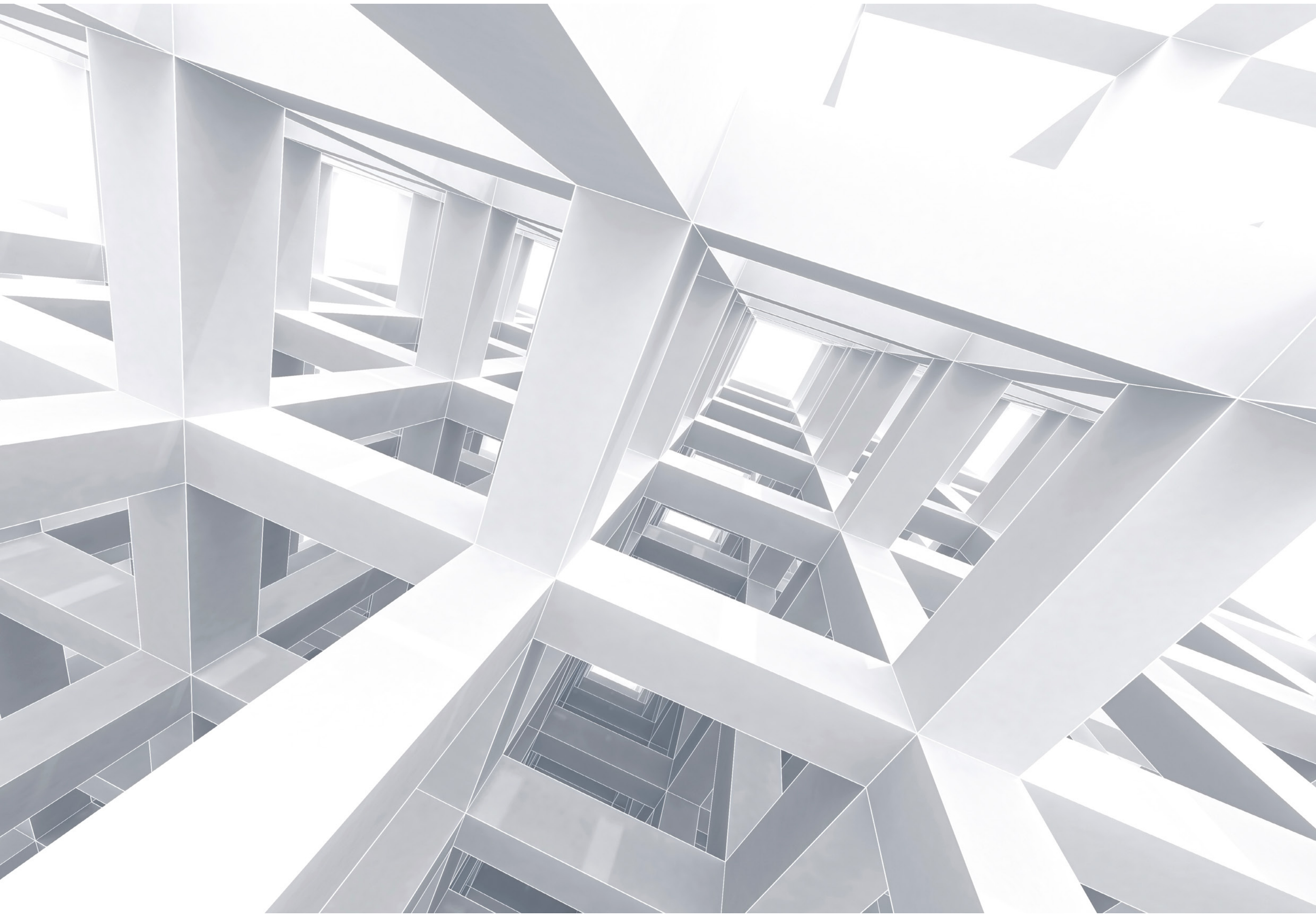
RICS jurisdiction guide

RICS professional standards and guidance, UK

RICS Valuation – Global Standards 2017 jurisdiction guide: United Kingdom

1st edition, May 2019



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RICS Valuation – Global Standards 2017 jurisdiction guide: UK

