

# Key questions and answers on the upwards only rent review ban

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The legislation to bring in the ban on upwards only rent reviews for commercial property in England and Wales has received Royal Assent but the ban has not yet come into force. Here are answers to some key questions on the ban and its implications.

## 1. What is the relevant legislation and when does the ban come into force?

The ban is contained in Schedule 37 to the [English Devolution and Community Empowerment Act 2026](#). It will introduce the ban provisions into the Landlord and Tenant Act 1954 as new Schedules 7A and 7B. The ban is not expected to come into force until 2027 and possibly even 2028. This will provide time for a consultation including about the application of caps and collars in rent review provisions.

## 2. What does the ban do?

For leases affected, it bans the upwards only rent review, which instead becomes an upwards or downwards review. Any collar or floor in the rent review terms is ineffective. Caps are unaffected.

## 3. Does the ban apply to all commercial property?

Yes. Although the Government's policy motivation behind the ban seemed largely about rejuvenating the high street and retail, the ban applies to all business tenancies i.e. a tenancy, to which Part 2 of the Landlord and Tenant Act 1954 applies or has the potential to apply. A proposed amendment to the legislation to confine the ban to SME businesses was unsuccessful. The length of the term of the lease is irrelevant to whether the ban applies, so it could apply to a 50-year lease as much as a 10-year lease which includes relevant rent review provisions. The ban does not apply to genuine licences or nomination or management agreements that are not a business tenancy. It also does not apply to residential property.

## 4. Does the ban apply to Scotland or Northern Ireland?

No, just England and Wales.

## 5. Which leases are affected?

Those leases entered into after the ban comes into force except where the lease is granted pursuant to certain pre-ban arrangements specified at Question 6 below. To benefit from the ban, the tenant does not need to be in actual occupation of the premises, if its lease permits it to occupy the premises for the purposes of its business. See also other impact on existing leases mentioned at Question 13 below.

## 6. Which leases are unaffected?

- Those leases entered into before the ban comes into force. This includes renewal or reversionary leases entered into before the ban comes into force.
- Those leases entered into after the ban comes into force **if** granted pursuant to a “protected pre-commencement arrangement” (such as an agreement for lease, pre-emption or option) where the arrangement was entered into before the ban comes into force. Note, however, the position on options to renew mentioned at Question 7 below.



### **7. Does the ban have specific provision for options to renew?**

Yes, if a “tenancy renewal arrangement” such as an option to renew or a put option with an existing tenant is entered into on or after 17 March 2026 (i.e. earlier than when the ban comes into force), the day-one rent review for the option lease is caught by the ban. Any other rent reviews in the option lease will be caught if the lease is entered into after the ban comes into force. The tenancy renewal arrangement must be of the whole or a part of the premises let by the existing lease.

### **8. Which types of rent review are caught by the ban and how to comply?**

The ban provisions specifically apply to an upwards only rent review mechanism based on indexation/multiplier (e.g. CPIH), hypothetical market rent or the amount of the tenant’s turnover. The reviewed rent must be the amount determined by reference to that mechanism, the so-called “reference amount”, and any larger amount is ineffective. So, even if there is a collar which produces a lower rent than the passing rent, it will be ineffective if it is higher than the reference amount. In a turnover rent context, a base rent would fall foul of the ban since it could mean that the new rent would be higher than the determined amount using the turnover mechanism - this is probably an unintended consequence of the [English Devolution and Community Empowerment Act 2026](#) that may well be corrected following the consultation.

### **9. Are there any other methods to increase the rent not caught by the ban?**

Yes, where the amount of the reviewed rent is known or can be determined when the lease is granted. So, fixed or stepped rents or fixed percentage rental uplifts are unaffected by the ban.

### **10. Will all collars in affected rent reviews be banned?**

Yes, as the legislation currently stands. However, the Government has indicated that there will be a consultation on caps and collars and the extent to which they will be permitted, but no specific detail has yet been formally announced on the timing for the consultation or when collars would be permitted or other aspects. Since the [English Devolution and Community Empowerment Act 2026](#) prohibits collars, any change would likely have to be implemented by way of secondary legislation.

### **11. Will the higher of a market-based rent review and an indexation-based rent review be effective?**

- The position is currently somewhat unclear. The wording of the legislation suggests that the “higher of” formula would be ineffective. That is because the reviewed rent would be higher than a reference amount (based on indexation/multiplier, hypothetical market rent **or** turnover) which is not permitted by the legislation. The Government, however, has informally indicated that such a “higher of” mechanism (combining two reference amounts) would be effective where each reference amount could go up or down.
- We wait to see whether the Government formally confirms the position and this may form part of any consultation process. However, even if the Government confirms in guidance that “higher of” mechanisms are effective, the courts do not necessarily have to follow the guidance and will come to their own interpretation of the legislation.

### **12. Should drafting in leases and associated documents be updated now?**

At this time, the primary focus should be on tenancy renewal arrangements and leases pursuant to such arrangements (see **7 Does the ban have specific provision for options to renew?**) that are potentially already caught (depending on the timing). In those situations, consideration should be given to alternatives to upwards only reviews. For other situations, it may be prudent to await the outcome of the consultation on caps and collars which might affect which mechanisms are effective.

### **13. Do the ban provisions have any other impact on existing leases?**

- Yes, there is a retrospective impact on the terms of all leases entered into before the ban comes into force (called “superior tenancies” in the legislation) relating to a tenant’s ability to underlet. Most leases currently require any underleases that the tenant may grant to have a market rent and subsequent underlease reviews to be on an upwards only basis. The legislation provides that such pre-ban leases will automatically be modified so that landlords will no longer be able to require upwards only reviews in underleases, nor have any control, more generally, over the rent review terms in the underlease.
- This change does not help a tenant who has an upwards only rent review in its lease but is then unable to include an upwards only rent review in a post-ban underlease with the effect that there is a potential mismatch between the rent that the tenant pays and what it receives.





#### **14. Are there any anti-avoidance provisions in the English Devolution and Community Empowerment Act 2026?**

Yes. The anti-avoidance provisions are not as wide as they might have been, being limited to invalidating a requirement for the tenant to make a payment in respect of any difference in the amount of rent resulting from the provisions effecting the ban. So, for example, the tenant cannot be required to pay the difference between the amount of the rent based on an upwards only review and the rental amount based on an upwards or downwards review.

#### **15. What changes might be expected where upwards only reviews are banned?**

- Lower initial rents as landlords will reduce the incentives such as rent frees and concessions that they are prepared to give.
- Shorter lease terms. This may not work for tenants who need to amortise the cost of their works over a longer lease term.
- Greater use of fixed and stepped rents and fixed percentage rental uplifts.
- Greater use of indexation-linked review since there is little risk of the rent falling. It appears that an indexation (which can go up or down) plus a fixed percentage increase (e.g. CPIH + 2%), is effective (since this falls within one reference amount in the legislation). For a day-one rent review in an option to renew situation, landlords may be more willing to accept upwards or downwards market review, rather than an index-linked rent.
- SDLT reasons are likely to deter having a longer lease term (with tenant break) or a pre-ban reversionary lease as an alternative to a post 17 March 2026 option to renew.

#### **16. Is there anything that landlords can be doing at this stage in relation to lease renewals?**

Landlords would be well advised to bring forward lease renewal negotiations, so that they can benefit from upward only rent reviews. We would expect to see a bigger emphasis on contracted-out leases, as a way of avoiding being subjected to upwards/downward reviews on a renewal.

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