



The Society of  
**Chartered**   
**Surveyors**

**SURVEYORS OPPOSE NEW LEGISLATION BANNING UPWARDS-ONLY RENT REVIEW  
SCS CALLS ON MINISTER TO RECONSIDER HIS PLANS**

**Friday 25<sup>th</sup> June 2009.** The Society of Chartered Surveyors has said it is opposed to new legislation banning upwards only rent reviews in commercial leases.

The move is in response to plans by the Minister for Justice Dermot Ahern to introduce such legislation in the Dail before the summer recess on July 9<sup>th</sup>.

The Vice President of the SCS, Peter Stapleton said the legislation was unnecessary as the market was already responding to the changed economic circumstances without legislative interference. He called on the Minister to rescind the planned legislation.

“We don’t believe outside interference in the market is ever a good idea. The reality is that commercial leases are getting shorter anyway which minimises the need for rent reviews. So the market is responding. It is our view that market forces will determine if new leases will have upwards only rent reviews going forward.”

Stapleton also said that while retailers had raised legitimate concerns, the effects of banning upwards only rent reviews had not been thought through fully. “What about people’s pensions? A significant amount of Irish commercial property is owned and held by the institutions and pension funds. So everybody with a pension will be impacted by

the introduction of this proposed legislation. What will the knock on effects of the Ministers move be? That is a legitimate question and one that may not have been fully considered. We believe this move will undermine the value of pension funds at a time when such funds are already in turmoil”.

Stapleton also pointed out that the new legislation will only apply to new business leases signed after the legislation come into force and as such will have no effect on current lease agreements.

A new survey by the SCS shows that in 87% of cases surveyors found landlords had been prepared to grant rent variations with rent reductions occurring in 70% of cases. (See details below)

Stapleton pointed out that SCS members act for landlords and tenants alike on a regular basis and also act as Arbitrators and Independent Experts when rent disputes arise. ‘We know that flexible measures are being put in place notwithstanding the provisions of a lease – that is what we have been hearing anecdotally for some time and the survey results back that up.”

The SCS also pointed out that the main purpose of upwards-only rent reviews in the past was to guarantee income from the asset. In future with no guarantee on the level of income coming from the property, these assets will be significantly devalued and far less attractive to buy or sell as investments.

**For further Information**

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## Notes to the Editor:

In May 2009, the Society of Chartered Surveyors surveyed 588 members to establish the true extent of what measures were being adopted by agreement between landlords and tenants in response to the concerns put forward by the retail sector in relation to commercial property rents. A total of 213 members responded representing a response rate of 36%.

Of those surveyed, 88% confirmed that they are involved in dealing with retail tenants and have had experience in the last six months of rent renegotiation. Of the 88% who responded, 24% acted for the landlord only, 15% acted for the tenant only and a further 66% acted for both the landlord and the tenant. As such the Society is satisfied that the results from its survey represent a balanced cross-section from both perspectives, i.e. the landlord and the tenant.

Chartered Surveyors confirmed that in 87% of cases, landlords have been prepared to grant concessions. Of the variations granted, the results indicated combinations as follows:

Rent Reductions – 69.5%  
Lease Variation – 26.6%  
Rent Free – 44.1%  
Other (waiving of arrears etc) – 45.8%

Members were also asked to indicate if they agreed or disagreed with the statement that “market forces will determine the nature of landlord/tenant relationships both as to rental levels and the form of rent review clauses, in the future”. Of those who responded, 90% agreed and only 10% disagreed.