



What is the Tenancy Deposit Scheme?

An explanatory leaflet for landlords and tenants

Third edition

Introduction

Many tenants in the private sector give their landlords a deposit against possible nonpayment of rent or damage to property. When a tenancy comes to an end, there is usually no disagreement about the return of the deposit. But sometimes there is, and this can cause much hardship and inconvenience to both landlord and tenant.

The Housing Act 2004 (Chapter 4, sections 212–5; & Schedule 10) made provision for both the protection of tenancy deposits and the resolution of disputes over their return. The Dispute Service was awarded a contract by the Government to run a Tenancy Deposit Scheme.

The legislation came into effect on 6 April 2007. All deposits taken for Assured Shorthold Tenancies (ASTs) have had to be covered by a Tenancy Deposit Scheme. This now applies to ASTs where the annual rent does not exceed £100,000 in England and Wales.



What are the requirements in the Housing Act 2004?

Any landlord or agent who takes a deposit from a tenant for an AST must safeguard it in an approved Tenancy Deposit Scheme, and:

- the tenant must be told which one;
- the deposit must be in money;
- landlords in breach of these provisions will not be able to issue Section 21 notices, and may have to pay the tenant compensation of three times the deposit;
- the landlord/agent must submit the deposit to the operators of their scheme when requested to do so;
- each scheme must have procedures for resolving disputes without legal action – i.e. by Alternative Dispute Resolution – but the parties can go to court if they prefer.

There are strict time limits for the return of the deposit if there is no dispute.

The Act allows for both custodial and insured schemes. Custodial schemes are where the deposit is lodged with an independent third party i.e. outside the control of the landlord.

Insured schemes allow the landlord or their agent to retain control of the deposit as long as they are subject to suitable insurance arrangements.

Each Scheme has produced its own rules. Those for TDS are set out in the [Tenancy Deposit Scheme: Rules of Membership](#).

What is the Tenancy Deposit Scheme?

The Scheme has been developed to ensure that the deposits are protected and that disputes about their return are resolved swiftly, inexpensively and impartially.

Under the Tenancy Deposit Scheme:

- deposits will be protected during the tenancy.
- where there is no dispute at the end of the tenancy, the deposit should be returned promptly by whoever is holding it.
- where there is a dispute about the return of the deposit it will be dealt with fairly by the Independent Case Examiner (ICE).
- the ICE will make a decision quickly, and the deposit will be paid



out without unnecessary delay.

Who can join TDS?

Any private landlord or regulated letting agent offering residential property for rent is eligible to apply to join TDS. They will be asked to provide relevant information – as set out in the Rules of the Scheme – to determine if they can be accepted as members, and what their subscription will be.

What is The Dispute Service Ltd (TDS)?

The Dispute Service Ltd (TDS) is an independent, not-for-profit company established in 2003 to resolve complaints and disputes arising in the private rented sector speedily, cost-effectively and fairly. Agents who wish to join must be members of one of the Approved Bodies mentioned below. TDS operates one of the approved Tenancy Deposit Schemes.

What is an Approved Body?

An Approved Body is a Professional Body, Accreditation Scheme or Trade Association approved after assessment by TDS to give their members a streamlined application process and a reduced subscription. They are also expected to take appropriate disciplinary action against their members who fail to comply with the rules of the Scheme. The Association of Residential Letting Agents, Royal Institution of Chartered Surveyors, the National Association of Estate Agents, the National Approved Lettings Scheme and the Law Society are Approved Bodies.

How are the deposits held and protected?

The deposit holder, who is a member of TDS, holds the deposit, in a separate client account. In most cases the tenant and the landlord will decide between them, assisted by the agent if one has been involved, how the deposit should be allocated. If there is a dispute, the landlord or agent has the opportunity to resolve it. If that fails, any of the parties – landlord, agent or tenant – can approach the ICE. The ICE will appoint an adjudicator to assist in considering the evidence they provide,



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and will aim to issue a decision within 28 days of receiving all the necessary papers.



If there is a dispute, what happens to the deposit?

The member will transfer the disputed deposit amount to TDS. It has a special cash fund which enables the ICE to carry on with an adjudication and to pay out the disputed amount even if the member has not sent it. TDS will pay out the disputed amount according to the instructions of the ICE.

If the member does not send the disputed deposit amount, TDS will take legal action to recover it. TDS will claim the disputed deposit amount from its insurers if the member is unable to pay e.g. because it has become insolvent.

How are disputes resolved?

- The tenant has 20 working days to tell the member that they wish to dispute their proposed allocation of the deposit, and the member has 10 working days to resolve it.
- If not, the parties decide if they want to go to court, or to have the ICE deal with it – which is what most people prefer. Either way, the disputed deposit must be sent to TDS.
- The party who wishes to submit a deposit dispute to TDS sends details of the dispute on the **Notification of a Deposit Dispute** form, together with relevant documentation.
- Whoever is holding the deposit must send the amount in dispute to TDS.
- The ICE will copy the details of the dispute to the other parties, giving them 10 working days to send in their side of the story.
- The ICE will appoint an adjudicator with a view to issuing an adjudication within 28 days of receiving all the necessary paperwork.
- The disputed amount will be paid out in accordance with the adjudication within a further 10 working days.



Do all landlords and agents have to join TDS?

No. They can join one of the two other schemes. One is a custodial scheme managed by DPS Ltd and requires the landlord/agent to place deposits with them at the start of the tenancy. The other is run by Tenancy Deposits Solutions Ltd, trading as mydeposits.com, and is also insurance-based.

How much does it cost to join TDS?

The current subscriptions for agents and landlords can be found in our [Schedule of fees](#). Agents can recharge the subscription to landlords.

Provisional subscriptions for corporate landlords are available on application.

Where members submit data for entry on to the tenancy database on paper rather than electronically, there will be a charge for each document. Please note the data will not be entered until the fee has been paid.

There is generally no further charge for the resolution of disputes, which is free to tenants.

Management of TDS

TDS is overseen by a Board which is responsible for the operation and financing of the business. The Board does not have any role in the resolution of disputes.

Why is using Alternative Dispute Resolution better than sending disputes to court?

Deposit disputes need to be resolved quickly and cheaply. Tenants usually need the money as a deposit on their next property, and landlords need to know how much will be available to spend on redecoration, damage or repairs etc. Going to court takes time and can be expensive and stressful.

Our successful adjudication process is based on an expert assessment of documentary evidence (which can also include photographs and video).



Tenancy Deposit Scheme



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