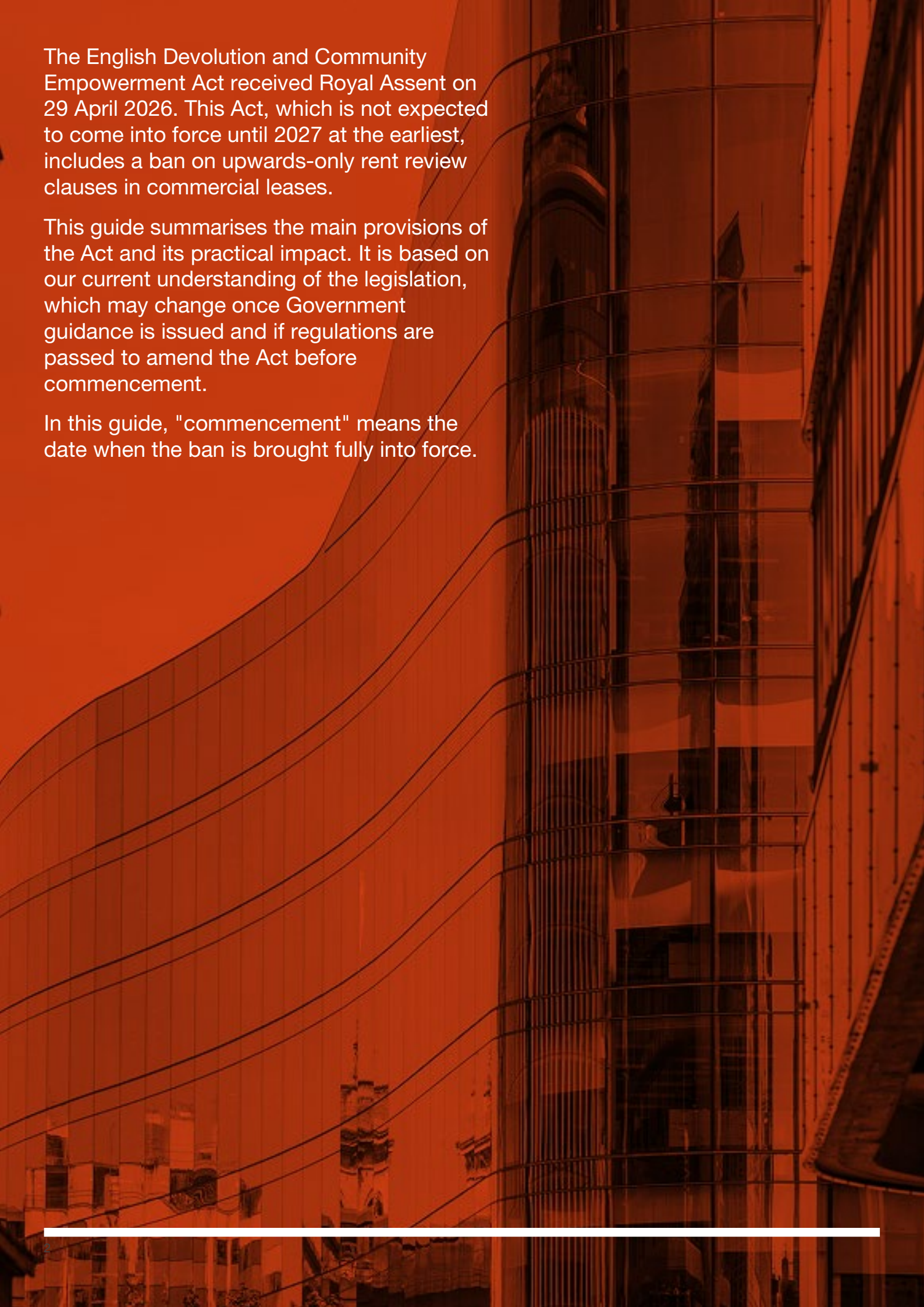


Ban on upwards- only rent reviews



Mishcon de Reya

It's business. But it's personal.



The English Devolution and Community Empowerment Act received Royal Assent on 29 April 2026. This Act, which is not expected to come into force until 2027 at the earliest, includes a ban on upwards-only rent review clauses in commercial leases.

