

The Landlord and Tenant Act 1954 – Exclusion of security of tenure

Under the Landlord and Tenant Act 1954 (“LTA 1954”), a tenant with a business tenancy (i.e. relating to commercial or business premises, rather than residential property) will have an automatic right at the end of the lease term to renew the lease on the same terms (i.e. same rent) as the original lease.

The parties can agree to exclude from the lease the security of tenure provisions set out in sections 24-28 of the Landlord and Tenant Act 1954 (the Act) which would serve to extinguish the tenants right to automatic lease renewal.

The Act regulates the way in which business tenancies can be terminated and gives statutory protection to business tenants.

The statutory protections include a right for the tenancy to continue automatically at the end of the contractual term and a right to apply to the court for a statutory renewal of the tenancy which can be opposed by the Landlord on the grounds set out in the Act.

The lease can be excluded from the Act by the Landlord serving a standard form of notice on the Tenant stating the intention to exclude the protections of the Act, the Tenant acknowledging this by swearing a statutory declaration and the lease containing references to this process being undertaken.

The Tenant will need to ensure that they swear the appropriate statutory declaration to reflect whether they are a corporate tenant (and therefore a director/employee will be swearing on behalf of the company) or an individual (in which case the individual will swear the statutory declaration themselves). The Meanwhile Foundation Toolkit contains precedent statutory declarations for each.

If the Tenant is unclear on the implications of any of the above, then they should seek independent legal advice on the implications of excluding the protections of the Act.

The Tenant is required to:

- **Receipt the notice served by the Landlord** (This can be done by signing (anywhere on it) a copy of the Notice and returning it to the Landlord).

- **Swear the statutory declaration.**

- If the Tenant is an individual, they will swear the statutory declaration themselves. If the Tenant is a corporate entity, an authorised officer of the company, not necessarily a director, will need to swear the statutory declaration. The person swearing the declaration is referred to as the 'declarant'.
- The declarant must write their name (not the company name) and their address (not the company address) on the front page.
- The declarant must also sign on the dotted line at the bottom of the second page.
- If the declarant is an individual tenant they will need to delete the wording at paragraph 5. If the declarant is signing on behalf of a corporate tenant (i.e. they are an authorised officer signing on behalf of a company) they will need to retain this wording.
- Finally, they must go to an independent solicitor (any local solicitor – they can call ahead to see if someone is available), pay £5 (or else the Law Society rate from time to time) in cash and the local solicitor will witness the statutory declaration (they will sign, date and write their firm's address).

- **Return the documents to the Landlord.**

- The sworn Statutory Declaration.
- Receipted Notice.
- Signed undated Lease
 - If the tenant is a corporate tenant, the lease should be signed by two directors or a director and company secretary on the execution page (at the rear of the document). In addition, every demise plan and page of the Schedule of Condition in the lease should be initialled by both signatories.
 - If an individual is signing, the lease should be signed by them and a witness (any independent individual).