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*Changes to legislation: Housing Act 2004, SCHEDULE 10 is up to date with all changes known to be in force on or before 18 April 2024. 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)*

## SCHEDULES

### SCHEDULE 10 **E+W**

Section 212

#### PROVISIONS RELATING TO TENANCY DEPOSIT SCHEMES

##### *Schemes to be custodial schemes or insurance schemes*

- 1 (1) A tenancy deposit scheme must be either—
  - (a) a custodial scheme, or
  - (b) an insurance scheme.
- (2) A “custodial scheme” is a scheme under which—
  - (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,
  - (b) amounts representing the deposits are then paid by the landlords into a designated account held by the scheme administrator, and
  - (c) those amounts are kept by the scheme administrator in that account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies.
- (3) An “insurance scheme” is a scheme under which—
  - (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,
  - (b) such deposits are retained by the landlords on the basis that, at the end of the tenancies—
    - (i) such amounts in respect of the deposits as are agreed between the tenants and the landlords will be repaid to the tenants, and
    - (ii) such amounts as the tenants request to be repaid to them and which are not so repaid will, in accordance with directions given by the scheme administrator, be paid into a designated account held by the scheme administrator,
  - (c) amounts paid into that account are kept by the scheme administrator in the account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies,
  - (d) landlords undertake to reimburse the scheme administrator, in accordance with directions given by him, in respect of any amounts in respect of the deposits paid to the tenants by the scheme administrator (other than amounts paid to the tenants as mentioned in paragraph (c)), and
  - (e) insurance is maintained by the scheme administrator in respect of failures by landlords to comply with such directions.

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### Commencement Information

- II** Sch. 10 para. 1 wholly in force at 6.4.2007; Sch. 10 para. 1 not in force at Royal Assent see s. 270(4) (5); Sch. 10 para. 1 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 1 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

### *Provisions applying to custodial and insurance schemes*

- 2 (1) A custodial scheme must conform with the following provisions—  
 paragraphs 3 [<sup>F1</sup>to 4C], and  
 paragraphs 9 [<sup>F2</sup>to 10C].
- (2) An insurance scheme must conform with the following provisions—  
 paragraphs 5 to 8, and  
 paragraphs 9 [<sup>F3</sup>to 10C].

### Textual Amendments

- F1** Words in Sch. 10 para. 2(1) substituted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 10(a)
- F2** Words in Sch. 10 para. 2(1) substituted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 10(a)
- F3** Words in Sch. 10 para. 2(2) substituted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 10(b)

### Commencement Information

- I2** Sch. 10 para. 2 wholly in force at 6.4.2007; Sch. 10 para. 2 not in force at Royal Assent see s. 270(4) (5); Sch. 10 para. 2 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 2 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

### *Custodial Schemes: general*

- 3 (1) This paragraph applies to a custodial scheme.
- (2) The scheme must provide for any landlord who receives a tenancy deposit in connection with a shorthold tenancy to pay an amount equal to the deposit into a designated account held by the scheme administrator.
- (3) The designated account must not contain anything other than amounts paid into it as mentioned in sub-paragraph (2) and any interest accruing on such amounts.
- (4) Subject to sub-paragraph (5), the scheme administrator may retain any interest accruing on such amounts.
- (5) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 4 [<sup>F4</sup>or 4C] to be paid with interest -
- (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify by order.

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- (6) With the exception of any interest retained in accordance with subparagraph (4), nothing contained in the designated account may be used to fund the administration of the scheme.
- (7) In this paragraph "the relevant amount", in relation to a tenancy deposit, means the amount paid into the designated account in respect of the deposit.

#### Textual Amendments

- F4** Words in [Sch. 10 para. 3\(5\)](#) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 11](#)

#### Commencement Information

- I3** [Sch. 10 para. 3.](#) wholly in force at 6.4.2007; [Sch. 10 para. 3.](#) in force for certain purposes at Royal Assent see [s. 270\(2\)\(b\)](#); [Sch. 10 para. 3.](#) in force for W. at 6.4.2007 by [S.I. 2007/305](#), [art. 2](#); [Sch. 10 para. 3.](#) in force for E. at 6.4.2007 by [S.I. 2007/1068](#), [art. 2\(a\)](#)

