Your TDS guide to:

Deposit Cap Solution

TDS

Tenancy Deposit Scheme

Insured / Custodial

CONTENTS

INTRODUCTION

This document sets out the deposit cap requirements for landlords and agents in England after **1st June 2019**.

It also tells landlords and agents how they should deal with the issue in the **TDS Insured** and the **TDS Custodial** scheme.

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THE LEGISLATION

The Tenant Fees Act 2019 sets a limit on most residential tenancy deposits of the equivalent of five weeks' rent (for tenancies with an annual rent of less than £50,000) or six weeks for tenancies where the rent is £50,000 or higher. As from 1st June 2019 no tenancy deposit can be requested above this level. If you are holding a deposit above this level on the 1st June 2019 you do not need to take any action to reduce the deposit unless the tenancy is renewed by way of a new fixed term agreement.

✖ If the tenancy continues after 1st June 2019 as a statutory periodic tenancy or a contractual periodic tenancy then you do not need to take any action to reduce the deposit.

✔ But if the tenancy is renewed and this means that the deposit is now above the five or six week cap you will need to refund to the tenant the balance of the deposit you are holding above the new cap.

HOW TO CALCULATE A FIVE WEEK OR SIX WEEK DEPOSIT?

Take the monthly rent to be charged and multiply by 12 to get the annual rent, then divide by 52 to get the weekly rent - then times by 5 or 6!

BEFORE
Tenant fee ban/ Deposit cap

New fixed term tenancy signed
- No limit on deposit amount
- Default fees allowed

Tenancy becomes a statutory periodic tenancy
- No limit on deposit amount
- Default fees allowed

Tenancy becomes a contractual periodic tenancy
- No limit on deposit amount
- Default fees allowed

1st JUNE 2019

DURING
Transitional Period

New fixed term tenancy signed
- Deposit must be reduced to five or six week cap
- Default fees not allowed

Tenancy becomes/remains a statutory periodic tenancy
- No limit on deposit amount
- Default fees allowed

Tenancy becomes/remains a contractual periodic tenancy
- No limit on deposit amount
- Default fees allowed

1st JUNE 2020

AFTER
Transitional Period

New fixed term tenancy signed
- Deposit must be reduced to five or six week cap
- Default fees not allowed

Tenancy becomes/remains a statutory periodic tenancy
- No limit on deposit amount
- Default fees not allowed

Tenancy becomes/remains a contractual periodic tenancy
- No limit on deposit amount
- Default fees not allowed

THE PROCESS YOU NEED TO ADOPT

For the TDS Insured scheme the landlord or letting agent is holding the deposit, so you will have a lot of control over what happens.

TDS INSURED

TENANCIES ENDING AFTER THE 1st JUNE 2019 WHERE THE TENANCY IS RENEWED WITH A NEW FIXED TERM TENANCY

If the tenancy is renewed after the 1st June 2019 and the new deposit is more than five or six weeks' rent (at the new renewed tenancy rent level) then you will have to refund the balance of the deposit back to the tenants. We would recommend that this is paid according to the tenancy agreement (e.g. to the lead tenants or split equally between the joint tenants). When this is done you should edit the deposit protection on the TDS Insured database and show the new deposit value.

In the TDS Insured for Landlords scheme the same rules apply except that when a tenant is renewed the landlord will need to end the tenancy on the database and pay for a new fixed term tenancy deposit protection.

TENANCIES ENDING AFTER THE 1st JUNE 2019 WHERE THE TENANCY BECOMES A STATUTORY OR CONTRACTUAL PERIOD TENANCY

If a tenancy becomes a statutory periodic tenancy on or after 1st June 2019 then you do not need to refund any deposit above the five or six week cap. You should simply mark the tenancy on the TDS Insured database as having become a "periodic tenancy". The same applies if the tenancy becomes a contractual periodic tenancy after the same date.

To do this, go to the **Tenancy Summary** in your online account and select '**End tenancy**' then select '**Periodic**' and '**Submit**'.

NEW DEPOSITS FROM 1st JUNE 2019

For all new tenancies from 1st June 2019 you should only take a five or six week deposit and then protect the deposit in the normal way - register this on the TDS Insured database within 30 days of receipt and issue the prescribed Information and TDS Insured Scheme leaflet in the same timeframe.
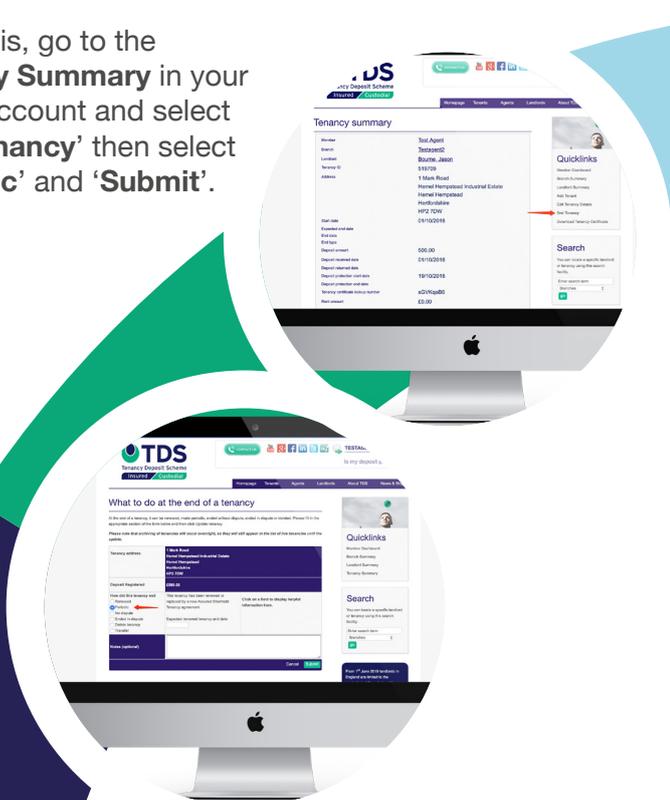
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THE PROCESS YOU NEED TO ADOPT

In the TDS Custodial scheme it is TDS that is holding the deposit so the process for repaying deposit above the cap is a little bit more complicated but we have developed a solution to make this easy for agents and landlords.