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RICS jurisdiction guides

Since its first publication in 1976, the *RICS Valuation – Global Standards 2017*, generally known as the ‘Red Book’, has set standards for property valuation that are designed to ensure consistency, objectivity and transparency in the valuation process. The primary aim of these standards has always been to sustain public confidence and trust in a valuation undertaken by an RICS member or a valuer working for an RICS regulated firm.

Over the past 40 years the Red Book has become global in its application, reflecting the growing internationalisation of the property market and its clients’ requirement for worldwide consistency of standards. A Red Book-compliant valuation is consistent with the International Valuation Standards (IVS) and it is augmented in a growing number of markets by national supplements, which provide guidance designed to ensure that a Red Book-compliant valuation also meets local legal requirements, regulations and practice.

The global Red Book and, where they apply, the national supplements are written primarily for valuers. By contrast, jurisdiction guides will be of use especially to property owners and professionals who are involved in the valuation process, either by commissioning a valuation or by providing advice in relation to its outcome. Owners and their advisers do not usually need to know the full detail of the valuation process and the regulations that govern it (which are set out in the Red Book), but their understanding of the outcome of the valuation is likely to benefit from a better understanding of the key factors that will influence a valuer, and thus the value of the property.

These factors include:

- legislation governing the holding and valuation of real estate
- ownership structures
- lease terms
- planning regulations and development control
- taxation affecting real estate and
- valuation regulations, standards and the application of the Red Book.

These factors will vary significantly between one country and another. Jurisdiction guides therefore aim to examine each factor in its local context and to highlight those that are likely to have a significant impact on the valuation of a property located in the country concerned.

It is important to emphasise that jurisdiction guides are designed to provide a short overview of what in many cases and countries is a complex situation. They have been prepared by RICS and based on information from a variety of sources. The content of this jurisdiction guide is for general guidance only, and the reader is advised not to act on it without consulting an appropriately qualified and experienced professional.

Document status defined

The following table shows the categories of RICS professional content and their definitions.

Publications status

Type of document	Definition
RICS Rules of Conduct for Members and *RICS Rules of Conduct for Firms*	These Rules set out the standards of professional conduct and practice expected of members and firms registered for regulation by RICS.
International standard	High-level standard developed in collaboration with other relevant bodies.
RICS professional statement (PS)	Mandatory requirements for RICS members and regulated firms.
RICS guidance note (GN)	A document that provides users with recommendations or an approach for accepted good practice as followed by competent and conscientious practitioners.
RICS code of practice (CoP)	A document developed in collaboration with other professional bodies and stakeholders that will have the status of a professional statement or guidance note.
RICS jurisdiction guide (JG)	This provides relevant local market information associated with an RICS international standard or RICS professional statement. This will include local legislation, associations and professional bodies, as well as any other useful information that will help a user understand the local requirements connected with the standard or statement. This is not guidance or best practice material, but rather information to support adoption and implementation of the standard or statement locally.

1 Background

The UK property market is among the longest established in the world and is highly developed, offering a wide range of property types, locations and opportunities to occupiers and investors.

The investment market is very large and was ranked third in the world in the MSCI Real Estate Market Size survey 2017. Market information is freely available and the UK was placed in first position in the **JLL Global Real Estate Transparency Index 2018**.

2 Legislation

2.1 Principal laws governing real estate

The UK legal system is well developed and offers certainty to owners and occupiers.

While the UK parliament has overall responsibility for many aspects of legislation, significant differences exist between the individual countries that together comprise the UK. Scotland and Northern Ireland have their own systems of real estate law that differ in a number of significant ways from the laws applicable in England and Wales. In real estate, responsibilities devolved to individual countries include:

- agriculture and forestry
- environmental issues
- housing, local government and
- aspects of transport policy.

