

UPDATE

Turnover Rents

Update prepared by Laura Bougourd (Guernsey)

The recent negotiation of turnover rents in respect of leases on the Guernsey High Street marks a break from the well-established use of rack rents which have been prevalent until now.

This is a reflection of the position both locally and in the UK, where high streets have been under pressure for a number of years from the growth in online sales, even before the Covid-19 and Brexit uncertainties, encouraging landlords to work with tenants to keep high streets attractive to both retailers and shoppers alike.

Turnover Rents vs Rack Rents – what's the difference?

With a rack rent a rate is negotiated, often on an annual basis, and is paid by equal periodic payments in advance. The rent may be reviewed at agreed intervals throughout the lease term, whether by reference to an increase in accordance with RPI or to the open market rent, or both, but this is usually on the basis that the rent will only be increased and not reduced. This is predictable but inflexible.

Turnover rents allow for greater flexibility, calculating the amount of rent to be paid sometimes wholly but more often partly by reference to the turnover which the tenant achieves from its business at the premises.

Why agree a Turnover Rent?

From a tenant's perspective the attraction is obvious – in poor trading periods the rent will be adjusted downwards and this will help to protect the tenant from the impact of a reduced turnover and therefore assist the tenant with cash flow and continued trading.

For a landlord, although a turnover rent effectively requires the landlord to assume part of the tenant's risk, it also provides the prospect of a reward – an opportunity for the landlord to join in the tenant's successes and participate in profits.

At a time when increasing numbers of retailers are closing stores, agreeing a turnover rent may protect the landlord from being faced with an insolvent tenant and void property costs which may follow.

How does Turnover Rent work?

There is usually a basic rent agreed at a percentage of the open market value of the lease, with the turnover element then providing a 'top up'.

A full range of variations is possible, depending on the landlord and tenant circumstances, from short term low value lettings where a nil base rent may be agreed, through to agreeing the base rent at the full market rent (where the landlord does not expect to receive a turnover top up, but if it does that is a welcome bonus).

Turnover rents are becoming increasingly popular and common in the retail sector throughout the UK and, having now arrived in Guernsey, it will be interesting to see how widely used they become by landlords and tenants over here.

If you would like any further details regarding turnover rents please do not hesitate to contact our dedicated [Guernsey Commercial Property team](#).

Contacts



Alison Wood
Senior Associate | Advocate | Notary Public
Mourant Ozannes (Guernsey) LLP
+44 1481 731 419
alison.wood@mourant.com



Laura Bougourd
Associate | Solicitor (England & Wales) non-
practising
Mourant Ozannes (Guernsey) LLP
+44 1481 731 460
laura.bougourd@mourant.com

This update is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual contacts. You can find out more about us, and access our legal and regulatory notices at mourant.com. © 2021 MOURANT OZANNES ALL RIGHTS RESERVED