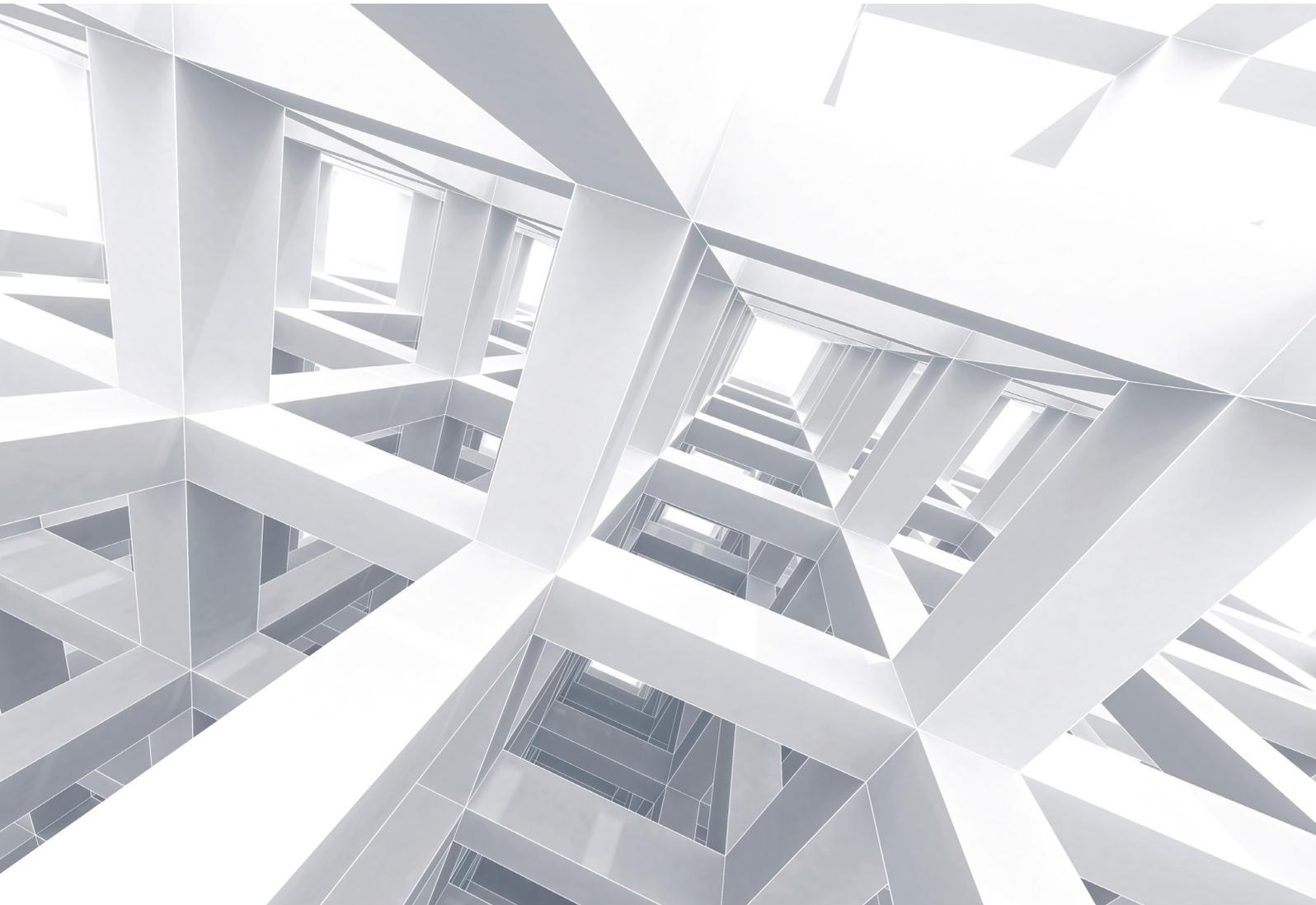




RICS professional standards and guidance, Japan

**RICS Valuation – Global  
Standards 2017 jurisdiction  
guide: Japan**

1st edition, May 2019



# RICS Valuation – Global Standards 2017 jurisdiction guide: Japan

RICS jurisdiction guide

1st edition, May 2019



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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
<i>RICS Rules of Conduct for Members and RICS Rules of Conduct for Firms</i>	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

Japan has a highly developed market economy that is the third largest in the world by nominal GDP after the USA and China. The banking and financial services sector is particularly strong, with services accounting for around 75 per cent of GDP.

