

Background

In our recent [article](#), entitled “Out With the Old, in With the New – The UK Government's Proposed Switch From RPI to CPIH”, we looked at the UK government's plans to change the way in which it measures inflation.

The proposal attracted significant attention from various stakeholders, including the chancellor, and trustees of some of the country's largest defined benefit pension schemes, the latter of which brought a judicial review claim against the United Kingdom Statistics Authority (UKSA) in an attempt to block the move.

In our article, we suggested that there were two possible routes by which the change from the Retail Price Index (RPI) to the Consumer Price Index (including owner-occupier housing costs) (CPIH) could nonetheless be implemented. The change could either be done “via the back door” by simply replacing RPI's basket of goods with that of CPIH, or statutorily, by amending the legislation to tweak the UKSA's responsibility from “compiling and maintaining the retail prices index” to “compiling and maintaining the consumer prices index”.

On 1 September 2022, the High Court handed down its judgment in relation to the judicial review. In summary, the court has allowed the UKSA to replace RPI's basket of goods with that of CPIH, meaning that no statutory intervention by Parliament will be necessary. Our Pensions team discusses the court's decision in more detail in its [recent update](#). Subject to any successful appeal, the UK's official measure of inflation will, therefore, be effectively replaced in 2030.

What Does This Mean for Landlords and Tenants?

Because RPI generally produces a higher (and less accurate) calculated rate of inflation than CPIH, the court's ruling means that leases that contain index-linked rent review clauses will see a smaller rise in payable rent (presuming continuing inflationary conditions).

Existing leases that contain RPI index-linked rent review clauses will not, however, require active amendment, since any reference to RPI will remain relevant.

Despite the ruling, it remains a possibility that landlords will try to counteract the switch by demanding a CPIH-based formula that aims to replicate RPI in its current form, for example, CPIH plus [X] number of basis points, known as “CPIH Plus”. Tenants should, therefore, be encouraged to question proposed rent review clauses that seek to artificially inflate rental values in this way.



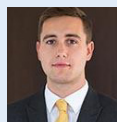
Existing leases with RPI index-linked rent review clauses will, however, be protected (assuming no contrary variation to the lease is agreed) against any attempt to replicate RPI in its current form, since the switch to a CPIH-based basket of goods, in accordance with the government's proposal, will automatically be required by the relevant contractual provision.

Stamp Duty Land Tax (SDLT) calculations will only be affected if a rent review clause is linked either to a different index entirely, or to a formula such as CPIH Plus. Although RPI will, from 2030, effectively be CPIH in disguise, this is irrelevant when considering whether to disregard RPI adjustments for the purposes of calculating SDLT, since it will still be labelled RPI.

How We Can Help

Subject to any successful appeal, the effective change from RPI to CPIH will go ahead in 2030. Although the official measure of inflation will still be labelled RPI, it will instead be calculated according to CPIH's basket of goods. Our Real Estate team regularly advises clients wishing to enter lease arrangements, including consideration of rent review provisions and the resulting SDLT implications. We will continue to be on hand to guide clients through the transition, but please contact us if you would like more information on how we can help you prepare.

Author



Dan Colman

Trainee, London

T +44 20 7655 1592

E daniel.colman@squirepb.com

Contacts

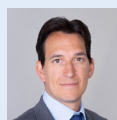


Andrew Sprake

Partner, London

T +44 20 7655 1343

E andrew.sprake@squirepb.com



Bradley Silver

Partner, London

T +44 20 7655 1305

E bradley.silver@squirepb.com