For these reasons, and because the UK legal system is based on common law principles, there are no overarching laws affecting property. Instead, a number of statues have had significant influence in certain areas. In England and Wales, for example, the **Landlord and Tenant Act 1954** is particularly important in the area of commercial property but it does not apply in Scotland and Northern Ireland. In the residential sector the **Housing Act 1988** has had major influence in England and Wales. Scotland has its own **Housing (Scotland) Act 1988** covering this area but there is no similar legislation in Northern Ireland.

2.2 Types of ownership

The principal types of property ownership in the UK are:

- **Freehold** (heritable ownership in Scotland): this is the highest category of ownership, where the owner has full rights to possess and dispose of the property except in exceptional circumstances (e.g. a local authority's powers of compulsory purchase).
- **Leasehold**: rights to possess and use the property for a limited time, subject to the terms of the lease.
- **Ground leases**: this form of ownership is relatively common. The freehold owner grants a developer or investor a long lease (from 125 to 999 years or more, but a maximum of 175 years in Scotland), usually for a one-off payment and at a low rent. The leaseholder generally has relatively unrestricted rights to construct, rebuild, use and let buildings on the land.
- **Commonhold ownership**: a hybrid between freehold and leasehold ownership, relatively unusual.
- **Easements**: non-exclusive rights granted to third parties to use land, e.g. rights of way and access.

2.3 Registration

The UK has had a land registration system since 1925. Separate national registries exist for England and Wales, Scotland and Northern Ireland. The **HM Land Registry** is an online public document.

It is compulsory to register freehold sales and leases of more than seven years. Where current ownership pre-dates compulsory registration and the title is unregistered, a seller will need to provide documentary evidence of title.

2.4 Development control

Although planning laws and policies differ between Scotland, England and Wales and Northern Ireland, they are broadly similar.

Planning decisions are primarily made at local government level. Local authorities are required to adopt and maintain a local development plan, which defines planning policy for the area. In England, local forums can influence the use and development of land via neighbourhood development plans.

Local planning authority decisions may be subject to detailed conditions relating to matters such as the construction of a development, the provision of affordable housing and highway improvements, etc. Decisions can be subject to appeal.

Separate consent from the local authority is required for building control. National building regulations control the construction process.

2.5 Commercial leases

Typical terms for occupational leases are as follows:

- **Term**: 10–15 years for larger lettings in prime buildings but usually shorter for smaller and more secondary accommodation.
- **Breaks**: a lease may include tenant's lease break options, subject to negotiation.
- **Rent**: usually payable quarterly in advance. Service charges are payable separately.
- **Rent escalation**: in longer leases rents are usually subject to rent review every five years to the market rent at the time of the review. Most reviews are 'upwards only' meaning the rent payable cannot fall even if market rents have fallen since the previous review or the start of the lease. Rent indexation is rare. In shopping centres, a proportion of the rent payable is sometimes linked to the turnover of the tenant's business.
- **Statutory rent control**: there is no statutory control of rent.
- **Payment for operating expenses:** most UK commercial leases are on a 'full repairing and insuring' (FRI) basis, so that the tenant is directly responsible for all repair, maintenance and outgoings or the landlord can recover all (or sometimes a proportion of) its costs in operating and maintaining the building, including management costs, via a service charge.
- **Assignment and subletting**: usually permissible, subject to landlord's consent.
- **Insurance**: usually payable by the landlord, with costs and premium recoverable via the service charge.

- **Termination**: commercial property tenants in England and Wales have a statutory right to renew their lease under the terms of Part 2 of the **Landlord and Tenant Act 1954**. However, it is possible to contract out of the security of tenure provisions and a landlord may terminate the lease at the time of expiry on certain specified grounds (for example, if it requires the premises for its own use or has a plan for redevelopment) in which case compensation is payable.

  In Northern Ireland, tenants enjoy security of tenure under the **Business Tenancies (Northern Ireland) Order 1996**.