#### *Custodial schemes: termination of tenancies*

- 4 (1) A custodial scheme must make provision—
  - (a) for enabling the tenant and the landlord under a shorthold tenancy in connection with which a tenancy deposit is held in accordance with the scheme to apply, at any time after the tenancy has ended, for the whole or part of the relevant amount to be paid to him, and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the following provisions of this paragraph.
- (2) Sub-paragraph (3) applies where the tenant and the landlord notify the scheme administrator that they have agreed that the relevant amount should be paid—
  - (a) wholly to one of them, or
  - (b) partly to the one and partly to the other.
- (3) If, having received such a notification, the scheme administrator is satisfied that the tenant and the landlord have so agreed, the scheme administrator must arrange for the relevant amount to be paid, in accordance with the agreement, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.
- (4) Sub-paragraph (5) applies where the tenant or the landlord notifies the scheme administrator that—
  - (a) a court has decided that the relevant amount is payable either wholly to one of them or partly to the one and partly to the other, and
  - (b) that decision has become final.
- <sup>F5</sup>(4A) Sub-paragraph (5) also applies where the tenant or the landlord notifies the scheme administrator that a person acting as an adjudicator under the provision made under paragraph 10 has made a binding decision that the relevant amount is payable either wholly to one of them or partly to one and partly to the other.]
- (5) If, having received [<sup>F6</sup>a notification as mentioned in sub-paragraph (4) or (4A)], the scheme administrator is satisfied as to the matters mentioned in [<sup>F7</sup>that sub-paragraph], the scheme administrator must arrange for the relevant amount to be

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paid, in accordance with the decision, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.

- (6) For the purposes of this Schedule a decision becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (7) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (8) In this paragraph “the relevant amount” has the meaning given by paragraph 3(7).

#### Textual Amendments

- F5** Sch. 10 para. 4(4A) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 3\(2\)](#)
- F6** Words in Sch. 10 para. 4(5) substituted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 3\(3\)](#)
- F7** Words in Sch. 10 para. 4(5) substituted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 3\(3\)](#)

#### Commencement Information

- I4** Sch. 10 para. 4 wholly in force at 6.4.2007; Sch. 10 para. 4 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 4 in force for W. at 6.4.2007 by [S.I. 2007/305](#), [art. 2](#); Sch. 10 para. 4 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), [art. 2\(a\)](#)

*<sup>F8</sup>Custodial schemes: termination of tenancies - absent or un-cooperative landlord or tenant*

#### Textual Amendments

- F8** Sch. 10 para. 4A-4C and preceding cross-heading inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 3\(4\)](#)

- 4A (1) The provision made by a custodial scheme for the purposes of paragraph 4(1) in relation to the treatment of the relevant amount at the end of a tenancy must include provision—
- (a) for enabling the landlord, if he considers that the conditions set out in sub-paragraph (2) are met, to apply to the scheme administrator for the whole or a specified part of the relevant amount (“the amount claimed”) to be paid to him; and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the provisions of paragraph 4C.
- (2) Such an application may be made if—
- (a) at least 14 days have elapsed since the day on which the tenancy ended;
  - (b) the landlord and tenant have not reached an agreement under paragraph 4(2) with respect to the amount claimed;
  - (c) either sub-paragraph (3) or sub-paragraph (4) applies; and

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- (d) the landlord believes that he is entitled to be paid the amount claimed and that the amount claimed is referable to sums falling within sub-paragraph (5).
- (3) This sub-paragraph applies if the landlord has no current address for, or other means of contacting, the tenant.
- (4) This sub-paragraph applies if—
  - (a) the tenant has, since the tenancy ended, received from the landlord a written notice asking whether the tenant accepts that the landlord should be paid the whole or a specified part of the relevant amount; and
  - (b) the tenant has failed to respond to that notice within the period of 14 days beginning with the day on which he received the notice by indicating to the landlord whether he accepts that the landlord should be paid the relevant amount or the specified part of it (as the case may be).
- (5) The amount claimed must be referable to—
  - (a) an amount of unpaid rent or any other sum due under the terms of the tenancy; or
  - (b) a liability of the tenant to the landlord arising under or in connection with the tenancy in respect of—
    - (i) damage to the premises subject to the tenancy, or
    - (ii) loss of or damage to property on those premises,other than damage caused by fair wear and tear.
- (6) If sub-paragraph (4) applies and the notice specifies part of the relevant amount, the amount claimed in the application must not exceed the specified part.
- (7) The application must be accompanied by a statutory declaration made by the landlord stating—
  - (a) the date on which the tenancy ended;
  - (b) that the landlord and the tenant have not reached any agreement under paragraph 4(2) with respect to the amount claimed, with details of any communications between them since that date (whether relating to the relevant amount or otherwise);
  - (c) the basis on which the amount claimed is calculated, with particulars of any facts relied on to justify claiming that amount;
  - (d) if the landlord relies on the condition in sub-paragraph (3), that he has no current address for, or other means of contacting, the tenant, giving particulars of any address (other than the premises subject to the tenancy) and other contact details (including telephone numbers or e mail addresses) which the landlord has had for the tenant;
  - (e) if the landlord relies on the condition in sub-paragraph (4), that the condition is met, with particulars of the facts relied on to demonstrate that it is met and attaching a copy of the notice given to the tenant;
  - (f) any information he has as to the whereabouts of the tenant;
  - (g) that he gives his consent, in the event of the tenant disputing that the landlord should be paid the amount claimed, for the dispute to be resolved through the use of the dispute resolution service;
  - (h) that he considers that he is entitled to be paid the amount claimed; and

