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## UK Real Estate: New Legislation Targets Upwards-Only Rent Reviews

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The UK Government unveiled its “English Devolution and Community Empowerment Bill”, a sprawling 338-page document focused primarily on devolving powers to mayors and local authorities. Hidden within its depths, however, lies Section 71, a provision that has blindsided the commercial property sector by proposing a ban on upwards-only rent reviews (UORRs) in commercial leases. The Labour Government, without prior consultation,

has introduced a measure that could reshape the landlord-tenant dynamic, raising concerns about its impact on investment and market stability.

The concept of banning UORRs is not new. For years, the UK property industry has grappled with the pros and cons of these clauses, which ensure that rent can only increase or remain static during a review, regardless of market conditions. Critics argue they disadvantage tenants by locking in unaffordable rents, while landlords and investors, particularly institutional ones, defend UORRs as essential for predictable income streams that underpin real estate investment.

The Ministry of Housing, Communities and Local Government, in a statement accompanying the Bill, claimed that UORRs “pit landlords against businesses, driving up rents and forcing shop closures.” Landlords, however, counter that pushing rents beyond tenants’ means is counterproductive, risking vacancies and lost income. They argue that UORRs provide certainty, encouraging investment in a sector already navigating economic headwinds.

Interestingly, the issue may be less pressing than the Government suggests. Average lease lengths, particularly in retail, have shortened significantly, often to five years or less. Many such leases lack rent review clauses entirely, reducing the prevalence of UORRs in the very high street shops the Bill claims to protect.

Section 71 of the Bill introduces a new Schedule 7A to the Landlord and Tenant Act 1954 (LTA 1954), targeting leases where tenants occupy premises for business purposes. The ban would apply to new leases granted after the law takes effect, including renewals under LTA 1954, but would not affect existing leases. Key features include:

**Index-linked reviews:** Rents could still be tied to inflation or other indices, but if the index falls, rents must follow suit, potentially dropping below the pre-review level.

**Market rent reviews:** Rents could be adjusted to the prevailing market rate at the review date, but capped at that level. If market rents are lower than the current rent, the reviewed rent would decrease accordingly.

**Anti-avoidance measures:** To prevent landlords from sidestepping the rules, such as by failing to trigger a rent review, tenants would gain the right to initiate reviews themselves.

The draft draws on lessons from Ireland, where UORRs have been banned for years, aiming to close loopholes that allowed landlords to circumvent similar restrictions.

The Government's stated aim is to reduce high street vacancies and support small retailers. Yet, by applying the ban to all business leases under LTA 1954, it extends far beyond retail to include offices, retail parks, and industrial properties. This broad scope could benefit large corporate tenants as much as small shopkeepers, who are less likely to have UORRs in their short-term leases anyway.

A significant oversight lies in the exclusion of head-leases and intermediate leases from the ban's protections. Only occupational tenants who physically use the premises fall under LTA 1954. This creates a potential mismatch: a landlord unable to enforce an upwards-only review against their tenant could still face one from their superior landlord, squeezing their income and creating financial strain.

The proposed index-linked reviews, while offering some security, may deter landlords from pursuing market-based reviews that could capture higher rents in a rising market. This cautious approach could undermine investor confidence, particularly for pension funds and other institutions reliant on stable, growing returns.

The lack of consultation has sparked frustration across the property sector. With the Bill still in its early stages, it faces scrutiny from Parliament and industry stakeholders. The provisions, buried in a Bill largely unrelated to commercial property, risk being rushed through without proper debate, a move that could destabilise a sector already grappling with economic uncertainty.

Industry bodies are likely to demand a full consultation to assess the ban's impact on investment and market dynamics. Landlords, tenants, and investors will need to engage actively with policymakers to ensure the final legislation balances competing interests. As one industry insider noted in a recent interview with *Property Week*, "This feels like a sledgehammer to crack a walnut. The Government needs to tread carefully or risk chilling investment in UK real estate."

The commercial property market stands at a crossroads. While the intent behind Section 71 may be to protect tenants, its far-reaching implications demand careful consideration. Without robust debate and refinement