

## CORONAVIRUS: ROYAL DECREE-LAW 11/2020 – MEASURES AFFECTING RESIDENTIAL LEASES

On 31 March 2020 the Spanish Council of Ministers approved Royal Decree-Law 11/2020 ("RDL 11/2020") on additional urgent social and economic measures to deal with Covid-19, which includes certain measures related to residential leases and their economic burden on economically vulnerable groups.

### RDL 11/2020 – CHAPTER I

The approval of Royal Decree-Law 463/2020, of 14 March, declaring a state of emergency in order to manage the health crisis caused by Covid-19, has led to the application of a series of extraordinary and unprecedented measures in Spain. RDL 11/2020, governing the new set of measures adopted by the Spanish government, was published on 31 March 2020. Chapter I RDL 11/2020 includes certain measures on primary residence leases aimed at vulnerable groups whose income and, consequently, ability to pay the rent due on residential leases, has been considerably limited by the cessation of a large part of Spain's economic activity.

### WHO ARE THESE MEASURES AIMED AT?

RDL 11/2020 establishes, among other measures, certain financial aid relating to residential leases for persons defined as economically vulnerable. The following requirements must be met for a tenant to be considered economically vulnerable as a result of the effects of Covid-19 ("**Economically Vulnerable**") and, therefore, subject to the measures listed hereunder:

(i) the tenant has suffered a change in his/her labour situation (e.g. unemployment, temporary collective dismissal procedure (*expediente de regulación temporal de empleo*), reduced working hours, substantial loss of income in the case of employers, etc.) resulting in the tenant's household income falling under the threshold established in RDL 11/2020; and

(ii) the sum of the tenant's rent and basic expenses and supplies is greater than or equal to 35% of the tenant's net household income.

These requirements will be understood to not be met if the tenant or any member of his/her household owns a house in Spain or is receiving the financial aid established in RDL 11/2020. The tenant must prove that he/she meets the vulnerability conditions by presenting the documentation listed in Article 6 RDL 11/2020.

### Key issues

- The Spanish government approved Royal Decree-Law 11/2020 on 31 March 2020, adopting additional urgent social and economic measures to deal with Covid-19.
- Royal Decree-Law 11/2020 establishes financial aid in relation to residential leases for persons defined as economically vulnerable.
- The principal measures are: i) the suspension of eviction proceedings; ii) the extraordinary extension of certain lease agreements; iii) a rent moratorium; iv) a rent assistance programme; v) a guaranteed line of credit for rent; and vi) the release of 2018–2021 state housing plan funds and certain amendments to state programmes.

## **KEY MEASURES ADOPTED IN RELATION TO RESIDENTIAL LEASES**

### **1. Suspension of eviction proceedings**

RDL 11/2020 establishes that, once the suspension of all procedural deadlines has been lifted after the state of emergency ends, evictions in residential leases (subject to Urban Leases Act 29/1994, of 24 November) will be suspended for a period to be determined on ad hoc basis –but which shall not exceed of six (6) months –, provided that the tenant is considered Economically Vulnerable and provides the court with sufficient evidence thereof.

### **2. Extraordinary extensions**

Where the term of a lease agreement ends between the entry into force of RDL 11/2020 and two (2) months after the state of emergency is lifted (counting the legal extensions established under Urban Leases Act 29/1994, of 24 November), an extraordinary extension may be made to lease agreement at the tenant's request. If accepted by the landlord, the lease will be extended for an additional six (6) months under the same terms and conditions as the current lease agreement, unless otherwise agreed by the parties.

### **3. Rent moratorium**

Tenants who are Economically Vulnerable may request, within one (1) month of the entry into force of RDL 11/2020, a temporary extraordinary postponement of rent payments, provided that no agreement has already been reached with the landlord in this regard. RDL 11/2020 provides for various scenarios depending on the type of landlord:

- If the landlord is a large holder (*gran tenedor*) (an individual or legal entity owning more than ten (10) urban properties, excluding garages and storage rooms, or a built-up area of more than 1,500 sq.m.) or a public housing company, it shall opt to apply, while state of emergency persists and, at most, for the following four (4) months, either: a) a 50% reduction in rent; or b) a postponement of rent payments for the duration of the state of emergency, extendable on a monthly basis thereafter (up to a maximum of four (4) months). The amounts not paid during this period must be deferred in the following monthly instalments with no penalty or interest for the tenant. The rent will be fractionated during, at least, three (3) years, provided that the lease agreement remains in force during that period. In any case, if the tenant avails himself/herself of the financing aid programme established in RDL 11/2020, the moratorium will be lifted upon the first rent payment in which such financing is available to him/her.
- If the landlord is not a large holder (*gran tenedor*) or a public housing company, the landlord will inform the tenant, within a maximum of seven (7) working days, the deferment conditions that it accepts or, as the case may be, the alternatives that it proposes. In any case, if the landlord does not accept any deferment and no agreement is reached, the tenant considered Economically Vulnerable will have access to the transitional financing aid programme approved by RDL 11/2020.

### **4. Rent assistance programme**

The 2018–2021 state housing plan (*Plan Estatal de Vivienda 2018-2021*) will incorporate a new direct rent assistance programme for tenants who have temporary problems meeting the partial or full payment of rent and who meet the

requirements to be considered Economically Vulnerable. This aid will amount to up to EUR 900 and up to 100% of the rent per month or, if applicable, up to 100% of the principal and interests on the loan taken out by the tenant for the payment of rent.

## **5. Guaranteed line of credit for rent**

The Ministry of Transport, Mobility and Urban Agenda (*Ministerio de Transportes, Movilidad y Agenda Urbana*) and the Official Spanish Credit Institute (*Instituto de Crédito Oficial*) are authorised, for a period of up to 14 years, to establish a credit line of guarantees, fully secured by the state, to allow credit entities to offer temporary financing aid to Economically Vulnerable persons. Such aid will (i) not allow for interest or expense accrual; (ii) have a term of up to six (6) years, extendable for four (4) years in exceptional circumstances; and (iii) be earmarked for the payment of rent, and may cover a maximum of six (6) monthly rent instalments.

## **6. Other measures**

- Replacement of the assistance programme for persons facing eviction from their residence included in the 2018–2021 state housing plan with the new programme of assistance for the victims of gender-based violence, persons subject to eviction from their dwelling, homeless persons and other particularly vulnerable persons.
- Amendment to the rental housing development programme (*Programa de Formento del Parque de Alquiler*), incorporating a new scenario that allows for the allocation of funds to the purchasing of residential properties in order to increase the public housing on offer.
- Authorisation of the advance transfer of all the funds established in the 2018–2021 state housing plan for 2020 (EUR 346,637,200) and 2021 (EUR 354,255,600) to the Autonomous Communities, to allow them to allocate these funds to the granting of rent subsidies to help minimise the economic and social impact of Covid-19 on residential leases.

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