



# Housing Act 2004

## 2004 CHAPTER 34

### PART 6

#### OTHER PROVISIONS ABOUT HOUSING

#### CHAPTER 4

##### TENANCY DEPOSIT SCHEMES

### 212 Tenancy deposit schemes

- (1) The appropriate national authority must make arrangements for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies.
- (2) For the purposes of this Chapter a “tenancy deposit scheme” is a scheme which—
  - (a) is made for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies and facilitating the resolution of disputes arising in connection with such deposits, and
  - (b) complies with the requirements of Schedule 10.
- (3) Arrangements under subsection (1) must be arrangements made with any body or person under which the body or person (“the scheme administrator”) undertakes to establish and maintain a tenancy deposit scheme of a description specified in the arrangements.
- (4) The appropriate national authority may—
  - (a) give financial assistance to the scheme administrator;
  - (b) make payments to the scheme administrator (otherwise than as financial assistance) in pursuance of arrangements under subsection (1).
- (5) The appropriate national authority may, in such manner and on such terms as it thinks fit, guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with arrangements under subsection (1).

*Status: Point in time view as at 06/04/2017.*

*Changes to legislation: Housing Act 2004, Chapter 4 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Arrangements under subsection (1) must require the scheme administrator to give the appropriate national authority, in such manner and at such times as it may specify, such information and facilities for obtaining information as it may specify.

[<sup>F1</sup>(6A) For further provision about what must be included in the arrangements, see section 212A.]

(7) The appropriate national authority may make regulations conferring or imposing—

- (a) on scheme administrators, or
- (b) on scheme administrators of any description specified in the regulations,

such powers or duties in connection with arrangements under subsection (1) as are so specified.

(8) In this Chapter—

“authorised”, in relation to a tenancy deposit scheme, means that the scheme is in force in accordance with arrangements under subsection (1);

“custodial scheme” and “insurance scheme” have the meaning given by paragraph 1(2) and (3) of Schedule 10);

“money” means money in the form of cash or otherwise;

“shorthold tenancy” means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988 (c. 50);

“tenancy deposit”, in relation to a shorthold tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant, or
- (b) the discharge of any liability of his,

arising under or in connection with the tenancy.

(9) In this Chapter—

(a) references to a landlord or landlords in relation to any shorthold tenancy or tenancies include references to a person or persons acting on his or their behalf in relation to the tenancy or tenancies, and

(b) references to a tenancy deposit being held in accordance with a scheme include, in the case of a custodial scheme, references to an amount representing the deposit being held in accordance with the scheme.

#### Textual Amendments

**F1** S. 212(6A) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 128(2)**, 216(3); [S.I. 2017/281](#), reg. 4(g)

#### Modifications etc. (not altering text)

**C1** S. 212(9)(a) excluded by [S.I. 2007/797](#), arts. 2(5), 3 (as inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 30(2)(3)**, 115(1)(a) (with [s. 30\(4\)](#)))

#### Commencement Information

**I1** S. 212 wholly in force at 6.4.2007; s. 212 in force for certain purposes at Royal Assent see [s. 270\(2\)](#) (b); s. 212 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; s. 212 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**

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## [<sup>F2</sup>212A Provision of information to local authorities

- (1) Arrangements under section 212(1) made by the Secretary of State must require the scheme administrator—
  - (a) to give a local housing authority in England any specified information that they request, or
  - (b) to provide facilities for the sharing of specified information with a local housing authority in England.
- (2) In subsection (1) “specified information” means information, of a description specified in the arrangements, that relates to a tenancy of premises in the local housing authority’s area.
- (3) Arrangements made by virtue of this section may make the requirement to provide information or facilities to a local housing authority conditional on the payment of a fee.
- (4) Arrangements made by virtue of this section may include supplementary provision, for example about—
  - (a) the form or manner in which any information is to be provided,
  - (b) the time or times at which it is to be provided, and
  - (c) the notification of anyone to whom the information relates.
- (5) Information obtained by a local housing authority by virtue of this section may be used only—
  - (a) for a purpose connected with the exercise of the authority’s functions under any of Parts 1 to 4 in relation to any premises, or
  - (b) for the purpose of investigating whether an offence has been committed under any of those Parts in relation to any premises.
- (6) Information obtained by a local housing authority by virtue of this section may be supplied to a person providing services to the authority for a purpose listed in subsection (5).
- (7) The Secretary of State may by regulations amend the list of purposes in subsection (5).]

