

Prescribed Information and suggested clauses for tenancy agreements

For Landlords

Updated June 2016

Tel: **0300 037 1000**

Email: **deposits@tenancydepositscheme.com**

www.tenancydepositscheme.com

1 The Progression Centre, 42 Mark Road, Hemel Hempstead, HP2 7DW

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Introduction

This guidance contains:

- A template for the Prescribed Information (Section A) which TDS members must by law give to their tenants (and any relevant person).
- Suggested Clauses (Section B) which members can *optionally* include in their tenancy agreements.

The Prescribed Information Form and Suggested Clauses in this guidance must not be used for a tenancy where the deposit is to be covered by any authorised tenancy deposit protection scheme other than TDS.

What has changed?

- **Section A** is now more closely aligned with the relevant statutory instrument, which was revised as a result of amendments in the Deregulation Act 2015.
- **Section B** is unchanged from April 2013 and inclusion of the clauses remains optional. Members may include the Section B clauses in their tenancy agreements if they wish.

We recommend that members update their systems and procedures to use the new Prescribed Information template as soon as they are able to.

Guidance on issuing Prescribed Information for ASTs

Prescribed Information must be served on the tenant and on any relevant person within the period of 30 days from and including the date the landlord (or someone acting on the landlord's behalf) receives a deposit in relation to an assured shorthold tenancy, irrespective of whether or not the funds have cleared.

A “relevant person” is a person, company or organisation who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant e.g. a local authority, employer, parent or guarantor. Members are advised to establish, when a tenant applies for a tenancy, whether a deposit has been (or will be) paid by someone other than the tenant, because the member will have to serve Prescribed Information on such a person.

The Deregulation Act 2015 has led to some important changes in respect of Prescribed Information and has led to this becoming a less onerous obligation on landlords.

- Prescribed Information should be served each time there is a new AST within 30 days of a new AST being created;
- If the tenancy rolls over into a new fixed term AST or a statutory periodic tenancy there is no need to re-issue the Prescribed Information as long as:
 - The deposit was properly protected and Prescribed Information served at the start of the original tenancy;
 - The property let remains the same;
 - The tenant(s) remain the same;
 - The landlord(s) remain the same;
 - The deposit protection scheme used remains the same.
- In the event that any of the above conditions do not apply the deposit needs to be protected and the Prescribed Information served within 30 days of the tenancy change.

Failure to serve the Prescribed Information within the correct timescale will be a breach of the Housing Act 2004 that could expose the landlord and/or deposit holder to legal action for compensation by the tenant and/or the relevant person.

The Prescribed Information may be attached to the tenancy agreement, or served as a stand-alone document. Where the member receives the deposit at the same time as the tenancy agreement is signed, the member is recommended to attach the Prescribed Information to the tenancy agreement. The Prescribed Information includes the scheme leaflet *What is the Tenancy Deposit Scheme?* This can be downloaded from our website www.tenancydepositscheme.com, and it must be given to the tenant and any relevant person as part of the Prescribed Information. The Prescribed Information is incomplete without this leaflet.

Both landlord and tenant must sign the last page of the Prescribed Information.

Members are recommended to replicate the Prescribed Information (Section A) precisely but they may provide it in their own format if they wish – as long as it is substantially to the same effect. It is the member's responsibility to comply with the requirements of The Housing Act 2004 and The Housing (Tenancy Deposits) (Prescribed Information) Order 2007 as amended. TDS accepts no liability to members, landlords, tenants or relevant persons if the member or landlord fails to meet these statutory requirements.

Section A: Prescribed Information for Assured Shorthold Tenancies

Under the Housing Act 2004, the landlord is required to give the following information to the tenant and anyone who paid the deposit on the tenant's behalf ("Relevant Person") within 30 days of receiving the deposit. This is to ensure that tenants are made aware of their rights during and at the end of the tenancy regarding the deposit.

(a) The scheme administrator of the Tenancy Deposit Scheme is:

The Dispute Service Limited

1 The Progression Centre

42 Mark Road

Hemel Hempstead

HP2 7DW

Phone 0300 037 1000

Email deposits@tenancydepositscheme.com

Web www.tenancydepositscheme.com

(b) A leaflet entitled *What is the Tenancy Deposit Scheme?*, which explains the operation of the provisions contained in sections 212 to 215 of, and Schedule 10 to, Housing Act 2004, must accompany this document when given to the tenant and any relevant person.

(c) The procedures that apply under the scheme by which an amount in respect of a deposit may be paid or repaid to the tenant at the end of the tenancy are set out in the scheme leaflet: *What is the Tenancy Deposit Scheme?*, which accompanies this document.

(d) The procedures that apply under the scheme where either the landlord or the tenant is not contactable at the end of the tenancy are set out in the Scheme Leaflet: *What is the Tenancy Deposit Scheme?*

(e) The procedures that apply where the landlord and the tenant dispute the amount of the deposit to be paid or repaid are summarised in the Scheme Leaflet *What is the Tenancy Deposit Scheme?* More detailed information is available on: www.tenancydepositscheme.com.

(f) The facilities available under the scheme for enabling a dispute relating to the deposit to be resolved without recourse to litigation are set out in the Scheme Leaflet: *What is the Tenancy Deposit Scheme?* More detailed information is available on: www.tenancydepositscheme.com.

