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Renewal of Business Tenancies Landlord and Tenant Act 1954

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Contents

Three sections to the talk (c. 15 mins)

1. Fundamental concepts
2. Litigation – practical pointers
3. The future

Fundamental Concepts

1. Renewal isn't quite the right term

2. Eligibility

_ s. 69

_ s. 43

3. Negotiations



Fundamental Concepts

1. Renewal isn't quite the right term

2. Eligibility

_ s. 69

_ s. 43. Excluded tenancies

3. Negotiations



Types of Renewal

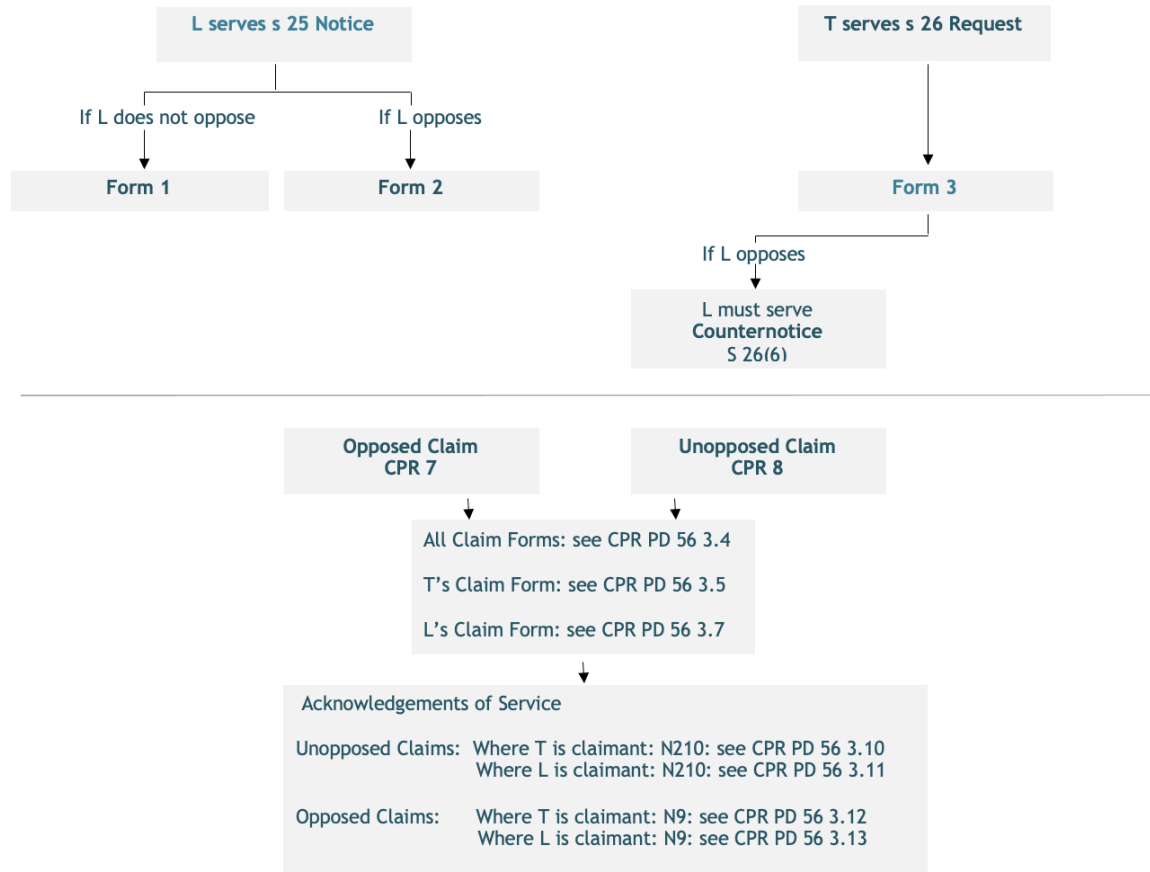
Landlord's s 25 Notice	Tenant's s 26 Request	Tenant's s 27 Notice	s 28 Agreement
Mainly Form 1 (L not opposed) Or Form 2 (L opposed)	Form 3	no prescribed form	agreement in writing

Notice Requirements

- _ s. 66 LTA 1954
- _ the 2004 Notice Regs.
- _ A valid s 25 notice can't be amended or withdrawn, although if there is an issue about its validity, it is open to serve another one, without prejudice.
- _ T doesn't need to serve a counter-notice to L's s 25 notice BUT L does need to serve a counter-notice to T's s 26 request if he wishes to oppose.