The Japanese real estate market was ranked second in the world after the USA in the MSCI Real Estate Market Size survey of 2017, with an estimated value of \$798 bn. In the **JLL Global Real Estate Transparency Index 2018** it was placed in the second 'transparent' category, 14th of the 109 countries in the survey.

## 2 Legislation

### 2.1 Principal laws governing real estate

The Civil Code and Act on Land and Building Leases (ALBL) is the principal law governing leases. This includes a number of provisions:

- a renewal obligation of the landlord in the case of ordinary leases
- prohibition of early termination by the landlord and
- a tenant's right to amend the rent for an ordinary lease in accordance with economic circumstances.

General rules for the sale and purchase of real estate, property rights, rights and duties of the parties in contracts and other matters are set out in the Civil Code.

There are no legal restrictions on ownership or occupation of real estate in Japan by non-Japanese individuals or corporate bodies.

### 2.2 Types of ownership

- **Exclusive ownership, freehold equivalent:** this is the highest category of ownership, with full rights to possess and dispose of the property.
- **Co-ownership:** a percentage share in the freehold interest in a property. Usually the co-ownership terms require changes to the property to be subject to consent of all co-owners. Each co-owner is entitled to dispose freely of its share.
- **Condominium unit ownership:** this enables a single property to be subdivided into separate units. The freehold-equivalent ownership of each unit is registered in the owner's name.
- **Leasehold:** the most common form of leasehold interest is a surface right that separates the land ownership from the building upon it by way of a fixed term lease, commonly 30-50 years. The lease often requires the tenant to demolish any buildings at the end of the term. In older leases, the tenant has a right to renew at the end of the term.
- Other rights over real estate include easements and rights of way.

### 2.3 Registration

Title to real estate is registered at the time of sale with the real estate registry of the Legal Affairs Bureau for the region in which the property is located. A registration tax is payable. Almost all land and buildings are registered and registered information is publicly available.

### 2.4 Development control

Development control is overseen by the Ministry of Land, Infrastructure, Transport and Tourism (MLITT). National planning regulations are principally set by the Building Standards Act (BSA) and the City Planning Act (CPA). Under the CPA there are broadly three types of zoning district: residential, commercial and industrial. The CPA defines

Urbanisation Promotion Areas where development is encouraged and Urbanisation Restricted Areas where development is limited.

The BSA governs the types of buildings in zoning districts in terms of use, plot coverage ratio and other matters. BSA and CPA regulations apply to new development and refurbishment of existing buildings.

In general, applications for construction permits are made to the relevant local government, which will issue permits under the authority of the BSA and/or the CPA.

## 2.5 Commercial leases

Typical terms for occupational leases are:

- **Term:** traditional leases are usually for two years and are perpetually renewable provided the tenant does not breach the lease terms. Fixed term leases (introduced in 2000) are commonly for three to five years.
- **Breaks:** under traditional leases the tenant has the right to break the lease with six months' notice without penalty. For fixed-term leases, breaks can be negotiated but the landlord must provide 'due reason' and give six months' notice
- **Rent:** payable monthly in advance. Rent is usually quoted in Japanese yen per tsubo.
- **Rent variation:** under ALBL either party has the right to increase or decrease the rent if the rent being paid has become 'unreasonable' – usually if it is significantly at variance with market rent at the time of renewal. If the new rent cannot be agreed, ALBL provides for mediation and ultimately for determination by the court.
- **Maintenance and repair:** the landlord is usually responsible for maintenance of the building structure. For maintenance and repair of the leased premises, the lease will specify responsibility. Common area maintenance (CAM) fees including the provision of services such as air conditioning are charged by the landlord, enabling costs to be recovered.
- **Assignment and subletting:** requires landlord's consent.
- **Insurance:** building insurance costs are usually borne by the landlord. The tenant will be responsible for insuring contents and personal property
- **Termination:**
  - Traditional leases:** the tenant has the right to remain after expiry of the term unless the landlord can establish due reasons for terminating, on the basis of principles established by the courts.
  - Fixed-term lease:** the tenant has no right to continuation after the expiry of the term. The landlord must serve notice of non-renewal to the tenant between 6 and 12 months before the term is due to end.

