

Landlords to Lose Right to Retain Deposits

The Government has announced that it is to set up a company to control the deposits paid to landlords by their tenants. The aim is to put an end to the problem caused by unscrupulous landlords who do not return deposits at the end of a tenancy. One in five tenants is said to be aggrieved at how their deposit has been dealt with at the end of their tenancy.

However, critics of the new Tenancy Deposit Scheme (TDS) point out that it does not contain any protection for landlords who find that a tenant has withheld the last month's rent, which is also said to occur in approximately 20 per cent of cases.

Under the TDS, the deposit will be paid into escrow with the company and an arbitration system set up to resolve disputes between landlords and tenants over the amount of damage done to a property which is attributable to the tenant. Landlords will fund the scheme by payment of a fee and will have no right to the interest earned on the deposit during the period of the tenancy. Landlords who fail to put the deposit into the scheme within 14 days of receipt will be hit with a fine of up to three times the deposit. The Government is also drawing up guidelines as to what constitutes reasonable wear and tear, which is the responsibility of the landlord and not the tenant. The new system is intended to apply to properties rented after 1 October 2006.

For landlords, the TDS will mean extra costs and bureaucracy. For tenants, it will mean assurance that at the end of the tenancy, their deposit will not simply be pocketed by the landlord. Over £740m of deposits are reported to be held by landlords in respect of shorthold tenancies.

Landlords will not welcome the additional complexity this will bring, although assurances have been given that the extra cost of the scheme will be low. It is hoped that the new arrangements will give tenants confidence that in normal circumstances deposits will be refunded so there will no longer be an incentive to withhold rent rather than struggle to recover the deposit held by the landlord.