

# Leasehold Advisory Service

## Lease Extension: Statutory rights

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# Qualifying for Lease Extension

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- # Tenant of a long lease (21 years +) of a flat for last 2 years
  - # Personal representatives of a deceased qualifying tenant
  - # Exceptions: business leases, Crown Land; National Trust Properties
  - # Flat includes garage, outhouse, garden usually enjoyed with the flat and let to the tenant
  - # Absolute right (subject to qualification)
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# What is the Right

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- # New lease
  - # For a term of 90 years in addition to years remaining on term of existing lease
  - # Peppercorn rent
  - # Substantially the same terms as in the existing lease
  - # Payment of premium and costs
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# The Premium

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- # Compensation for diminution of the landlord's interest i.e. loss of rent and delay in achieving the reversion.
  - # The marriage value
  - # Compensation (if any)
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# The Costs

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- # Tenant is liable for reasonable costs incurred in pursuing the notice and incidental to:
  - # Any investigation of tenant's right
  - # Any valuation for fixing the premium
  - # The grant of a new lease
  - # Costs are reasonable if it would have been reasonable to incur them if personally liable.
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# Procedure

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- # Obtain a valuation
  - # Serve Tenants' Notice on landlord
  - # Landlord must respond with a counter-notice
  - # Application to LVT within 6 months from date of Counter-notice
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# Serve notice (s42)

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- # Not prescribed, can be obtained from Oyez, legal stationers
  - # State the tenant's full name and address of the property which is subject to claim.
  - # Identify the flat and the lease
  - # Specify a realistic premium and any amount to be paid to intermediate landlords. Premium must be realistic, otherwise may invalidate notice:
  - # *Cadogan v Morris (1999) 1 EGLR 59 CA*
  - # *Mount Cook Land Ltd v Rosen (2003)1 EGLR 75 CC.*
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# Serve notice (s42)

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- # State name and address of a person appointed to act on behalf of the tenant
  - # Must specify date for receipt of counter-notice .. Not less than 2 months.
  - # Must be signed by tenant personally
  - # Must be served on competent landlord
  - # Must be signed by lessee.
    - power of attorney will not suffice:  
*St Ermins Property v Tingay (2002)*  
*2 EGLR 53*
  - # Not invalidated by inaccuracies in particulars
  - # Must specify terms of new lease
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# Landlord's rights

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- # Can request a deposit, *1993 Regs*
    - the greater of £250 or 10% or premium proposed
  - # Right of access:
    - to the flat to obtain valuation
    - enforceable, s92
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# Counter-notice (s45)

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## # Must either:

- admit claim/right
- deny the claim/right
- challenge on grounds of redevelopment, s47

# Failure to specify one of above will invalidate counter-notice: *Burman v Mount Cook Land Ltd (2002) Ch256CA*

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# Right to Redevelop

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- # Landlord can make an application to the court to obtain possession on grounds of redevelopment.
  - # At any time during the period of 12 months ending with the term date of the original lease.
  - # At any time during the period of 5 years ending with the term date of the new lease.
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# Tenant Can Extend Again

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- # The new lease is capable of extension under 1993 Act (s.59(1)). However, statutory provisions for security of tenure do not apply to the new lease (s.59(2)).
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