

Tenancy deposits in Jersey

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Residential leases in Jersey commencing (or renewed or varied) on or after 2 November 2015 are subject to the residential tenancy deposit scheme (the "Scheme").

The Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 were enacted under the Residential Tenancy (Jersey) Law 2011 (the "Law") to impose the Scheme, which is a government authorised tenancy deposit protection scheme designed to safeguard tenants' deposits and regulate their return at the end of a tenancy. Currently, the Scheme is being administered by MyDeposits Jersey.

When does the Scheme apply?

- The Scheme applies to all residential tenancy agreements entered into on or after 2 November 2015, as well as to tenancy agreements originally entered into prior to 2 November 2015 but which have been renewed or varied following that date.
- It requires landlords or their letting/managing agents to lodge a tenant's deposit with MyDeposits Jersey (as the current administrator of the Scheme) within 30 days of receipt. Failure to do so is an offence and can incur a fine of £10,000.
- Landlords of existing tenancies which commenced prior to 2 November 2015 and have not yet been renewed or varied can also voluntarily choose to use the Scheme in order to protect their tenant's deposit.

Joining the Scheme and lodging the deposit

- It is free for landlords or their letting/managing agents to join the Scheme, which can be done online via the [MyDeposits Jersey](#) website.

- There is a charge of £20 plus GST for registering each deposit, which is deducted from the tenant's deposit.
- The Scheme safeguards the deposit in a separate account in a regulated bank until it is due for repayment at the end of the relevant tenancy.
- On receipt of the deposit from the landlord or its agent, MyDeposits Jersey will send a Deposit Protection Certificate to both the landlord or its agent and the tenant, setting out the amount paid, the repayment process and what to do if there is a dispute in connection with the deposit.

Return of the deposit

- Either party can apply to MyDeposits Jersey for the deposit to be released at the end of the tenancy.
- Both the landlord or its agent and the tenant must authorise release of the deposit, and which will then be released within 5 working days following authorisation.
- Landlords and tenants are encouraged to agree any deductions from the deposit between them to speed up the release process.

Deposit disputes

If the landlord believes the tenant has breached the terms of the tenancy agreement (e.g. failed to pay the rent or damaged the property) and so wishes to retain the whole or part of the deposit, and the tenant disagrees as to the amount to be deducted from the deposit, the parties are able (but not required) to use the free Alternative Dispute Resolution Service (ADR) and the case will be referred to an independent adjudicator.

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The adjudicator's decision will then be binding on the parties (save as to errors of fact or law, in which case a party can request a review, but the reviewed decision will be final). Both parties must agree to use the ADR service; otherwise either party may refer the matter to the Petty Debts Court instead (but note this must be done within a specified time period, otherwise there will be deemed consent to the use of the ADR service).

MyDeposits Jersey can only deal with deposit disputes up to the amount of the deposit and any monies claimed over the deposit amount will need to be pursued via the Petty Debts Court, in accordance with the provisions of the Law.

Advice for landlords and agents

At the start of the tenancy:

- have a clear and well drafted tenancy agreement to reduce the possibility of any disputes over the deposit at the end of the tenancy;
- have a full and detailed record of the fixtures, fittings and decorative state of the property, including photographs, approved/signed by both parties (in any event, the landlord must ensure compliance with the Residential Tenancy (Condition Reports) (Jersey) Order 2014);
- advise the tenant of the £20 plus GST charge being deducted from their deposit;
- register with MyDeposits Jersey and lodge the tenant's deposit within 30 days of receipt;
- keep receipts and invoices for any charges incurred during the tenancy for cleaning, replacing any contents, repair costs etc. for which the tenant may be liable in order to evidence any proposed deductions;
- keep a record of all rent received or unpaid; and
- retain copies of all exchanges of e-mail/correspondence between the parties.

At the end of the tenancy:

- arrange a meeting with the tenant at the property to review its overall state and check the inventory to ensure that the terms of the tenancy agreement have been met; and
- send a copy of any check out report to the tenant in order to agree the amount of the deposit to be returned.

If the landlord sells the property partway through the tenancy with the tenant still resident:

- the new landlord must ensure that it has registered with MyDeposits Jersey (and it will also want to ensure that the deposit was originally submitted to MyDeposits Jersey within 30 days of its commencement, renewal or variation as appropriate);
- MyDeposits Jersey will then transfer the registered deposit between the two relevant landlord accounts (once it has been requested to do so in writing); and
- MyDeposits Jersey will continue to hold the deposit for the remainder of the term of the tenancy until it is due for repayment.

Conclusion

It is important when entering into any contract, lease or tenancy agreement to consider your rights and obligations and in particular in respect of the Scheme. At Carey Olsen, we have a dedicated specialised Property Group which has considerable strength in depth and experience of the landlord and tenant area of Jersey law. We would be delighted to advise agents, landlords or tenants on the practical implications of the Law and the Scheme.

All figures correct as at August 2020.



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