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- (i) that he makes the statutory declaration knowing that if he knowingly and wilfully makes a false declaration he may be liable to prosecution under the <sup>M1</sup>Perjury Act 1911.

**Marginal Citations**

**M1** 1911 c. 6

- 4B (1) The provision made by a custodial scheme for the purposes of paragraph 4(1) in relation to the treatment of the relevant amount at the end of a tenancy must include provision—
- (a) for enabling the tenant, if he considers that the conditions set out in sub-paragraph (2) are met, to apply to the scheme administrator for the whole or a specified part of the relevant amount (“the amount claimed”) to be paid to him; and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the provisions of paragraph 4C.
- (2) Such an application may be made if—
- (a) at least 14 days have elapsed since the day on which the tenancy ended;
  - (b) the landlord and tenant have not reached an agreement under paragraph 4(2) with respect to the amount claimed;
  - (c) either sub-paragraph (3) or sub-paragraph (4) applies; and
  - (d) the tenant believes that he is entitled to be paid the amount claimed.
- (3) This sub-paragraph applies if the tenant has no current address for, or other means of contacting, the landlord.
- (4) This sub-paragraph applies if—
- (a) the landlord has, since the tenancy ended, received from the tenant a written notice asking whether the landlord accepts that the tenant should be paid the whole or a specified part of the relevant amount; and
  - (b) the landlord has failed to respond to that notice within the period of 14 days beginning with the day on which he received the notice by indicating to the tenant whether he accepts that the tenant should be paid the relevant amount or the specified part of it (as the case may be).
- (5) If sub-paragraph (4) applies and the notice specifies part of the relevant amount, the amount claimed in the application must not exceed the specified part.
- (6) The application must be accompanied by a statutory declaration made by the tenant stating—
- (a) the date on which the tenancy ended;
  - (b) that the landlord and the tenant have not reached any agreement under paragraph 4(2) with respect to the amount claimed, with details of any communications between them since that date (whether relating to the relevant amount or otherwise);
  - (c) if the tenant relies on the condition in sub-paragraph (3), that he has no current address for, or other means of contacting, the landlord, giving particulars of any address and other contact details (including telephone numbers or e mail addresses) which the tenant has had for the landlord;

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- (d) if the tenant relies on the condition in sub-paragraph (4), that the condition is met, with particulars of the facts relied on to demonstrate that it is met and attaching a copy of the notice given to the landlord;
- (e) any information he has as to the whereabouts of the landlord;
- (f) that he gives his consent, in the event of the landlord disputing that the tenant should be paid the amount claimed, for the dispute to be resolved through the use of the dispute resolution service;
- (g) that he considers that he is entitled to be paid the amount claimed; and
- (h) that he makes the statutory declaration knowing that if he knowingly and wilfully makes a false declaration he may be liable to prosecution under the <sup>M2</sup>Perjury Act 1911.

