

## The essential guide to renewal of business tenancies

### The statutory régime

When a business tenancy expires and the tenant remains in occupation, Landlord & Tenant Act 1954 has the effect of continuing the contractual tenancy on its terms as if it had not expired.

The tenancy will continue indefinitely while the tenant remains in occupation unless either the landlord or the tenant serves a notice on the other in prescribed form terminating the tenancy or, in the case of a tenant, requesting a new tenancy. Such notices have to be given at least 6 months, but not more than 12 months, before the stated termination date and in any event may not expire before the contractual expiry or break date of the original tenancy. The tenant then has a statutory right to the grant of a new tenancy on terms agreed or determined through the statutory provisions.

A landlord may only resist the grant of a new tenancy on specified statutory grounds based on failure of the tenant to comply with obligations during the term or, more commonly, on an intended redevelopment of the premises comprised in the tenancy or requirement of the premises for the landlord's own use. In order to rely on such grounds of opposition the landlord must either have served a termination notice specifying the grounds of opposition or, if the tenant has served a renewal request, have served a counter notice within 2 months stating that the landlord opposes the grant of a new tenancy and upon which grounds the landlord relies.

After service of the termination or renewal notice (assuming no statutory opposition by the landlord) the landlord and tenant may negotiate the terms of a new tenancy. If no agreement has been reached either the tenant or the landlord may at any time prior to expiry of the termination or renewal notice start proceedings in Court for the terms of the new tenancy to be decided. If no application has been made and there has been no prior written agreement between the landlord and tenant to extend the time for making such an application, the tenant loses the right to renew and the tenancy comes to an end in accordance with the termination notice or renewal request.

If the landlord resists the grant of a tenancy on statutory grounds, either party may apply to the Court to determine whether the landlord is entitled on the facts to rely on those grounds, or if not, upon what terms the new tenancy should be granted.

### Key points

- The time limits after service of termination or renewal notices are strict and if neither party applies to the Court in due time, the tenant loses the right to renew and the tenancy expires.
- The procedural requirements, including the use of prescribed forms, are strict and failure to observe them may invalidate the procedure.
- Either party may apply for an interim rent to be determined (higher or lower than the passing rent) and paid while the tenancy continues under the statute.
- The tenant is at no time obliged to take a new tenancy simply because he has entered into the statutory procedure, although if he remains in occupation after the contractual expiry date he can only terminate the extended tenancy on 3 months' notice.
- Where a landlord opposes the grant of a new lease on grounds not relating to the tenant's conduct, he will normally be liable to pay compensation to the tenant.
- There are a number of important points of detail relating to the statutory régime and other end of tenancy issues for landlords and tenants that require careful consideration and planning well before the end of the tenancy. This can also help to reduce the likelihood of needing Court proceedings.

This guide is for general information only and is not a substitute for considered advice on specific issues. Consequently we can not accept responsibility for any errors or omissions in this guide.