

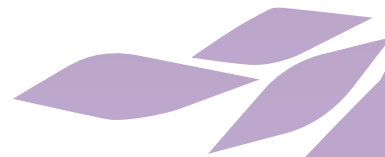


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Local Government and Communities Committee Comataidh Riaghaltas Ionadail is Coimhearsnachdan

Report on the Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019



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Local Government and Communities Committee

To consider and report on communities, housing, local government, measures against poverty, planning and regeneration matters falling within the responsibility of the Cabinet Secretary for Communities and Local Government.



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Introduction

1. The Local Government and Communities Committee reports to the Parliament as follows-
2. [The Tenancy Deposit Schemes \(Scotland\) Amendment Regulations 2019](#) was laid before the Parliament on 28 June 2019 and was referred to the Local Government and Communities Committee for consideration.
3. This instrument is made in exercise of the powers conferred by sections 121(1) and 191(2) of the Housing (Scotland) Act 2006 (the Act) and all other powers enabling them to do so. S191(5) makes the regulations subject to the affirmative resolution procedure of the Scottish Parliament.
4. The policy note states that these regulations address issues relating to the termination of a private residential tenancy which can take place before the deadline to lodge a deposit. This brings the principal Regulations in line with the Private Housing (Tenancies) (Scotland) Act 2016. They respond directly to issues raised by landlords, tenants and the tenancy deposit schemes through the [review](#) of the tenancy deposit schemes.
5. According to the policy note accompanying the instrument, amending regulation 2(5) streamlines procedure to ensure prompt payment to the tenant where the landlord confirms that no monies are due to the landlord at the end of a tenancy.
6. Amending regulation 2(7) changes the date for delivery of an annual report from the Schemes from May to August.
7. The policy note also states that the tenancy deposit schemes have seen an increase in the number of deposits paid to the landlord by instalments and subsequently lodged with the tenancy deposit schemes. According to the note, these amendment regulations make clear that any instalment is granted the same protection as a single deposit. For example, when a deposit is lodged with the schemes at the start of a tenancy, the scheme must provide certain information about the tenancy deposit to the tenant and to the landlord under 22(2) of the principal regulations. Amending regulation 2(3) adds a requirement for the landlord to also provide information to the tenant and landlord about sanctions.
8. Part 2 of the principal Regulations provide sanctions for failure to comply with the duties, on an application by a tenant to the sheriff, and require the sheriff to impose a financial penalty on the landlord. In addition, the sheriff has discretion to order the landlord to take action to comply with their duties. The amendment only serves as a reminder to lodge timely deposits – there is no change to the law on sanctions.

Consideration by Committees

9. The Delegated Powers and Law Reform Committee considered this instrument [at its meeting on 3 September 2019](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
10. [At its meeting on 25 September 2019](#), the Local Government and Communities Committee took evidence on the instrument from:
 - Kevin Stewart, Minister for Local Government, Housing and Planning; and
 - Charlotte McHaffie, Head of Private Rented Sector Policy, Scottish Government.
11. During the evidence session, the Minister clarified that the regulations make minor improvements to the operation of the scheme in order to increase efficiency and take account of new legislation. Improvements include the sharing of information about sanctions with tenants when a landlord has not lodged the deposit within the deadline, the provision of information to the tenant when the payment is made in instalments, expediting repayment of the deposit when the landlord does not claim any part of the deposit and ensuring landlords are not required to pay a deposit into the schemes when the tenancy ended and the deposit was repaid prior to the deadline for lodging the deposit.
12. The Minister also clarified that the regulations would speed up payment to a tenant when the landlord does not wish to retain any part of the deposit. At the moment, tenants must be contacted for confirmation before a payment can be made. The changes proposed would speed up the process by removing this requirement. It was also clarified during the evidence session that the regulations do not change the adjudication process currently in place for resolving disputes.
13. The Minister confirmed that the three tenancy deposit schemes have been asked to submit revised procedures in order to ensure compliance with the amended regulations.
14. Following the evidence session on the instrument, Kevin Stewart moved motion S5M-18218-

That the Local Government and Communities Committee recommends that the Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019 [draft] be approved.

The motion was agreed to without debate or division.

Conclusions

15. The Local Government and Communities Committee recommends that the Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019 be approved.

