



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 4

#### TENANCY DEPOSITS

#### **120 Tenancy deposits: preliminary**

- (1) A “tenancy deposit” is a sum of money held as security for—
  - (a) the performance of any of the occupant’s obligations arising under or in connection with a tenancy or an occupancy arrangement, or
  - (b) the discharge of any of the occupant’s liabilities which so arise.
- (2) A “tenancy deposit scheme” is a scheme for safeguarding tenancy deposits paid in connection with the occupation of any living accommodation.

#### **121 Tenancy deposit schemes: regulatory framework**

- (1) The Scottish Ministers may by regulations (“tenancy deposit regulations”)—
  - (a) set out conditions which a tenancy deposit scheme must meet before they can approve it under section 122,
  - (b) make such further provision about tenancy deposit schemes as they think fit.
- (2) Tenancy deposit regulations may, in particular—
  - (a) make provision about the manner and circumstances in which tenancy deposits must be paid, held and repaid under an approved scheme,
  - (b) impose sanctions for failing to participate in, or to comply with, an approved scheme,
  - (c) set out a mechanism for resolving disputes relating to an approved scheme,
  - (d) prescribe the type of person who may administer an approved scheme,
  - (e) authorise the Scottish Ministers to make payments, or to give guarantees or other assistance, in connection with—
    - (i) the creation, administration or operation of an approved scheme,
    - (ii) the resolution of disputes relating to an approved scheme,
  - (f) set the amount, or the maximum amount, of any fee which may be charged in connection with an approved scheme,

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*Status: This is the original version (as it was originally enacted).*

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(g) prescribe arrangements for publicising approved schemes.

(3) But tenancy deposit regulations may not—

- (a) prescribe circumstances in which tenancy deposits must be paid under a tenancy or an occupancy arrangement,
- (b) create offences.

## **122 Approval of tenancy deposit schemes**

(1) The Scottish Ministers may approve a tenancy deposit scheme devised by them or by any other person.

(2) Such an approval—

- (a) may not be given unless tenancy deposit regulations are in force, and
- (b) must be given in accordance with the tenancy deposit regulations then in force.

(3) Before approving a tenancy deposit scheme, the Scottish Ministers must—

- (a) publicise the terms of the proposed scheme in such manner as they think fit, and
- (b) consult—
  - (i) such persons representing landlords or tenants whom they think may be affected by the proposed scheme, and
  - (ii) such other persons as they think fit, about the proposed scheme.

(4) The Scottish Ministers must review each approved tenancy deposit scheme from time to time and may, following any such review—

- (a) take steps to secure the revision of the reviewed scheme, or
- (b) withdraw their approval of the reviewed scheme.

(5) Subsections (1) to (4) apply to revised schemes in the same way as they apply to new schemes (except that that the duty imposed by subsection (3) does not apply if the Scottish Ministers think that a proposed revision is unlikely to adversely affect any person significantly).

(6) The Scottish Ministers may approve—

- (a) different tenancy deposit schemes for different types of tenancy or occupancy arrangement,
- (b) more than one tenancy deposit scheme for the same type of tenancy or occupancy arrangement.

## **123 Amendment of Rent (Scotland) Act 1984**

In section 90(3) (declaration that deposits are not premiums) of the Rent (Scotland) Act 1984 (c. 58), after “obligations” insert “for rent,”.