
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

The Tenancy Deposit Schemes (Scotland) Regulations 2011

PART 3

Model for operation of tenancy deposit scheme

Scheme model

- 11.** A tenancy deposit scheme must be based on the following model—
- (a) no fee is payable by the landlord to the scheme administrator in respect of participation in, or otherwise in connection with, the scheme;
 - (b) the tenancy deposit is paid by the landlord to the scheme administrator;
 - (c) the scheme administrator pays the tenancy deposit into an account maintained for the purpose of holding tenancy deposits;
 - (d) the tenancy deposit is held in that account until it falls to be repaid in accordance with these Regulations.

Agents

12. A tenancy deposit scheme must not operate to prevent an agent from acting on behalf of the landlord in relation to any tenancy deposit held in connection with a relevant tenancy.

Geographical coverage and administrative requirements

- 13.—**(1) A tenancy deposit scheme must be available to all landlords and their tenants.
- (2) For the purposes of paragraph (1), a tenancy deposit scheme must put suitable procedures in place to allow—
- (a) all landlords to participate in the scheme;
 - (b) all landlords to pay tenancy deposits directly to the scheme administrator;
 - (c) all landlords and their tenants to apply to the scheme for repayment of the tenancy deposit in accordance with the scheme; and
 - (d) all landlords and their tenants to make use of the dispute resolution mechanism provided or made available by the scheme.
- (3) An appropriate customer service facility must be available to landlords, tenants and the general public for the purposes of, in particular—
- (a) handling enquiries in relation to the scheme whether made by telephone or in writing; and
 - (b) dealing with complaints about the scheme, including complaints about the service provided by the scheme administrator.

Financing and sustainability

14.—(1) A tenancy deposit scheme must operate on the basis of a business plan which will enable it, within a number of months to be specified in that business plan, to be—

- (a) in a position to accept and safeguard tenancy deposits for the purposes of Part 4 of the Act and in accordance with these Regulations; and
- (b) able to cover the cost of its operations using only its own finances, including interest (“self-financing”).

(2) A tenancy deposit scheme must ensure that sufficient resources will be available to fund the establishment and operation of the tenancy deposit scheme from the date of approval until the date on which the scheme becomes self-financing.

(3) A tenancy deposit scheme must 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.

Protection of deposits in the event of scheme failure etc.

15.—(1) A tenancy deposit scheme must have procedures to safeguard, and ensure the repayment in accordance with these Regulations of, tenancy deposits held by the scheme administrator in the event that the scheme fails or otherwise ceases to be operational.

(2) A tenancy deposit scheme must have appropriate procedures by which as soon as the scheme administrator becomes aware that the scheme is likely to fail or otherwise cease to be operational the scheme administrator will give notice to—

- (a) all landlords and tenants whose deposits are held by the scheme; and
- (b) the Scottish Ministers.