This guide summarises the main provisions of the Act and its practical impact. It is based on our current understanding of the legislation, which may change once Government guidance is issued and if regulations are passed to amend the Act before commencement.

In this guide, "commencement" means the date when the ban is brought fully into force.

Which leases does the ban apply to?

The ban will apply to all business leases, whether or not contracted out, and including leases where the tenant is not in occupation or has sublet. It will also apply if the permitted use includes business use, even if the tenant is occupying for non-business purposes.

Which leases are excluded from the ban?

The ban is not retrospective, except for certain lease renewal options (see below). Upwards-only rent reviews in a lease granted pre-commencement will continue to be valid.

A lease granted after commencement but pursuant to a "pre-commencement arrangement" will also not be caught by the ban. This includes a lease granted pursuant to an agreement for lease entered into before commencement, and a lease granted pursuant to an option entered into with a **new** tenant before commencement.

How does the ban apply to options for renewal leases?

The draft Bill was amended in March 2026 to introduce an element of retrospective effect for certain renewal options. This was to prevent landlords using renewal options as a way of circumventing the ban.

The ban will now catch a renewal lease granted pursuant to an option agreement entered into on or after 17 March 2026. This will apply to call and put options.

The ban will apply to both (1) the rent payable on day 1 of the renewal lease; and (2) any rent reviews under the renewal lease. This will be the case whether the option is granted in the original lease or in a side document. The same treatment will apply to an agreement (as opposed to an option) for a renewal lease.

An option granted to a **new** tenant before commencement is not caught by the ban and will be a protected pre-commencement arrangement.

Landlords entering into options for renewal leases now may wish to consider switching to an index-linked rent rather than a market rent review, or granting a lease for a longer term with a tenant break (if the tenant will agree to this).

What if the renewal lease is entered into before commencement?

If an option for a renewal lease is entered into after 17 March 2026 but the lease is granted **before** commencement, the renewal lease can still have an upwards-only rent review during the term. However, it seems that a day one rent review will be caught by the ban, even though the renewal lease is being granted pre-commencement. This appears to be an unintended consequence of the legislation, although the practical impact is likely to be limited.

How does the ban apply to reversionary leases?

If a reversionary lease is granted now but the term does not start until after commencement, the lease will not be caught by the ban. It is not a "tenancy renewal arrangement", as the lease has already been granted. While this is legally valid, tenants may push back on an upwards-only rent review where the term is expected to start after the Act comes into force.

How does the ban work in practice?

The ban will apply to any rent review where, on the date the lease is granted, the new rent cannot be determined. This will affect rent reviews governed by (1) traditional market rents, (2) index-linking, (3) turnover rents and (4) side-by-side rents (or geared rents).

These amounts are referred to in the Act as a "reference amount". Any rent review provision in a lease will have no effect to the extent it would result in the new rent being greater than the reference amount. Instead, the new rent will be the reference amount, whether that goes up or down.

E.g. A lease contains a review to the higher of open market rent and passing rent. At the first review date, the passing rent is £100,000 and the open market rent is £95,000. The upwards-only element is disregarded and the new rent will be £95,000.

Are stepped rents permitted?

Yes, the ban will not apply to rent increases fixed in advance.

How does the ban apply to index-linked rent reviews?

Index-linked rent reviews will be caught by the ban if they prevent the rent from falling below the passing rent. However, a straightforward up or down index-linked review will be valid.

An index-linked review on the so-called "compounding" basis with annual upwards-only notional increases will not be permitted.

Can you have a review to the higher of open market rent and indexed rent?

There is no express provision in the Act which would prevent this, but there is some doubt over whether it will work. We have seen informal confirmation from the Government that this is valid and formal guidance is expected to follow. If this is permitted, the rent would need to be the higher of the two reference amounts.

E.g. At the review date, the passing rent is £100,000 and the open market rent is £90,000. The indexed rent is £105,000 and the new rent will be this amount. However, if the indexed rent is £95,000, the new rent will fall to that amount.

A review on this basis **effectively guarantees an upwards-only rent**, unless inflation is negative over the review period (which would be unusual). But unlike a purely index-linked review, it will also mean that the landlord does not lose out on any market uplift. This structure is, however, unlikely to be attractive to tenants.

