

# Business Rates Revaluation in the UK and 1954 Act Statutory Compensation

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The revaluation of rateable values for commercial properties in **England, Wales** and **Scotland** comes into effect on 1 April. This revaluation is politically controversial because it will likely cause business rates to rise sharply for thousands of commercial premises. Rates bills for some businesses may increase by more than 100 percent. However, the revaluation will not just affect those who pay business rates, it also will directly affect landlords who pay statutory compensation to a tenant in England and Wales under the Landlord and Tenant Act 1954 ("the 1954 Act"). As such, a landlord who wants to regain possession of its commercial premises under the 1954 Act (perhaps for a redevelopment or because they want to occupy it themselves) should consider now whether or not they can avoid—or even exploit—the consequences of the business rates revaluation.

### Significance of the Revaluation

Business rates are payable in respect of more than 1.8 million commercial properties and are calculated using a formula based on the property's designated rateable value—which is assessed as the yearly rent the property could be let for. Rateable values were last assessed on 1 April 2008 and took effect two years later. They are meant to be assessed and implemented every five years. However, in 2012 the government decided to delay this cycle by two years (thereby avoiding the revaluation taking effect mere weeks before the 2015 general election). Instead, the

revised revaluation will come into effect on 1 April 2017 and is based on rentable values from 1 April 2015. It is currently thought that after 1 April 2017, business rates will fall for c920,000 commercial properties, remain unchanged for c420,000 and increase significantly for c510,000. Places where property values soared between the 2008 and 2015 valuations will be hit particularly hard.

## **Statutory Compensation Under the 1954 Act**

Under the 1954 Act, a landlord can oppose a lease renewal by relying upon at least one of seven prescribed grounds of opposition. Three of those grounds of opposition—including the landlord's intention to redevelop and the landlord's intention to move into the property themselves—are termed the "compensation grounds." The Act provides that a landlord must pay its tenant compensation when that tenant does not renew its lease following the landlord's reliance on a compensation ground.

The amount of compensation payable is based upon the property's rateable value and is usually equal to it (the tenant is entitled to double that amount if they and/or their predecessors have occupied the property for more than 14 years).

## **Impact of Revaluation on Statutory Compensation**

The rateable value used to calculate compensation under the 1954 Act is that which appeared on the Valuation Office Agency's valuation list on the day the landlord signified its opposition to a renewal and its reliance on a compensation ground by serving either (1) a notice to end the tenancy under s25, or (2) a counter-notice to the tenant's request for a new tenancy under s26.

As such, a landlord who serves a s25 notice or s26 counter-notice specifying a compensation ground before 1 April 2017 will only ever have to pay compensation based on the 2010 revaluation (i.e., rateable values assessed in 2008). By contrast, a landlord who does so on or after 1 April 2017 will have to pay compensation based on the new revaluation (i.e., rateable values assessed in 2015).

Accordingly, a landlord who gives notice after the revaluation takes effect may find that it has to pay substantially more—or less—compensation to its outgoing tenant than would have been the case had it served notice previously.

## **Practical Consequences**

Accordingly,

1. if a landlord wants to redevelop or occupy a property currently subject to a lease protected by the 1954 Act; and
2. the rateable value of that property will increase on 1 April 2017; and
3. the landlord is able to serve a s25 notice or s26 counter-notice before that date (NB—a s25 notice cannot be served more than 12 months before the contractual expiry of the relevant lease),

then that landlord would be well-advised to serve that notice before the revaluation

comes into effect.

The converse is equally true in relation to properties where the new rateable value will decrease; in those circumstances, the landlord may want to consider delaying serving its hostile notice or counter-notice until after the revaluation comes into force so that it pays compensation based on the new, lower rateable value.

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