
STATES OF JERSEY



TENANTS' DEPOSIT SCHEME: CURRENT STATUS

**Presented to the States on 13th April 2010
by the Minister for Housing**

STATES GREFFE

REPORT

(A) Introduction

The Draft Residential Tenancy (Jersey) Law 200- P.74/2009 (“RTL”) was adopted by the States on 14th July 2009. In August 2009, Deputy G.P. Southern of St. Helier lodged P.130/2009 which called for Regulations to be brought forward by March 2010 under the RTL to establish a Tenants’ Deposit Scheme (“TDS”) to protect tenant deposits and to provide dispute resolution processes to assist in cases of dispute over the return of deposits. The States debated and adopted P.130/2009 in October 2009.

This Report is presented by the Minister for Housing to update members of the Assembly, landlords, tenants, organisations affected by the proposals and the general public on the progress of the TDS.

Following the States debate on P.130/2009, a Report, R.127/2009, was presented to facilitate wider understanding of the issues involved. This current Report should be read as a continuation of R.127/2009. The issues raised at the time remain of concern, in particular the lack of proper consultation, the issue of funding, and the possibility of alternatives, but at the same time the need to protect tenant deposits and continue with this work with as much speed as possible remains.

(B) Current timetable

Draft Regulations have now been prepared, and are subject to review by the Minister for Housing.

However, the RTL has not returned from the Privy Council yet and a debate on the TDS Regulation cannot take place until the RTL is returned, registered in the Royal Court and an Appointed Day Act adopted by the States to implement it.

In addition, the Treasury and Resources Department has indicated that the full cost implications of the TDS must be identified before any proposition is brought to the States. Therefore, before the Draft Regulations can be lodged, it will be necessary for sufficient discussions to have been held with potential providers to enable the Minister to provide the Assembly with greater detail on any likely cost of the TDS to the States. Before this can occur, a procurement exercise needs to take place.

Arrangements have been made with the States Procurement division to manage the appropriate tender process to recruit a scheme provider.

An ‘Expressions of Interest’ advertisement is scheduled to appear on the States Procurement website and in the Jersey Evening Post on 14th April 2010. The advert asks any organisation that is either registered or based in Jersey and that is interested in taking the role of scheme provider to register their interest no later than 30th April 2010.

The Draft Appointed Day Act for the RTL will be lodged *au Greffe* when the Law is back from the Privy Council; and it is proposed that the RTL will be implemented when associated guidance and marketing is ready to be launched. In addition, work is ongoing with regard to the introduction, at the time the RTL is implemented, of compulsory condition reports on properties which are let.

If and when the TDS Regulations are adopted by the States, the provider will be appointed. There will then be a period of several months during which the TDS will be established by the provider and guidance notes prepared for use by the community and interested organisations or individuals.

(C) Financing of the TDS

A key element of the TDS is that it be established and managed by a third party provider at no cost to the States. This proviso was first promoted by the Minister in the RTL Consultation Findings Report¹ and has been clearly repeated and endorsed in all subsequent Reports and Propositions referring to the TDS, including P.130/2009 adopted by the States last October. However, as the provider will be responsible for putting forward proposals to establish and manage the TDS, it is difficult to assess to what extent the goal of “no cost to the States” can be attained until discussions with a preferred supplier are advanced. It will be necessary for the States to enter into a Service Agreement (“the Agreement”) with the provider. In reality, developing any such Agreement will result in some cost to the States, but the level of cost will be dependent both on the way in which the provider proposes to establish and manage the TDS and the final terms of the Agreement.

In addition, the relationship with a provider will need to be managed on an ongoing basis. The early lodging and debate of P.130/2009 took place at a time when research on the details of a TDS for Jersey had not been completed. Subsequent research and information has indicated that there is likely to be a need for a part-time officer to act as the point of contact with the provider and to deal with any regular monitoring issues and queries raised at Government level. In addition, the time of a senior accounting officer will need to be allocated for attendance at regular performance management and financial review meetings to be held in connection with the performance of the TDS and the Agreement.

Current proposals for the TDS have been closely based on the custodial model scheme introduced in the United Kingdom in April 2007, whereby deposits are held by a central agency. It is understood that that scheme is funded by interest earned on the monies deposited, and it has been the intention that any Jersey TDS should be similarly funded. However, there are likely to be issues with funding a scheme in this way in the current economic climate – although interest rates are unlikely to be abnormally low forever. In addition, the States are now committed to making substantial savings on expenditure over the next 3 years; and with no money specifically allocated to the set-up or support of a TDS, the financial position is expected to be problematic should any States funding or manpower resource be required. In addition, even should the States not pay for the operation of the scheme, someone will, likely landlords, through the loss of interest on deposits they would otherwise have received.

In addition, account will need to be taken of any other circumstantial costs arising out of the Agreement for which the States may have to assume responsibility, for example if there were to be cases of failure of elements of the TDS or termination of the Agreement.

¹ Residential Tenancy (Jersey) Law 200-: Summary of Findings of the Consultation Report presented to the States on 10th October 2008 by the Minister for Housing.

The provision of dispute resolution provisions is intended to be the responsibility of the provider. However, it is estimated that a budget of between £30,000 and £40,000 may be needed if additional use is made of the Petty Debts Court mediation process, and these costs would need to be covered by the scheme.

(D) Conclusions

It is acknowledged that a number of tenants do have difficulties in obtaining the fair return of deposit monies owing to them, although these issues may often be localised to a small number of landlords. Indeed, the problem would appear to be of a limited scale when the numbers of complaints are set against the total number of units of accommodation that are offered for rental or lodging in the Island.

Thousands of people will be affected by any legislation affecting tenants, lodgers and landlords in the Island. The Lodging House Association has approached and met with the Population Office to express their grave concerns about the additional and unnecessary bureaucracy the introduction of a TDS will have on their members. The views of other letting agents and private landlords, and tenants, would also be welcome. The Minister still believes that consultation should take place on this new policy which will affect so many. It is for this reason in part that progress on this matter is again being reported to the States, and indeed, the Minister will continue to report in this manner, in particular, as the cost and administrative implications become clearer as negotiations with potential providers advance.

Having said all the above, substantial progress is being made on the development of the TDS, and the Minister remains committed to the introduction of new mechanisms to protect tenant deposits.