(i) THE DEPOSIT

The amount of the deposit paid is £

(ii) ADDRESS OF THE PROPERTY TO WHICH THE TENANCY RELATES

(iii) DETAILS OF THE LANDLORD(S)

Name(s)

Address

E mail address

Telephone number

Fax number

(iv) DETAILS OF THE TENANT(S)

Name

Address

E mail address

Mobile number

Fax number

Contact details for the tenant(s) to be used *at the end of the tenancy*

Name

Address

E mail address

Mobile number

Fax number

Please provide the details requested in (iv) for each tenant (there is a continuation sheet for this purpose).

(v) RELEVANT PERSON'S CONTACT DETAILS

If there is a relevant person (i.e. anyone who has arranged to pay the deposit on the tenant's behalf) the details requested in (iv) must be provided for them, as part of the Prescribed Information. Use the continuation sheet for this purpose.

(vi) CIRCUMSTANCES WHEN THE DEPOSIT MAY BE RETAINED BY THE LANDLORD

The circumstances when all or part of the deposit may be retained by the landlords by reference to the terms of the tenancy are set out in clause(s) of the tenancy agreement. No deduction can be paid from the deposit until the parties to the tenancy agreement have agreed the deduction, or an award has been made by TDS or by the court.

(vii) CONFIRMATION

The landlord certifies and confirms that:

- a) the information provided is accurate to the best of my/our knowledge and belief and
- b) I/we have given the tenant the opportunity to sign this document by way of confirmation that the information is accurate to the best of the tenant's knowledge and belief.

Signed by or on behalf of the landlord

The tenant confirms that:

- I/we have been given the opportunity to read the information provided and
- I/we sign this document to confirm that the information is accurate to the best of my/our knowledge and belief.

Signed by the tenant(s)

Responsibility for serving complete and correct Prescribed Information on each tenant and relevant person is the responsibility of the member and the landlord. The Dispute Service Limited does not accept any liability for a member's or landlord's failure to comply with The Housing Act 2004 and/or The Housing (Tenancy Deposits) (Prescribed Information) Order 2007.

Prescribed Information for Assured Shorthold Tenancies
(Continuation Sheet)

Tick one of the following:

- The information below relates to a Tenant
- The information below relates to a Relevant Person

First line of address of the property to which the tenancy relates

(iv) CONTACT DETAILS

Name

Address

E mail address

Mobile number

Fax number

Details of the Tenant(s) contact details to be used at the end of the tenancy

(This section only needs to be completed for a tenant, not a relevant person)

Name

Address

E mail address

Tick if the same as shown above

Mobile number

Tick if the same as shown above

Fax number

Tick if the same as shown above

Please provide the details requested for each tenant and for each relevant person (i.e. anyone who has arranged to pay the deposit on the tenant's behalf). Attach this sheet securely to the remainder of the Prescribed Information.

Section B: Guidance for using suggested clauses in ASTs

In previous editions, it was compulsory for TDS members to insert the clauses in the section into the tenancy agreement. From 1 April 2013, these clauses were **optional** - so members have the choice about whether they wish to include them or not.

If members choose not to include the suggested clauses below, they should ensure that they adequately cover the points to which the Prescribed Information refers at:

- What the deposit can be used for

The service concession agreement awarded by the Department for Communities and Local Government requires that, where there is a joint tenancy, all joint tenants consent to adjudication, unless the joint tenant raising or responding to the dispute confirms that they have made reasonable efforts to contact the other tenants but have been unable to do so. To facilitate this, you have the choice as to whether you:

- Put a clause in your tenancy agreements obtaining consent to adjudication by all joint tenants for new tenancies; or
- Issue an addendum to current tenancies; or
- Allow TDS to capture this at the point of dispute via the Dispute Application Form or Dispute Response Form;

It is entirely up to members how they choose to deal with this, but where the choice is to update your tenancy agreements, a suggested clause is provided.

Where previous versions of the clauses are removed from tenancy agreement templates, members should ensure that their tenancy agreements still continue to detail who is entitled to receive the interest on the deposit.

The timescales referred to in previous editions of the Clauses (Section B) are no longer part of the scheme rules. Instead, Members should deal with the apportionment of the tenant's deposit and convey deductions to the tenant as soon as is practicable. By law, a tenant can apply to TDS for adjudication of a dispute if the tenant has not received their deposit within 10 calendar days of asking for it to be paid to them.

Section B: Suggested clauses for inclusion in ASTs

□ Purpose of the Deposit

The Deposit has been taken for the following purposes:

- Any damage, or compensation for damage, to the premises its fixtures and fittings or for missing items for which the tenant may be liable, subject to an apportionment or allowance for fair wear and tear, the age and condition of each and any such item at the commencement of the tenancy, insured risks and repairs that are the responsibility of the landlord.
- The reasonable costs incurred in compensating the landlord for, or for rectifying or remedying any major breach by the tenant of the tenant's obligations under the tenancy agreement, including those relating to the cleaning of the premises, its fixtures and fittings.
- Any unpaid accounts for utilities or water charges or environmental services or other similar services or Council Tax incurred at the property for which the tenant is liable.
- Any rent or other money due or payable by the tenant under the tenancy agreement of which the tenant has been made aware and which remains unpaid after the end of the tenancy.

[Note – adjudicators will consider claims against the deposit in the order set out in the tenancy agreement. Therefore, members should consider the order in which they set these items out.]

□ Joint tenant consent to adjudication

There being multiple tenants, each of them agrees with the other(s) that any one of them may consent on behalf of all the others to use alternative dispute resolution through a tenancy deposit protection scheme to deal with any dispute about the deposit at the end of the tenancy.