Notice Flowchart

Practice and Procedure Checklist



Statutory Periods

1. Always keep a watchful eye on the the 'statutory period' under s. 29B.
2. Negotiation between the parties is normally done between the serving of the notice and the issuing of the claim.
3. Extensions can be agreed between parties but must comply with s. 69(2) and s. 29B
4. There is no provision for the court to determine late/out of time applications for business renewals

Procedure

- Look to CPR 56 and PD 56
 - _ Part 8 for unopposed claims (with amendments for evidence. No need to file evidence) & CPR 56.3(2)(b)
 - _ Part 7 for opposed and CPR 56.3(4)
 - _ Claim Forms, PD 56, para 3.4 – 3.9
 - _ Acknowledgment of Service & ‘Defence’, para 3.10– 3.13
 - _ Defence for a Landlord must include grounds of opposition
 - _ Two step process for more complicated, contested claims with a preliminary issues hearing

Grounds of Opposition, s. 30 LTA 54

A – state of repair of the holding

B – persistent delay in paying rent

C – other substantial breaches

D – alternative accommodation

E – current tenancy created by the sub-letting of part of a superior tenancy

F – landlord intends to demolish or reconstruct

G – landlord intends to occupy the holding

A, B, C and E – allow the court a discretion to go beyond the grounds and look at relevant circumstances, including conduct and behaviour

Some practical points

Terms

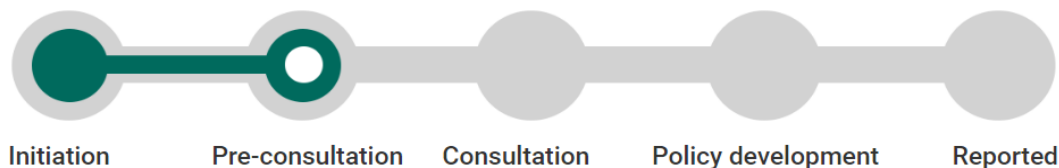
- _ s. 35 LTA 54.
- _ Broad discretion available to the judge but subject to the terms of the current tenancy and to all relevant circumstances

- _ Burden on party trying to vary a term to justify it
- _ Duration
- _ Rent (s. 34)
 - _ Expert evidence if at trial



Business Tenancies: the right to renew

Current project status



Ensuring Part 2 of the Landlord and Tenant Act 1954 works for today's commercial leasehold market.

Our wide-ranging review will consider in detail how the right to renew business tenancies, set out in Part 2 of the Landlord and Tenant Act 1954, is working and will consider options for reform.

Project details

Area of law

Property, family and trust law

Commissioner

Professor Nicholas Hopkins

The problem

Security of tenure for business tenants was introduced by Part 2 of the 1954 Act following the Second World War. The legal framework is, therefore, nearly 70 years old. While the Act has been updated in the past to improve its flexibility and reduce the burdens on landlords and tenants associated with its operation, it is now nearly 20 years since the last significant updates were made.

Since the Act was last reviewed, the world around us has changed and so has the commercial leasehold market. The rise of the internet has led to a dramatic increase in online retail and services, and landlords and tenants have been impacted by world events including the financial crisis of 2008 and the Covid-19 pandemic. Government priorities have also evolved during this time; for example, there is now an increased focus on the environmental sustainability of commercial properties. And, as part of its Anti-Social Behaviour Action Plan, Government is looking to revitalise high streets and town centres, creating thriving spaces which landlords, businesses and communities choose to invest in and use.

Today, we have heard that the Act is not working well for landlords or tenants. Those affected by the Act report that aspects of the law are burdensome, unclear and out-of-date. There is concern that parts of the Act are standing in the way of modern commercial practices, causing unnecessary cost and delay for both landlords and tenants, and preventing commercial space, such as our high streets, from being occupied quickly and efficiently. Often, landlords and tenants entering into business tenancies decide to contract out of the Act, meaning that tenants do not have the right to renew that the Act would otherwise give them.

The project

This project was referred to the Law Commission by the Department for Levelling Up, Housing and Communities in March 2023, having been announced as part of the [Government's Anti-Social Behaviour Action Plan](#). The Law Commission and the Department have agreed Terms of Reference for the project, as follows:

For the Law Commission to conduct a wide review of Part 2 of the Landlord and Tenant Act 1954 with a view to modernising commercial leasehold legislation, with an emphasis on:

- creating a legal framework that is widely used rather than opted out of, without limiting the rights of parties to reach their own agreements, by making sure legislation is clear, easy to use, and beneficial to landlords and tenants;
- supporting the efficient use of space in high streets and town centres, now and in future, by making sure current legislation is fit for today's commercial market, taking into account other legislative frameworks and wider government priorities, such as the "net zero" and "levelling up" agendas; and
- fostering a productive and beneficial commercial leasing relationship between landlords and tenants.

Next steps

We anticipate publication of our consultation paper in Autumn 2024.

Law Commission Review

Difficult to know what will happen

1. Tinkering

2. Fundamental change; or

3. Nothing



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