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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about tenancy deposit schemes for the purposes of sections 120 to 122 of the Housing (Scotland) Act 2006. Such schemes require to be approved by the Scottish Ministers and will safeguard tenancy deposits. The Regulations set conditions which schemes must meet before they will be approved and establish the regulatory framework for such schemes.

Part 1 imposes duties on landlords to pay a tenancy deposit to an approved scheme, to provide information to the tenant, and to ensure that a deposit is held by an approved scheme throughout a tenancy.

Regulation 6 and Parts 3 to 6 set out the conditions which a scheme must meet before it can be approved. Regulation 7 requires the scheme administrator to be a fit and proper person. Regulation 8 allows the Scottish Ministers to give financial assistance in connection with an approved scheme

Part 2 provides sanctions for failure to comply with the duties, on an application by a tenant to the sheriff, and require the sheriff to impose a financial penalty on the landlord. In addition, the sheriff has discretion to order the landlord to take action to comply with their duties.

Part 3 sets out the model that the scheme must be based on, the geographical coverage and administrative requirements, arrangements for financing and sustainability and the requirements for protection of deposits.

Part 4 makes provision about designated accounts. In particular, it provides for the sums which may be held in designated accounts, accounting and administrative practices to be followed by the scheme administrator, the purposes for which sums may be withdrawn and the circumstances in which interest accrued may be distributed, applied or invested.

Part 5 provides principles and procedures which must be incorporated into any scheme including arrangements for payment of deposits to a scheme and withdrawal and repayment.

Part 6 sets out the type of dispute resolution mechanism that must be made available. The dispute resolution mechanism must be fair and cost-effective and must incorporate the principles and procedures in regulations 34 and 35. These include that dispute resolution must be provided free of charge and must not be compulsory for tenants. Adjudicators must be independent and their decisions binding on the scheme administrator. That 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. Regulation 44 requires landlords to provide information about their landlord registration status, which the scheme administrator will notify to the relevant local authority.

Part 8 requires a scheme administrator to submit an annual report to the Scottish Ministers about the operation of the scheme and, during any year in which a scheme is operational, quarterly reports about its performance measured against key indicators.

Part 9 sets out the basis upon which the Regulations will apply to tenancy deposits which have been received by landlords before the Regulations come into force or before a scheme has been approved.

A Business and Regulatory Impact Assessment has been prepared for this instrument and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Business Support Team, Housing Markets and Supply Division, Scottish Government, Area 1J South, Victoria Quay, Edinburgh EH6 6QQ.