



COVID-19

Legal Insights no. 17

Law no. 4-C/2020, of April 6th

Law no. 4-C/2020, of April 6th, establishes the application of temporary and exceptional measures in order to promote the flexibilization of the rents due under residential lease agreements and non-residential lease agreements.

On April 6th, 2020, Law No. 4-C/2020, was published in the Portuguese Official Gazette, which foresees the application of temporary and exceptional measures in order to the flexibilization of the rents due under residential lease agreements and non-residential lease agreements.

Thus, regarding the residential lease, the present Law applies to the tenants who cumulatively fulfill the following requirements: (i) the income of their household suffers a drop of more than 20% in relation to the previous month or the same period of the previous year and (ii) whose effort rate, corresponding to the percentage of the household's income intended for the payment of the rent, is equal to or higher than 35%.

These residential tenants, as well as the guarantors of students who do not earn any income, who are unable to pay the rent of the dwellings that constitute their permanent residence or, regarding the case of the students, that constitute their residence due to the attendance of an educational establishment located more than 50 km of their household's permanent residence, may request to the Housing and Urban Rehabilitation Institute, I. P. (IHRU, I. P.), to grant an interest free loan to support the partial payment of said rent, and at no time may the household's remaining available income be lower than the index of social support (IAS).

The financial support provided by IHRU, I. P., also applies to the residential landlords who suffer, in their household's income, a drop of more than 20% caused by the non-payment of the rents due by the tenants under this Law, in the event these tenants do not resort to the above mentioned loan and the said non-payment of the due rents result in the available income of the remaining household falling below IAS.

It should be noted that the demonstration of the income's drop shall be made under the terms of a Ministerial Ordinance still to be approved by the Government and the loans granted by IHRU, I. P., will also be subject to regulation yet to be issued by said institute.

Moreover, the residential tenants are obliged to inform their respective landlords of not being able to pay their rent, up to five days prior to the due date of the first rent in which they intend to benefit from the regime foreseen for the residential lease. Regarding the rents due on April 1st, 2020, the deadline

for the above mentioned notification is 20 days from the date in which the present Law has entered into force.

Regarding the non-residential leases, this Law applies to establishments opened to the public intended for retail trade activities and services provisions that are closed or have their activities suspended (A) under Decree No. 2-A/2020, of March 20th, (B) by legislative or administrative determination, under the terms set forth in Decree-Law No. 10-A/2020, of March 13th, (C) under the Civil Protection framework Law, as well as the Health framework Law, or (D) under other provisions for the emergency state execution, even if the said establishments maintain electronic commerce provisions, or services provisions at distance or through an electronic platform.

The temporary and exceptional measures foreseen in the present Law, also apply to restaurant and similar establishments, including those that maintain their activity for the exclusive purpose of confectionery intended for *take away* or home delivery.

With regard to the deferred payment of rents, the present legal document states that both residential and non-residential tenants, in relation to the rents due during the period in which the state of emergency is in force as well as its subsequent month, may pay them within 12 months counting from the final month following the conclusion of the emergency state, in monthly instalments of no less than one twelfth of the total amount, paid simultaneously with the rents which are due after said period, without the non-payment of those rents constituting grounds for the lease agreements' termination.

In the case of non-residential leases, the non-payment of the referred rents cannot also constitute grounds to oblige the non-residential tenants to vacate the properties, nor the payment of other penalties based on the late payment of said rents.

As for the rents due to public entities that operate real estate, and without prejudice to the other provisions set forth in the legal document herein, the public entities may, during the period in which this Law is in force, reduce the rent to the tenants that show having an income drop of more than 20% in relation to the income of the previous month or the same period of the previous year, and that drop originates an effort rate of more than 35% in relation to the rent, as well as allow the rent's payment exemption to the tenants that show

they did not receive any income after March 1st, 2020. In addition, these public entities have also the possibility to establish moratoriums to their tenants.

This Law also establishes that the compensation provided by the Civil Code, corresponding to 20% of what is due, in relation to the late payment of the rents due during the state emergency period and on the first subsequent month, whenever its payment is deferred under the present Law, it is not demandable, just as the landlord may not refuse to receive the following rents.

In addition, if the lease is terminated by the tenant's initiative, the rents which were due and not yet paid become, from the date of the termination, demandable.

The present Law takes effect at midnight on April 7th, 2020.

For further information, please click [here](#).

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