



COVID-19

Legal Insights no. 17-A (in addition to Legal Insights no.17)

Ordinance no. 91/2020, of April 14th, defines the terms in which the loss of income is demonstrated, regarding the application of the exceptional regime foreseen by Law 4-C/2020, of April 6th, to the situations of inability to pay the residential rents due from April 1st, 2020, until the month following the end of the state of emergency.

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' payment, given the epidemiological situation generate by Covid-19. The respective Legal Insights can be found through this [link](#).

As a result, on April 14th, **Ordinance 91/2020** was published in the Portuguese Official Gazette, which defines the terms in which the loss of income is demonstrated, regarding the application of said measures to the situations of inability to pay residential rents due from April 1st, 2020, until the month following the end of the state of emergency.

Thus, a loss of more than 20% in the household income of subjects who meet the requirements of Law 4-C/2020, will have to be demonstrated as follows:

- i. In the case of **tenants, students and student's guarantors**, by comparing the sum of income of their household's members in the month in which the cause for the change in income occurs, with the sum of income received by the same members of the household in the previous month or, in the cases explained below, in the same period of the previous year;
- ii. In the case of **landlords**, by comparing the sum of the income of their household's members in the month in which the non-payment of the rent due by their tenants occurs, with the sum of the income received by the same members of the household in the previous month or, in the cases explained below, in the same period of the previous year.

The members of the household whose income derives, for the most part, from business or professional work of the category B of the CIRS (Personal Income Tax Code), and if their invoicing of the month before the loss of income is "not representative", may choose to demonstrate the loss of income with **reference to the income earned in the same period of the previous year**.

Additionally, this Ordinance defines which income is relevant for demonstrating the loss of income and, on the other hand, the respective needed supporting documents.

Moreover, it is foreseen the possibility for certain income to be proven by a **sworn statement** when it is not possible to obtain proof of the value of that income. However, in the this situation, the respective supporting documents must be delivered within 30 days, counting from the date of communication to the landlord or of the form's submission to the Institute of Residential and Urban Rehabilitation, I. P. (IHRU, I. P.).

In addition, this Ordinance clarifies that the communications between tenants, landlords and IHRU, I. P. are preferably made by electronic mail.

The Ordinance takes effect at midnight of April 15th, 2020.

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

For further information, please contact:

João Pinheiro da Silva

Real Estate

Email: jpsilva@ctsu.pt

Lisboa: Av. Eng. Duarte Pacheco 7, 7.º piso
1070-100 Lisboa, Portugal

Porto: Praça do Bom Sucesso, 61, Piso 13, fração 1309
4150-146 Porto, Portugal

Tel.: +351 219245010

Fax: +351 219245011

geral@ctsu.pt

www.ctsu.pt

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