

my  
deposits

DEPOSIT PROTECTION

# The Tenancy Deposit Cap

What you need to know

\*England ONLY



## TENANCY AGREEMENT

THIS TENANCY AGREEMENT (The 'Agreement') dated this 17<sup>th</sup> March

BETWEEN

LANDLORD

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_  
(the 'Landlord')

-AND-

NAME: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

(the 'Tenant')

and collectively the "parties"

in premises

# What you need to know

You may be aware that the amount of deposit that can be taken from a tenant at the start of each new Assured Shorthold Tenancy (AST) and the renewal of all existing tenancies will be capped in England as part of the Tenant Fees Act 2019.

The Act sets a limit on most residential tenancy deposits of the equivalent of five or six weeks' rent (depending on the annual rent charged). New regulations state that from 1st June 2019 the total deposit that can be requested and taken from a tenant will be as follows:

- Where the annual rent is up to £50,000, a maximum of 5 weeks' rent
- Where the annual rent is over £50,000, a maximum of 6 weeks' rent

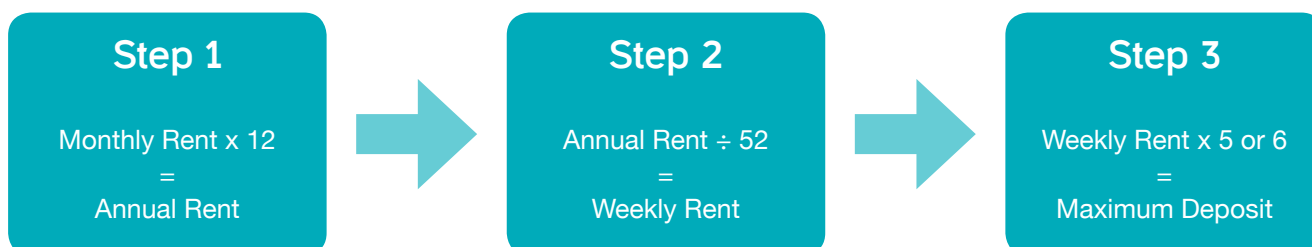
## From 1 June 2019...

- A** The cap on tenancy deposits will apply to new applicable tenancies. This includes assured shorthold tenancies, tenancies of student accommodation and licences to occupy housing in the private rented sector in England, and
- B** The cap also applies to fixed term contracts which are renewed for another fixed term – even if this is at the same property – as they will be a new applicable tenancy. You will be required at this point to repay the amount of the deposit held which is over the five (or, where appropriate, six) week cap.
- C** The cap will not apply to tenancies which continue as a periodic (statutory or contractual).

The table below shows what action is required by landlords or agents at each stage of the Act.

	Before 1st June 2019	After 1st June 2019
You <b>must</b> comply with the 5/6 week deposit cap		<ul style="list-style-type: none"><li>• New fixed term tenancy</li><li>• Renewal tenancy</li></ul>
You are <b>not</b> limited by the 5/6 week deposit cap	<ul style="list-style-type: none"><li>• New fixed term tenancy</li><li>• Renewal tenancy</li><li>• Statutory/Contractual periodic</li></ul>	<ul style="list-style-type: none"><li>• Statutory/Contractual periodic</li></ul>

## Calculating the deposit



## Deposit Cap Calculator

From the 1st June 2019 for insurance and custodial schemes our deposit calculator will be available on our website as a free to use tool to work out the maximum deposit amount you can take based on the annual rent and the 5/6 week deposit cap.

We recommend all of our members use this tool to assist them in their calculations.

# mydeposits step by step guide to adjust deposits for the 5/6 week deposit cap

If you have taken a deposit and have protected it with either our Insurance or Custodial Scheme or if you are due to take a deposit in the future this is what you need to do...

## New deposits from 1st June 2019

### **A Insurance Scheme:**

**Step 1** - Landlord/agents must only take a deposit in line with the 5/6 week rent cap

**Step 2** - Protect the deposit as normal within 30 days of receipt, by providing the necessary information, including but not limited to;

1. The annual rent amount
2. The new deposit amount in line with the 5/6 week deposit cap
3. The fixed term dates
4. Confirmation of the lead tenants' email address

**Step 3** - Give the tenant the Prescribed Information as well as the 'Information for Tenants' leaflet. You can obtain a copy of the Deposit Protection Certificate and the leaflet online via the members area.

### **Custodial Scheme:**

**Step 1** - Landlord/agents must only take a deposit in line with the 5/6 week rent cap

**Step 2** - Protect the deposit as normal within 30 days of receipt, by providing the necessary information, including but not limited to;

1. The annual rent amount
2. The new deposit amount in line with the 5/6 week deposit cap
3. The fixed term dates
4. Confirmation of the lead tenants' email address

**Step 3** - Give the tenant the Prescribed Information as well as the 'Information for Tenants' leaflet. You can obtain a copy of the Deposit Protection Certificate and the leaflet online via the members area.

## Tenancies ending on or after the 1st June 2019

### **B Where the tenancy is renewed with a NEW FIXED TERM TENANCY**

#### **Insurance Scheme:**

**Step 1** - You will need to return any deposit amount in excess of the 5/6 week cap to the tenant.

**Step 2** - As normal, where there is a renewed fixed term, you will be required to pay for a new deposit protection using the renewal option available to you on your online account. You will be asked to provide the following information:

1. The annual rent amount
2. The new deposit amount in line with the 5/6 week deposit cap
3. The renewed fixed term dates
4. Confirmation of the lead tenants email address

By using the renewal function you will also unprotect the previous protection when it comes to the fixed term end date.

