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SCHEDULE 2

PRESCRIBED FORMS

Form 9

NOTICE ENDING A BUSINESS TENANCY WHERE A CHANGE IS REQUIRED AT A FUTURE DATE AND THE LANDLORD OPPOSES A NEW TENANCY

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Sections 25 and 57 of the Landlord and Tenant Act 1954

IMPORTANT NOTE FOR THE LANDLORD: Use this form if you have a section 57 certificate and you wish to oppose the grant of a new tenancy, for the period between the end of the current tenancy and the date given in the section 57 certificate, on any of the grounds in section 30(1) of the Landlord and Tenant Act 1954.

If you are willing to grant a new tenancy for that period, use form 10 in Schedule 2 to the Landlord and Tenant Act 1954, Part 2 (Notices) Regulations 2004 instead of this form.

If the tenant may be entitled to acquire the freehold or an extended lease, use form 14 in that Schedule, instead of this form or form 10.

To: *(insert name and address of tenant)*

From: *(insert name and address of landlord)*

1. This notice relates to the following property: *(insert address or description of property)*

2. I am giving you notice under section 25 of the Landlord and Tenant Act 1954 ("the 1954 Act") to end your tenancy on *(insert date)*.

3. A certificate has been given by *(state the title of the Secretary of State on whose authority the certificate was issued or, if the certificate was issued by the National Assembly for Wales, insert "the National Assembly for Wales")* under section 57 of the 1954 that the use or occupation of all or part of the property should be changed by *(insert date)*. A copy of the certificate appears in the Schedule to this notice.

4. I do not intend to grant you a new tenancy between the end of your current tenancy and the date specified in the section 57 certificate.

5. You may ask the court to order the grant of a new tenancy for a term ending not later than the date specified in the section 57 certificate. If you do, I will oppose your application on the ground(s) mentioned in paragraph(s)* of section 30(1) of the Act. I draw your attention to the Table in the Notes below, which sets out all the grounds of opposition.

* *(insert letter(s) of the paragraph(s) relied on)*

6. If you wish to ask the court for a new tenancy you must do so by the date in paragraph 2 unless, before that date, we agree in writing to a later date.

7. I can ask the court to order the ending of your tenancy without granting you a new tenancy. If I do, you can challenge my application.

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8. Please send all correspondence about this notice to:

Name:

Address:

Signed:

Date:

[Landlord][On behalf of the landlord] *[Mortgagee] *[On behalf of the mortgagee]

(*delete if inapplicable)

IMPORTANT NOTE FOR THE TENANT

This Notice is intended to bring your tenancy to an end on the date specified in paragraph 2.

A certificate has been given that it is requisite that occupation or use of the premises should be changed by the date specified in paragraph 3 of this notice.

Your landlord has indicated that he will oppose your application for a new tenancy (if you decide to make one). **You will not get a new tenancy unless you successfully challenge in court the grounds on which your landlord opposes the grant of a new tenancy.**

If you want to continue to occupy your property you must act quickly. The notes below should help you to decide what action you now need to take. If you want to challenge your landlord's refusal to renew your tenancy, get advice immediately from a solicitor or a surveyor.

NOTES

The sections mentioned below are sections of the Landlord and Tenant Act 1954, as amended, (most recently by the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003)

Ending of your tenancy

This notice is intended to bring your tenancy to an end on the date specified in paragraph 2 of the notice.

Claiming a new tenancy

Your landlord is not prepared to offer you a new tenancy for a limited period pending the effect of the section 57 certificate (see the section below headed "*Effect of section 57 certificate*"). If you want a new tenancy for this period you will need to apply to the court for a new tenancy and successfully challenge the landlord's opposition (see the section below headed "*Landlord's opposition to new tenancy*").

If you wish to apply to the court you must do so before the date specified in paragraph 2 of this notice, unless you and your landlord have agreed in writing, before that date, to extend the deadline (sections 29A and 29B). However, before you take that step, read carefully the section below headed "*Effect of section 57 certificate*".

If you apply to the court your tenancy will continue after the date specified in paragraph 2 of this notice while your application is being considered (section 24).

If you are in any doubt about what action you should take, get advice immediately from a solicitor or a surveyor.

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Landlord's opposition to new tenancy

If you apply to the court for a new tenancy, the landlord can only oppose your application on one or more of the grounds set out in section 30(1). If you match the letter(s) specified in paragraph 5 of the notice with those in the first column in the Table below, you can see from the second column the ground(s) on which the landlord relies.

<i>Paragraph of section 30(1)</i>	<i>Grounds</i>
(a)	Where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with the said obligations.
(b)	That the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due.
(c)	That the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding.
(d)	That the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances, and that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding.
(e)	Where the current tenancy was created by the sub-letting of part only of the property comprised in a superior tenancy and the landlord is the owner of an interest in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purposes of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy.
(f)	That on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding.
(g)	On the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him therein, or as his residence.

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In this Table “the holding” means the property that is the subject of the tenancy.

In ground (e), “the landlord is the owner an interest in reversion expectant on the termination of that superior tenancy” means that the landlord has an interest in the property that will entitle him, when your immediate landlord’s tenancy comes to an end, to exercise certain rights and obligations in relation to the property that are currently exercisable by your immediate landlord.

If the landlord relies on ground (f), the court can sometimes still grant a new tenancy if certain conditions set out in section 31A are met.

If the landlord relies on ground (g), please note that “the landlord” may have an extended meaning. Where a landlord has a controlling interest in a company then either the landlord or the company can rely on ground (g). Where the landlord is a company and a person has a controlling interest in that company then either of them can rely on ground (g) (section 30(1A) and (1B)). A person has a “controlling interest” in a company if, had he been a company, the other company would have been its subsidiary (section 46(2)).

The landlord must normally have been the landlord for at least five years before he or she can rely on ground (g).

Effect of section 57 certificate

A copy of a certificate issued under section 57 appears in the Schedule to this notice. The effect of the certificate is that, even if you are successful in challenging your landlord’s opposition to the grant of a new tenancy, and the court orders the grant of a new tenancy, the new tenancy must end not later than the date specified in the certificate (section 57(3)(b)). Any new tenancy will not be a tenancy to which Part 2 of the 1954 Act applies (section 57(3)(b)).

Compensation

If you cannot get a new tenancy solely because one or more of grounds (e), (f) and (g) applies, you may be entitled to compensation under section 37. If your landlord has opposed your application on any of the other grounds as well as (e), (f) or (g) you can only get compensation if the court’s refusal to grant a new tenancy is based solely on one or more of grounds (e), (f) and (g). In other words, you cannot get compensation under section 37 if the court has refused your tenancy on other grounds, even if one or more of grounds (e), (f) and (g) also applies.

If the court orders the grant of a new tenancy, you may be entitled to compensation under section 59 when you leave the property (on or before the date specified in the section 57 certificate).

If your landlord is an authority possessing compulsory purchase powers (such as a local authority) you may be entitled to a disturbance payment under Part 3 of the Land Compensation Act 1973.

Validity of this notice

The landlord who has given you this notice may not be the landlord to whom you pay your rent (sections 44 and 67). This does not necessarily mean that the notice is invalid.

If you have any doubts about whether this notice is valid, get advice immediately from a solicitor or a surveyor.

Further information

An explanation of the main points to consider when renewing or ending a business tenancy, “Renewing and Ending Business Leases: a Guide for Tenants and Landlords”, can be found at www.odpm.gov.uk. Printed copies of the explanation, but not of this form, are available from 1st June 2004 from Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7NB (0870 1226 236).