## 2.6 Residential leases

Law and practice in Japan generally favours the landlord. Leases are typically for one to two years and the rent may be reviewed at the time of renewal. Basic lease terms are dictated by the Land and House Lease Act and are broadly similar to those for commercial leases.

## 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.

There is no formal measurement code or practice in Japan. Space in most large office buildings is measured on a net basis, including the area exclusively in office use and any columns but excluding common areas, plant space etc. A similar approach is usually adopted for retail space.

In Japan floor areas are expressed in tsubos or square metres (1 tsubo equals 3.31 square metres).

## 3 Taxation

Taxation of real estate in Japan is complex. The summary below outlines the principal taxes that apply to real estate, but this should be supplemented by appropriate professional advice.

### 3.1 Consumption Tax

Consumption Tax is the equivalent to VAT and is levied on the transfer of assets for business purposes, including rent payments. For sales, the tax is not levied on the land portion of the purchase price. It is payable by the vendor but may be included in the price paid by the purchaser.

### 3.2 Real Estate Acquisition Tax

Based on the tax-assessed value (determined by the local government) of the property at the time of sale, payable by the purchaser. Rates may be reduced for certain types of acquisition vehicles.

### 3.3 Stamp tax

Payable on contracts for the transfer of real estate, based on a proportion of the contract sum.

### 3.4 Fixed Asset Tax and City Planning Tax

Annual taxes payable by owners and occupiers of real estate. For leased property, the landlord's charge is based on the value of the property while tenants pay tax on additional improvements.

## 4 Regulation and standards

### 4.1 Regulation of valuation professionals

In accordance with the *Law on Real Estate Appraisal* (1963, as amended), appraisals of real estate in Japan must be undertaken by licenced real estate appraisers. Licensed appraisers must have passed the real estate appraisal examination and completed the required training. Licencing is undertaken by the Ministry of Land, Infrastructure, Transport and Tourism (MLITT).

Real estate appraisal companies must be registered either in their local prefecture or, in the case of those operating across a number of prefectures, with MLITT. Prefectures or MLITT are responsible for the regulation of appraisers and appraisal companies.

### 4.2 Membership organisations

There are two types of membership organisation for real estate appraisers in Japan. The **Japanese Association of Real Estate Appraisers** (JAREA) was established by the Ministry of Construction (now MLITT) in 1965 and operates nationwide. There are also local associations of real estate appraisers at prefecture level. Most appraisers and appraisal companies are members of both JAREA and their local association.

JAREA is the sole MLITT-approved training institute for appraisers. It also undertakes research, land and market price surveys and other relevant work. JAREA is a member of the International Valuation Standards Council (IVSC).

### 4.3 National valuation standard

Japan's Real Estate Appraisal Standard (JREAS) was established by the Law on Real Estate Appraisal in 1969 and MLITT is responsible for its maintenance. The most recent review of the standard was in 2014. All appraisals of Japanese real estate must be undertaken in accordance with the standard.

The standard covers the general theory of appraisal, including principles of real estate appraisal and of value, methods of and processes involved in appraisal and the appraisal report. It also deals with practical aspects of valuation, appraisal for rent and for security purposes.

### 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.

# 5 Application of the RICS Valuation – Global Standards 2017 in Japan

## 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 Japan

### 5.2.1 Red Book application in the Japanese context

The Red Book is written from an international perspective, in accordance with the International Valuation Standards (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 also being performed in accordance with the Red Book.

All valuations of real estate in Japan must by law be carried out in accordance with Japan’s Real Estate Appraisal Standard by an appraiser licenced by MLITT. However, a valuation in accordance with Red Book standards can additionally be requested. This situation may arise especially in cases where a property is owned by international investors or subject to loans from foreign banks.

In practice, the requirements and approach adopted for a valuation undertaken in accordance with the Red Book 2017 are broadly similar to those for a valuation under

JREAS. In most cases the valuation figure produced in either case will therefore not differ significantly.



## 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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