

SCHEDULE 2

Article 22(2)

**REQUIREMENTS FOR A VALID AGREEMENT THAT
SECTIONS 24 TO 28 OF THE LANDLORD AND TENANT
ACT 1954 ARE NOT TO APPLY TO A BUSINESS TENANCY**

1. The following are the requirements referred to in section 38A(3)(b) of the Act.
2. Subject to paragraph 4, the notice referred to in section 38A(3)(a) of the Act must be served on the tenant not less than 14 days before the tenant enters into the tenancy to which it applies, or (if earlier) becomes contractually bound to do so.
3. If the requirement in paragraph 2 is met, the tenant, or a person duly authorised by him to do so, must, before the tenant enters into the tenancy to which the notice applies, or (if earlier) becomes contractually bound to do so, make a declaration in the form, or substantially in the form, set out in paragraph 7.
4. If the requirement in paragraph 2 is not met, the notice referred to in section 38A(3)(a) of the Act must be served on the tenant before the tenant enters into the tenancy to which it applies, or (if earlier) becomes contractually bound to do so, and the tenant, or a person duly authorised by him to do so, must before that time make a statutory declaration in the form, or substantially in the form, set out in paragraph 8.
5. A reference to the notice and, where paragraph 3 applies, the declaration or, where paragraph 4 applies, the statutory declaration must be contained in or endorsed on the instrument creating the tenancy.
6. The agreement under section 38A(1) of the Act, or a reference to the agreement, must be contained in or endorsed upon the instrument creating the tenancy.
7. The form of declaration referred to in paragraph 3 is as follows:—
 - 1 (name of declarant) of (address) declare that
 1. I/ (name of tenant) propose(s) to enter into a tenancy of premises at (address of premises) for a term commencing on
 2. I/The tenant propose(s) to enter into an agreement with (name of landlord) that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 (security of tenure) shall be excluded in relation to the tenancy.
 3. The landlord has, not less than 14 days before I/the tenant enter(s) into the tenancy, or (if earlier) become(s) contractually bound to do so served on me/the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form of notice set out in that Schedule is reproduced below.
 4. I have/The tenant has read the notice referred to in paragraph 3 above and accept(s) the consequences of entering into the agreement referred to in paragraph 2 above.
 5. (as appropriate) I am duly authorised by the tenant to make this declaration.

DECLARED this.....day of.....

To:

.....
.....
..... [Name and address of tenant]

From:

.....
.....
..... [name and address of landlord]

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

IMPORTANT NOTICE

You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

If you commit yourself to the lease you will be giving up these important legal rights.

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

But if you do not receive at least 14 days notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

8. The form of statutory declaration referred to in paragraph 4 is as follows:—

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I.....(*name of declarant*) of(*address*) do solemnly and sincerely declare that—

1. I(*name of tenant*) propose(s) to enter into a tenancy of premises at.....(*address of premises*) for a term commencing on.....

2. I/The tenant propose(s) to enter into an agreement with.....(*name of landlord*) that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 (security of tenure) shall be excluded in relation to the tenancy.

3. The landlord has served on me/the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form of notice set out in that Schedule is reproduced below.

4. I have/The tenant has read the notice referred to in paragraph 3 above and accept(s) the consequences of entering into the agreement referred to in paragraph 2 above.

5. (*as appropriate*) I am duly authorised by the tenant to make this declaration.

To:

.....
.....
..... [*name and address of tenant*]

From:

.....
.....
..... [*Name and address of landlord*]

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AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declaration Act 1835.

DECLARED at this day of

Before me

(signature of person before whom declaration is made)

A commissioner for oaths *or* A solicitor empowered to administer oaths *or* *(as appropriate)*