

Tenancy deposits in Jersey

Service area / [Property Law](#)

Location / [Jersey](#)

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With effect from 2 November 2015 residential leases in Jersey are subject to the residential tenancy deposit scheme (the "Scheme"). The Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 have come into force under the Residential Tenancy (Jersey) Law 2011 (the "Law") and introduces the Scheme, a government authorised tenancy deposit protection scheme designed to safeguard tenants' deposits and regulate their return at the end of a tenancy. In the first instance, the Scheme is being administered by MyDeposits Jersey.

When does the scheme apply?

- The Scheme applies to all new, renewed or varied residential tenancy agreements.
- It requires landlords/letting/managing agents to lodge a tenant's deposit with MyDeposits (as administrator of the Scheme) within 30 days of receipt. Failure to do so is an offence and can incur a fine of up to £2,000.
- Landlords of existing tenancies 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 letting/managing agents to join the Scheme.
- There is a charge of £20 plus GST charge for registering each deposit and this charge is deducted from the tenant's deposit.
- The Scheme safeguards the deposits in a regulated bank until they are due for repayment at the end of a tenancy.
- On receipt of the deposit from the landlord MyDeposits send a confirmation to both the landlord/letting/managing agent and the tenant, including the amount paid, how to get the deposit back and what to do if there is a dispute over the deposit.

Return of the deposit

- Either party can apply to My Deposits for the deposit to be released at the end of the tenancy.
- Both the landlord/letting/managing agent and the tenant must authorise its release and it will then be released within 5 working days following authorisation.
- Landlords and tenants are encouraged to agree the amount of deposit to be returned between them to speed up the release process.

Deposit disputes

If the landlord believes the tenant has breached the terms of the tenancy agreement (eg. failed to pay the rent or damaged the property) and if the tenant disagrees, the parties are able to use the free Alternative Dispute Resolution Service (ADR) and the case will be referred to an independent adjudicator.

MyDeposits 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/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;
- advise the tenant of the £20 plus GST charge being deducted from their deposit;
- register with MyDeposits 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;
- 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 to agree the amount of the deposit to be returned.

If the Landlord sells the property part way through the tenancy with the tenant still resident:

- MyDeposits will continue to hold the deposit for the remainder of the term of the tenancy until it is due for repayment.
- Any new landlord must ensure that the deposit has been submitted to the Scheme within the 30 day time scale.
- The Scheme will transfer the deposit between 2 landlord accounts when requested to do so by appropriate parties.

Conclusion

It is important when entering into any contract, lease or tenancy agreement to consider your rights and obligations and, in particular with the new Scheme in place. 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.

Please note that this briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied upon as such.



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