

COVID-19 MEASURES IMPLEMENTED REGARDING LEASES

In order to mitigate the negative economic consequences of the COVID-19 crisis on certain groups, the Spanish Government has approved regulations on leases for residential leases (Royal Decree-Law 11/2020 of 31 March adopting additional urgent measures to address the social and economic impact of COVID-19), as well as leases for use other than housing (RDL 15/2020, of 21 April, on urgent complementary measures to support the economy and employment), which we summarize as follows:

1. Measures regarding residential leases

RDL 11/2020 provides for new measures in favour of people in a vulnerable situation as a result of circumstances arising from COVID-19, who are lessees of a property for use as housing.

A) Beneficiaries

Those who are unemployed or are laid off temporarily (ERTE), or who have reduced their working hours due to care for others, if they are an employer, or other similar circumstances that cause a loss of income, which are detailed in comparative terms with the monthly National Indicator of Earnings (*Indicador Público de Renta de Efectos Múltiplos*), (the IPREM), shall be entitled to the benefits of the measures provided for in this norm.

In addition to being in one of these situations, the rent plus basic expenses and supplies must be greater than or equal to 35% of the net income received by all members of the family unit.

The benefits foreseen will not be available when the lessee, or any of the persons who make up the family unit, is the owner or usufructuary of a residence in Spain, except when (a) he/she has obtained it by inheritance and only on a part of it; or (b) the availability of the residence is not available due to separation or divorce, due to causes beyond his/her control or when the place of residence is inaccessible due to the disability of its owner or of any member of the family unit.

B) Benefits provided by the norm

- **Leases in which the lessor is a large property owner**

Until 2 May 2020, lessees of residential housing in a situation of vulnerability whose lessor is a large property owner (public or private) have the right to request a temporary and extraordinary moratorium on rent payment.

And what is a large property owner? The norm defines it as a natural or legal person who owns (a) more than 10 urban properties (excluding large garages and storages rooms); or (b) a constructed surface of more than 1,500 m².

The lessor who is asked for this moratorium must choose, within 7 working days, between

- (a) A moratorium on the payment of rent; or
- (b) A 50% write-off of the debt

These measures must be in force for the duration of the state of alert or while the lessee is in a vulnerable situation, up to maximum of 4 months.

If the moratorium has been chosen, when the vulnerable situation is overcome, the lessees must return the unpaid rent by means of its instalment during at least 3 years following the validity of the contract, without the possibility of agreeing penalties or interests against the lessee.

- **Rent for other types of leases: renegotiation**

For cases where the lessor is not a large property owner under the terms set out above, the lessee may, until 2 May 2020, start negotiations with the lessor to agree on the moratorium of the rental payments.

From the moment the lessors receive the request, they have a period of 7 working days to make a proposal regarding the

conditions for the postponement or the split of the rental payments. In this case, if the lessors reject the proposed moratorium and, in any case, when the lessee is in a vulnerable situation, the latter will be entitled to obtain the aid derived from the "State guarantee line for bank financing of lessees in a vulnerable situation as a result of the expansion of COVID-19".

This line of guarantees implemented through the financial institutions is a financing that must be destined to the payment of the rent of residences and may cover a maximum amount of 6 monthly rent payments. The repayment period will be up to 6 years and can be extended.

This aid will be offered to all those lessees in a vulnerable situation as a result of the expansion of the COVID-19, in accordance with a series of criteria and requirements regulated in a Ministerial Decree (*Orden Ministerial*).

- **Exceptional extensions**

All lessees, regardless of whether or not they are in a vulnerable situation, are entitled to a 6-month extension of the leasing contracts that expire between the entry into force of these regulations and 2 months following the end of the state of alert.

- **Stay of evictions for families who have no alternative housing**

In the processing of the eviction procedure in which the lessees accredit before the court that they are in a social or economic vulnerable situation as a consequence of the effects of the expansion of COVID-19, which makes it impossible for them to find a housing alternative for themselves and the people with whom they live, an extraordinary suspension of the scheduled eviction will be initiated for the strictly necessary time.

If the eviction was not yet scheduled, the procedural deadline will also be suspended until the social services adopt the appropriate measures and for a maximum period of 6 months from the entry into force of this regulation.

C) Modification of the State Housing Plan 2018 – 2021

A new aid programme has been approved to help minimise the economic and social impact of COVID-19 on residential leases.

The aim is to provide rent subsidies or transitional financing assistance to vulnerable residential lessees who have problems paying their rent as a result of this crisis.

The details of the aid must be defined by each autonomous region, setting the maximum deadline for the application (and in any case before 30 September 2020), the amount of the aid (up to a maximum of EUR 900/month and 100% of the rent), and other circumstances.

2. Measures for non-residential leases

RDL 15/2020 provides for new measures in favour of the self-employed workers and SMEs who are lessees of a property used for their economic activity and whose activity is being affected by COVID-19.

A) Beneficiaries

The beneficiaries of the measures are self-employed workers and SMEs who lease properties for non-residential purposes, financially unable to pay the rent:

- Self-employed workers: their activity must be suspended as a result of the state of alert or, if not suspended, they must have reduced their turnover by at least 75% in relation to the average monthly turnover for the same quarter of the previous year.
- SMEs: those that do not exceed certain limits in terms of assets, annual turnover and number of employees, and whose activity has been suspended as a result of the state of alert or, if not suspended, have reduced their turnover by at least 75% in relation to the average monthly turnover of the same quarter of the previous year.

B) Benefits provided by the norm

- **Leases in which the lessor is a large property owner**

In these cases, with large property owners being understood to be those that meet the characteristics referred to above, the beneficiaries will be entitled to apply a moratorium on the payment of rent. This moratorium will apply while the state of alert is in force and to the following monthly payments, which can be extended on a monthly basis if the moratorium is insufficient in relation to the economic impact caused by COVID-19, up to a maximum of 4 months.

Lessees must return unpaid rent to their lessors by instalments over at least the following 2 years of the contract, without any penalties or interest being agreed against the lessees.

- **Rent for other types of leases: renegotiation**

For cases where the lessor is not a large property owner under the terms set out above, the beneficiary may, until 23 May 2020, start negotiations with a view to agreeing on a rent payment moratorium, which will not be binding on the lessor.

The parties may apply the deposit in the contract to the payment of rent. If so agreed, the lessee must replace the deposit within 1 year of the conclusion of the lease or, if less time remains, within this period.

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