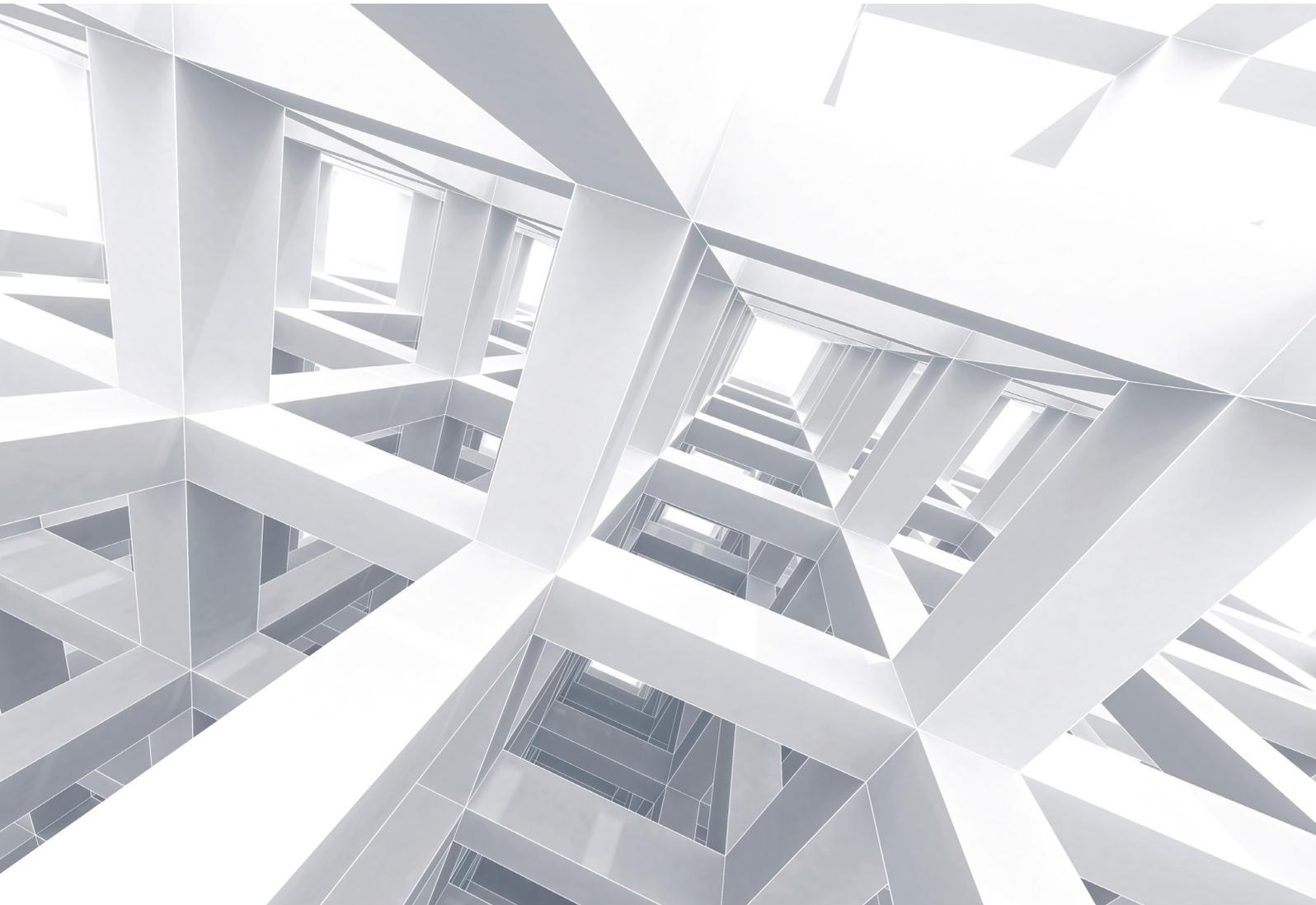




RICS professional standards and guidance, New Zealand

**RICS Valuation – Global
Standards 2017 jurisdiction
guide: New Zealand**

1st edition, May 2019



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RICS jurisdiction guide

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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

New Zealand is a relatively small country with a mature economy and a strong trading base. The property investment market ranked 30th in the world in the **MSCI Real Estate Market Size 2017** survey.

