

TENANTS DEPOSIT PROTECTION

The purpose of a deposit is to partly protect the Landlord against either rent arrears or damage caused by the tenant to the property. It is currently industry practice to set the deposit at the equivalent of 6 weeks rent which is payable prior to commencing a tenancy.

From 6th April 2007 the Housing Act 2004 introduced mandatory changes to the way in which deposits will be held for Assured Shorthold Tenancy lettings.

As a result of the legislation all tenant's deposits must be held in one of two ways:

- In an insured scheme
- In a custodial scheme

Insured scheme

In an insured scheme the deposit holder (i.e. Agent) holds the deposit in trust under the specific insured scheme rules and pays an insurance premium to protect the deposits collected.

Custodial scheme

In a custodial scheme the deposits are collected from the tenant either by the Landlord or the Agent, and these deposits are then actually paid over to a Government controlled central agency, who administer the money. All deposits must be paid over within 14 days of being received.

Compliance

The legislation requires the Landlord or his Agent to serve notice on the Tenant less than 14 days after the tenant moves in stating where and how his deposit is held.

If no such notice is served then the Section 21 Notice (Notice to terminate an Assured Shorthold Tenancy) becomes invalid and could prejudice any required possession of the property

The Deposit Protection Service (DPS)

This is the service provided by Computershare Investor Services PLC, a company registered in England & Wales under company number 3498808 and whose Registered Office is at The Pavilions, Bridgewater Road, Bristol, BS13 8AE, on behalf of Communities and Local Government (CLG).

Banking support for the service is provided by Bank of Scotland's Specialist Deposit Services team, who safeguard and administer all deposit funds on behalf of Computershare.

An independent Alternative Dispute Resolution (ADR) service, run by the Chartered Institute of Arbitrators, will aim to resolve any disputes quickly and without the need for court action. Landlords, agents and tenants could also earn interest on any proportion of the deposit they are entitled to retain at the end of a tenancy.