

Your Legal Questions

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Q. I have decided to buy a local business and rented shop, but have no idea what is involved. Can you explain the basics for me.

A. From what you say, it sounds as though you have agreed to buy the assets of the business as a going concern. There are a number of aspects you need to consider.

The shop is rented which means the seller will need to get the consent of his landlord to sell his lease to you. This is known as Licence to Assign. The landlord may require you to provide some kind of security before he consents to any sale such as a rent deposit or a personal guarantee if you propose that a company buys the lease. The seller may be in arrears with his rent which will need to be paid before the landlord consents. As you will be taking on an existing lease you will need to be satisfied as to its terms. For instance the rent may be due to go up imminently, which is why the business may be being sold.

The business itself will comprise goodwill, which is the trading name and the benefit of any custom, its business equipment and the lease all of which can have a value attributed to them.

Under employment legislation any employees of the business will transfer to you under the same contracts. Dismissal of employees as a result of a business sale renders that dismissal automatically unfair. You may also have to consider any existing pension arrangements if any are in place and whether you will inherit any liability. Any sale and purchase agreement may also require you to take on pre-existing contracts with suppliers, or that you enter into fresh contracts. VAT may also be an issue if you are not registered for VAT but the seller is.

As you will see, the purchase of a business however small can involve complex legal issues so legal advice at the earliest opportunity is essential.

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