- a) pay a deposit to the Scheme Administrator of an Approved Scheme.
- b) provide the tenant with the following information:-
 - (i) confirmation of the amount of the tenancy deposit paid and the date in which it was received by the landlord;
 - (ii) date on which the tenancy deposit was paid to the scheme administrator;
 - (iii) the address of the property to which the tenancy deposit relates;
 - (iv) a statement that the Landlord is registered as a Landlord with the Local Authority under Section 82 of the Anti-Social Behaviour etc (Scotland) Act 2004;
 - (v) the name and contact details of the Scheme Administrator of the Scheme, and
 - (vi) the circumstances in which all or part of the tenancy deposit may be retained at the end of the tenancy, with reference to the terms of the lease.

The provisions in relation to payment of the deposit into a scheme will only apply on the date on which an approved scheme becomes operational. We have been unable to ascertain what approved schemes are operational but information should be available from Glasgow City Council.

PAYMENT OF THE DEPOSIT INTO THE SCHEME

A deposit paid to an approved scheme is to be accompanied by sufficient information to identify the Landlord and Tenant and the property to which the deposit relates.

The administrator shall provide written confirmation to the Landlord and the Tenant that the deposit has been received and paid into a designated account.

The administrator shall also confirm the Landlord and the Tenant of:-

- a. the amount of the deposit;
- b. the date on which the deposit was received;
- c. the address of the property to which the tenancy deposit relates;
- d. the name and contact details of the Landlord; and
- e. how to contact the Scheme Administrator.

The Landlord must apply to the Scheme Administrator for repayment of the deposit on, or as soon as reasonably practicable after the end of the tenancy.

The application must specify the date on which the tenancy ended and the amount of the tenancy deposit which, in the view of the Landlord should be repaid to either the Landlord or the Tenant.

The Tenant can apply for repayment of the tenancy deposit but if the Landlord has already made an application or makes an application within 30 working days of the Tenant's application the administrator cannot progress the Tenant's application.

Following receipt of the Landlord's application the Administrator will write to the Tenant to:-

- a. notify the Tenant of the application including details of the amounts to be repaid.
- b. require the Tenant to confirm that they either agree to repayment or that they dispute the amounts specified and, if so, provide details of the amount which it considers should be repaid to it.

Where a Tenant disputes the repayment the administrator must write to the Landlord asking for confirmation as to whether they agree to the tenant's alternative figure.

Where There Is No Disputed Amount

The administrator will, within 5 working days of receipt of confirmation from the Tenant repay the tenancy deposit in accordance with the amounts specified.

Where the tenant has not responded to the administrator within 30 working days, the Administrator shall hold the amount to be repaid to the tenant in a designated account and repay to the Landlord the amount repayable to it within 5 working days of the expiry of the 30 working day period.

Where the Landlord does not respond to any application by the Tenant within 30 working days the Administrator will repay the full amount of the tenancy deposit to the Tenant within 5 working days of the expiry of the 30 working day period.

Where There Is A Disputed Amount

Where there is a disputed amount, the administrator will hold that amount in a designated account until the dispute is resolved. Any proportion of the deposit which is undisputed is to be repaid as soon as practicable.

The regulations contain detailed dispute resolution provisions, further information can be provided on these, if necessary.