



Covid-19: lease agreements regulatory update

Covid-19 mitigation and containment measures had a strong impact in economy and, of course, real estate. Deferral of rents, suspension or termination of legal proceedings are some of the rules put in place for lease agreements.

3 months have passed since the beginning of the Covid-19 pandemic in Portugal. The state of emergency, declared in 19 March 2020, was followed by the state of public disaster, declared in 3 May 2020. Covid-19 mitigation and containment measures are being progressively lifted. Several new legislation has been enacted and amended in a very short period of time. We hope the following may help you keeping track of the rules applicable to lease agreements.

1. Housing leases

Payment of rents falling due between 1 April 2020 and June 2020 may be deferred by tenants whose households have suffered a significant income reduction (determined pursuant to these rules). Deferred rents must be paid in monthly instalments of not less than 1/12 of the total amount during 1 year as from July 2020, together with the rent of the relevant month.

Tenants must have informed the landlord they wish to make use of these rules in writing at least 5 days before the relevant rent falls due (or until 27 April 2020 for the rent falling due in April).

Alternatively, tenants may file an application with the Portuguese Institute for Housing and Urban Rehabilitation (*Instituto da Habitação e da Reabilitação Urbana - IRHU*) to obtain an interest-free loan to cover payment of rents falling due during the above-mentioned period. Recent legislation extended the possibility of applying for these loans until 1 September 2020. However, the period of time to which the deferral of rents is applicable was not amended, which is likely to raise some practical issues.

Landlords suffering a significant income reduction arising of the suspension of payment of rents by tenants now permitted, may also apply for an interest-free loan with IRHU to cover income they stop receiving.

2. Commercial leases and shopping centers

Tenants with businesses under lockdown or activity restrictions due to Covid-19 mitigation and containment measures may defer payment of rents falling due between 1 April 2020 and (i) 1 September 2020 or (ii) the first month after lockdown or restrictions are lifted, whichever occurs first. The above mentioned rents must be paid in monthly instalments as from (i) 1 September 2020 or (ii) the end of the first month after lockdown or suspension are lifted, as applicable, prorated in monthly statements until June 2021, together with the rent of the relevant month.

For example, restaurants and shopping centers under lockdown/ activity restrictions were authorized to operate in full as from 1 June 2020 (except in certain geographical areas of the country, where some restrictions remain in force).

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Tenants with restaurants or stores in shopping centers may defer payment of rents of April, May and June 2020. The deferred amount must be paid in 12 monthly instalments, beginning in July 2020 and until June 2021.

3. Cessation of lease agreements

Landlords in housing leases cannot terminate the agreements with grounds on delay of the tenants in paying rents falling due in the period specified in section 1 unless such tenants fail to pay the deferred rents as explained above.

Commercial leases and shopping center agreements cannot be terminated, early terminated or otherwise ended and tenants cannot be evicted nor claimed any penalties with grounds on the delayed payment of rents during the period of lockdown or activity restrictions and until the end of the first month after lockdown or restrictions are lifted or 1 September 2020 (as applicable).

However, in case housing or commercial leases or shopping center agreements cease by initiative of tenants, the deferred rents will become immediately due and payable.

In addition to the above, and until 30 September 2020:

- Effects of early termination of housing and commercial agreements by landlords are suspended;
- Expiry of housing and commercial agreements at the end of the relevant duration is suspended, unless tenants do not object to cessation of the lease; and
- Effects of notices preventing automatic prorogation of housing and commercial agreements, as well as and revocation of any such agreements, by landlords are also suspended.

4. Court deadlines and proceedings

Since 3 June 2020, court deadlines and proceedings are, generally, not suspended.

However, actions and special eviction procedures and proceedings for delivery of leased immovable property, in case of the tenant may be placed in a fragile situation due to lack of housing or other social critical reason remain suspended until further legislation is enacted.

Statute of limitation and deadlines for exercising rights in connection with such actions and proceedings also remain suspended.