  In Scotland, there is no statutory provision for continuation of a commercial lease after expiry.

It is also possible to occupy commercial property under licence. This provides the parties with greater flexibility but at the same time reduces security of income for the landlord and security of tenure for the tenant.

2.6 Residential leases

The most common form of residential lease for private landlords is the assured shorthold tenancy (AST) (or short assured tenancy in Scotland), introduced by the **Housing Act 1988** (for England and Wales) and the **Housing (Scotland) Act 1988** for leases commencing after 15 January 1989.

The term of a lease under this legislation is usually 6 or 12 months and while there are no restrictions on the rent to be agreed, the tenant may refer the rent payable to a rent assessment committee if it is ‘significantly higher’ than rents for comparable premises. Security of tenure is limited and the tenancy may be terminated in accordance with the terms of the lease – usually two months’ notice is required.

ASTs do not apply where annual rent is more than £100,000 or less than £250.

Most tenancies granted before 15 January 1989 are regulated tenancies under the **Rent Act 1977**. The rent payable under a regulated tenancy is registered and any increases are subject to significant restrictions. Tenants have security of tenure and cannot be evicted except by court order in certain specific circumstances. The landlord is usually responsible for major repairs.

2.7 Property measurement

International Property Measurement Standards (IPMS) for Office Buildings, Residential Buildings and Industrial Buildings were published in 2014, 2016 and 2018 respectively. RICS members must adopt IPMS in line with the RICS professional statement **RICS property measurement** (2nd edition). RICS members are expected to advise their client or employer on the benefits of using IPMS, unless there is a significant reason for departure. It is accepted that in some circumstances IPMS may not be suitable. If IPMS are not to be used, RICS members must document the reasons for departure.

IPMS for other asset types will be published in due course. In the interim all RICS members must follow *RICS property measurement* (2nd edition) Section 1 *Application of the professional statement*. In some instances other measurement standards can be used, such as the RICS guidance note **Code of measuring practice** (6th edition), providing the reason for departure is stated.

Area measurements for valuation and agency purposes are usually quoted in square feet although some organisations (in particular government agencies) may use square metres.

3 Taxation

This summary briefly outlines some of the main taxation issues related to UK property, but the UK tax regime is complex and property owners are advised to seek appropriate professional advice in this area.

3.1 Value-added tax (VAT)

Property is generally exempt from VAT but an owner can opt to charge VAT in the case of non-residential property. This enables input VAT incurred on acquisition, maintenance, refurbishment, etc. to be reclaimed.

3.2 Real estate transfer tax

Stamp duty land tax (SDLT) is payable by the purchaser of real estate in England, Wales and Northern Ireland. It is based on the transaction sum.

In Scotland, land and buildings transaction tax (LBTT) replaced SDLT from 1 April 2015. It is charged on a progressive basis.

3.3 Property taxes

Business rates are payable by the occupier of commercial property to the local authority at a rate linked to the assessed rental value of the property. If the property is unoccupied, the landlord is liable.

For residential property, council tax is payable by the occupier, based on the capital value of the property at a set assessment date.

3.4 Taxation of rental income and capital gains

UK companies and non-UK residents holding UK property as an investment are liable to pay tax on rental income received. The costs of finance and some capital allowances can be used to reduce taxable income.

UK companies are subject to corporation tax on capital gains. Non-UK resident individuals and companies can in some circumstances be liable to pay UK tax on any capital gains made on the disposal of UK property. Property owners in these categories should consult an appropriately qualified professional adviser to establish their liability.

Since 2007, companies meeting certain criteria can become real estate investment trusts (REITs), which allow them to qualify for exemption from tax on distributed income and capital gains.

4 Regulation and standards

4.1 Regulation of valuation professionals

Real estate valuation professionals are not subject to state regulation in the UK. While there are generally no legal restrictions on who may provide valuation advice, RICS provides a system of self-regulation for its members who are required to comply with its Rules of Conduct, which set out mandatory personal and professional standards.

