

INDEX LINKED RENT REVIEW PROVISIONS (based on the Model Commercial Lease Index linked rent review clause (MCL-LEASECLAUSE-03))



Guidance Notes

1. Introduction

- 1.1 This precedent is prepared on the basis that the rent will be reviewed annually (or over a longer period) in line with changes in the All Items Retail Prices Index (**RPI**) or Consumer Prices Index (**CPI**). It should be altered to reflect any requirements that are specific to the property, parties and terms of the transaction.
- 1.2 Another index may be used in place of the RPI or CPI. We recommend that if an alternative index is used, the index chosen is one that is freely available without cost to both the landlord and tenant.
- 1.3 The choice of index used will be a matter of negotiation between the parties as different indices will produce different results, some being to the advantage of the landlord and some being to the advantage of the tenant.

2. Incorporation into the lease

- 2.1 If you want the rent to be reviewed **annually** then amend the definition of "Rent Review Dates" in clause 1.1 of the lease to read:

"[*Insert date*] in each year of the Term and "Rent Review Date" means the relevant Rent Review Date in the context in which it is used."
- 2.2 This precedent may be used to replace the existing part 3 of the schedule (Rent Review) in the lease where:
 - 2.2.1 the rent will be reviewed annually (or over a longer period, say, every five years) on a straight line basis or
 - 2.2.2 the rent will be reviewed every, say, five years on a compound basis so that the rent is reviewed to the figure that would be achieved had the rent been reviewed annually on an indexed basis throughout that five year period. Annual calculations will be necessary where there is any cap or collar used in the formula for calculating the annual increase in the rent. If there is no cap or collar used in the formula for calculating the rent review (and so long as there is no fall in the value of the index over the relevant period), there will be no difference in the rent review figure achieved by calculating a straight line increase over the five year period and by calculating the increase on an annual basis throughout the five year period.



3. Worked examples

There follows some worked examples showing how the index linked provisions work. It may be useful to include a worked example in the lease.

3.1 Example of a straight line rent review every five years

The rent is to be reviewed on an upward-only five yearly basis to reflect the increase during that five year period, in the RPI. The initial rent is £50,000. Because the rent review is upwards only there is effectively a collar of 0% on the rent review.

Assumptions

Date of Entry – 1 January 2014

Term – 10 years

Review Date – 1 January 2019

Hypothetical RPI figures for month 3 months before the Date of Entry and 3 months before the Rent Review Date:

1 October 2013 – 195

1 October 2018 – 225

Calculations

Rent on the Rent Review Date will be the higher of the Rent payable immediately before the Rent Review Date and the revised rent (rounded up to the nearest £10) calculated in accordance with this formula:

$$R = A \times \frac{C}{B}$$

where:

R is the revised Rent;

A is the Rent immediately before that relevant review date;

C is the Current Figure *ie* the RPI figure for the date 3 months before the Rent Review Date *ie* RPI for October 2018; and

B is the Base Figure *ie* RPI for October 2013.

Rent review on 1 January 2019

£50,000 x 225/195 = £57,692

The revised Rent (rounded up to nearest £10) on 1 January 2019 is **£57,700**

This represents an increase of 15.4%.

Compare this with the following example where the rent review is compounded and results in an increase of 18.18% after 5 years.

3.2 Example of compounded rent review- no cap

The rent is to be reviewed on an upward-only, five yearly basis to reflect the annual increases, during that five year period, in the RPI. The initial rent is £50,000. Because the rent review is upwards only there is effectively a collar of 0% on the rent review.

Assumptions

Date of Entry – 1 January 2014
Review Date – 1 January 2019
Term – 10 years

Notional Rent Review Dates

Year 1 = 1 January 2015
Year 2 = 1 January 2016
Year 3 = 1 January 2017
Year 4 = 1 January 2018
Year 5 = 1 January 2019

Hypothetical RPI figures for month 3 months before the Date of Entry and 3 months before each Notional Rent Review Date:

1 October 2013 – 195
1 October 2014 – 205
1 October 2015 – 215
1 October 2016 – 210
1 October 2017 – 218
1 October 2018 – 225

Calculations

Notional Rent on each Notional Rent Review Date is the higher of the Notional Rent immediately before that Notional Rent Review Date and the revised Notional Rent calculated using the formula:

$$R = A \times \frac{C}{B}$$

where:

R is the revised Notional Rent;

A is the Notional Rent immediately before that Notional Rent Review Date;

C is the Current Figure *ie* the RPI figure for the date 3 months before the Notional Rent Review Date; and

B is the Base Figure *ie* for the first review this will be RPI for October 2013 and on each succeeding Notional Rent Review Date it will be the Current Figure for the preceding Notional Rent Review Date.

