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**Changes to legislation:** *Housing Act 2004, Paragraph 4A is up to date with all changes known to be in force on or before 25 May 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) View outstanding changes*

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## SCHEDULES

### SCHEDULE 10

#### PROVISIONS RELATING TO TENANCY DEPOSIT SCHEMES

*[<sup>F1</sup>Custodial schemes: termination of tenancies - absent or un-cooperative landlord or tenant*

##### Textual Amendments

**F1** 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
  - (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

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- (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
  - (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. ]

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**Marginal Citations**

**M1** 1911 c. 6

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)