With a well-established professional base, the property market was rated 'highly transparent' in the **JLL Global Real Estate Transparency Index 2018** and placed 7th in the world rankings.

2 Legislation

2.1 Principal laws governing real estate

The *Property Law Act 2007* (PLA) governs commercial property leases agreed from 1 January 2008. It acts retrospectively (with some exceptions). The principal statute for the residential sector is the *Residential Tenancies Act 1986* (amended 1992 and 1996), which is currently under review.

In the professional sector, the *Valuers Act 1948* has been influential. It incorporated the New Zealand Institute of Valuers (NZIV) and established the Register of Valuers, setting professional criteria for the valuation profession in the country.

2.2 Types of ownership

There are four types of property ownership in New Zealand:

- **Fee simple (freehold) title:** this is the highest category of ownership, where the owner has full rights to possess and dispose of the property.
- **Leasehold:** this grants the rights to possess and use a property for a limited period of time, subject to the terms of the lease.
- **Unit or strata title:** this is usually the type of ownership for apartments forming part of a larger block and governed by the Unit Titles Act 2010. Strata title may be freehold or leasehold.
- **Cross-lease:** this is a composite title whereby the freehold interest is jointly owned by the owners of leases of the same land. It is most frequently used in the case of multi-occupied apartment blocks and townhouses.

2.3 Registration

Registration of title is mandatory in New Zealand. A fully electronic register is maintained by the government agency **Land Information New Zealand** (LINZ). Copies of titles are publicly available for a fee, and more detailed searches can be undertaken by registered users.

The land register provides evidence of legal title. Compensation may be payable by the government if registration errors cause a loss to the owner of a registered interest in land.

2.4 Development control

Planning and development control in New Zealand is governed by the *Resource Management Act 1991* (RMA). The RMA has a broad remit. As well as covering planning and development control, it is the country's principal legislation for environmental management as a whole. It requires sustainability to be at the core of all matters under its jurisdiction.

The RMA classifies activities into six categories:

- a permitted

- b** controlled
- c** restricted discretionary
- d** discretionary
- e** non-complying and
- f** prohibited.

Classification affects whether consent will be required for an activity and will also influence the grant of consent.

Under the RMA, regional councils are responsible for matters such as the use of water, coastal issues and contamination, while rules for land use activity are set by local authorities in their district plans. New developments or substantial alterations to existing properties are likely to require consent.

An amendment to the RMA in 2017 was designed to simplify the planning process and, in particular, encourage the development of land for housing.

2.5 Commercial leases

Two types of standard lease are commonly used. The most prevalent is the Auckland District Law Society (ADLS) format. The Building Owners and Managers Association International (BOMA) format was historically used for larger properties, but this has been phased out in recent years in favour of the ADLS format. Some larger corporations and government entities have their own lease templates.

Typical terms for occupational leases are as follows:

- **Term:** typically six to nine years, but longer terms may be agreed for larger lettings.
- **Breaks:** a tenant's break options are negotiable.
- **Rent:** this is payable monthly in advance. Rent may include the landlord's costs of external and structural repairs, though local variations and customs are found.
- **Rent escalation:** rent may be reviewed to market level every two to three years. Recently, fixed or inflation-linked increases have become more common.
- **Statutory rent control:** this does not apply.
- **Payment for operating expenses:** service charges will include the landlord's costs of maintaining, repairing and insuring, plus managing and running common parts.
- **Maintenance and repair:** most leases provide for the tenant to be responsible for the interior of the demised premises. The landlord will maintain the exterior and structure; some or all costs may be recovered via the service charge.
- **Assignment and subletting:** these require the landlord's consent, which cannot be unreasonably withheld under the PLA.
- **Insurance:** arranged by the landlord; costs may be recoverable from the tenant.
- **Local authority rates:** if payable by the landlord, these may be recoverable from the tenant.
- **Termination:** tenants have no statutory right to renew, but renewal options are negotiable. Under the PLA, the landlord may terminate the lease early in the event of non-payment of rent or material default by the tenant.

Note that leases must be in writing and signed to be enforceable under the PLA. Short-term leases (which must be unregistered, commence within 20 days after the date of contract and be for one year or less) need not be in writing.