Year 1

£50,000 x 205/195 = £52,564.

Revised Notional Rent (rounded up to nearest £10) is £52,570

Year 2

£52,570 x 215/205 = £55,134

Revised Notional Rent (rounded up to nearest £10) is £55,140

Year 3

£55,140 x 210/215 = £53,857

As this figure is lower than the Notional Rent immediately before this Notional Rent Review Date the rent remains £55,140.

Year 4

£55,140 x 218/210 = £57,241

Revised Notional Rent (rounded up to nearest £10) is £57,250

Year 5

£57,250 x 225/218 = £59,088

Revised Notional Rent (rounded up to nearest £10) is £59,090.

On the Review Date (1 January 2019) the revised Rent is **£59,090**.

This represents an increase of 18.18% after 5 years.

3.3 Example of compounded rent review with cap of 4% and collar of 1%

The rent is to be reviewed on an upward-only, five yearly basis to reflect the annual increases, during that five year period, in the RPI subject to a cap of 4% and a collar of 1%. The initial rent is £50,000.

Assumptions

Date of Entry – 1 January 2014

Review Date – 1 January 2019

Term - 10 years

Notional Rent Review Dates

Year 1 = 1 January 2015

Year 2 = 1 January 2016

Year 3 = 1 January 2017

Year 4 = 1 January 2018

Year 5 = 1 January 2019

Hypothetical RPI figures for month 3 months before the Date of Entry and 3 months before each Notional Rent Review Date:

1 October 2013 – 195

1 October 2014 – 205

1 October 2015 – 215

1 October 2016 – 210

1 October 2017 – 218

1 October 2018 – 225

Calculations

Notional Rent on each Notional Rent Review Date is the higher of the Notional Rent immediately before that Notional Rent Review Date and the revised Notional Rent calculated using the formula:

$$R = A \times \frac{C}{B}$$

where:

R is the revised Notional Rent;

A is the Notional Rent immediately before that Notional Rent Review Date;

C is the Current Figure *ie* RPI for the date 3 months before the Notional Rent Review Date; and

B is the Base Figure *ie* for the first review this will be RPI for October 2013 and on each succeeding Notional Rent Review Date it will be the Current Figure for the preceding Notional Rent Review Date

subject to a maximum increase (cap) of 4% and a minimum increase (collar) of 1%

Year 1

$£50,000 \times 205/195 = £52,564.$

This represents an increase in rent of £2,564 which is $2564/50000 \times 100\% = 5.128\%$

The Revised Notional Rent is subject to a cap of 4%

4% of £50,000 is £2,000 so the

Revised Notional Rent (rounded up to nearest £10) is £52,000

Year 2

$£52,000 \times 215/205 = £54,537$

This represents an increase of £2,537 which is $2537/52000 \times 100\% = 4.89\%$

So again the Revised Notional Rent is subject to the cap of 4%

4% of £52,000 is £2,080

Revised Notional Rent (rounded up to nearest £10) is £54,080

Year 3

$£54,080 \times 210/215 = £52,822$

As this figure is lower than the Notional Rent immediately before this Notional Rent Review Date the rent is subject to the collar of 1%.

1% of £54,080 is £540.80

The Revised Notional Rent (rounded up to the nearest £10) is £54,630

Year 4

$£54,630 \times 218/210 = £56,711$

This represents an increase of £2081 which is $2081/54630 \times 100\% = 3.8\%$

Revised Notional Rent (rounded up to nearest £10) is £56,720

Year 5

$£56,720 \times 225/218 = £58,541$

This represents an increase of £1,821 which is $1821/56720 \times 100\% = 3.2\%$

Revised Notional Rent (rounded up to nearest £10) is £58,550

On the Review Date (1 January 2019) the revised Rent is **£58,550**.

This represents an increase of 17.1% after 5 years.

This is lower than the rent calculated in the previous example because of the cap of 4%.