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STATUTORY INSTRUMENTS

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**2007 No. 796**

**HOUSING, ENGLAND AND WALES**

**The Housing (Tenancy Deposit Schemes) Order 2007**

*Made* - - - - *13th March 2007*

*Coming into force* - - *6th April 2007*

The Secretary of State, as respects England, and the National Assembly for Wales, as respects Wales, in exercise of the power conferred by paragraph 11 of Schedule 10 to the Housing Act 2004<sup>(1)</sup> make this Order.

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 250(6) of that Act.

**Citation and commencement** **E+W**

1. This Order may be cited as the Housing (Tenancy Deposit Schemes) Order 2007 and shall come into force on 6th April 2007.

**Commencement Information**

**I1** Art. 1 in force at 6.4.2007, see [art. 1](#)

**Amendments to Schedule 10 to the Housing Act 2004** **E+W**

2. Schedule 10 to the Housing Act 2004 (provisions relating to tenancy deposit schemes) is amended as follows.

**Commencement Information**

**I2** Art. 2 in force at 6.4.2007, see [art. 1](#)

**Further provision about custodial schemes** **E+W**

3.—(1) Paragraph 4 (Custodial Schemes: general) is amended as follows.

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(1) [2004 c. 34](#). The powers conferred by paragraph 11 of Schedule 10 to the Housing Act 2004 are exercisable, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales. See the definition of the appropriate national authority in section 261(1) of the Act.

(2) After sub-paragraph (4) insert—

“(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.”

(3) In sub-paragraph (5), for “such a notification” substitute “a notification as mentioned in sub-paragraph (4) or (4A)” and for “sub-paragraph (4)(a) and (b)” substitute “that sub-paragraph”.

(4) After paragraph 4 insert—

“Custodial schemes: termination of tenancies - absent or un-cooperative landlord or tenant

(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
- (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 Perjury Act 1911(2).
- (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;
  - (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 Perjury Act 1911(3).
- (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
- (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.”

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**Commencement Information**

**I3** Art. 3 in force at 6.4.2007, see [art. 1](#)

**Further provision about insurance schemes** **E+W**

4.—(1) Paragraph 5 (insurance schemes: general) is amended as follows.

(2) After sub-paragraph (1) insert—

“(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.”
- (3) After sub-paragraph (3) insert—
- “(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) In sub-paragraph (4), for “such failure on the part of the landlord” substitute “failure by the landlord to comply with a relevant obligation”.
- (5) After sub-paragraph (4) insert—
- “(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.”
- (6) After sub-paragraph (5) insert—
- “(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.”
- 5.** After paragraph 5 insert—
- “Requirements where deposit is to cease to be retained under an insurance scheme
- (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;
  - (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.”

6.—(1) Paragraph 6 is amended as follows.

(2) In sub-paragraph (1), for “7 and” substitute “6A to”.

(3) After sub-paragraph (2) insert—

“(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.”

(4) In sub-paragraph (4)—

(a) omit “or” after paragraph (a); and

(b) after paragraph (b) insert—

“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) In sub-paragraph (5) for “or (b)” substitute “, (b) or (c)”.

7. After paragraph 6 insert—

“Notice to be sent to landlord when a direction under paragraph 6(3) is given

(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.

(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(4), is a bank holiday in England and Wales.”

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**Commencement Information**

- I4** Art. 4 in force at 6.4.2007, see [art. 1](#)
- I5** Art. 5 in force at 6.4.2007, see [art. 1](#)
- I6** Art. 6 in force at 6.4.2007, see [art. 1](#)
- I7** Art. 7 in force at 6.4.2007, see [art. 1](#)

**General** **E+W**

8. In paragraph 10 (dispute resolution procedures), after sub-paragraph (2) insert—
- “(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.”
9. After paragraph 10 insert—
- “Service of documents: general
- 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

(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

(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”

#### Commencement Information

**I8** Art. 8 in force at 6.4.2007, see [art. 1](#)

**I9** Art. 9 in force at 6.4.2007, see [art. 1](#)

#### Consequential amendments **E+W**

**10.** In paragraph 2—

- (a) in sub-paragraph (1), for “and 4” substitute “to 4C” and for “and 10” substitute “to 10C”; and
- (b) in sub-paragraph (2), for “and 10” substitute “to 10C”.

