

8TH APRIL 2020

COVID 19 EXCEPTIONAL REGIME FOR LATE RENT PAYMENT SITUATIONS

On 6th April, Law no. 4-C/2020 was published, establishing an exceptional regime for situations of late payment of rent due under residential and non-residential urban lease contracts, in the context of the COVID-19 pandemic.

According to that law:

1. HOUSING LEASES

In reference to the **tenants**, when the following happens:

- a) a reduction in more than 20% in the tenant's household income when compared with the income of the previous month or the same period of the previous year; **and**
- b) the tenant's household effort rate (percentage of income earmarked for rent payment) is or becomes more than 35%;

the landlord is only entitled to the termination of the lease agreement for lack of payment of rent due in the months in which the state of emergency is in force and in the first subsequent month, if the tenant does not make the outstanding payment, within 12 months from the end of that period, in monthly instalments of not less than one twelfth of the total amount, paid in conjunction with the rent for each month.

On the other hand, tenants who have proved the reduction abovementioned and are unable to pay rent of the houses that constitute their permanent residence may apply to the Instituto da Habitação e da Reabilitação Urbana, I. P. (IHRU) for an interest-free loan to support the difference between the amount of monthly rent due and the amount resulting from the application of a maximum effort rate of 35% to the household income.

The eligibility for this loan does not apply to tenants whose loss of income results in a reduction in the amount of rent due under the terms established in special rental or lease regimes, such as those of supported rent and social rent.

Tenants who are unable to pay rent shall inform the landlord, in writing, up to 5 days before the due date of the first rent in which they intend to benefit from this exceptional regime. In the case of rents due on 1st April, this notification must be made by 27th April.

As for the **landlords**, when the following takes place:

- a) a drop of more than 20% in the income of the landlord's household compared with that of the previous month or the same period of the previous year;
- (b) that loss of income is caused by non-payment of rents; **and**
- (c) the respective tenants do not make use of the IHRU loan,

may apply to the same Institute for an interest-free loan to offset the amount of monthly rent due but not paid.

2. NON-HOUSING LEASES (and other contractual forms of real estate operation for commercial purposes):

These exceptional measures apply only:

- a) to establishments open to the public, engaged in retail trade activities and the provision of services, which are shut down or have their activities suspended, including where they maintain e-commerce activities, or the remote or electronic provision of services; **and**
- b) to catering and similar establishments, including where they are operated for the sole purpose of producing food consumer goods.

These tenants may defer the payment of rent due in the months in which the state of emergency is in force and in the first month thereafter, for the 12 months from the end of that period, in monthly instalments of not less than one twelfth of the total amount, paid in conjunction with the rent for each month.

Failure to pay these rents is not grounds for termination, rescission or other form of termination of the leases, nor can the tenants be required to pay any other penalties for the late payment of the accrued rents.

We will update this information as and when legislative acts amending or supplementing the above are published.

For a fuller understanding of the measures taken in relation to leases, please also consult our Information Note on *Exceptional and Temporary Measures: Effects on Leases*, published on 25.03.2020, [here](#).

PARES | Advogados is available to provide information on the consequences on lease agreements of the exceptional and temporary measures adopted to mitigate the effects of Covid 19 in more detail that will more adequately suit the specific needs of each client, being able to offer all necessary support on matters of leasing.

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