
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Housing (Tenancy Deposit Schemes) Order 2007

Further provision about insurance schemes

- 4.—(1) Paragraph 5 (insurance schemes: general) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) The scheme must make provision as to the requirements that fall to be complied with by the landlord or by the scheme administrator where—
- (a) a landlord wishes to retain a tenancy deposit under the scheme; or
 - (b) 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 that scheme.”
- (3) After sub-paragraph (3) insert—
- “(3A) The scheme may make provision enabling the scheme administrator to determine that, by virtue of the landlord’s failure to comply with a relevant obligation, a tenancy deposit which has previously been retained by a landlord under the scheme (and which relates to a tenancy which has not ended) is to cease to be retained under the scheme.
- (3B) Provision under sub-paragraph (3A) must require the scheme administrator, before making a determination, to give a notice to the landlord stating that the scheme administrator proposes to make such a determination and the reasons for the proposal.”
- (4) In sub-paragraph (4), for “such failure on the part of the landlord” substitute “failure by the landlord to comply with a relevant obligation”.
- (5) After sub-paragraph (4) insert—
- “(4A) Provision made under sub-paragraph (4) must require the scheme administrator, before determining that the landlord’s membership be terminated, to give a notice to the landlord stating that the scheme administrator proposes to make such a determination and the reasons for the proposal.
- (4B) On the termination of a landlord’s membership under sub-paragraph (4)—
- (a) any tenancy deposits previously retained by the landlord under the scheme (in relation to tenancies which had not ended before the termination) cease to be retained under the scheme; but
 - (b) 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 as if the landlord were still a member.”
- (6) After sub-paragraph (5) insert—
- “(6) Paragraph 5A makes further provision in relation to the procedure to be followed after a notice of the kind mentioned in sub-paragraph (1A)(b), (3B) or (4A) has been given in accordance with the scheme.
- (7) In this paragraph “relevant obligation” means—
- (a) the duty to comply with a direction mentioned in sub-paragraph (2); or

- (b) any obligation under the scheme which is specified in the scheme as a relevant obligation for the purposes of this paragraph.”