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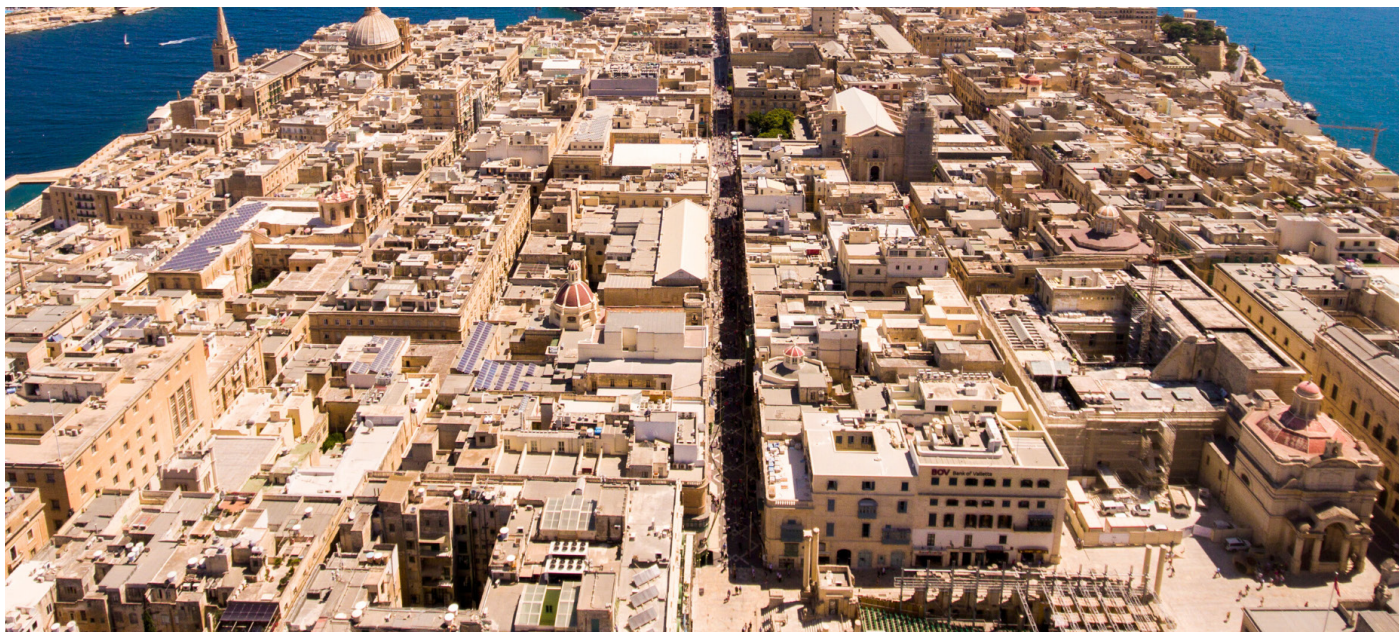


PRIVATE RESIDENTIAL LEASES ACT

November 2019

#RentLaw





INTRODUCTION

Following the growth of the rental sector in Malta and the increase in rent cost across the island, there has been a lot of debate with respect to regulating the rental market in Malta. This has been driven by the need to protect the tenants, while at the same time respecting the rights of landlords.

The following is a summary of the Private Residential Leases Act (hereinafter 'the Act'), the provisions of which shall come into force on a date as prescribed by the Minister in the Government Gazette.

The Act applies to Private Residential leases which are defined as 'long or short private residential leases, including the letting of shared residential space, which is entered into after 1st January, 2020, and any lease for a residential purpose entered into before the 1st January, 2020, which would still be in its original or renewed period on the 1st January, 2021'.

The Act defines a 'residence', which must be fit for habitation, as a tenement let for a primary residential purpose, however excludes guest houses and dormitories from the definition. Also, any tenements in Malta occupied by Gozo residents (and vice versa), due to education and/or employment are also regulated by the Act.

Every single lease would need to be registered online.

APPLICABILITY OF THE ACT

The provisions of the Act shall apply to private residential leases that are entered into or renewed after the entry into force of the Act. The Act includes certain exclusions, to which it shall not apply. These include tenements belonging to the Government of Malta, tenements let to any tourist¹ for tourism purposes (or if tenement is registered with MTA accordingly), tenements which are not let for a primary residential purpose, tenements let before 1st June 1995. Properties with an MTA are not automatically excluded, if the property is being occupied for permanent residential purposes

In the case of leases which were granted after the 1st June, 1995, and which are still in force on the day of the entry into force of the Act, shall continue to be regulated exclusively by the provisions of the Civil Code, except for the specific cases mentioned under the section 'Transitory Provision'.

SHORT TERM PRIVATE RESIDENTIAL LEASES

When regulating 'short private residential leases' the Act has introduced a mandatory "di fermo"² period of 1 month. After this the lessee may send a written registered letter to give notice to terminate the lease at least 1 week prior to termination. In this case, no penalties would be imposed on the lessee for exercising their rights of withdrawal from the lease agreement. These need to be registered online.