#### Marginal Citations

M2 1911 c. 6

- 4C (1) Immediately upon receipt of—
- (a) a duly completed application from the landlord, accompanied by a statutory declaration which appears to meet the requirements of paragraph 4A(7), or
  - (b) a duly completed application from the tenant, accompanied by a statutory declaration which appears to meet the requirements of paragraph 4B(6),
- the scheme administrator must give to the tenant or, as the case may be, the landlord (“the other party”) a copy of the application and accompanying statutory declaration and a notice under sub-paragraph (2).
- (2) A notice under this sub-paragraph is a notice—
- (a) asking the other party to indicate—
    - (i) whether he accepts that the applicant should be paid the whole or part of the amount claimed;
    - (ii) if he accepts that part of the amount claimed should be paid, the amount he accepts should be paid; and
    - (iii) if he does not accept that the applicant should be paid the whole of the amount claimed, whether he consents to the dispute being resolved through the use of the dispute resolution service; and
  - (b) warning the other party that—
    - (i) the amount claimed will be paid to the applicant unless, within the relevant period, the other party informs the scheme administrator that he does not accept that the whole of the amount claimed should be paid to the applicant; and
    - (ii) if the other party responds to the scheme administrator informing him that he does not accept that the whole of the amount claimed should be paid to the applicant, but fails to respond within the relevant period to the question mentioned in paragraph (a)(iii), he will be treated as having given his consent for the dispute to be resolved through the use of the dispute resolution service.
- (3) If within the relevant period the scheme administrator receives a response from the other party to the effect that he accepts that the amount claimed should be paid to the applicant—
- (a) the application must be granted; and

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- (b) the scheme administrator must arrange for the amount claimed to be paid to the applicant within the period of 10 days beginning with the day on which the scheme administrator receives that response.
- (4) If within the relevant period the scheme administrator receives a response from the other party to the effect that he does not accept that the applicant should be paid any of the amount claimed—
  - (a) the application must be refused;
  - (b) the scheme administrator must not pay the amount claimed to either party except in accordance with the relevant provisions of paragraph 4; and
  - (c) the scheme administrator must inform the applicant of the other party's response to the questions asked in the notice under sub-paragraph (2).
- (5) If within the relevant period the scheme administrator receives a response from the other party to the effect that he accepts that part of the amount claimed should be paid to the applicant—
  - (a) sub-paragraph (3) applies in relation to that part of the amount claimed; and
  - (b) sub-paragraph (4) applies to so much of the application as relates to the rest of the amount claimed.
- (6) If the scheme administrator does not, within the relevant period, receive a response from the other party indicating whether he accepts that the whole or part of the amount claimed should be paid to the applicant, the scheme administrator must arrange for the amount claimed to be paid to the applicant within the period of 10 days beginning with the day after the last day of the relevant period.
- (7) If within the relevant period the scheme administrator receives a response from the other party to the effect that he does not accept that the applicant should be paid the whole of the amount claimed but the other party fails within that period to indicate whether he consents to the dispute being resolved through the use of the dispute resolution service—
  - (a) the other party is to be treated as having given his consent to the use of that service; and
  - (b) the scheme administrator must inform the applicant that such consent is treated as having been given.
- (8) In this paragraph “the relevant period”, in relation to the application, means the period of 14 days beginning with the day on which the notice mentioned in sub-paragraph (2) is received by the other party.]

*Insurance schemes: general*

- 5 (1) This paragraph applies to an insurance scheme.
- [<sup>F9</sup>(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.]
- (2) The scheme must provide that any landlord by whom a tenancy deposit is retained under the scheme must give the scheme administrator an undertaking that, if the



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scheme administrator directs the landlord to pay him any amount in respect of the deposit in accordance with paragraph 6(3) or (7), the landlord will comply with such a direction.

- (3) The scheme must require the scheme administrator to effect, and maintain in force, adequate insurance in respect of failures by landlords by whom tenancy deposits are retained under the scheme to comply with such directions as are mentioned in sub-paragraph (2).
- [<sup>F10</sup>(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) If the scheme provides for landlords participating in the scheme to be members of the scheme, the scheme may provide for a landlord's membership to be terminated by the scheme administrator in the event of any [<sup>F11</sup>failure by the landlord to comply with a relevant obligation].
- [<sup>F12</sup>(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.]

(5) The scheme may provide for landlords participating in the scheme to pay to the scheme administrator—

    - (a) fees in respect of the administration of the scheme, and
    - (b) contributions in respect of the cost of the insurance referred to in sub-paragraph (3).

[<sup>F13</sup>(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.]

