

Tenancy Deposit Protection – Housing Act 2004

County court applications under section 214 of the Act

Background

1. Landlords and agents are required to protect their tenants' deposits under a scheme set out by the Housing Act 2004 ("the Act")¹.
2. Under these provisions, the landlord or agent is required to place any deposit into an approved tenancy deposit scheme ("TDS") within 14 days of receipt. The landlord is also required to provide the tenant with confirmation that the deposit has been put into a TDS.
3. Where a landlord fails to do this, a tenant may apply to the county court to compel the landlord to repay the deposit or place it in an approved TDS (see section 214 of the Act).

"Section 214" application to the county court

4. The application under section 214 can only be made on limited grounds. If the court is satisfied that those grounds have been met, the court must either order the repayment of the deposit or order the person who appears to be holding the deposit to pay it into a designated account under a authorised custodial tenancy deposit scheme. The court must also order the landlord to pay a sum of money equal to three times the amount of the deposit.

CPR Part 8 procedure

5. The appropriate procedure for starting a "section 214 claim" is provided by Part 8 of the Civil Procedure Rules (CPR). A tenant will therefore need to follow the procedure set out in Part 8 of the CPR and the accompanying Practice Direction and pay the appropriate court fees in accordance with The Civil Proceedings Fees Order 2008 (if not exempt). Details about the correct claim form to be used (Form N208), the contents of the claim form and filing of evidence in support of the claim, and also the procedure to be followed by the defendant landlords are set out in this part of the CPR – for more details see footnote².
6. Detailed guidance on completing Form N208 and subsequent action to be taken by the defendant landlord is also set out in the relevant forms as attached below (also available in hard copy from any county court office):

¹ See sections 212 to 215 Housing Act 2004 -

http://www.opsi.gov.uk/acts/acts2004/plain/ukpga_20040034_en_19#pt6-ch4

² http://www.justice.gov.uk/civil/procrules_fin/contents/parts/part08.htm

- Part 8 Claim Form (N208) http://www.hmcourts-service.gov.uk/courtfinder/forms/n208_1000.pdf
- Notes for Claimants (Form N208A) http://www.hmcourts-service.gov.uk/courtfinder/forms/n208a_0499.pdf
- Notes to Defendants (Form N208C) http://www.hmcourts-service.gov.uk/courtfinder/forms/n208c_1202.pdf

7. To avoid any confusion, Part 56 of the CPR will be shortly be amended to state that section 214 applications must be started using the Part 8 procedure.

Disputes after deposit is placed in a TDS

8. Please note that this guidance is only aimed at resolving disputes about placing a deposit into a TDS. It is not aimed at resolving disputes about the return of a deposit that has been placed in a TDS – e.g. at the end of the tenancy. Each TDS scheme is supported by a free alternative dispute resolution (ADR) service whose role is to resolve such disputes about the return of a deposit that has been in a TDS. Use of the scheme’s ADR service is not compulsory but their purpose is to avoid such disputes reaching the courts.
9. If however parties to such disputes do decide to use the courts to resolve these particular matters, they are advised to seek separate advice about appropriate court procedures that may be available.

Further Help and Advice

10. There are other HMCS leaflets available from the HMCS website <http://www.hmcourts-service.gov.uk/index.htm> or county court offices which are designed to help claimants and defendants, but they can only give a general idea of what is likely to happen. Court staff can advise on court procedures and provide the forms needed and help to fill them in, but **they cannot give legal advice.**
11. Free legal advice may be available from Citizens Advice Bureaux, law centres or independent advice agencies. Contact details can be found in the local phone directory and details may be displayed in local courts. Alternatively, contact Community Legal Advice on 0845 345 4345 or their website at <http://www.clsdirect.org.uk/>