



WHO SHOULD READ THIS?

Tenants Agents Landlords

PRESCRIBED INFORMATION AND SUGGESTED CLAUSES FOR TENANCY AGREEMENTS

EFFECTIVE FROM 1ST APRIL 2018

RENTING HOMES (WALES) ACT 2016 UPDATE 10 NOVEMBER 2022



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Contents.

WHAT HAS CHANGED? 03

SECTION A

**GUIDANCE ON ISSUING PRESCRIBED INFORMATION
FOR ASSURED SHORTHOLD TENANCIES** 06

SECTION B

**SUGGESTED CLAUSES FOR INCLUSION IN ASSURED
SHORTHOLD TENANCY AGREEMENTS** 07



Introduction

THIS GUIDANCE CONTAINS:

- ✓ AN EXPLANATION OF THE LEGISLATION SURROUNDING 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 Suggested Clauses 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?

- The Prescribed Information template is aligned with the relevant statutory instrument and reflects the changes in the Deregulation Act 2015 which permits the agent's name and contact details to be used instead of the landlord's. Members may continue to use their existing PI templates and can choose whether or not to include the landlord's details or their own. Alternatively, both could be provided.
- For properties in Wales only, from 1 December 2022 the Renting Homes (Wales) Act 2016, will see changes in terminology in that Assured Shorthold Tenancy Agreements will become known as Occupation Contracts and tenant(s) will be contract-holder(s).



IMPORTANT INFORMATION

The deposit protection legislation states that the Prescribed Information (which includes the scheme leaflet) must be served upon the tenant within 30 days of the tenancy deposit or part of the tenancy deposit being received. Since the time limit runs from when part or all of the deposit is deemed to have been

received, serving Prescribed Information before this may not be sufficient to comply with the legislation. Good practice is to maintain a record to show when the documents were served to comply with the legislation and that they were clearly provided within the time line designated.



Guidance on issuing Prescribed Information for ASTs

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

For properties in Wales only, where reference is made throughout this guidance and within the **Prescribed Information template** to 'Assured Shorthold Tenancy', read 'Occupation Contract' and for 'tenant(s)' read 'contract-holder(s)'.

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.

- 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 (A 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. The TDS EW Insured template Prescribed Information can be found here.

- A** The scheme administrator of the Tenancy Deposit Scheme is:
The Dispute Service Limited
West Wing, First Floor
Maylands Building, 200 Maylands Avenue
Hemel Hempstead, Herts HP2 7TG
0300 037 1000
deposits@tenancydepositscheme.com
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.



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 in relation to:

- 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 most proportionate manner and at their discretion. Therefore, members should consider the claims made.

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.





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