

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 30: Tenancy deposits: provision of information by agents

153. This section makes retrospective amendments to the Housing (Tenancy Deposits) (Prescribed Information) Order 2007 (“the prescribed information order”). The prescribed information order was made under section 213 of the Housing Act 2004 and prescribes the information which must be provided to tenants when a deposit has been protected. Failure to send the correct information to the tenant within 30 days of the deposit being received can result in penalties for the landlord and/or letting agent.
154. The amendments rectify a problem which has been identified with the prescribed information order which is that it does not clearly allow (as the government intended) for a letting agent’s details to be provided in the prescribed information *instead of* the landlord’s. The amendments to article 2 of the order make it clear that each of the references to “the landlord” in the order are to be read as references to either the landlord or the letting agent where relevant.
155. The amendments also insert a new article – article 3 – into the prescribed information order. Article 3(1) provides that the amendments to the order are to be treated as having had effect since 6 April 2007, the date on which the tenancy deposit provisions in the 2004 Act came into force. However, article 3(2) provides that they do not have effect in relation to legal proceedings under section 214 of the 2004 Act or section 21 of the Housing Act 1988 in which this point has been argued and which have either been finally determined by a court (see article 3(6)) or settled between the parties prior to the date on which this section comes into force, i.e. the date on which the Deregulation Act is passed (article 3(8)).
156. If legal proceedings have been instituted but have not been finally determined or settled before the date on which this section comes into force, article 3(3) to (5) apply so as to protect the tenant from liability for the landlord’s legal costs where, as a consequence of the amendments to article 2 of the order, the court decides against the tenant’s claim under section 214 of the 2004 Act and/or decides to grant the landlord a possession order under section 21 of the Housing Act 1988. In those circumstances a court would not be able to order the tenant to pay any part of the landlord’s costs in the proceedings which it reasonably considers are attributable to the tenant’s claim under section 214 of the 2004 Act and/or the possession proceedings under section 21 of the Housing Act 1988. This provision recognises that the court proceedings involving the landlord and tenant may also comprise claims and/or counter-claims (for instance in respect of rent arrears) which are not directly affected by the amendments to article 2 of the order.
157. *Subsection (4)* ensures that the changes made by this amendment to the prescribed information order do not affect the power to use further subordinate legislation to amend or revoke that order.
158. *Subsection (5)* defines subordinate legislation as having the same meaning as in the Interpretation Act 1978.

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

159. The section forms part of the law of England and Wales. It comes into force on the day on which the Act is passed.