
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for tenancy deposit schemes for the purposes of Articles 5A and 5B of the Private Tenancies (Northern Ireland) Order 2006 (N.I. 10). Such schemes require to be approved by the Department for Social Development. The Regulations provide for the appointment of a scheme administrator and approval of tenancy deposit schemes.

Part 2 sets out the conditions which have to be met for the approval of the scheme administrator and for the approval of a tenancy deposit scheme. Regulation 3 states that the Department shall appoint a scheme administrator to establish and maintain a tenancy deposit scheme of a prescribed description which will include the facilitation of disputes between landlord and tenant. Regulation 5 sets out the conditions under which the Department shall not approve a scheme administrator and a tenancy deposit scheme.

Part 3 sets out the two types of scheme models. Regulation 7 refers to the custodial scheme. The custodial scheme is where all the deposit is handed over by the landlord to the scheme administrator for safe keeping in a designated account and either the tenant or the landlord can apply at the end of the tenancy for repayment of the deposit. In the event of a dispute the scheme administrator will hold on to the disputed amount until the dispute is resolved.

Regulation 8 refers to the insurance scheme. The insurance scheme is where the landlord holds on to the deposit and pays a fee/insurance premium to the scheme administrator. The landlord refunds the tenant when the deposit is due to be refunded and in the case where there is dispute, the landlord hands over to the scheme administrator the disputed amount to safeguard until the dispute is resolved.

Part 4 sets out the financing and accountability requirements of a tenancy deposit scheme. Regulation 9(1) sets out the operational arrangements for the custodial scheme and regulation 9(2) the operational arrangements for the insurance scheme. Regulation 10 refers to the designated account which the scheme administrator must maintain solely for tenancy deposits received by the scheme administrator, and to the management of such an account in respect of interest accrued and the conditions under which sums shall be withdrawn.

Part 5 sets out the procedures for safeguarding and repaying tenancy deposits. Regulation 12 sets out the information which the landlord shall supply to the scheme administrator when the deposit is to be safeguarded in a scheme. Regulation 13 sets out the requirements on the scheme administrator once he receives and safeguards such a deposit. Regulation 14 deals with a landlord's request to transfer a deposit. Regulations 15-19 set out the procedures to follow for the repayment of a deposit from a custodial scheme, including as described in regulations 20-23 where there is a dispute over the amount to be repaid. Regulations 24-27 set out the procedures to follow for the repayment of a deposit from an insurance scheme and the procedures to follow where there is a dispute over the amount to be repaid.

Regulation 28 sets out the requirements when a deposit ceases to be retained under an insurance scheme such as in the event of a landlord's membership of the scheme being terminated. Regulation 29 requires the scheme administrator to respond to a request from the tenant confirming the protection of the deposit in either scheme.

Part 6 sets out the type of dispute resolution mechanism that shall be made available. The dispute resolution mechanism shall be fair and cost effective and shall incorporate the principles and procedures in regulations 30-35. These include that dispute resolution shall be provided free of charge and shall not be compulsory for tenants. Adjudicators shall be independent and their decisions

binding on the scheme administrator and that the administrator is required to collect and maintain information about dispute resolution.

Part 7 imposes information and publicity requirements on schemes, including issue of an information leaflet.

Part 8 requires a scheme administrator to submit an annual report to the Department about the operation of the scheme.

Schedule 1 details the information which the landlord must provide to the scheme administrator and to the tenant, and the information which the scheme administrator must supply to the landlord.

A Regulatory Impact Assessment has been prepared for these Regulations. Copies may be obtained from Housing Division, Lighthouse Building, Gasworks Business Park, Ormeau Rd, Belfast or at www.dsdni.gov.uk.