

As businesses and markets evolve, so too must the legal framework that governs them. On 28 March 2023, the Law Commission announced that it intends to review Part 2 of the Landlord and Tenant Act 1954 (the Act).

Part 2 of the Act concerns the right to renew business tenancies, allowing businesses to remain in their premises on the expiry of existing leases, typically known as “security of tenure”. The review has been commissioned by the Department for Levelling Up, Housing and Communities and is part of the government’s Anti-Social Behaviour Action Plan, which aims to revitalise high streets and encourage more productive relationships between landlords and tenants.

Currently, areas of the Act are criticised as being “burdensome, unclear and out-of-date” and some procedures can allegedly cause “unnecessary cost and delay for both landlords and tenants”. The Law Commission also estimates that around half of all UK commercial property is rented. It therefore seems that it might be time to consider whether the procedures contained in Part 2 of the Act are still fit for purpose in today’s developing commercial market.

Professor Nicholas Hopkins, who is the law commissioner for property, family and trust law, has stated that “it’s clear that the law is in need of modernisation. Parts of the current legislation are overly complex and bureaucratic, which is holding back businesses and the high streets and town centres they operate in... Our wide-ranging review of this aspect of the Landlord and Tenant Act 1954 is a fresh opportunity to ensure that the law is simple and works for landlords, businesses and communities.”

Minister Dehenna Davison, who is the parliamentary under-secretary for levelling up, has commented that “the review will also help to make leasing clearer and more easily accessible to small businesses and community groups, reducing the growing number of vacant properties on our high streets and the anti-social behaviour that comes with it.”

The Law Commission intends to consider in its review how the lease renewal procedure could be reformed. It intends to create a legal framework that is widely used, while also ensuring that it does not hinder the ability of parties to reach their own agreements. In this sense, the review intends to encourage more productive commercial leasing relationships between landlords and tenants. The review will also aim to support the efficient use of space in high streets and town centres, taking into account the government’s wider priorities, such as net zero.

We expect that the review will consider security of tenure, grounds under which a landlord is able to terminate a commercial lease (including the redevelopment ground) and, most notably and perhaps of most practical benefit, the ability and procedure to contract out of the Act.

Research on the review will commence later in 2023, which will include pre-consultation engagement with interest groups, experts and lawyers. The Law Commission aims to publish a consultation paper by late 2023.

We will be closely monitoring the Law Commission’s review of Part 2 of the Act and providing updates as the process unfolds. Please get in touch with us if you have any queries – our expert team will be happy to assist.

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