

A landlord's guide to:

# lease extensions

In association with Seddons

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# A landlord's guide to lease extensions in association with Seddons

As the UK's largest representative organisation for landlords, it is important that we highlight the issues which are of concern to our members. Many landlords own long leases of residential flats which are then sublet to their own tenants – often Assured Shorthold Tenants. The lease owned by a landlord is a diminishing asset. A lease extension can be a way to protect an investment. This guide is designed to alert landlords to the importance of checking the length of your lease and taking the appropriate action.



## ■ What does the law allow?

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If you have been registered at the Land Registry as the owner of your flat for more than 2 years, you will generally be entitled to extend your lease by an extra 90 years on top of the remaining term and your ground rent will reduce to zero. You do not need to live in the flat. There are rare circumstances in which you may not be able to extend your lease and your solicitor should check this for you.

## ■ Can you change the other terms of your lease?

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The law only provides a limited opportunity to change the terms of your lease. However, a lease extension claim may provide an opportunity to modernise the lease by agreement.

## ■ When should you extend your lease?

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Ideally you should try to extend your lease before the remaining term reaches 80 years. Under 80 years, marriage value is payable and therefore the price you will have to pay for an extended lease will increase – sometimes significantly so.

Marriage value is defined as the value released by the coalescence of the freehold and leasehold interests for which the lessee, as part of the premium payable to the landlord, has to pay 50% of that “marriage value” if the lease has 80 years or less to run.

If the length of your lease term has fallen to less than 80 years, the sooner you apply to extend your lease, the better.

## ■ What if I am buying the flat as an investment?

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Rather than having to wait for 2 years before you qualify to make a lease extension claim (if you are thinking of buying a flat with a short lease or the term length is fast approaching the time when it will reach 80 years), then you can ask the seller to serve the notice for you and transfer the benefit of it to you on the same day as your purchase is completed.

## ■ What if the flat is owned by a company?

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Subject to meeting the qualifying criteria, it is possible for a company to extend the lease as there is no requirement to live in the flat.

## ■ How do you extend your lease?

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Whilst the process for many lease extension claims is relatively straightforward, there are numerous pitfalls for the unwary. We strongly advise you to obtain professional advice from a solicitor and valuer that specialise in this type of work at the outset. You can also contact the NLA Telephone Advice Line for practical advice. NLA Full Members have FREE access to advice and support as part of their membership. Not a Full Member? Login to the NLA website and visit the My Profile area. Look out for Upgrade on the left side menu.

There is a set procedure by which you must serve a Section 42 Notice on your landlord which sets, amongst other things, the terms on which you want to extend your lease and the price you wish to pay. It is important that this Notice complies with all statutory requirements otherwise it may be found to be invalid.

After the notice has been served, the freeholder is likely to appoint his own valuer who will want to inspect your flat. The freeholder will also request a deposit of 10% of your opening offer price which is usually payable within 14 days of a request being made.

The landlord has 2 months from the date you have served your notice to send its counter proposals to you. There is then a 2 month cooling off period.

If you cannot agree terms in that cooling off period, you have 6 months from the date of the landlord's counter notice to protect your claim by making an application to the First Tier Tribunal (Property Chamber) for it to decide the terms of the lease extension for you.

All statutory deadlines are strict and should be observed; otherwise you run the risk of losing your lease extension claim for at least 1 year (or 2 years if you have just bought the flat).

## ■ Joining with others

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If a group of leasehold flat owners in the same block join together to apply for a lease extension at the same time, professional fees may be reduced and your bargaining position may be strengthened.

As alternatives to a lease extension claim, the group could consider collective enfranchisement (buying the freehold) or right to manage.

## ■ Voluntary lease extension

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Occasionally, landlords may be willing to grant you a new extended lease but may offer less than the extra term that you are legally entitled to obtain and seek to retain (and possibly increase) ground rent. Whilst some leasehold flat owners are happy to agree to such arrangements, it is recommended that advice is taken before any deal is concluded.



## ■ Unusual situations

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If the landlord is dead or you cannot trace them, you may still be able to apply for a lease extension but there are different procedures in place to follow.

If your affairs are controlled by an attorney, it may now be possible for an attorney to deal with the lease extension process for you as a result of the implementation of the Leasehold Reform Amendment Act 2014.

## ■ Extending leases of houses

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Subject to the qualification criteria, it is possible to apply to extend the lease term of a house by 50 years on top of the remaining term. However, if the situation arises, there is a tendency for most owners to apply to claim the freehold of the house.

## ■ Budgeting for a lease extension

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At the outset, your valuer should be able to provide you with guidance on the likely price you will have to pay for the extended lease. In addition to this and the payment of any professional fees, you will also have to pay your landlord's reasonable costs associated with investigating your entitlement to a lease extension, the conveyancing costs associated with the granting of a new lease and its initial valuation fee.

Sometimes, a block has more than one landlord and additional costs may also need to be paid.



## ■ About this guide

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This guide has been written in association with Seddons Solicitors, a Recognised Supplier to the National Landlords Association (NLA) and a member of the Association of Leasehold Enfranchisement Practitioners (ALEP) – specialists in lease extension claims.

The information provided in this guide is only a summary and does not seek to cover all potential issues. It is no substitute to taking legal advice on the specifics of your case.

**PLEASE NOTE THAT THE LAW DOES NOT APPLY TO SCOTLAND AND NORTHERN IRELAND. IF YOUR PROPERTY IS IN WALES, YOU SHOULD CHECK FOR ANY DIFFERENCES IN THE LAW.**

## ■ About Seddons

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Seddons is an independent, top 200 law firm in the heart of London's West End offering a complete legal service to individuals and organisations, with particular expertise in residential and commercial property. Our team of enfranchisement experts represent landlords and tenants in relation to claims to purchase the freehold of houses and blocks of flats or to obtain extended leases. We also provide advice on the Right to Manage legislation which enables groups of tenants to take over the management and control of their buildings. Our team has extensive experience in both the First Tier Tribunal (Property Chamber) and Upper Tribunal (Lands Chamber) when such claims become contentious.



Whatever help you require, our friendly and approachable lawyers can provide advice regardless of the value of your property. Whether you need assistance with Right to Manage applications, organising or even hosting tenant meetings, explaining the costs and benefits involved in extending your lease or introductions to valuers and other relevant professionals or just general landlord and tenant advice and guidance, please contact John Midgley on 020 7725 8000 or by email: [john.midgley@seddons.co.uk](mailto:john.midgley@seddons.co.uk).

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