Note: As you are holding the deposit, it is for you to ensure that you satisfy your obligation under the Act. We suggest you keep proof of your attempt to return the excess deposit balance to the tenant and obtain a receipt from them once the money has been returned.

### Custodial Scheme:

Where you need to return any deposit amount in excess of the 5/6 week cap to the tenant, please contact the scheme by email at [depositcap@mydeposits.co.uk](mailto:depositcap@mydeposits.co.uk) or phone on 0333 321 9401. We are expecting a significant increase in the volume of calls to our contact centre especially leading up to the enactment date of the cap so we strongly suggest that you email us in the first instance.

**Step 1** – So that we can update our records and release the excess money to the tenant you should provide us with the following information:

1. The annual rent amount
2. The new deposit amount in line with the 5/6 week deposit cap
3. The renewed fixed term dates
4. Confirmation of the lead tenants email address

We will make arrangements to contact the tenant on your behalf and return the balance of the deposit to them.

Our current online system will not allow you to release excess deposit amounts automatically.

Note: Once you have correctly notified us of your request to release the excess amount your obligation under the Act is satisfied.

## Where the tenancy becomes a PERIODIC TENANCY

### Insurance Scheme:

You are NOT required to refund any deposit amount in excess of the 5/6 week cap.

**Step 1** - Step 1 - You MUST make us aware that the original fixed term continued into a periodic tenancy which you can do online via the members area. You will need to confirm the following information:

1. The lead tenants alternative address
2. The lead tenants email address

A new protection however is NOT required if the fixed term continues as a periodic tenancy.

### Custodial Scheme:

You are NOT required to refund any deposit amount in excess of the 5/6 week cap or inform mydeposits.

## System Validation

We have also taken an additional step in our back office systems which will validate the amount of deposit which needs to be protected and ensure it is in line with the legislation by using the annual rent that you provide when protecting the deposit.

# Frequently asked questions

## Q. Can I take a higher amount of tenancy deposit if a tenant has a pet?

- A. No. A landlord or agent can only take a tenancy deposit up to a maximum of five weeks' rent (where the total annual rent is less than £50,000) or six weeks' rent (where the total annual rent is £50,000).

## Q. How are tenancy deposits for Joint Tenancies calculated?

- A. Where there is a joint tenancy, liability (responsibility for) payment of the tenancy deposit is spread across named persons on the tenancy agreement. In this case, the cap on tenancy deposits relates to the total weekly rent for the tenancy for which all tenants are jointly liable.

You cannot require each tenant individually to pay a tenancy deposit equivalent to five weeks' rent (where the total annual rent for the tenancy is less than £50,000) or six weeks' rent (where the total annual rent is £50,000 or more).

Example

Where there are three tenants who are jointly liable for a total weekly rent of £240, the maximum this group of tenants could be asked to pay as a tenancy deposit between them would be £1200 ( 5 weeks x £240). They may then choose to split this equally so that each person would pay £400.

## Q. If a tenant pays/paid a tenancy deposit before 1 June 2019 which exceeds the cap, do I need to re-pay the amount of the deposit above the cap?

- A. No. You are not obliged to immediately refund part of a tenancy deposit that is above the cap but was paid before the Deposit Cap date. If a tenant signed a tenancy agreement before 1 June 2019 (and that tenancy is continuing or is a statutory periodic agreement) then the tenant will be bound by the terms of that contract until it is either renewed or terminated.

## Q. Do I need to comply with the 5/6 week deposit cap if the AST start date is after the 1st June 2019 but the agreement was signed prior to this date e.g. 28th May 2019?

- A. Where a tenancy agreement is signed before the 1st June 2019 you do not have to comply with the 5/6 week deposit cap, although we would recommend that our members do so.

## Q. Do I need to re-serve the Prescribed Information?

- A. If the landlord and tenant remain the same as the earlier tenancy, as well as the property let under the tenancy, you do not need to serve the Prescribed Information to the tenant again.

## Q. Should I provide the tenant with the new Deposit Protection Certificate when the relevant adjustment has been made to the deposit in line with the 5/6 week deposit cap?

- A. Whilst you do not need to re-serve the Prescribed Information, it is best practice to provide the tenant with the Deposit Protection Certificate confirming the new deposit amount.

## Q. If there is a dispute regarding the excess deposit amount to be returned to the tenant, can a dispute be raised with the scheme?

- A. No. Only disputes relating to any proposed dilapidation deduction/s to the deposit amount can be raised with the scheme at the end of the tenancy as is our current practice.

# Not a member?

## It's easy to join mydeposits Custodial or Insurance scheme

### 1. Join Online



Join instantly and set up your member account

### 2. Protect



Protect each deposit you take with mydeposits

### 3. Inform



Pass your tenant key information about the protection

### Comply



When you have completed steps 1-3 you will then be compliant

The quickest way to join is online but you are also able to join by post or phone.



Ministry of Housing,  
Communities &  
Local Government

mydeposits is working alongside the other two tenancy deposit approved schemes and the Ministry of Housing Communities & Local Government (MHCLG) to deliver the relevant process changes across our Insurance and Custodial Schemes.

Full guidance from MHCLG regarding the Tenant Fee Act 2019, which includes the 5/6 week rent cap is detailed in their guidance report, which you can access by visiting [www.gov.uk/government/collections/tenant-fees-act](https://www.gov.uk/government/collections/tenant-fees-act)

We'll be updating information frequently, so it's worth visiting [mydeposits.co.uk](https://mydeposits.co.uk) to see what the very latest news is with regards the legislation and how it will impact on your lettings business.



### Contacting mydeposits



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