

Recent development in tenancy deposit legislation

In February we wrote in the Property Law Journal about the prospective changes to the tenancy deposit protection rules brought in by the Localism Act 2011. You can read the full article [here](#).

In summary, in relation to AST deposits taken after 6 April 2012, the landlord must protect the deposit and **provide the information prescribed** by *The Housing (Tenancy Deposits) (Prescribed Information) Order 2007* within 30 days of receipt of the deposit.

Failure to do this will entitle the tenant to apply to court for a penalty sum of between one and three times the value of the deposit. The tenant's right to apply to court continues even after the tenancy has ended.

The information prescribed by the Order **should be considered as of real importance** to a tenant and should not be regarded as a mere matter of procedure or of subsidiary importance.

There are, of course, a number of categories of prescribed information, all of which must be given to the tenant. In the very recent Court of Appeal case of *Ayannuga v Swindells (2012)* the landlord was ordered to return the deposit and pay the tenant **three times the value of the deposit** within 14 days for failing to provide the following information:

1. the procedures that apply under the scheme by which a deposit may be paid or repaid to the tenant at the end of the tenancy;
2. the procedures that apply under the scheme where either the landlord or the tenant is not contactable at the end of the tenancy;
3. the procedures that apply under the scheme where the landlord and the tenant dispute the amount to be paid or repaid to the tenant in respect of the deposit;
4. the facilities available under the scheme for enabling a dispute relating to the deposit to be resolved without recourse to litigation.

The majority of the required information had been given by time of the court hearing and the landlord's argument that the tenant had suffered no prejudice was not accepted by the court: strict compliance was necessary within 30 days from receiving the deposit. If landlords or tenants are in any doubt as to their rights and obligations they should take legal advice.

For more information, please contact:

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