

Tenancy Deposit Schemes – An Overview

What is a tenancy deposit?

A tenancy deposit is a sum of money which a landlord may ask a tenant to pay at the start of a tenancy, and which must not amount to more than two months rent. The landlord holds the money as security against the tenant not meeting their obligations in connection with a tenancy or occupancy arrangement. The tenancy agreement should set out the circumstances in which the deposit may be withheld by the landlord at the end of the tenancy. For example, the landlord may decide to keep some or all of a deposit if it is needed to pay for:

- damage the tenant has caused to the property
- cleaning bills if the property has been left in poor condition
- bills that are left unpaid, for example fuel or telephone bills
- any unpaid rent.

What is a tenancy deposit scheme?

A tenancy deposit scheme is an independent third party scheme which has been approved by the Scottish Government to hold and protect tenant's deposits until they need to be repaid at the end of the tenancy.

Why are the schemes being introduced?

The schemes are being introduced in response to concerns about the large sums of money that are unfairly withheld from tenants deposits by some landlords and letting agents at the end of a tenancy.

What are the benefits of having a scheme?

- **Tenancy deposits will be protected by an independent third party.** This will prevent deposit from being unfairly held by landlords or letting agents.
- **Schemes will be free.** There will be no charge for tenants, landlords or letting agents to join a scheme.
- **Quick repayment of deposits.** Where a landlord and tenant agree about the return of the deposit the scheme administrator must return the deposit within 5 working days.
- **Free access to an independent dispute resolution service.** Every approved scheme will provide a free service to resolve disagreements over the return of deposits as an alternative to legal action through the courts.
- **Improved professionalism of the private rented sector.** The introduction of a scheme will encourage consistent standards in relation to management of deposits and improve the image of the sector.

When will tenancy deposit schemes be available?

Tenancy deposits schemes will start operating on Monday 2 July 2012. The three schemes that have been approved by the Scottish Ministers are:

- The Letting Protection Service Scotland
- SafeDeposits Scotland
- MyDeposits Scotland

Which landlords must comply with a scheme?

Most landlords who let privately rented property are required to register with the local authority in which the property is situated. Every landlord who receives a deposit, and who is required to register in the local authority register of landlords (in accordance with the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#)) must comply with the [Tenancy Deposit Schemes \(Scotland\) Regulations 2011](#).

This includes landlords of assured and short assured tenancies, university accommodation, as well as various other types of occupancy arrangement.

For further information of Landlord Registration, please visit the Scottish Government website at: www.scotland.gov.uk or contact the landlord registration teams which operate within every local authority.

What does the introduction of a tenancy deposit scheme mean for landlords?

The regulations require that a landlord must pay deposits into an approved scheme and ensure that the money is held by an approved scheme for the duration of the tenancy. Evidence of registration with the relevant local authority must be provided when the deposit is paid over.

The tenant must also be provided with specific information about the tenancy, the deposit and the scheme that will be protecting it.

What happens if a landlord doesn't comply with the tenancy deposit legislation?

A tenant can take a landlord who doesn't protect the deposit with a scheme or provide the required information within the specified timescales to court. Where satisfied that a landlord has not complied, a sheriff can order the landlord to pay the tenant up to three times the deposit.

Advice agencies and local authorities will be able to offer guidance and support to a tenant who wishes to take action against their landlord over a tenancy deposit.

When must deposits be protected and information provided to tenants?

This will vary, depending on when the deposit was received:

	Date deposit received	Duty to comply
1	Deposit received on or after 2 July 2012 and before 2 October 2012	By 13 November 2012
2	Deposit received on or after 7 March 2011 and before 2 July 2012	By 13 November 2012
3	Deposit received on or after 2 October 2012	Within 30 working days of the beginning of the tenancy
4	Any deposit received prior to 7 March 2011 Unless the tenancy is renewed, either by express agreement or on tacit relocation, on or after 2 October 2012 and before 2 April 2013	By 15 May 2013 Within 30 working days of renewal

What happens if a landlord uses a letting agent?

A landlord can still use an agent to act on their behalf to manage a tenancy, as happens now. However, the duties in relation to tenancy deposits ultimately apply to the landlord, as the person requiring the deposit.

This means that any sanctions imposed by a court will apply to the landlord. It will be in the interests of any landlord who employs a letting agent to act on their behalf to satisfy themselves that they act in accordance with the Regulations.

The landlord may take action against the agent through the court if there has been a breach of contract, as is the case now.

Further Information

Further information about tenancy deposit schemes and free information sessions can be found on the [Scottish Government website](#).

Details of how the three schemes will operate and how landlords can join the schemes are available on the individual scheme web sites as shown below:

- www.lettingprotectionscotland.com
Contact: updates@lettingprotectionscotland.com
Telephone: 0844 472 6666
- www.safedepositsscotland.com
Contact: Rebecca.Johnston@safedepositsscotland.com
Telephone: 0141 553 4677

- www.mydepositsscotland.co.uk
Contact: Sean.Hooker@mydepositsscotland.co.uk
Telephone: 0207 840 8917

Advice

There are a number of places that can provide independent advice and assistance.

Shelter

www.scotland.shelter.org.uk.

Shelter also provide a free housing advice telephone helpline on 0808 800 4444.

National Union of Students Scotland

www.nus.org.uk

Telephone: 0131 556 6598

Citizens Advice Bureau

www.cas.org.uk

Landlord Accreditation Scotland – voluntary scheme for landlords to promote minimum standards of property management

www.landlordaccreditationscotland.com

Telephone on 0131 553 2211

Local councils – **can** provide advice on housing matters. Their central switchboard will help to put callers through to the appropriate person.

Scottish Association of Landlords – membership body for landlords in Scotland that can offer advice to landlords.

www.scottishlandlords.com

Tel: 0131 270 4774.