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#### Textual Amendments

- F9** Sch. 10 para. 5(1A) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 4(2)**
- F10** Sch. 10 para. 5(3A)(3B) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 4(3)**
- F11** Words in Sch. 10 para. 5(4) substituted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), {art. 4(4)}
- F12** Sch. 10 para. 5(4A)(4B) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 4(5)**
- F13** Sch. 10 para. 5(6)(7) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 4(6)**

#### Commencement Information

- I5** Sch. 10 para. 5 wholly in force at 6.4.2007; Sch. 10 para. 5 not in force at Royal Assent see [s. 270\(4\)\(5\)](#); Sch. 10 para. 5 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; Sch. 10 para. 5 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**

*<sup>F14</sup>Requirements where deposit is to cease to be retained under an insurance scheme*

#### Textual Amendments

- F14** Sch. 10 para. 5A and preceding cross-heading inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 5**

- 5A (1) This paragraph applies in relation to—
- (a) a notice of the kind mentioned in paragraph 5(1A)(b) or (3B), or
  - (b) a notice from the scheme administrator stating that he proposes to terminate a landlord's membership of the scheme under paragraph 5(4),
- given in accordance with an insurance scheme.
- (2) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in paragraph 5(1A)(b) which has not been not withdrawn—
- (a) to determine the date on which the tenancy deposit is to cease to be retained under the scheme; and
  - (b) to give a notice under sub-paragraph (4) to the landlord and to the tenant.
- (3) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in paragraph 5(3B), to take the following steps after the end of the period of 14 days beginning with the day on which that notice is received—
- (a) to determine whether the deposit should cease to be retained under the scheme and, if so, the date on which it is to cease to be so retained;
  - (b) if the determination is that the deposit should continue to be retained under the scheme, to give a notice of the determination to the landlord;
  - (c) if the determination is that the deposit should cease to be so retained, to give a notice under sub-paragraph (4) to the landlord and to the tenant.
- (4) A notice under this sub-paragraph is a notice—
- (a) identifying the tenancy deposit in question;

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- (b) informing the recipients of the notice of the determination made by the scheme administrator and stating the date when the deposit ceases to be retained under the scheme; and
  - (c) giving a general explanation of the continuing effect of sections 213 to 215 of this Act in relation to the deposit (including in particular the effect of section 213 as modified by sub-paragraph (9)).
- (5) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in sub-paragraph (1)(b), to take the following steps after the end of the period of 14 days beginning with the day on which that notice is received—
  - (a) to determine whether to terminate the landlord's membership and, if so, the date on which his membership is to terminate;
  - (b) if the determination is that the landlord should continue as a member, to give a notice of the determination to the landlord; and
  - (c) if the determination is that the membership should be terminated, to give a notice under sub-paragraph (6) to the landlord and to the tenant under any tenancy in relation to which a deposit affected by the determination is retained under the scheme.
- (6) A notice under this sub-paragraph is a notice—
  - (a) informing the recipients of the notice of the determination by the scheme administrator that the landlord's membership of the scheme is to be terminated and stating the date on which his membership terminates;
  - (b) giving a general explanation of the effect of the termination on any tenancy deposits retained by the landlord under the scheme; and
  - (c) giving a general explanation of the continuing effect of sections 213 to 215 of this Act in relation to any tenancy deposits that cease to be retained under the scheme as a result of the termination of membership (including in particular the effect of section 213 as modified by sub-paragraph (9)).
- (7) The date determined under sub-paragraph (2)(a), (3)(a) or (5)(a) must not be within the period of three months beginning with the day on which the original notice mentioned in sub-paragraph (1) was received.
- (8) A notice under sub-paragraph (4) or (6) must be given at least two months before the date on which the deposit ceases to be retained under the scheme or the landlord's membership terminates (as the case may be).
- (9) In the application of section 213 to a tenancy deposit which ceases to be retained under an insurance scheme (“the old scheme”) by virtue of a determination mentioned in this paragraph—
  - (a) references to receiving the deposit include a reference to ceasing to retain it under the terms of the old scheme;
  - (b) subsection (3) has effect as if for the words “within the period of 14 days beginning with the date on which it is received” there were substituted before the deposit ceases to be retained under the old scheme; and
  - (c) subsection (6)(b) has effect as if the reference to the date on which the landlord receives the deposit were a reference to the date on which the deposit ceases to be retained under the old scheme.]