Retail leases can include provisions for percentage of turnover rentals. This is most common for tenants within major shopping centres and supermarkets.

2.6 Residential leases

Residential leases must be in writing and are governed by the *Residential Tenancies Act* 1986 (as amended). Typical terms for residential leases are as follows:

- **Term:** most leases are periodic with no fixed end date.
- **Rent:** this is payable monthly in advance.
- **Rent escalation:** rental increases cannot be agreed within six months of the start of the tenancy or six months from the last increase. While parties are free to agree rents, the tenant can appeal to the Rent Tribunal for a rent assessment if it considers the rent proposed to be excessive.
- **Statutory rent controls:** none.
- **Subletting:** by agreement.
- **Termination:** the landlord must give 90 days' notice to terminate the lease. This can be reduced to 42 days if, for example, the property has been sold or the landlord requires the property for its own use. A fixed-term tenancy can only be terminated on the expiry date.

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.

In New Zealand, commercial premises are measured in accordance with the **Property Council New Zealand** (PCNZ) property measurement standards, which have been developed in conjunction with the **Property Institute of New Zealand** (PINZ). There are separate measurement standards for office, retail and industrial buildings, which are intended to be used for the purpose of valuations, property management, property analysis, leasing and sales. There are no standards for the measurement of residential buildings, which are undertaken on a gross (external) basis of measurement.

Areas are expressed in square metres.

3 Taxation

3.1 Goods and services tax (GST)

GST may be applicable in the event of the sale of an interest in property. This will depend upon the tax positions of the seller and purchaser. Both parties should consider their GST position before agreeing a transaction and seek advice from a suitably qualified professional.

GST is charged on rent but can be recovered by GST-registered tenants.

3.2 Real estate transfer tax

No transfer tax or stamp duty is payable in New Zealand.

3.3 Capital gains tax (CGT)

There is currently no CGT in New Zealand.

3.4 Property taxes

3.4.1 Municipal taxes (rates)

Rates for business premises are chargeable to the landlord. In general, the costs are passed on to the tenant via the lease.

3.4.2 Property tax

Income tax may be payable on gains arising from the sale of real estate interests if the seller is a real estate dealer and the property was acquired for resale, or if it is residential and sold within two years of purchase.

4 Regulation and standards

4.1 Regulation of valuation professionals

Requirements for the registration of property valuers in New Zealand are set out in the *Valuers Act* 1948, which established the Valuers Registration Board (VRB). The VRB is under the jurisdiction of the minister for LINZ.

All valuers must be registered by the VRB. To be eligible for registration, a candidate must have completed a valuation degree from an approved New Zealand university (or be qualified with an approved professional body) and have undertaken three years' practical experience. Valuers require an annually renewable practising certificate.

4.2 Membership organisations

PINZ and the NZIV are the New Zealand professional bodies responsible for maintaining valuation standards, codes of conduct and continuing professional development for members. The NZIV merged with PINZ in 2000 but continues to exist as a legal entity. The NZIV was given a statutory role in the *Valuers Act* 1948 as the body to which all registered valuers must belong. The NZIV maintains its own rules and code of ethics. The VRB is responsible for investigating and taking action in cases of ethical breaches or non-compliance issues.

NZIV members must pass an approved examination. RICS membership is recognised as an appropriate qualification leading to membership of the NZIV.

4.3 National valuation standards

All property valuations in New Zealand are governed by the **Australia and New Zealand Valuation and Property Standards** (commonly referred to as the 'PINZ standards'). The most recent edition was published in 2012. This is a comprehensive document that contains a Code of Ethics and Rules of Conduct, together with mandatory standards and professional guidance notes covering a wide variety of property valuation scenarios. Major financial institutions such as the main trading banks also have their own standards that generally correlate with the PINZ standards.

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 New Zealand

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 New Zealand 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.

A valuation compliant with the Red Book and undertaken by a member of RICS or a valuer working for an RICS regulated firm who has the necessary experience in the market will accord with IVS. A valuer instructed to undertake a Red Book-compliant valuation of a New Zealand property must be registered with the VRB and must ensure that the valuation fulfils the requirements of both the PINZ standards and the Red Book.



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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