Are caps and collars permitted?

Caps will be permitted. The ban only applies to upwards-only rent reviews and not to provisions which limit any rent increase.

Collars will not be valid, as these prevent the rent from falling below a minimum level.

However, the Government plans to consult on the use of caps and collars before the Act comes into force. The Government has indicated that it may allow provisions that prevent the rent from falling by more than a specified percentage, but only if there is a corresponding cap.

How are turnover rents affected by the ban?

Most turnover leases use a top-up turnover rent, where the tenant pays a basic rent plus an additional turnover rent of the amount (if any) by which an agreed percentage of the tenant's gross turnover exceeds the basic rent. We do not think this arrangement will be caught by the ban, as the turnover rent is the "reference amount" and could be nil. However, if the basic rent is itself subject to periodic review, this element can no longer be on an upwards-only basis.

How are subleases affected by the ban?

The ban applies equally to subleases. Any provision in a headlease which requires a sublease to contain an upwards-only rent review will be void. This will result in a mismatch between the headlease and the sublease and in a falling market will mean that the head tenant faces a rent shortfall.

How does the ban apply to statutory renewals under the Landlord and Tenant Act 1954?

If a protected lease is entered into before commencement, it can have an upwards-only rent review. However, the ban is likely to be in force by the time the tenant applies for a renewal lease. If the parties are unable to agree the terms of any rent review, we think the court would keep the open market review and make it up or down, rather than replacing it with an index-linked review.

If rents have fallen, can the landlord simply not implement the rent review?

No. The Act allows the tenant to implement the rent review process and refer any dispute for expert determination, even if the lease does not provide for this.

Are there anti-avoidance provisions in the Act?

Yes. Parties cannot simply contract out of the ban, even if the tenant is willing to agree an upwards-only rent review. Any side agreement providing for a separate payment top-up if the rent goes down on review will also be void. We anticipate that the courts will not uphold any artificial structure which attempts to get round the ban and in any event, a tenant is unlikely to agree to this unless the landlord is in a strong negotiating position.

What is the expected market impact?

The ban is expected to have a significant impact on the commercial property market. Possible consequences include shorter lease terms, higher initial rents and more stepped rents. It is, however, difficult for landlords to decide on the best course of action until Government guidance is issued, along with details of any permitted collars.

FAQs: practical examples

- 1. Inflation rarely goes negative. If a lease provides for an index-linked review every five years, in practice that means there will probably be an increase. Is that still allowed?**

Yes, this is valid. The ban applies only to clauses which say the rent absolutely cannot go down. If in practice the index doesn't go down, that is fine.

- 2. A lease has an initial rent of £100,000. At year five, there is an index-linked review subject to a cap of £110,000. The actual indexed rent is £115,000. What's the outcome?**

The new rent is £110,000. The cap is valid. The Act is only concerned with a minimum rent, not a maximum.

- 3. A lease has an initial rent of £100,000. At year five, there is a review to the higher of market rent and £95,000. The market rent is determined to be £90,000. What's the outcome?**

The new rent is £90,000. The £95,000 collar is ignored (subject to the outcome of the expected Government consultation on caps and collars).

- 4. The rent is fixed in the lease at £70,000 in year one, £80,000 in year two and £90,000 in years three to five. Is that OK?**

Yes. The ban doesn't apply to rent increases fixed in advance, i.e. stepped rents.

- 5. A lease is granted for five years at a rent of £100,000. At year five, the landlord has a put option by which it can require the tenant to take a renewal lease at the higher of market rent and £100,000. Is that allowed?**

No, the Government has thought of that workaround and included it in the ban.

- 6. A lease is granted today with an option to take a renewal lease at the end of the term. Is this caught if the renewal lease is granted after commencement?**

Yes, it's caught by the ban. It's a tenancy renewal arrangement which has been entered into after 17 March 2026.

- 7. A 6 month lease is granted today with an option to take a renewal lease at the end of the term. Is this caught if the renewal lease is granted before commencement?**

The legislation is unclear. A day 1 rent review seems to be caught, although a rent review during the term wouldn't be.

