

Deregulation Act 2015

Summary for landlords and letting agents

The Deregulation Act 2015 came into effect on 26 March 2015. It amends the law to clarify deposit protection requirements following two court rulings.

Superstrike v Rodrigues 2013: This case confirmed that a statutory periodic tenancy is a new tenancy. The court decided that deposits on new statutory periodic tenancies must be protected, and by implication, prescribed information must be served within 30 days of the start of that tenancy, even if requirements for deposit protection had been met at the start of the fixed term.

Charalambous v Ng 2014: The court decided a deposit taken before 6 April 2007 did not need to be protected but a landlord could not issue a valid s21 notice unless the deposit had been protected or returned to the tenant.

The Deregulation Act says:

If the deposit was received before 6 April 2007 and is held against a statutory periodic tenancy, which also began before 6 April 2007:

- The landlord is NOT required to protect the deposit under the Housing Act 2004.

BUT

- From 26 March 2015, if the landlord wishes to gain possession of the property under section 21 Housing Act 1988, the deposit must be protected and prescribed information must be served before a valid section 21 notice may be issued.
- No financial penalty applies for late protection.

If the deposit was received before 6 April 2007 and is held against a statutory periodic tenancy which began after 6 April 2007:

- Unless the landlord has already done so, the landlord must protect the deposit and serve prescribed information:
 - by 23 June 2015 or; if earlier
 - before a court decides on proceedings under s21 Housing Act 1988 (for possession) or s214 Housing Act 2004 (for failure to protect a deposit)
- If on 26 March 2015 the tenancy no longer exists or no deposit is being held, the deposit protection requirements are deemed to have been complied with.

If the deposit was received on or after 6 April 2007 and was correctly protected at the time:

- The deposit does not need to be re-protected nor prescribed information served again on renewal (or at the start of a statutory periodic tenancy) as long as:
 - The tenant(s), landlord(s) and the premises remain the same; and
 - The deposit is held in the same scheme

Prescribed information can include details of a person representing the landlord

The Act confirms that where an agent has protected the deposit on behalf of the landlord, the agent's contact details may be provided in place of the landlord's.

Who is affected by these changes?

The law is relevant to any deposit currently held on an assured shorthold tenancy.

It assists landlords who did not re-protect deposits or re-serve prescribed information when a tenancy was renewed or when a statutory periodic tenancy arose. Tenants must still be given revised prescribed information about their deposit if there is a change in tenant(s), landlord(s), premises or the deposit protection scheme.

If as a result of the Deregulation Act a tenant loses a claim relating to deposit protection or loses their challenge to a section 21 notice, the court will not order the tenant to pay the landlord's costs - as long as the tenant started their court case before 26 March 2015.

Tenancy Deposit Scheme requirements when renewing a tenancy

You may not need to do anything extra to comply with the law. However, depending on your terms of membership, your tenancy deposit protection scheme's rules may require you to re-protect the deposit on renewal. TDS members must re-protect a tenancy deposit on the renewal of a tenancy when:

- Using pay as you go protection (TDS for Landlords, DepositGuard, Let Only).

AND

- There is a new fixed term agreement **OR** the periodic tenancy has material changes to the original agreement, such as rent or tenant(s) named on the agreement.

**This document is intended as a summary of changes to the legislation.
For detailed advice please consult a legal professional.**