### Textual Amendments

- F2** S. 212A inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. **128(3)**, 216(3); S.I. 2017/281, reg. 4(g)

## 213 Requirements relating to tenancy deposits

- (1) Any tenancy deposit paid to a person in connection with a shorthold tenancy must, as from the time when it is received, be dealt with in accordance with an authorised scheme.
- (2) No person may require the payment of a tenancy deposit in connection with a shorthold tenancy which is not to be subject to the requirement in subsection (1).
- (3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, the initial requirements of an authorised scheme must be complied with by the landlord in relation to the deposit within the period of [<sup>F3</sup> 30 ] days beginning with the date on which it is received.

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- (4) For the purposes of this section “the initial requirements” of an authorised scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.
- (5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—
- (a) the authorised scheme applying to the deposit,
  - (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
  - (c) the operation of provisions of this Chapter in relation to the deposit,
- as may be prescribed.
- (6) The information required by subsection (5) must be given to the tenant and any relevant person—
- (a) in the prescribed form or in a form substantially to the same effect, and
  - (b) within the period of [F4 30 ] days beginning with the date on which the deposit is received by the landlord.
- (7) No person may, in connection with a shorthold tenancy, require a deposit which consists of property other than money.
- (8) In subsection (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant, or
  - (b) the discharge of any liability of his,
- arising under or in connection with the tenancy.
- (9) The provisions of this section apply despite any agreement to the contrary.
- (10) In this section—
- “prescribed” means prescribed by an order made by the appropriate national authority;
- “property” means moveable property;
- “relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.

#### Textual Amendments

- F3** Word in s. 213(3) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(2)(a)**, 240(2); [S.I. 2012/628](#), [art. 8\(c\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))
- F4** Word in s. 213(6)(b) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(2)(b)**, 240(2); [S.I. 2012/628](#), [art. 8\(c\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

#### Commencement Information

- I2** S. 213 wholly in force at 6.4.2007; s. 213 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 213 in force for W. at 6.4.2007 by [S.I. 2007/305](#), [art. 2](#); s. 213 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), [art. 2\(a\)](#)

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## 214 Proceedings relating to tenancy deposits

(1) Where a tenancy deposit has been paid in connection with a shorthold tenancy [<sup>F5</sup>on or after 6 April 2007], the tenant or any relevant person (as defined by section 213(10)) may make an application to [<sup>F6</sup>the county court] on the grounds—

- [<sup>F7</sup>(a) that section 213(3) or (6) has not been complied with in relation to the deposit, or]
- (b) that he has been notified by the landlord that a particular authorised scheme applies to the deposit but has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.

[<sup>F8</sup>(1A) Subsection (1) also applies in a case where the tenancy has ended, and in such a case the reference in subsection (1) to the tenant is to a person who was a tenant under the tenancy.]

(2) Subsections (3) and (4) apply [<sup>F9</sup> in the case of an application under subsection (1) if the tenancy has not ended and ] the court—

- [<sup>F10</sup>(a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or]
- (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,

as the case may be.

[<sup>F11</sup>(2A) Subsections (3A) and (4) apply in the case of an application under subsection (1) if the tenancy has ended (whether before or after the making of the application) and the court—

- (a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or
- (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,

as the case may be.]

(3) The court must, as it thinks fit, either—

- (a) order the person who appears to the court to be holding the deposit to repay it to the applicant, or
- (b) order that person to pay the deposit into the designated account held by the scheme administrator under an authorised custodial scheme,

within the period of 14 days beginning with the date of the making of the order.

[<sup>F12</sup>(3A) The court may order the person who appears to the court to be holding the deposit to repay all or part of it to the applicant within the period of 14 days beginning with the date of the making of the order.]