NEW DEPOSITS FROM 1st JUNE 2019

For all new tenancies after the 1st June 2019 you should only take a five or six week deposit and then register this on the TDS Custodial database and pay it to TDS within 30 days of receipt and issue the Prescribed Information and TDS Custodial Scheme leaflet in the same timeframe.

TENANCIES ENDING AFTER THE 1st JUNE 2019 WHERE THE TENANCY BECOMES A STATUTORY OR CONTRACTUAL PERIOD TENANCY

If a tenancy becomes a statutory or contractual periodic tenancy after the 1st June 2019 then you do not need to refund any deposit above the five or six week cap. You also do not need to inform TDS Custodial.

TENANCIES ENDING AFTER THE 1st JUNE 2019 WHERE THE TENANCY IS RENEWED WITH A NEW FIXED TERM TENANCY

However, if the tenancy is renewed after the 1st June 2019 with a new fixed term tenancy and the new deposit is more than five or six weeks' rent (at the new renewed tenancy rent level) then you will have to refund the balance of the deposit back to the tenants.

You can simply log in to your TDS Custodial account and go to the **deposit summary** page of the relevant deposit and select the '**change deposit amount**' button. You can then reduce the deposit amount, and use **our calculator** to make sure the remaining deposit will be less than five or six weeks' deposit.
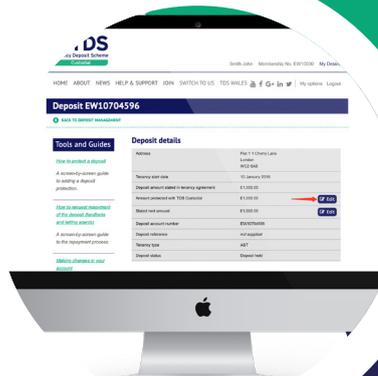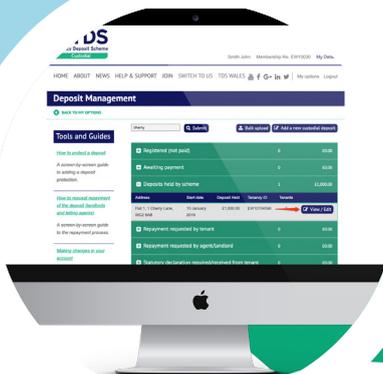
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THE TDS CUSTODIAL SOLUTION

The solution we have on our system from 1st June 2019 is to use our new 'Change deposit amount' function where the landlord/agent will be able to increase (as now) or decrease the deposit amount. So, if a new fixed term tenancy is created the landlord/ agent can simply change the deposit amount down to the new five or six week level.

We will return the excess deposit to the tenant(s), taking instruction from them how they would like to be repaid, and how to split the excess deposit between multiple tenants if it is a joint tenancy.

When the deposit has been reduced, a new Deposit Protection Certificate in the new amount will be available in your and the tenants' online account. As with the TDS Insured scheme no new Prescribed Information has to be issued in these circumstances.
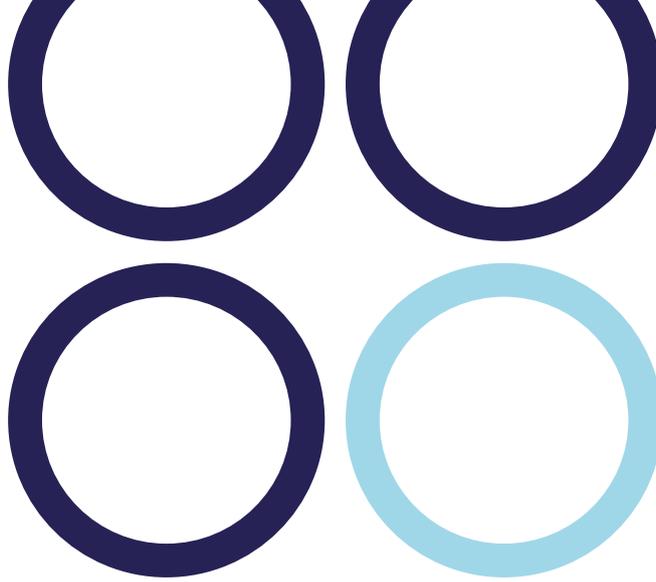
DEPOSIT CAP CALCULATOR

On both Insured and Custodial, we have a calculator tool which can be used to work out five weeks' or six weeks' rent. This will be branded as 'Powered by TDS', and TDS will offer it to agents to embed in their websites with a link to both **TDS Custodial** and to **TDS Insured**.

DEPOSIT CAP RESOURCE CENTRE

We have introduced our resource centre for the Fee Ban and Deposit Cap which can be accessed at www.depositcap.com. You can access the resource centre for information on how the Act will affect deposits, disputes and how to reduce your current deposits to below the cap. We also have our maximum deposit calculator which is free to use.

From 1st June 2019 landlords in England will be limited to the equivalent of 5 weeks' deposit for new and renewed tenancies (or 6 weeks if the annual rent is £50,000 or more).

Get the deposit cap right with our handy calculator.

Monthly rent

£ [   ]

Weekly rent

£ 0.00

Maximum deposit

£ 0.00

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