

Lesley Griffiths AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty



Llywodraeth Cymru
Welsh Government

Christine Chapman
Chair Communities, Equality and Local Government
Committee

CELG.Committee@Wales.gov.uk

24 September 2014

Dear Christine

You wrote on 19 September seeking clarification on how the Tenancy Deposit Scheme (TDS) amendments to the Deregulation Bill, covered in Supplementary Legislative Consent Memorandum No.4 for the Bill, are in line with the Welsh Government's policy intentions in relation to tenancy deposit protection and the forthcoming Renting Homes Bill.

By way of background, the requirement for the TDS amendments arises directly from the *Superstrike vs Rodrigues* Court of Appeal judgement in 2013. The judges in that case have interpreted the tenancy deposit legislation to have a different effect to its original intention when enacted by the UK Parliament as per the accompanying UK Government advice given at the time. The judgement was not appealed which means the Court of Appeal's view is the definitive interpretation of the TDS legislation. This means potentially a significant number of landlords and letting agents are unable to evict tenants because of the judgment.

The amendment to the TDS legislation in the Deregulation Bill is intended to address this problem. The amendment provides that where the TDS requirements have been complied with by a landlord in relation to a fixed term shorthold tenancy, those requirements will not need to be complied with again for a replacement tenancy, either where a tenancy becomes a periodic shorthold tenancy, or where a replacement fixed term tenancy is entered into. Where those requirements did not apply to the first tenancy and a replacement statutory periodic tenancy is still in place, the amendment provides extra time for compliance. The amendments apply retrospectively.

These amendments fit with our overall TDS policy as it will mean TDS legislation works in the way it was originally intended whilst not disadvantaging tenants or landlords or creating unnecessary bureaucracy and complexity. The forthcoming Renting Homes Bill will introduce further measures which will also provide simplified and fairer arrangements for renting, by introducing two types of contract for renting. Both of these measures accord with the Welsh Government's vision of a modern and better private rented sector for all.

As the current TDS legislation was introduced on an England and Wales basis and the schemes are run on behalf of Wales by the Department for Communities and Local

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Government, it seems sensible this change to the legislation should also be introduced on an England and Wales basis so the changes are identical and are implemented at the same time. This will avoid any unnecessary delay in introducing the amendments in Wales which would disadvantage landlords and tenants in Wales, compared to their English counterparts.

Regards
Lesley

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