(4) The court must <sup>F13</sup>... order the landlord to pay to the applicant a sum of money [<sup>F14</sup> not less than the amount of the deposit and not more than ] three times the amount of the deposit within the period of 14 days beginning with the date of the making of the order.

(5) Where any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), the property in question is recoverable from the person holding it by the person by whom it was given as a deposit.

(6) In subsection (5) “deposit” has the meaning given by section 213(8).

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### Textual Amendments

- F5** Words in s. 214(1) inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 31(2)**, 115(1)(a)
- F6** Words in s. 214(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F7** S. 214(1)(a) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(4)**, 240(2); [S.I. 2012/628](#), **art. 8(c)**(with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F8** S. 214(1A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(5)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F9** Words in s. 214(2) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(6)(a)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F10** S. 214(2)(a) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(6)(b)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F11** S. 214(2A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(7)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F12** S. 214(3A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(8)**, 240(2); [S.I. 2012/628](#), **art. 8(c)**(with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F13** Word in s. 214(4) repealed (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(9)(a)**, 240(2), **Sch. 25 Pt. 30**; [S.I. 2012/628](#), **art. 8(c)(e)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F14** Words in s. 214(4) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(9)(b)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)

### Commencement Information

- I3** S. 214 wholly in force at 6.4.2007; s. 214 not in force at Royal Assent see s. 270(4)(5); s. 214 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; s. 214 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**

## 215 Sanctions for non-compliance

[<sup>F15</sup>(1) Subject to subsection (2A), if (whether before, on or after 6 April 2007) a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when the deposit is not being held in accordance with an authorised scheme.

(1A) Subject to subsection (2A), if a tenancy deposit has been paid in connection with a shorthold tenancy on or after 6 April 2007, no section 21 notice may be given in relation to the tenancy at a time when section 213(3) has not been complied with in relation to the deposit.]

(2) [<sup>F16</sup> Subject to subsection (2A), ]If section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.

[<sup>F17</sup>(2A) Subsections (1) [<sup>F18</sup>, (1A)] and (2) do not apply in a case where—

- (a) the deposit has been returned to the tenant in full or with such deductions as are agreed between the landlord and tenant, or

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- (b) an application to [<sup>F19</sup>the county court] has been made under section 214(1) and has been determined by the court, withdrawn or settled by agreement between the parties.]
- (3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.
- (4) In subsection (3) “deposit” has the meaning given by section 213(8).
- (5) In this section a “section 21 notice” means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).

#### Textual Amendments

- F15** S. 215(1)(1A) substituted for s. 215(1) (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 31(3)(a)**, 115(1)(a)
- F16** Words in s. 215(2) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(12)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F17** S. 215(2A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(13)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F18** Word in s. 215(2A) inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 31(3)(b)**, 115(1)(a)
- F19** Words in s. 215(2A) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

#### Commencement Information

- I4** S. 215 wholly in force at 6.4.2007; s. 215 not in force at Royal Assent see s. 270(4)(5); s. 215 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 215 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

### [<sup>F20</sup>215A] Statutory periodic tenancies: deposit received before 6 April 2007

- (1) This section applies where—
- before 6 April 2007, a tenancy deposit has been received by a landlord in connection with a fixed term shorthold tenancy,
  - on or after that date, a periodic shorthold tenancy is deemed to arise under section 5 of the Housing Act 1988 on the coming to an end of the fixed term tenancy,
  - on the coming to an end of the fixed term tenancy, all or part of the deposit paid in connection with the fixed term tenancy is held in connection with the periodic tenancy, and
  - the requirements of section 213(3), (5) and (6) have not been complied with by the landlord in relation to the deposit held in connection with the periodic tenancy.
- (2) If, on the commencement date—
- the periodic tenancy is in existence, and
  - all or part of the deposit paid in connection with the fixed term tenancy continues to be held in connection with the periodic tenancy,

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section 213 applies in respect of the deposit that continues to be held in connection with the periodic tenancy, and any additional deposit held in connection with that tenancy, with the modifications set out in subsection (3).

