



Real Estate Dispute Resolution

Lease renewals under the Landlord and Tenant Act 1954

An introduction to the service of notices in the context of unopposed lease renewals under the Landlord and Tenant Act 1954

A "business tenancy" does not end at the expiry of the contractual term but continues (indefinitely) until determined by a statutory notice or by surrender/forfeiture.

This means that:

- A landlord can safely continue to demand and accept rent at the passing rate.
- The tenant remains bound by all the covenants in the lease, as before contractual expiry.
- No interim rent application can be made – so the rent cannot go down (or up) during this period.
- In effect, the expired lease continues in effect (it is referred to as a 'continuation tenancy') – with the exception that it is subject to determination (see below).

A tenant has a right to end its liabilities under the lease at contractual expiry.

This means that:

- Regardless whether a section 25 Notice has been served, a tenant has the right to end its lease on the contractual expiry date, by one of two means.
- A tenant can vacate on or before contractual expiry, and because the tenant is no longer 'in occupation for the purpose of a business' no 'continuation tenancy' arises.

- A tenant can serve Notice under section 27 of the 1954 Act – not less than three months' notice expiring on the contractual expiry date must be given. The lease will then end at contractual expiry, whether or not the tenant has vacated by that date [section 27(1)].

A tenant has a right to end its liabilities under the lease after contractual expiry.

This means that:

- Regardless whether a section 25 Notice has been served, a tenant has the right to end a continuation tenancy by giving not less than three months' notice (expiring at any time, i.e. not necessarily on a quarter day) under section 27(2).

The statutory lease renewal procedure is activated by the service of Notice under section 25 (landlord) or Request under section 26 (tenant).

In either case:

- The Notice must give a date that is at least six months and not more than 12 months in the future to terminate the current lease and the date given cannot be earlier (it can be later) than the contractual expiry date of the current lease.

- Once a statutory Notice has been served an interim rent application can be made and the interim rent will run from the earliest date that could have been stated in the Notice (i.e. not necessarily the date stated in the notice)

This means that:

- Unless the tenant takes action to end the lease sooner, the lease will continue until the date stated in the Notice – for example, if contractual expiry is 29 September 2010 but the section 25 Notice served in March 2010 gives a termination date of 20 December 2010 the lease will continue until 20 December 2010 unless the tenant vacates on/before 29 September 2010 or serves a section 27 Notice to expire before 20 December 2010.
- A section 25 Notice served in March 2010 could have given a termination date in September 2010 and therefore this is the date from which the interim rent will run, i.e. not December 2010 which is the actual termination date stated in the Notice.



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CONTACT

Please talk to your usual Nabarro contact or

Jane Turley, Managing Associate
T +44 (0)114 279 4158 j.turley@nabarro.com

Either landlord or tenant can take action to continue a tenancy beyond the date stated in the Section 25 Notice or Section 26 Request.

One of two actions is required, either:

- A written agreement to extend the 'termination date' to a future fixed date must be signed by both parties before the termination date. Successive extensions can be agreed in the same way; or
- Lease renewal proceedings must be issued. If no extension is agreed, the lease will end on the termination date unless either the landlord or the tenant issues lease renewal proceedings. If the date is missed, the tenant loses its statutory right to a new lease and has no right to remain in the premises.

No response is required when a Section 25 Notice or Section 26 request is served.

In unopposed lease renewals:

- There is no requirement on either party to serve a counter-notice to preserve its rights – the tenant need not tell its landlord whether or not it intends to renew.
- If neither party takes any action the lease will end on the date stated in the Notice, regardless of whether the tenant remains in occupation at that date.

If lease renewal proceedings are issued at Court they must also be served on the other party within two months.

If a tenant preserves its statutory rights by issuing lease renewal proceedings (i.e. by filing the required papers with the court before the termination date) it need not reveal that it has done so straight away: the date of issue is the date the court processes the papers; the tenant has two months from that date to serve the papers on its landlord. A notice can be served to require a tenant either to serve the court application or discontinue its proceedings – at least 14 days' notice must be given.

This note is intended to provide only a summary introduction to the procedures for the unopposed renewal of leases under the Landlord & Tenant Act 1954. Specific legal advice should be taken in individual cases.

London

Lacon House 84 Theobald's Road
London WC1X 8RW
T +44 (0)20 7524 6000
F +44 (0)20 7524 6524

Sheffield

1 South Quay Victoria Quays
Sheffield S2 5SY
T +44 (0)114 279 4000
F +44 (0)114 278 6123

Brussels

209A Avenue Louise 1050 Brussels
Belgium
T +32 2 626 0740
F +32 2 626 0749

For further information about our services and news updates on legal issues, visit our website at www.nabarro.com or email info@nabarro.com

Alliance firms:

France August & Debozy
Gilles August
T +33 (0)1 45 61 51 80
www.august-debozy.com

Germany GSK Stockmann + Kollegen
Rainer Stockmann
T +49 (30) 20 39 07 - 0
www.gsk.de

Italy Nunziante Magrone
Gianmatteo Nunziante
T +39 06 695181
www.nunziantemagrone.it

Nabarro LLP

Registered office: Lacon House, 84 Theobald's Road, London, WC1X 8RW.

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