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: Housing Act 2004, SCHEDULE 10 is up to date with all changes known to be in force on or before 18 April 2024. 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)*

*Insurance schemes: termination of tenancies*

- 6 (1) An insurance scheme must make provision in accordance with this paragraph and paragraphs [<sup>F15</sup>6A to] 8 in relation to the respective obligations of the landlord and the scheme administrator where—
- (a) a tenancy deposit has been retained by the landlord under the scheme, and
  - (b) the tenancy has ended.
- (2) Sub-paragraphs (3) to (9) apply where the tenant notifies the scheme administrator that—
- (a) the tenant has requested the landlord to repay to him the whole or any part of the deposit, and
  - (b) the amount in question (“the outstanding amount”) has not been repaid to him within the period of 10 days beginning with the date on which the request was made.
- [<sup>F16</sup>(2A) When a tenant gives notice under sub-paragraph (2) he must also indicate whether he consents to any dispute as to the amount to be repaid to him being resolved through the use of the dispute resolution service.]
- (3) On receiving a notification in accordance with sub-paragraph (2), the scheme administrator must direct the landlord—
- (a) to pay an amount equal to the outstanding amount into a designated account held by the scheme administrator, and
  - (b) to do so within the period of 10 days beginning with the date on which the direction is received by the landlord.
- (4) The following sub-paragraphs apply where the tenant or the landlord notifies the scheme administrator—
- (a) that a court has decided that the outstanding amount is payable either wholly to one of them or partly to the one and partly to the other and the decision has become final (see paragraph 4(6) and (7)), <sup>F17</sup> . . .
  - (b) that the tenant and landlord have agreed that such an amount is to be paid either wholly to one of them or partly to the one and partly to the other. [<sup>F18</sup> or
  - (c) that a person acting as an adjudicator under the provision made under paragraph 10 has made a binding decision that the outstanding amount is payable either wholly to one of them or partly to one and partly to the other.]
- (5) If the scheme administrator is satisfied as to the matters mentioned in sub-paragraph (4)(a) [<sup>F19</sup>, (b) or (c)](as the case may be), he must—
- (a) pay to the tenant any amount due to him in accordance with the decision or agreement (and, to the extent possible, pay that amount out of any amount held by him by virtue of sub-paragraph (3)), and
  - (b) comply with sub-paragraph (6) or (7), as the case may be.
- (6) Where any amount held by the scheme administrator by virtue of sub-paragraph (3) is more than any amount due to the tenant in accordance with the decision or agreement, the scheme administrator must pay the balance to the landlord.
- (7) Where any amount so held by the scheme administrator is less than any amount so due to the tenant, the scheme administrator must direct the landlord to pay him the difference within the period of 10 days beginning with the date on which the direction is received by the landlord.

*Status: Point in time view as at 06/04/2007.*

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- (8) The scheme administrator must pay any amounts required to be paid to the tenant or the landlord as mentioned in sub-paragraph (5)(a) or (6) within 10 days beginning with the date on which the notification is received by the scheme administrator.
- (9) The landlord must comply with any direction given in accordance with sub-paragraph (3) or (7).

#### Textual Amendments

- F15** Words in Sch. 10 para. 6(1) substituted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 6\(2\)](#)
- F16** Sch. 10 para. 6(2A) inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 6\(3\)](#)
- F17** Word in Sch. 10 para. 6(4) omitted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 6\(4\)\(a\)](#)
- F18** Sch. 10 para. 6(4)(c) and preceding word inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 6\(4\)\(b\)](#)
- F19** Words in Sch. 10 para. 6(5) substituted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 6\(5\)](#)

#### Commencement Information

- I6** Sch. 10 para. 6 wholly in force at 6.4.2007; Sch. 10 para. 6 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 6 in force for W. at 6.4.2007 by [S.I. 2007/305](#), [art. 2](#); Sch. 10 para. 6 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), [art. 2\(a\)](#)

*<sup>F20</sup>Notice to be sent to landlord when a direction under paragraph 6(3) is given*

#### Textual Amendments

- F20** Sch. 10 para. 6A and preceding cross-heading inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#) {art. 7}

- 6A (1) This paragraph applies where the scheme administrator of an insurance scheme gives a direction under paragraph 6(3) to a landlord.
- (2) The scheme administrator must also send to the landlord a notice—
- (a) asking the landlord to indicate—
    - (i) whether he accepts that the tenant should be repaid the whole or part of the outstanding amount;
    - (ii) if he accepts that part of it should be repaid, the amount he accepts should be repaid; and
    - (iii) if he does not accept that the tenant should be repaid the whole of the outstanding amount, whether he consents to the dispute being resolved through the use of the dispute resolution service; and
  - (b) warning the landlord that if he does not accept that the tenant should be repaid the whole of the outstanding amount but fails to respond within the relevant period to the question mentioned in paragraph (a)(iii), he will be treated as having given his consent for the dispute to be resolved through the use of that service.