- (3) The modifications are that, instead of the things referred to in section 213(3) and (5) being required to be done within the time periods set out in section 213(3) and (6)(b), those things are required to be done—
- (a) before the end of the period of 90 days beginning with the commencement date, or
  - (b) (if earlier) before the first day after the commencement date on which a court does any of the following in respect of the periodic tenancy—
    - (i) determines an application under section 214 or decides an appeal against a determination under that section;
    - (ii) makes a determination as to whether to make an order for possession in proceedings under section 21 of the Housing Act 1988 or decides an appeal against such a determination.
- (4) If, on the commencement date—
- (a) the periodic tenancy is no longer in existence, or
  - (b) no deposit continues to be held in connection with the periodic tenancy,
- the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to any deposit that was held in connection with the periodic tenancy.
- (5) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.

#### **Textual Amendments**

**F20** Ss. 215A-215C inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 32**, 115(1)(a)

### **215B Shorthold tenancies: deposit received on or after 6 April 2007**

- (1) This section applies where—
- (a) on or after 6 April 2007, a tenancy deposit has been received by a landlord in connection with a shorthold tenancy (“the original tenancy”),
  - (b) the initial requirements of an authorised scheme have been complied with by the landlord in relation to the deposit (ignoring any requirement to take particular steps within any specified period),
  - (c) the requirements of section 213(5) and (6)(a) have been complied with by the landlord in relation to the deposit when it is held in connection with the original tenancy (ignoring any deemed compliance under section 215A(4)),
  - (d) a new shorthold tenancy comes into being on the coming to an end of the original tenancy or a tenancy that replaces the original tenancy (directly or indirectly),
  - (e) the new tenancy replaces the original tenancy (directly or indirectly), and
  - (f) when the new tenancy comes into being, the deposit continues to be held in connection with the new tenancy, in accordance with the same authorised scheme as when the requirements of section 213(5) and (6)(a) were last complied with by the landlord in relation to the deposit.



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- (2) In their application to the new tenancy, the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to the deposit.
- (3) The condition in subsection (1)(a) may be met in respect of a tenancy even if the tenancy deposit was first received in connection with an earlier tenancy (including where it was first received before 6 April 2007).
- (4) For the purposes of this section, a tenancy replaces an earlier tenancy if—
  - (a) the landlord and tenant immediately before the coming to an end of the earlier tenancy are the same as the landlord and tenant at the start of the new tenancy, and
  - (b) the premises let under both tenancies are the same or substantially the same.

#### Textual Amendments

**F20** Ss. 215A-215C inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 32**, 115(1)(a)

### 215C Sections 215A and 215B: transitional provisions

- (1) Sections 215A and 215B are treated as having had effect since 6 April 2007, subject to the following provisions of this section.
- (2) Sections 215A and 215B do not have effect in relation to—
  - (a) a claim under section 214 of this Act or section 21 of the Housing Act 1988 in respect of a tenancy which is settled before the commencement date (whether or not proceedings in relation to the claim have been instituted), or
  - (b) proceedings under either of those sections in respect of a tenancy which have been finally determined before the commencement date.
- (3) Subsection (5) applies in respect of a tenancy if—
  - (a) proceedings under section 214 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) not to make an order under section 214(4) in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against such an order.
- (4) Subsection (5) also applies in respect of a tenancy if—
  - (a) proceedings for possession under section 21 of the Housing Act 1988 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) to make an order for possession under that section in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against a refusal to make such an order.
- (5) Where this subsection applies, the court must not order the tenant or any relevant person (as defined by section 213(10)) to pay the landlord's costs, to the extent that the court reasonably considers those costs are attributable to the proceedings under section 214 of this Act or (as the case may be) section 21 of the Housing Act 1988.

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- (6) Proceedings have been “finally determined” for the purposes of this section if —
- (a) they have been determined by a court, and
  - (b) there is no further right to appeal against the determination.
- (7) There is no further right to appeal against a court determination if there is no right to appeal against the determination, or there is such a right but—
- (a) the time limit for making an appeal has expired without an appeal being brought, or
  - (b) an appeal brought within that time limit has been withdrawn.
- (8) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.]

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**Textual Amendments**

**F20** Ss. 215A-215C inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 32**, 115(1)(a)

**Status:**

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**Changes to legislation:**

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