**11.** In paragraph 3, in sub-paragraph (5), after “paragraph 4” insert “or 4C”.

**12.** Before paragraph 7 insert—

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Housing (Tenancy Deposit Schemes) Order 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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*“Insurance schemes – supplementary provisions”*

**Commencement Information**

- I10** Art. 10 in force at 6.4.2007, see [art. 1](#)  
**I11** Art. 11 in force at 6.4.2007, see [art. 1](#)  
**I12** Art. 12 in force at 6.4.2007, see [art. 1](#)

Signed by authority of the Secretary of State  
for Communities and Local Government

13th March 2007

*Kay Andrews*  
Parliamentary Under Secretary Of State  
Department for Communities and Local  
Government

Signed on behalf of the National Assembly for Wales

6th March 2007

*Dafydd. Ellis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

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

Under section 212 of the Housing Act 2004 (“the Act”) the appropriate national authority (being, in England, the Secretary of State, and in Wales, the National Assembly for Wales) 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. Such a scheme must comply with the requirements of Schedule 10.

This Order, which extends to England and Wales, inserts new provisions into Schedule 10 to the Act in the following respects.

The Order inserts new paragraphs 4A, 4B and 4C which set out the procedures that apply after a tenancy is terminated but the parties are not able to agree to whom a deposit held in a custodial scheme should be paid, either because one of the parties has no current address for, or other means of contacting the other party, or because one party has failed to respond to the communications of the other within the period specified (*article 3*).

The Order inserts new sub-paragraphs into paragraph 5 and inserts new paragraph 5A. These paragraphs require insurance schemes to make provision as to the requirements that fall to be complied with by a landlord or scheme administrator where a landlord retaining a deposit under an insurance scheme gives notice to the scheme administrator that he no longer wishes to retain the deposit under the scheme. These paragraphs also require insurance schemes to make provision enabling the scheme administrator, by virtue of the landlord’s failure to comply with a relevant obligation, to determine that a tenancy deposit retained by a landlord under its scheme is to cease to be so retained. It requires provision to be made in the schemes to require the scheme administrator to give certain notices and information to the landlord and tenant. These paragraphs also require insurance schemes to make provisions to require scheme administrators, before terminating a landlord’s membership of a scheme after a landlord’s failure to comply with a relevant obligation, to give certain notices and information to a landlord and any of his tenants who will be affected by the termination. A “relevant obligation” is a duty to comply with a direction given by the scheme administrator to the landlord under paragraph 6(3) or (7) or any obligation under the scheme which is specified in the scheme as a relevant obligation for the purposes of paragraph 5A (*articles 4 and 5*).

The Order inserts a new sub-paragraph (2A) into paragraph 6. This requires a tenant, when notifying the scheme administrator of an insurance scheme under paragraph 6(2) that his landlord has not paid him the whole or part of the deposit he has requested, to indicate whether he consents to the use of the scheme’s dispute resolution service to resolve any dispute as to the amount of deposit to be paid to him by his landlord (*article 6*).

The Order inserts new paragraph 6A which makes provision for the scheme administrator of an insurance scheme, when giving a direction to a landlord to pay an amount into the designated account held by the scheme administrator, to send a notice to the landlord requesting certain information from him. In particular the scheme administrator must ask the landlord to indicate whether he agrees to any dispute being resolved through the use of the scheme’s dispute resolution service. If the scheme administrator determines that he is satisfied that the landlord has received the notice requesting this information, but the landlord fails to indicate whether or not he so consents within the period specified in the paragraph, he will be treated as having agreed to the use of the scheme’s dispute resolution service (*article 7*).

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Housing (Tenancy Deposit Schemes) Order 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

The Order inserts new sub-paragraphs into paragraph 10. New paragraph 10(3) provides that the provision of a dispute resolution service may confer a power on the person acting as an adjudicator in relation that service to decline to proceed with a dispute (or to continue to proceed with it). (*article 8*).

The Order inserts new paragraphs 10A, 10B and 10C, which make provision for the service of documents (*article 9*).

Finally, the Order makes some minor consequential amendments to paragraphs 2, 3 and 7 (*articles 10 to 12*).

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Housing (Tenancy Deposit Schemes) Order 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

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

- art. 1A inserted by [S.I. 2022/907 Sch. 1 para. 24](#)