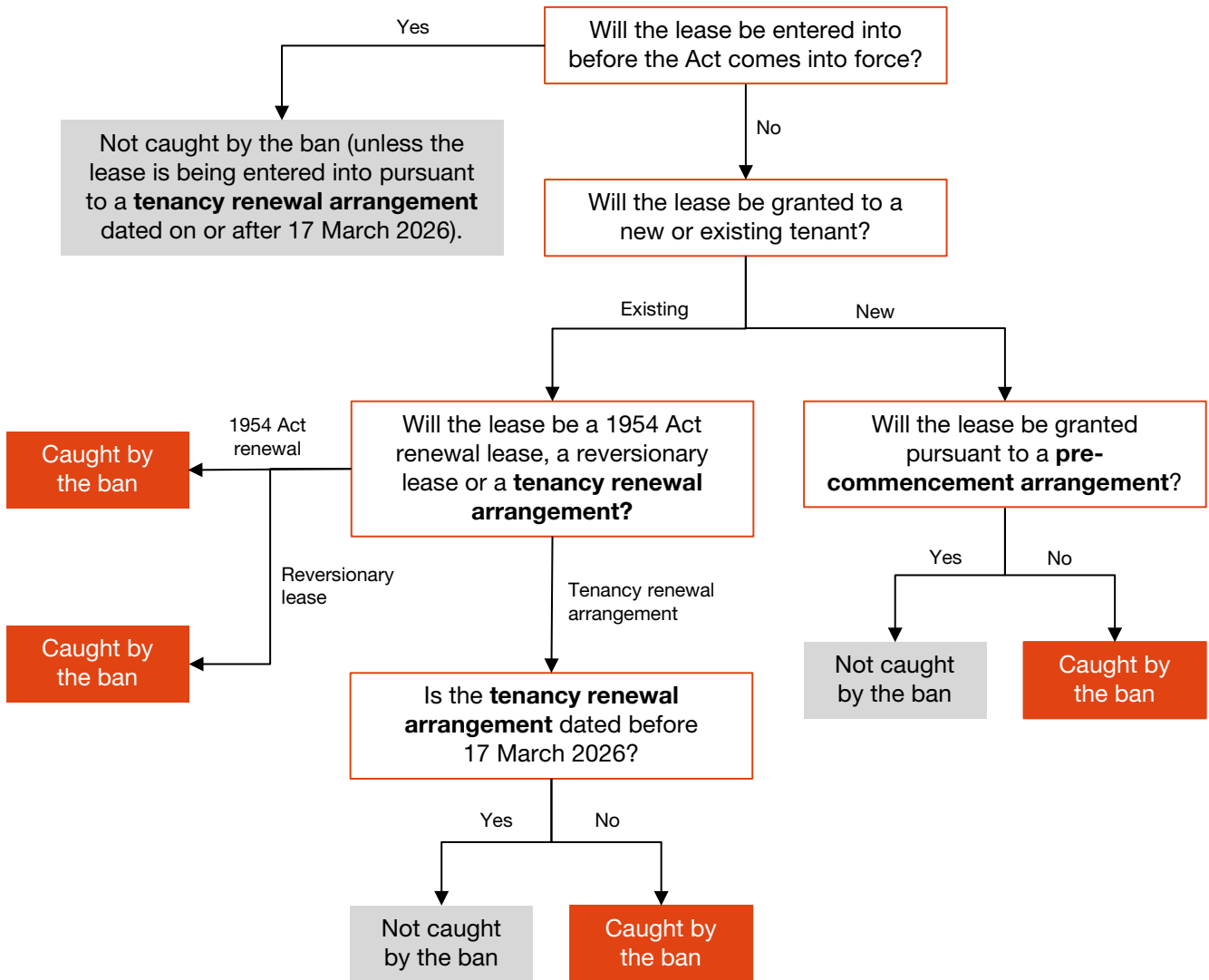
- 8. A landlord grants an option today to an incoming tenant for a new lease of a property. Is this caught if the actual lease is granted after commencement?**

No. This is not a renewal and the option was granted before commencement, so is a "pre-commencement arrangement".

Definitions:

Pre-commencement arrangements: agreements and options with a new tenant entered into before the Act comes into force.

Tenancy renewal arrangement: an option or agreement for a renewal lease.



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