

## 1. Introduction

- 1.1 Tenancy deposit protection schemes ensure that deposits paid by tenants are kept safe and that Landlords act properly in making decisions.
- 1.2 TDP schemes guarantee that Landlords get their deposits back at the end of the tenancy, so long as they are in compliance with their obligations in the tenancy agreement and the property.
- 1.3 Landlords must protect deposits using a TDP scheme if they have let the property on an Assured Shorthold Tenancy (AST) which started on or after 6 April 2007 (the date that the legislation came into force).
- 1.4 Landlords must also protect deposits using a TDP scheme if an AST became a periodic tenancy after that date.
- 1.5 It is advisable for Landlords to protect deposits in a TDP scheme even where the AST started before that date. The Tribunal has decided in December 2014 that the restriction on security deposits (see section 3.2 below) applies in these circumstances.
- 1.6 If a tenancy is not an AST, Landlords do not have to use a TDP scheme for the deposit. However, it is good practice.

## 2. Capped Security Deposits

Under the Tenant Fees Act 2019, security deposits for new or renewed tenancies in England and Wales are capped at five weeks' rent if the yearly rent is under £50,000 or six weeks' rent if the yearly rent is £50,000 or more.

The weekly rent is worked out by dividing the yearly rent by 52.

Security deposits for tenancies entered into before the 01 June 2019 will not be affected but note landlords must return to a tenant the excess deposit which exceeds the cap for a fixed period of time after 01 June 2019.

## 3. TDP schemes

- 3.1 There are three official deposit protection schemes. They are:
  - 3.1.1 Deposit Protection Scheme (DPS) - Landlord must use one of these schemes. The DPS is a "custodial" scheme where the Landlord pays the deposit to the DPS which holds the money in a bank account. When the tenancy ends, the DPS releases the deposit to the person who paid it.

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a) Any scheme. A Landlord based outside the UK, unless he employs a UK-registered agent, cannot manage the tenancy.

b) There are three schemes. It is financed entirely from the deposits held in the scheme.

c) For further information see <http://www.depositprotection.com/>

3.1.2 MyDeposits is a scheme where the Landlord retains the deposit but protects it against the risk of the Landlord not paying the Tenant if the tenancy, the insurer will pay the deposit back from the Landlord.

a) Any scheme. Landlords pay a fee to join the scheme and a premium for each deposit.

b) For further information see <http://www.mydeposits.co.uk/>

3.1.3 Tenancy Deposit Scheme (TDS) is another insurance scheme.

a) TDS is similar to MyDeposits as the MyDeposits scheme, but it is run by a government approved professional body. Landlords who belong to an approved professional body have client money protection. Approved bodies include the Association of Residential Letting Agents (ARLA), the Royal Institution of Chartered Surveyors (RICS), the National Association of Estate Agents (NAEA) and the National Association of Approved Landlords (NAL).

b) For further information see <http://www.thedisputeservice.co.uk/>

**4. What happens if the Landlord does not protect the deposit?**

4.1 If Landlords do not protect the deposit, Tenants can take action. If a Landlord does not protect the deposit, Tenants can be required to repay the deposit to the Tenant in one and three times the amount of their deposit.

4.2 Landlords who have not protected the Tenants' deposits in accordance with the TDP legislation may be unable to seek possession of their property in certain circumstances. A Landlord will not be able to serve a Section 21 notice if the deposit has not been returned (if it was not protected in accordance with the TDP legislation) until the prescribed information has been served.

**5. What if there is a dispute about the deposit? How is the deposit to be returned?**

5.1 All three schemes provide a process for resolving disputes. It is also open to the Tenant to refer the dispute to court.

5.2 Landlords should tell the Tenant at the end of the tenancy how much of their deposit they are returning to them. Any part of the deposit

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remain protected in the TDP scheme until the

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will keep the deposit until its dispute resolution  
how much of the deposit should be returned to the  
ce-based schemes (MyDeposits or TDS) the  
ed amount of the deposit into the scheme while  
considers the dispute. The scheme will then pay

5.4 Pleas  
their

schemes' websites for detailed information about  
dures:

5.4.1

[www.mydeposits.com/](http://www.mydeposits.com/)

5.4.2

[www.tds.co.uk/](http://www.tds.co.uk/)

5.4.3

[www.tenancydepositprotection.co.uk/](http://www.tenancydepositprotection.co.uk/)

**6. Holding dep**

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landlords/ag  
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g deposits. Tenants sometimes pay a holding  
a tenancy agreement. It is best practice for  
Holding Deposit Agreement with the prospective  
given to the prospective tenant about when the

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holding deposits must be capped at one weeks'  
calendar days of the tenancy being entered into  
holding deposit to be applied to the first instalment  
curity deposit). Under the Tenant Fees Act 2019,  
tenant if the holding deposit is to be applied to the

If the Landl  
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enter into a tenancy agreement within 15 days of  
by the Tenant ('the Deadline for Agreement')  
Landlord must repay the holding deposit to the  
or Agreement.

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ect a holding deposit with a scheme before  
Tenant consents to the holding deposit being  
his must be protected with a scheme.

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misleading or false information.

**7. What happ  
Tenant Fees**

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**Letting Agent) does not comply with the**

England who doesn't comply with the deposit  
nt Fees Act 2019 in respect of new or renewed  
2019 can be liable for a fine in the sum of £5,000  
er offence is made within five years of the first  
offence and a landlord or letting agent could be

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Some local authorities may impose a financial  
alternative to prosecution.

7.2 Land  
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in certain circumstances.

**8. Protecting tenants**

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tenants' deposits using a TDP scheme if the students  
agency (this will not always be the case) and the  
April 2007.

**9. Protecting third party**

9.1 If a T  
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by someone other than the Tenant, e.g. a relative  
st use a TDP scheme.

9.2 The  
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Tenant and third party how they are related and  
party wants to be involved in the process. For  
e administrator needs to know if the third party  
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**10. Prescribed**

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Information  
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Tenant. A fa  
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has been se

landlord to provide their Tenants with certain  
days of receiving a deposit. Our Prescribed  
for this. Much of the required information will be  
the TDP scheme so copies of the relevant  
Prescribed Information notice and given to the  
scribed information within 30 days of receiving the  
e of a Section 21 Notice. A Landlord will only be  
ection 21 Notice once the prescribed information

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