*Status: Point in time view as at 06/04/2007.*

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- (3) If the scheme administrator does not, within the relevant period, receive a response from the landlord indicating whether he accepts that the whole or part of the outstanding amount should be paid to the tenant—
- (a) the scheme administrator must treat the lack of a response as an indication that the landlord does not accept that the tenant should be repaid any of the outstanding amount;
  - (b) the scheme administrator must determine forthwith whether he is satisfied that the notice was received by the landlord;
  - (c) if the scheme administrator determines that he is satisfied that it was so received, the landlord is to be treated as having given his consent for the dispute to be resolved through the use of the dispute resolution service; and
  - (d) the scheme administrator must inform the tenant and the landlord whether or not such consent is to be treated as having been given.
- (4) If within the relevant period the scheme administrator receives a response to the notice under sub-paragraph (2) to the effect that the landlord does not accept that the tenant should be repaid the whole of the outstanding amount but the landlord fails within that period to indicate whether he consents to the dispute being resolved through the dispute resolution service—
- (a) the landlord is to be treated as having given his consent for the dispute to be resolved through the use of that service; and
  - (b) the scheme administrator must inform the tenant and the landlord that such consent is to be treated as given.
- (5) In this paragraph—
- “the outstanding amount” has the same meaning as in paragraph 6;
- “the relevant period” means the period of 10 working days beginning with the day after that on which the notice referred to in sub-paragraph (2) is sent; and
- “working days” shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday and any day which, under the Banking and Financial Dealings Act 1971 <sup>M3</sup>, is a bank holiday in England and Wales.]

#### Marginal Citations

**M3** 1971 c 80.

#### *[<sup>F21</sup>Insurance schemes – supplementary provisions*

#### Textual Amendments

**F21** Cross-heading preceding Sch. 10 para. 7 inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 12](#)

- <sup>x17</sup> (1) The designated account held by the scheme administrator must not contain anything other than amounts paid into it as mentioned in paragraph 6(3) and any interest accruing on such amounts.
- (2) Subject to sub-paragraph (3), the scheme administrator may retain any interest accruing on such amounts.

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: Housing Act 2004, SCHEDULE 10 is up to date with all changes known to be in force on or before 18 April 2024. 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)*

- (3) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 6(5)(a) or (6) to be paid with interest—
- (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify for the purposes of paragraph 3(5)(b).
- (4) With the exception of any interest retained in accordance with sub-paragraph (2), nothing contained in the designated account may be used to fund the administration of the scheme.
- (5) In this paragraph “the relevant amount”, in relation to a tenancy deposit, means the amount, in respect of the deposit, paid into the designated account by virtue of a direction given in accordance with paragraph 6(3).

#### Editorial Information

- X1** The insertion of the new heading "Insurance schemes - supplementary provisions" in Sch. 10 on 6.4.2007 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### Commencement Information

- I7** Sch. 10 para. 7 wholly in force at 6.4.2007; Sch. 10 para. 7 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 7 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 7 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

- <sup>x2</sup>8 (1) The scheme must make provision for preventing double recovery by a tenant in respect of the whole or part of the deposit, and may in that connection make provision—
- (a) for excluding or modifying any requirement imposed by the scheme in accordance with paragraph 6 or 7, and
  - (b) for requiring the repayment of amounts paid to the tenant by the scheme administrator.
- (2) In this paragraph “double recovery”, in relation to an amount of a tenancy deposit, means recovering that amount both from the scheme administrator and from the landlord.]

#### Editorial Information

- X2** The insertion of the new heading "Insurance schemes - supplementary provisions" in Sch. 10 on 6.4.2007 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### Commencement Information

- I8** Sch. 10 para. 8 wholly in force at 6.4.2007; Sch. 10 para. 8 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 8 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 8 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: Housing Act 2004, SCHEDULE 10 is up to date with all changes known to be in force on or before 18 April 2024. 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)*

### *Notifications to tenants*

- 9 (1) Every custodial scheme or insurance scheme must provide for the scheme administrator to respond as soon as is practicable to any request within sub-paragraph (2) made by the tenant under a shorthold tenancy.
- (2) A request is within this sub-paragraph if it is a request by the tenant to receive confirmation that a deposit paid in connection with the tenancy is being held in accordance with the scheme.

