

1. Generally speaking, business tenants have a right to remain in occupation of the premises after the lease expires for the grant of a new lease. This right is known as security of tenure should be exercised.
2. Before 1 June 2004, a common law procedure was offered to business tenants. This procedure was a three step procedure must be followed in order to acquire security of tenure below. A failure to follow the procedure would result in the tenant not acquiring security of tenure.
  3. Step 1 – notice
    - 3.1 The landlord must give the tenant a written notice to the proposed tenant. This notice contains a "health warning" which explains to the proposed tenant the consequences of entering into a lease of the premises of tenure.
    - 3.2 The notice must be given to the tenant before the lease is entered into or before the tenant enters into it. So, if there is to be an agreement for lease entered into before the agreement is entered into.
    - 3.3 The landlord should explain the terms of the new lease to the proposed tenant until the terms of the new lease are agreed and the lease is in its final form. If the landlord does not do this, the notice is invalid and it may not be valid.
  4. Step 2 – declaration (simple declaration)
    - 4.1 Once the landlord's notice has been given to the proposed tenant, the tenant must make a simple declaration or swear a statutory declaration.
    - 4.2 If the landlord's notice is given to the tenant (or, if applicable, before the tenant enters into the lease) the tenant must sign the "tenant's simple declaration" before the lease is granted (or, if applicable, before the lease is entered into) the tenant must sign the "tenant's simple declaration" 4 days before the lease is granted (or, if applicable, before the lease is entered into) the tenant must sign the "tenant's simple declaration" before an independent solicitor, i.e. a solicitor who is not the landlord or the tenant in relation to the lease.
    - 4.3 If the landlord's notice is given to the tenant (or, if applicable, before the tenant enters into the lease) the tenant must sign the "tenant's simple declaration" 4 days before the lease is granted (or, if applicable, before the lease is entered into) the tenant must sign the "tenant's simple declaration" before an independent solicitor, i.e. a solicitor who is not the landlord or the tenant in relation to the lease.
    - 4.4 Both declarations are made by the landlord and they both confirm that the tenant has received the "health warning", that the tenant has read and understood the "health warning" and the tenant accepts the consequences of entering into a lease of the premises.
  5. Step 3 – reference in lease
    - 5.1 The new lease must contain a reference to the landlord's notice, the simple declaration or statutory declaration and the parties' agreement to exclude the provisions of the Act.
    - 5.2 It is good practice to include a reference to the landlord's notice and the tenant's simple declaration in the lease.