

Annex A: Operation of the Business on the Premises

1. A tenant may be considered to have operated its business on the premises during the holding over period, if the tenant performed activities on the property that went towards the functioning of its business.
2. If the tenant only performed activities in connection with the maintenance of the property, or activities necessary for health or safety reasons (e.g. cleaning, servicing), he would not be considered to have operated his business on the property.
3. Some examples of what it means to operate (or not operate) on the premises have been set out below.

Examples of what it means to operate the business on the premises

Example 1

4. The tenancy for a warehouse expired during the Circuit Breaker period. The warehouse was used for the sole purpose of storing frozen food. Even though the tenant was not able to access the warehouse during the holding over period (e.g., because of Circuit Breaker restrictions), the tenant is still considered to have operated its business on the property. This is because the storage of frozen food in the warehouse is an activity that goes towards the functioning of the tenant's business.

Example 2

5. The tenancy of a corporate office expired during the Circuit Breaker. During the holding over period, the tenant, which usually operates with 500 staff on-site, obtained the requisite regulatory exemptions such that 10 of its essential staff went back to the office on a daily basis. These essential staff were deployed to receive and send out documents for business purposes. The tenant is considered to have operated its business on the property, as the receipt and sending out of documents went towards the functioning of the tenant's business.

Examples of what it means not to operate the business on the premises

Example 3

6. The lease of an industrial premises expired during the Circuit Breaker. The tenant did not operate on-site during the holding over period as it was not classified as an essential business. However, its staff continued to work from home and its business was not severely affected. The tenant is not considered to have operated its business *on the property* during the holding over period.

Example 4

7. The tenancy of a clothing retail store expired during the Circuit Breaker. The tenant was unable to move its stock out of the property and was unable to deliver vacant possession of the property. However, some of its staff went back to the premises to clean and disinfect the premises ahead of its reopening after the Circuit

Breaker. The tenant is not considered to have operated its business on the property during the holding over period, as these are not activities for the functioning of the tenant's business.