


Navigating the Levelling Up and Regeneration Act 2023: Implications for retailers with vacant premises

06 January 2025  Suki Tonks and David Harris

Part 10 of the Levelling Up and Regeneration Act 2023 ('the Act') and The Local Authorities (Rental Auctions) (England) and Town and Country Planning (General Permitted Development) (Amendment) Regulations 2024 (the 'Regulations') are now in force.

The Act and the Regulations represent a strategic initiative to address the challenge of vacant spaces in high streets and town centres. By facilitating rental auctions and establishing clear standards and obligations, this framework aims to attract retailers, enhance local economies, and contribute to the vibrancy of urban communities.

Eligibility criteria

For a retail space to qualify under this scheme, it must meet the following conditions:

1. it should be situated within a designated town centre or high street;
2. the intended use of the premises must be aligned with high-street activities;
3. the property must have been vacant for the last year or 366 days in the last two years; and
4. the occupancy of the property should offer tangible benefits to the local community.

Consequences of falling under the Act

Retailers with vacant properties that meet the criteria should prepare for the possibility of their premises being included in a rental auction process initiated by local authorities. This process involves a dual notice system and notification by the local authority to the landlord (in this case the retailer) of the intention to auction the lease of the vacant property.

The lease to be auctioned would therefore be a sublease (assuming the retailer itself is a tenant). The term of the sublease would be equal to the remainder of the time left of the occupational lease up to a maximum of five years.

The leaseholder would not need a licence from its landlord to sublet the premises as the superior landlord's consent is deemed to have been given under the Act.

Mandatory compliance with Minimum Standards

A critical aspect for retailers to consider is the obligation to ensure their properties meet the Minimum Standard as defined by the Regulations. This encompasses a comprehensive set of safety and operational standards, including structural integrity, fire safety, utility connections, and the overall condition of the premises.

Failure to meet these standards within three months of contract completion could result in legal and financial repercussions, emphasising the importance of timely compliance.

Strategic considerations for retailers

Retailers must strategically assess the implications of this legislation on their property portfolio. The Act effectively encourages the active management of vacant retail spaces, potentially leading to increased costs associated with upgrading and maintaining properties to meet the required standards.

However, it also presents an opportunity to contribute positively to the local economy and community by facilitating the occupancy of vacant spaces.

Navigating the new legislative landscape

Retailers are advised to familiarise themselves with the detailed provisions of the Act and the Regulations as well as the non-statutory guidance published by the government just recently on 2 December 2024. Understanding the rental auction process, landlord obligations, and the potential benefits of compliance will be crucial in navigating this new legislative landscape effectively.

In summary, the Levelling Up and Regeneration Act 2023 introduces a framework that could directly impact retailers with vacant properties, compelling them to engage more actively in the management and utilisation of their retail spaces and perhaps having to engage with their own landlord to agree terms for a surrender of the lease of the vacant premises.

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