

Recent changes to legislation for Tenancy Deposit Schemes

10 AUGUST 2015

Rebecca Spencer

ASSOCIATE | UK

CATEGORY:

ARTICLE

New legislation has changed the way in which it is necessary to protect tenancy deposits. The changes affect anyone who has let residential property to the same tenants since 6 April 2007 and is holding a tenancy deposit.

Government-backed Tenancy Deposit Schemes (TDSs) were created in 2004 and are intended to prevent a landlord from failing to return a tenant's deposit. They are compulsory for all residential assured shorthold tenancies (ASTs) created on or after 6 April 2007.

Under the existing scheme, within 30 days of receiving a deposit for a new AST a landlord is required to protect the tenant's deposit in an approved TDS, and provide the tenant in writing with certain 'prescribed information'. This information includes details of the TDS used and what the tenant can do in the event of any dispute.

A change in the law on 26 March 2015 has now extended these requirements to cover all periodic tenancies where a deposit was taken, including periodic ASTs created before 6 April 2007. Landlords holding deposits for pre-6 April 2007 tenancies must now safeguard their tenant's deposit through a TDS and provide the prescribed information to the tenant immediately. Landlords who have not complied with the new rules by 23 June 2015 will not be able to use the common 'section 21 notice' (giving two months' clear notice to the tenant to vacate the property) to bring the tenancy to an end, without first returning the deposit to the tenant in full (or with deductions agreed by the tenant).

Landlords will be relieved to note that the financial penalties applicable for a failure to put a deposit into a TDS which currently apply to tenancies entered into on or after 6 April 2007 will not be applicable to tenancies entered into before 6 April 2007.

Authors

Rebecca Spencer

ASSOCIATE | LONDON

Real estate

 +44 20 7597 6814

 rebecca.spencer@withersworldwide.com