

COVID 19: LEASE OF REAL ESTATE (29 April 2020)

Dear Clients and Partners,

Please, let us provide you with information on the final form of the long-expected adjustments to the legal regulation of the lease of real estate, which applies to both commercial and residential premises.

1. LEASE OF COMMERCIAL PREMISES

27 April 2020 is the effective date of Act No. 210/2020 Sb. on certain measures to mitigate the impact of coronavirus SARS CoV-2 epidemic on the lessees of premises for commercial use.

The Act applies to all premises leased for commercial activities and premises in which commercial activities are conducted, regardless of whether the purpose of the lease is expressed in the lease agreement or not. The Act also applies to such usufructuary leases whose major part is the lease of premises for commercial use.

The Act defines a „reference period“ and a „protection period“. The reference period lasts from 12 March 2020 to 30 June 2020. The protection period lasts from 27 April 2020 to 31 December 2020.

The protection period protects lessees (or usufructuary lessees) from the termination of their lease by the lessor due to the lessee's delay with the payment of rent on condition that

- the delay occurred during the reference period, and
- the delay occurred as a consequence of extraordinary measures taken as a reaction to the epidemic which prevented the lessee from conducting its commercial activities or significantly limited the lessee in conducting its commercial activities.

Payments which became due during the reference period must be paid to the lessor by the end of the protection period. If the lessee fails to pay within the given timeline, the lessor has a right to terminate the lease in a 5-day termination period. Should the lease expire before the end of the protection period, the lessee is obliged to pay the lessor all amounts which became due during the reference period within 30 days from the end of the lease.

Lessors are not obliged to suffer the limitations arising out of the protection period if it cannot be reasonably required of them. The Act makes an express reference to a situation when the rent is the main source of the lessor's living. If, in such a situation, the lessor and the lessee fail to agree on a mutually agreeable solution, the lessor may address the court with a petition to terminate the lease, however, not before the end of the state of emergency.



2. LEASE OF RESIDENTIAL PREMISES

27 April 2020 is the effective date of Act No. 209/2020, Sb., on certain measures taken to mitigate the impact of coronavirus SARS CoV-2 epidemic on the lessees of premises used for residential purposes, on recipients of loans granted by the State Housing Development Fund and in connection to the provision of services used together with residential and non-residential premises in residential housing.

The Act applies to lease and sublease of all flats, houses and their parts if the purpose of the lease (or the sublease) is to satisfy the lessee's or the sublessee's housing needs.

The reference period defined under this Act lasts from 12 March 2020 to the day following the end of the extraordinary measures taken due to the epidemic, however no longer than to 31 July 2020. The protection period lasts from 27 April 2020 to 31 December 2020.

During the protection period, lessees are protected from the termination of their lease under the same conditions as in the case of lease of commercial premises governed by the above Act, especially if the delay occurred during the reference period. Unpaid rent which became due during the reference period must be paid by the end of the protection period. Lessors are otherwise entitled to terminate the lease with immediate effect.

Should the limitations set forth by this Act reach such a level that their acceptance by the lessor becomes unreasonable, lessors are not obliged to suffer them after the end of the state of emergency. If the lessor fails to reach an agreement with the lessee in such a situation, the lessor may address the court with a petition to terminate the lease.

The Act also provides for a possibility to, at the debtor's request, defer instalments on loans drawn from the State Housing Development Fund until as late as 30 November 2020.

We hope that our newsletter will help you navigate your current options and we are ready to assist you to find the right solution for your situation.

Your LTA team