#### **Commencement Information**

- I9** Sch. 10 para. 9 wholly in force at 6.4.2007; Sch. 10 para. 9 not in force at Royal Assent see s. 270(4) (5); Sch. 10 para. 9 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 9 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

### *Dispute resolution procedures*

- 10 (1) Every custodial scheme or insurance scheme must provide for facilities to be available for enabling disputes relating to tenancy deposits subject to the scheme to be resolved without recourse to litigation.
- (2) The scheme must not, however, make the use of such facilities compulsory in the event of such a dispute.
- [<sup>F22</sup>(3) The provision made under this paragraph may confer power on a person acting as an adjudicator in relation to such a dispute to decline to proceed, or continue to proceed, with the case.
- (4) In this Schedule, in relation to a custodial scheme or an insurance scheme, “the dispute resolution service” means the facilities provided by the scheme in accordance with this paragraph.]

#### **Textual Amendments**

- F22** Sch. 10 para. 10(3)(4) inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 8

#### **Commencement Information**

- I10** Sch. 10 para. 10 wholly in force at 6.4.2007; Sch. 10 para. 10 not in force at Royal Assent see s. 270(4) (5); Sch. 10 para. 10 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 10 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

### *[<sup>F23</sup>Service of documents: general*

#### **Textual Amendments**

- F23** Sch. 10 paras. 10A-10C and cross-headings inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 9



*Status: Point in time view as at 06/04/2007.*

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- 10A A tenancy deposit scheme may make provision as to the methods which may be used for giving or sending any direction, notice or other document which falls to be given or sent under the scheme.

*Service of documents by scheme administrator on landlords*

- 10B (1) The provision made by a tenancy deposit scheme under paragraph 10A may include provision for any direction, notice or other document mentioned in this Schedule which is to be given or sent to a landlord by the scheme administrator to be treated as having been received on the second day after the day on which it is sent by first class post to the landlord at the address last provided by him to the scheme administrator as the postal address to which correspondence may be sent.
- (2) Sub-paragraph (1) does not apply to the notice mentioned in paragraph 6A(2).
- (3) Provision made under sub-paragraph (1) may require the scheme administrator—
- (a) to send a document to an address other than that mentioned in that sub-paragraph; or
  - (b) to use or attempt to use any other available means of communication, before sending a document which is to be treated as having been received as mentioned in that sub-paragraph.

*Service of documents by scheme administrator on tenants*

- 10C (1) The provision made by a tenancy deposit scheme under paragraph 10A may include provision for any notice or other document mentioned in this Schedule which is to be given or sent to a tenant by the scheme administrator to be treated as having been received on the second day after the day on which it is sent by first class post to the tenant at the proper address.
- (2) In the case of a notice mentioned in paragraph 4C(2), the proper address is—
- (a) the address (if any) last provided to the scheme administrator as the address to which correspondence may be sent; or
  - (b) if no such address has been provided, the address given in the landlord's statutory declaration as the tenant's last known address or, if the scheme administrator has a more recent address for the tenant, that address.
- (3) In the case of a notice of the kind mentioned in paragraph 5A(4) or (6), the proper address is the address of the premises subject to the tenancy in question.
- (4) Provision made under sub-paragraph (1) may require the scheme administrator—
- (a) to send a document to an address other than the proper address, or
  - (b) to use or attempt to use any other available means of communication, before sending a document which is to be treated as having been received as mentioned in that sub-paragraph]

**Textual Amendments**

**F23** Sch. 10 paras. 10A-10C and cross-headings inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 9](#)

*Status: Point in time view as at 06/04/2007.*

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#### *Power to amend*

- 11 The appropriate national authority may by order make such amendments of this Schedule as it considers appropriate.

#### **Commencement Information**

- I11** Sch. 10 para. 11 wholly in force at 6.4.2007; Sch. 10 para. 11 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 10 para. 11 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 11 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

#### *Interpretation*

- 12 In this Schedule references to tenants under shorthold tenancies include references to persons who, in accordance with arrangements made with such tenants, have paid tenancy deposits on behalf of the tenants.

#### **Commencement Information**

- I12** Sch. 10 para. 12 wholly in force at 6.4.2007; Sch. 10 para. 12 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 12 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 12 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

**Status:**

Point in time view as at 06/04/2007.

**Changes to legislation:**

Housing Act 2004, SCHEDULE 10 is up to date with all changes known to be in force on or before 18 April 2024. 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.