Additionally, any RICS member undertaking a valuation assignment must be a registered valuer. RICS Valuer Registration aims to ensure the quality of valuations, raise the credibility of valuers and provide clients with a clearly identifiable designation of international standards, quality and the consistent application of RICS standards.

4.2 Membership organisations

RICS is the biggest organisation representing valuers in the UK with over 13,000 registered valuers. It was established in London in 1868 and is now also the largest international regulator of property professionals with 125,000 members worldwide.

For a list of other membership organisations in the UK for valuers, see Appendix A.

4.3 National valuation standards

With the exception of some statutory requirements, e.g. for taxation and compulsory purchase applications, valuation of real estate is not subject to statutory control in the UK. Valuation professionals are required to operate in accordance with the professional standards of their professional organisation. In the case of RICS, IRRV and ISVA members, *RICS Valuation – Global Standards 2017* (the Red Book) sets the relevant standards., supported in the UK by *RICS Valuation – Global Standards 2017: UK national supplement 2018* effective from 14 January 2019.

4.4 International standards

- **International Valuation Standards (IVS)** – published by the International Valuation Standards Council (IVSC), which comprises about 100 member organisations dedicated to setting generic global standards for valuation practice and valuation professionals. RICS is a member of IVSC.
- **RICS Valuation – Global Standards 2017 (the Red Book)** – the Red Book sets out global valuation standards for valuations undertaken by RICS members and regulated firms. It adopts and applies the IVS and imposes certain additional requirements with particular reference to ethics, competency, objectivity and disclosures.
- **European Valuation Standards (EVS, the Blue Book)** – published by the European Group of Valuers' Associations (TEGoVA), an umbrella organisation of European national valuers associations whose objective is to promote and harmonise European valuation standards.

5 Application of the RICS Valuation – Global Standards 2017 in the UK

5.1 User's perspective

Global standards

- The Red Book is written to ensure that valuation assignments undertaken by RICS members and regulated firms (see PS 1 sections 1 and 2) are fully in accordance with International Valuation Standards (IVS).
- The Red Book complements the IVS by providing detailed guidance and specific requirements regarding the practical implementation of IVS.
- All valuations provided in writing by RICS members and regulated firms must comply with the requirements of the Red Book. Surveyors must be suitably trained and have appropriate qualifications and adequate experience for the task.
- Valuers must be independent, objective and transparent in their approach.
- Adoption of Red Book global standards ensures consistency of approach and aids understanding of the valuation process and the value reported.
- A Red Book-compliant valuation must provide clarity regarding terms of engagement, basis of value (including any assumptions or material considerations taken into account), and reporting.

National supplements

National supplements of the global Red Book are published by RICS in a growing number of countries to ensure compliance with local legal requirements, regulation and practice.

5.2 Red Book – implementation in the UK

5.2.1 Red Book application in the UK context

RICS Valuation – Global Standards 2017 is written from an international perspective, in accordance with the IVS. It expressly recognises (in PS 1 section 4) that in individual jurisdictions, compliance with specific statutory, regulatory or other authoritative requirements is necessary, and doing so does not preclude a valuation from being declared as performed in accordance with the Red Book.

5.2.2 Red Book UK national supplement

The current edition of the UK national supplement to the Red Book is now **available online** and applies to valuations from 14 January 2019.

Appendix A: Other professional organisations representing property valuers in the UK

- The **Institute of Revenues, Rating and Valuation (IRRV)** – the largest professional institution operating in the field of rating and council tax valuation. It formally adopts the RICS Red Book, enforces compliance and closely monitors its members.
- The **Central Association of Agricultural Valuers (CAAV)** – represents valuers working in rural property. Membership is by examination and the organisation ensures its members' professional standards.
- The **National Association of Estate Agents (NAEA)** – principally represents people working in the residential sector. Members are expected to comply with its code of practice and training and qualification programmes are offered.

Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

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