

1. Generally speaking, business tenants can remain in occupation of the premises after their lease expires for the grant of a new lease. The right to security of tenure should be preserved.
2. Before 1 June 2004, a court order was offered to business tenants. This is no longer required: instead, a three step procedure must be followed. The steps are set out below. If the parties fail to follow the procedure the tenant may acquire security of tenure.
3. Step 1 – notice
  - 3.1 The landlord must give notice to the proposed tenant. This notice contains a "health warning" explaining the effect of entering into a lease without security of tenure.
  - 3.2 The notice must be given to the proposed tenant before the lease is entered into or before the tenant becomes contractually bound to enter into it. So, if there is to be an agreement for lease, the notice must be given before the agreement is entered into.
  - 3.3 The landlord should explain the terms of the new lease to the proposed tenant until the notice is served and the lease is in its final form. If the notice is served before all the terms have been agreed, it may not be valid.
4. Step 2 – declaration (simple or statutory)
  - 4.1 Once the landlord's notice has been given to the proposed tenant, the landlord and the proposed tenant must make a simple declaration or swear a statutory declaration.
  - 4.2 If the landlord's notice is given 14 days or more before the lease is granted (or, if applicable, before the lease is entered into) the tenant must sign the "tenant's simple declaration".
  - 4.3 If the landlord's notice is given 14 days or more before the lease is granted (or, if applicable, before the lease is entered into) the tenant must swear the "tenant's statutory declaration" before an independent solicitor, i.e. a solicitor who is not acting for the landlord or the tenant in relation to the lease.
  - 4.4 Both declarations are signed by the landlord and they both confirm that the tenant has received the notice, that the tenant has read and understood the notice containing the "health warning", that the tenant accepts the consequences of entering into a lease without security of tenure.
5. Step 3 – reference in lease
  - 5.1 The new lease must refer to the landlord's notice, the simple declaration or statutory declaration and the parties' agreement to exclude the provisions of sections 24 to 28 of the Act.
  - 5.2 It is good practice to refer to the landlord's notice and the tenant's simple declaration in the lease.

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