

*Draft Regulations laid before the Scottish Parliament under section 191(5) of the Housing (Scotland)  
Act 2006, for approval by resolution of the Scottish Parliament.*

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## DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

## **HOUSING**

### **The Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019**

*Made - - - - 2019*  
*Coming into force - - 11th November 2019*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 121(1) and 191(2) of the Housing (Scotland) Act 2006<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 191(5) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

#### **Citation and commencement**

1. These Regulations may be cited as the Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019 and come into force on 11 November 2019.

#### **Amendment to the Tenancy Deposit Schemes (Scotland) Regulations 2011**

2.—(1) The Tenancy Deposit Schemes (Scotland) Regulations 2011<sup>(2)</sup> are amended in accordance with paragraphs (2) to (7).

(2) In regulation 3 (duties in relation to tenancy deposits)—

(a) after paragraph (1) insert—

“(1A) Paragraph (1) does not apply—

(a) where the tenancy comes to an end by virtue of section 48 or 50 of the Private Housing (Tenancies) (Scotland) Act 2016<sup>(3)</sup>, and

(b) the full amount of the tenancy deposit received by the landlord is returned to the tenant by the landlord,

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(1) 2006 asp 1.

(2) S.S.I. 2011/176, amended by S.S.I. 2017/329.

(3) 2016 asp 19.

within 30 working days of the beginning of the tenancy.”, and

(b) after paragraph (2) insert—

“(2A) Where the landlord and the tenant agree that the tenancy deposit is to be paid in instalments, paragraphs (1) and (2) apply as if—

(a) the references to deposit were to each instalment of the deposit, and

(b) the reference to the beginning of the tenancy were to the date when any instalment of the deposit is received by the landlord.”.

(3) In regulation 22(2) (payment of tenancy deposits to a tenancy deposit scheme)—

(a) after subparagraph (d) omit “and”, and

(b) at the end of sub-paragraph (e) insert—

“, and

(f) details of the sanctions contained in regulations 9 and 10 (First-tier Tribunal orders).”.

(4) In regulation 25 (application for repayment of a tenancy deposit)—

(a) after paragraph (1)(d) omit “and”,

(b) at the end of paragraph (1)(e) insert—

“, and

(f) where a tenancy deposit was paid by the landlord to the scheme administrator later than the date set out in regulation 3(1) (duties in relation to tenancy deposits), inform the tenant of the sanctions contained in regulations 9 and 10 (First-tier Tribunal orders).”.

(c) after paragraph (2) insert—

“(3) Paragraph (1) does not apply where a landlord’s application under regulation 24(1) specifies that the amount to be repaid to the landlord in accordance with regulation 24(2) (b) is zero.”.

(5) In regulation 26 (repayment by the scheme administrator where there is no disputed amount)

(a) for paragraph (1) substitute—

“(1) Paragraph (2) applies where the scheme administrator receives—

(a) confirmation as mentioned in regulation 25(1)(b) or (2)(b) that repayment of the tenancy deposit as applied for is agreed, or

(b) an application to which regulation 25(3) applies.”, and

(b) in paragraph (2) after “confirmation” insert “or application”.

(6) In regulation 42 (landlord’s duty to provide information to the tenant), after paragraph (3) insert—

“(4) Where the landlord and the tenant agree that the tenancy deposit is to be paid in instalments—

(a) paragraphs (2) and (3) apply as if the references to deposit were to each instalment of the deposit, and

(b) in relation to the information provided under paragraph (2)(a), confirmation of the cumulative amount of the tenancy deposit paid by the tenant in respect of each instalment after the first instalment.”.

(7) In regulation 45(1) (duty to provide annual report to the Scottish Ministers) for “By 15<sup>th</sup> May” substitute “On or before 31 August”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

These Regulations amend the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the principal Regulations”).

Regulation 2(2) amends regulation 3 of the principal Regulations by (i) providing for an exception to the requirement for a landlord to pay a deposit into the scheme where the tenancy has terminated and the deposit is repaid to the tenant prior to the expiry of the period of 30 working days from the beginning of the tenancy and (ii) making provision for deposits paid in instalments.

Regulation 2(3) amends regulation 22 of the principal Regulations to require the scheme administrator to provide the tenant with details of the sanctions contained in regulations 9 and 10 of the principal Regulations where the landlord has paid the deposit into the scheme after the expiry of the 30 working days period.

Regulation 2(4) amends regulation 25 of the principal Regulations by (i) providing that the scheme administrator must, upon receipt of an application for repayment of a deposit from a landlord, provide the tenant with details of the sanctions contained in regulations 9 and 10 of the principal Regulations where the landlord has paid the deposit into the scheme after the expiry of the 30 working days period and (ii) making provision to disapply the requirements of paragraph (1) where the landlord does not apply for payment of any part of the deposit.

Regulation 2(5) amends regulation 26 of the principal Regulations by providing for the expedition of the repayment of a tenancy deposit to the tenant where the landlord does not apply for payment of any part of it.

Regulation 2(6) amends regulation 42 of the principal Regulations by providing that the landlord must provide certain information to the tenant upon receipt of each instalment of the deposit.

Regulation 2(7) amends regulation 45 of the principal Regulations by changing the last date for delivery of the annual report on the operation of the approved scheme from 15 May to 31 August.

No business and regulatory impact assessment has been prepared for these Regulations as no significant impact is foreseen on business charities or voluntary bodies.