



# Deregulation Act 2015

## 2015 CHAPTER 20

### *Housing and development*

#### **32 Tenancy deposits: deemed compliance with requirements**

In Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes), after section 215 insert—

##### **“215A Statutory periodic tenancies: deposit received before 6 April 2007**

- (1) This section applies where—
- (a) before 6 April 2007, a tenancy deposit has been received by a landlord in connection with a fixed term shorthold tenancy,
  - (b) on or after that date, a periodic shorthold tenancy is deemed to arise under section 5 of the Housing Act 1988 on the coming to an end of the fixed term tenancy,
  - (c) on the coming to an end of the fixed term tenancy, all or part of the deposit paid in connection with the fixed term tenancy is held in connection with the periodic tenancy, and
  - (d) the requirements of section 213(3), (5) and (6) have not been complied with by the landlord in relation to the deposit held in connection with the periodic tenancy.
- (2) If, on the commencement date—
- (a) the periodic tenancy is in existence, and
  - (b) all or part of the deposit paid in connection with the fixed term tenancy continues to be held in connection with the periodic tenancy,
- section 213 applies in respect of the deposit that continues to be held in connection with the periodic tenancy, and any additional deposit held in connection with that tenancy, with the modifications set out in subsection (3).
- (3) The modifications are that, instead of the things referred to in section 213(3) and (5) being required to be done within the time periods set out in section 213(3) and (6)(b), those things are required to be done—

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- (a) before the end of the period of 90 days beginning with the commencement date, or
  - (b) (if earlier) before the first day after the commencement date on which a court does any of the following in respect of the periodic tenancy—
    - (i) determines an application under section 214 or decides an appeal against a determination under that section;
    - (ii) makes a determination as to whether to make an order for possession in proceedings under section 21 of the Housing Act 1988 or decides an appeal against such a determination.
- (4) If, on the commencement date—
- (a) the periodic tenancy is no longer in existence, or
  - (b) no deposit continues to be held in connection with the periodic tenancy,
- the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to any deposit that was held in connection with the periodic tenancy.
- (5) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.

#### **215B Shorthold tenancies: deposit received on or after 6 April 2007**

- (1) This section applies where—
- (a) on or after 6 April 2007, a tenancy deposit has been received by a landlord in connection with a shorthold tenancy (“the original tenancy”),
  - (b) the initial requirements of an authorised scheme have been complied with by the landlord in relation to the deposit (ignoring any requirement to take particular steps within any specified period),
  - (c) the requirements of section 213(5) and (6)(a) have been complied with by the landlord in relation to the deposit when it is held in connection with the original tenancy (ignoring any deemed compliance under section 215A(4)),
  - (d) a new shorthold tenancy comes into being on the coming to an end of the original tenancy or a tenancy that replaces the original tenancy (directly or indirectly),
  - (e) the new tenancy replaces the original tenancy (directly or indirectly), and
  - (f) when the new tenancy comes into being, the deposit continues to be held in connection with the new tenancy, in accordance with the same authorised scheme as when the requirements of section 213(5) and (6) (a) were last complied with by the landlord in relation to the deposit.
- (2) In their application to the new tenancy, the requirements of section 213(3), (5) and (6) are treated as if they had been complied with by the landlord in relation to the deposit.
- (3) The condition in subsection (1)(a) may be met in respect of a tenancy even if the tenancy deposit was first received in connection with an earlier tenancy (including where it was first received before 6 April 2007).
- (4) For the purposes of this section, a tenancy replaces an earlier tenancy if—

- (a) the landlord and tenant immediately before the coming to an end of the earlier tenancy are the same as the landlord and tenant at the start of the new tenancy, and
- (b) the premises let under both tenancies are the same or substantially the same.

### **215C Sections 215A and 215B: transitional provisions**

- (1) Sections 215A and 215B are treated as having had effect since 6 April 2007, subject to the following provisions of this section.
- (2) Sections 215A and 215B do not have effect in relation to—
  - (a) a claim under section 214 of this Act or section 21 of the Housing Act 1988 in respect of a tenancy which is settled before the commencement date (whether or not proceedings in relation to the claim have been instituted), or
  - (b) proceedings under either of those sections in respect of a tenancy which have been finally determined before the commencement date.
- (3) Subsection (5) applies in respect of a tenancy if—
  - (a) proceedings under section 214 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) not to make an order under section 214(4) in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against such an order.
- (4) Subsection (5) also applies in respect of a tenancy if—
  - (a) proceedings for possession under section 21 of the Housing Act 1988 in respect of the tenancy have been instituted before the commencement date but have not been settled or finally determined before that date, and
  - (b) because of section 215A(4) or 215B(2), the court decides—
    - (i) to make an order for possession under that section in respect of the tenancy, or
    - (ii) to allow an appeal by the landlord against a refusal to make such an order.
- (5) Where this subsection applies, the court must not order the tenant or any relevant person (as defined by section 213(10)) to pay the landlord's costs, to the extent that the court reasonably considers those costs are attributable to the proceedings under section 214 of this Act or (as the case may be) section 21 of the Housing Act 1988.
- (6) Proceedings have been “finally determined” for the purposes of this section if—
  - (a) they have been determined by a court, and
  - (b) there is no further right to appeal against the determination.
- (7) There is no further right to appeal against a court determination if there is no right to appeal against the determination, or there is such a right but—

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- (a) the time limit for making an appeal has expired without an appeal being brought, or
  - (b) an appeal brought within that time limit has been withdrawn.
- (8) In this section “the commencement date” means the date on which the Deregulation Act 2015 is passed.”