
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 373

The Tenancy Deposit Schemes
Regulations (Northern Ireland) 2012

PART 4

Financing and Accountability Requirements

Operational arrangements

- 9.—(1) A scheme administrator of a custodial tenancy deposit scheme must:—
- (a) ensure that the scheme is capable of covering the cost of its operations using only its own finances, including interest;
 - (b) have access to sufficient working capital to fund the establishment and operation of the tenancy deposit scheme from the date of approval until the date on which the tenancy deposit scheme becomes self-financing;
 - (c) have appropriate strategies in place in relation to the investment of tenancy deposits and accrued interest to support the sustainability of the tenancy deposit scheme;
 - (d) have contingency measures and procedures in place to safeguard, and ensure the repayment in accordance with these Regulations of, tenancy deposits held in designated accounts in the event that the tenancy deposit scheme fails or otherwise ceases to be operational; and
 - (e) have appropriate procedures in place to identify if the scheme is likely to fail or otherwise cease to be operational, and will give notice to:—
 - (i) all landlords and tenants whose deposits are held by the scheme; and
 - (ii) the Department.
- (2) A scheme administrator of an insurance based tenancy deposit scheme must:—
- (a) make provision as to the requirements that are to be complied with by the landlord where:
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 - (i) a landlord wishes to retain a tenancy deposit under the scheme; or
 - (ii) a landlord retaining a tenancy deposit under the scheme (in relation to a tenancy that has not terminated) gives notice to the scheme administrator that he no longer wishes to retain the deposit under the scheme;
 - (b) provide that any landlord by whom a tenancy deposit is retained under the scheme shall give the scheme administrator an undertaking that, if the scheme administrator directs the landlord to pay to the scheme administrator any amount in respect of the deposit in accordance with regulation 24(4) to (8), the landlord will comply with such a direction;
 - (c) maintain in force adequate insurance in respect of failures by a landlord by whom a tenancy deposit is retained under the scheme to comply with such directions;

- (d) make provision enabling the scheme administrator to determine that, by virtue of a landlord's failure to comply with a relevant obligation, a tenancy deposit which has previously been retained by the landlord under the scheme (and which relates to a tenancy which has not ended) is to cease to be retained under the scheme in accordance with regulation 28;
- (e) before making a determination, give a notice to the landlord stating that the scheme administrator proposes to make such a determination and the reasons for the proposal;
- (f) ensure that, where the scheme provides for landlords participating in the scheme to be members of the scheme, the scheme may provide for a landlord's membership to be terminated by the scheme administrator in the event of any such failure on the part of the landlord to comply with a relevant obligation;
- (g) before determining that the landlord's membership be terminated, give a notice to the landlord in accordance with regulation 28, stating that the scheme administrator proposes to make such a determination and the reasons for the proposal;
- (h) on the termination of a landlord's membership, ensure that:—
 - (i) any tenancy deposit previously protected by the landlord under the scheme in relation to tenancies which had not ended before the termination, cease to be protected under the scheme; but
 - (ii) the scheme continues to apply to a tenancy deposit retained by the landlord under the scheme in relation to a tenancy which ended before the termination of the landlord's membership;
- (i) ensure that the landlord on termination of membership of a scheme pays to the scheme administrator any balance still owing in respect of:—
 - (i) fees charged by the scheme; and
 - (ii) contributions in respect of the cost of the insurance referred to in sub-paragraph (c).

Designated accounts

10.—(1) A scheme administrator shall hold one or more designated accounts for the purposes of regulation 9.

- (2) A scheme administrator must ensure that:—
 - (a) tenancy deposits received by the scheme administrator are paid without delay into the relevant designated account;
 - (b) the sum at the credit of the designated account, or where there are more such accounts than one, the total of the sums at the credit of those accounts, is not at any time less than the total of the amounts of tenancy deposits held by the tenancy deposit scheme; and
 - (c) each tenancy deposit held in a designated account is at all times attributable to the landlord on whose behalf it was paid into the account, as well as to the tenant to whom it relates.
- (3) A scheme administrator may only withdraw sums from a designated account for the following purposes:—
 - (a) repayment of tenancy deposits in accordance with these Regulations; or
 - (b) meeting the costs of the scheme, where this is a custodial scheme, from interest accrued.