

Property

PART 3 BUSINESS OCCUPIERS: LEASEHOLD PROPERTY IN THE UK

Leasehold Interest

A leasehold interest in land will give you the right to occupy property/land for a pre-determined length of time for an agreed rent. The owner of the freehold interest will grant a legal agreement known as a lease, which sets out the contractual relationship and obligations between the freeholder (also known as a landlord/lessor) and the leaseholder (also known as a tenant/lessee). The grant of the lease will create the leasehold interest in land. Along with the right to occupy, the landlord will grant the right to exclusive possession and quiet enjoyment, which allows a tenant to occupy the property without any interruptions (other than entry by the landlord as specifically referred to in the lease).

There are three main ways of obtaining a leasehold interest in a property:

- i) You can be granted a new lease from the freeholder
- ii) You can acquire an existing lease from a leaseholder, which is often referred to as an assignment or transfer of a lease and is subject to the prior consent of the freeholder
- iii) You can be granted a sublease which is a lease granted by an existing leaseholder and is subject to the prior consent of the freeholder

The length of the lease will be for a fixed period of time; however, the term will vary according to the needs of the business and what is agreed at the outset between the parties. Certain leases that are used specifically for the operation of a business have an automatic right to renew the lease after the term ends, unless the lease has been 'contracted out' of the Landlord and Tenant Act 1954. 'Contracting out' of a lease serves to exclude the automatic right to renew the lease, otherwise referred to as 'security of tenure'.

As a lease is a contractual document, tenants are usually tied into the contract until expiry of the lease term. If a tenant chooses to vacate a property without the landlord's agreement, the tenant will remain liable for the rent and other payments due until the lease comes to an end. The exit strategies for a lease include negotiating a break clause at the outset, assigning a lease if permitted to do so in the lease, or requesting a surrender of the lease with the landlord's agreement.

Depending on the length of the term, there may be stamp duty land tax payable on completion of the lease. You should also check with the landlord whether Value Added Tax (VAT) will be charged on payments in accordance with the lease.

Evidence of ownership

Leases with a term of more than 7 years must be registered at the Land Registry and the obligation is on the tenant to ensure registration is done with 2 months of completion of a lease. Depending on the value of annual rent, there may be stamp duty land tax payable before the application to register can be submitted. 3HR can handle your lease transaction from start to finish including lease registration.

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