

Understanding commercial lease jargon

Entering into a lease (often in conjunction with starting a business or continuing a business in a different location) is a huge financial decision for tenants.

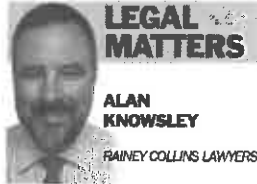
It is not made any easier by the jargon some professionals use when talking about leases.

To help, here are explanations of some of the legal commercial lease jargon you may come across when leasing premises:

Agreement to lease – the document agents will be most familiar with. It is generally signed as a preliminary step before signing a Deed of Lease.

This details the basic agreement between the parties as to rent, how long the lease is for (the term), any fitout to be carried out, the start date etc, and is generally signed before the tenant moves in.

Agreements to lease may include conditions that need to be fulfilled before the tenant moves in, including completing a fitout of the premises.



The standard form Agreement to Lease produced by the Law Society records that the parties agree to enter into a formal Deed of Lease (see below) to further record their obligations.

Assignment – generally a lease will include a right to assign or sublet the lease.

Assigning means that the lease is transferred to another party. Generally the original tenant remains liable for the obligations under the lease unless the standard provisions in the Deed of Assignment document are amended.

An assignment requires the consent of the landlord and the landlord is entitled to look into the suitability of the tenant (for example, business experience).

Deed of Lease – this is usually the main lease document.

A deed is a document that needs to be in a particular form and where each party's signature needs to be witnessed (as opposed to an agreement which need not be witnessed).

A Deed of Lease clarifies and expands on the obligations of the parties to the lease, and carries forward the basic terms agreed in the Agreement to Lease.

The standard Law Society Deed of Lease includes clauses regarding rent review, damage owing to natural disasters, default on payments and so on.

Without a Deed of Lease being signed, it can be unclear what the parties' obligations are.

Default interest – interest payable on the rent if the tenant is in default on payment.

Final expiry date – the date the lease ends or terminates, after all rights of renewal (if any) have been exercised.

Further term of sale/conditions – conditions that need to be confirmed in the Agreement to Lease within a certain period of time, before the parties are bound to go ahead with the lease.

Gross lease – a lease whereby the total rental includes any outgoings.

Landlord's fixtures and fittings – refers to things attached to the property, such as lights, kitchen cupboards and so on, which are leased with the premises.

There is a list attached to the standard Deed of Lease and should be filled in by the parties, so it is clear who owns what when the tenancy ends.

Net lease – a lease where the rental excludes outgoings, which are paid separately (sometimes to the landlord or sometimes direct).

Part 2 will follow in a further column.

Last year I commented on the policies of various online sites relating to what happens to your online information if you die.

Facebook now allows you to nominate a Legacy Contact to look after your account when you die and the account is memorialised. Your legacy contact can write a post, such as sharing a final message, respond to new friend requests and update your profile/cover photos.

The legacy contact cannot log into your account, remove posts or photos, read messages or remove friends.

You can also choose to permanently delete your account if you die by changing the settings under Settings/Security/Legacy Contact.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have a legal inquiry you would like discussed in this column email aknowsley@raineycollins.co.nz.