

# HOUSING ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 6

#### *Section 212 : Tenancy deposit schemes*

495. [Section 212\(1\)](#) places a duty on the appropriate national authority to make arrangements to ensure that one or more tenancy deposit schemes (TDSs) are established to safeguard deposit monies paid in connection with assured shorthold tenancies.
496. [Section 212\(2\)](#) provides that TDS schemes will have two main purposes. They must aim to safeguard tenancy deposits paid in connection with an assured shorthold tenancy and to facilitate the resolution of disputes arising in connection with such deposits. All authorised tenancy deposit schemes must comply with the requirements of Schedule 10.
497. The appropriate national authority will be able to make arrangements with a body or person, known as the scheme administrator, to set up and manage a TDS on their behalf. The intention is for these to be contractual arrangements with private organisations. However, the sections do not limit these arrangements to just private organisations; the appropriate national authority is free to make arrangements with either private or public organisations.
498. Schemes are expected to be self-financing, but [section 212\(4\)](#) allows the appropriate national authority to give financial assistance, for example by way of a grant or to make payments to procure one or more schemes if necessary. The authority will also be able, if it wishes, to provide a financial guarantee for schemes, for example should the scheme be at risk from becoming insolvent. However, the appropriate national authority is under no obligation or duty to cover all, or any, of a scheme's financial obligations.
499. [Section 212 \(7\)](#) allows the appropriate national authority to make regulations giving additional powers to or conferring duties upon scheme administrators in connection with the arrangements made between the administrators and the appropriate national authority.
500. [Section 212\(8\)](#) defines a tenancy deposit as money, in the form of cash or otherwise, intended to be held as security against an assured shorthold tenants' performance of his obligations or the discharge of his liabilities in connection with the tenancy.