A 'short private residential lease' is defined as:

'any lease, negotiated for a duration of 6 months, which is

meant to satisfy the need of the following categories of lessees:

(a) non-resident workers who are employed either for a period less than 6 months or only to complete a specific task within a maximum period of 6 months;

(b) non-resident students who are enrolled in courses for less than 6 months;

(c) residents who need to rent an alternative primary residence for a period of less than 6 months;

(d) non-residents who need to rent a tenement for a period of less than 6 months, provided that they would not be seeking to establish their long residence in Malta':

The Act stipulates that it must be proven, through the submission of documentation, under which category of the above a lease qualifies. In the absence of such documentation, or if the lease is for a period exceeding 6 months, such lease will be considered as being a 'long term lease' and will be regulated as such. Furthermore, a short private residential lease cannot be extended.

REGISTRATION OF PRIVATE RESIDENTIAL LEASE

The Act states that all private lease contracts entered into force after the entry of the Act, including their renewal should be registered. Any lease contracts which are not registered shall be 'null and void'. The lease contract should be registered with the Authorities, together with the payment of an administrative fee, within 10 days of the commencement of the lease. Additional fees should apply for late registrations. If the lessor fails to register the contract, the lessee may proceed

with the registration at the expense of the lessor.

TRANSITORY PROVISIONS

In terms of the Act, private residential leases which were entered into after the 1st June, 1995, but before the coming into force of the Act, and which would still be in force on the 1st January, 2021, whether in their original or renewed term, shall be registered. The obligation to register shall also apply to any lease that is renewed beyond the 1st January, 2021.

The registration of the lease should include the declaration of any deposit paid and the presentation of an inventory list.

CONTENTS OF LEASE AGREEMENT

All contracts to be signed post when the Act is in force must include the following:

- Tenement to be leased; -Agreed use of the tenement let;
- The duration;
- Whether the lease may be extended and in what manner;
- The amount of the rent payable and how it will be paid;
- Security deposit held and amount;
- Inventory and state of furniture and appliances clearly documented.

MINIMUM DURATION FOR LONG LEASES

In terms of the Act, the minimum lease term of a private residential lease contract is of 1 year.

In order to terminate lease:

Lessor must notify lessee 3 months prior expiration of contract to terminate the lease

by registered letter.

Should lessor not serve the lessee with registered written notice the lease will automatically renew for 1 year.

The above does not apply to short private residential leases or the letting of shared residential space.

TERMINATION OF LONG-TERM LEASES

In terms of the Act a Lessee may not withdraw from a long term lease

- Before the lapse of 6 months for a contract less than 2 years;
- 9 months for one between 2 and 3 years; and
- 12 months for a contract longer than 3 years.

Should the lessee wish to release him/herself from the contract after the "di fermo" period, then a 1 months notice (2 and 3 months notice respectively for 2 and 3 year contracts) must be sent to the lessor to release him/herself from the remainder of the lease and the deposit should then be refunded.

If the lessee exits the lease during the 'di fermo' period the lessor has the right to hold one months rent and seek compensation for the rest of the lease term, within the 'di fermo' period that is left.

In the absence of any one of the above the lease agreement shall not be registerable and therefore be considered 'null and void'.

The Act also includes a number of 'forbidden clauses'. If any of these clauses are entered into a private residential contract, they shall be invalid.

Following the necessary consultation, it is possible that the Ministry will publish a model rental contract and inventory sheet for public use.

RENT

The rent shall be freely agreed between the Parties and unless otherwise agreed by the Parties, rent should be payable monthly. A receipt is to be provided unless payment can be proven through other channels.

Rent increases may only take place once every year and can never increase previous rent by more than 5%. In the absence of any express agreement, the rent cannot be revised during the term of the lease.

LETTING OF SHARED RESIDENTIAL SPACE

Shared property leases shall only have a duration of 6 months and should also to be registered. Lessee may withdraw at any time giving 1 weeks notice by registered letter. No penalties may be imposed on the lessee for exercising their rights of withdrawal. These lease agreements may not be renewed

WATER AND ELECTRICITY

The Act stipulates that the lessor is bound to provide adequate supply of water and electricity to tenant. Should the lessee not pay the bills the contract will be immediately terminated. Lessees are not bound to pay any utility services until a bill is provided.

MONITORING AND ENFORCEMENT

The Authority may request entry into properties for inspections, with prior issue of a warrant signed by a magistrate and 24 hour notice to the occupant. The 24-hour notice will not be required in cases where the purpose of the inspection is to verify whether the tenant is in occupation of the premises. It will, however, be required where the Authority will inspect the premises to verify whether, for example, they are habitable.

Procedures are in place to enforce non compliance.

There shall be an Adjudicating Panel for private residential leases which shall have exclusive jurisdiction to decide disputes relating to private residential leases to which the Act applies, in so far as the claim does not exceed the value of €5,000 and involving specific issues related to the retention or release of the deposit, utilities, repairs and maintenance.

¹ A tourist is defined by the Act as any person who is traveling to and staying in places outside his usual environment for not more than 1 consecutive year for leisure, business or other personal purposes other than by taking up employment or to establish his business in the place visited.

² A period during which rent is required to be paid even if the tenants exits the lease agreement.

CONTACTS



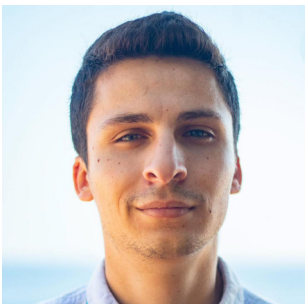
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