



ISSUES RELATING TO COMMERCIAL LEASING

CYPRUS

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CONTACT INFORMATION

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1. Describe [National][state][territorial][provincial] or local transfer taxes payable on creation or assignment of a lease.

Stamp duty is payable on the total value of a contract calculated at 1.5 per thousand for amounts up to €170,860.00 and 2 per thousand for amounts exceeding €170,860.00. Unless otherwise agreed between the parties, the stamp duty would be payable by the tenant.

2. Describe any legal restrictions limiting the maximum term of a lease (including renewals).

There are no legal restrictions on the maximum term of a lease or any renewals thereof.

3. Describe any laws requiring landlords to allow a tenant to renew its lease.

No express statutory provision exists. If the lease grants the tenant the unconditional right of renewal and the tenant notifies the landlord accordingly then the tenancy is renewed. Such a clause is usually coupled to the parties' prior agreement on the increase of rent without which there will be no renewal.

4. Describe any restrictions on rent that may be charged for to a tenant.

A lease is likely to be governed by the provisions of the Rent Control Law 23/1983 if it falls within certain criteria. More specifically, if a building, whether used as a residence or for professional purposes, was completed prior to 31.12.1999, it is situated within a controlled area as this is designated in the relevant law and the initial rental period has expired or the landlord terminates the lease but the tenant continues to occupy the premises, then the tenant becomes a statutory tenant. In such a case, the tenants' eviction is possible only on the grounds stipulated in the law. Furthermore, any increase in rent cannot exceed the maximum provided by the law which is currently fixed at 14% for a (subsequent) two year period although a lesser increase may be agreed by the parties or fixed by the Court.

If the property is not subject to the Rent Control Law then the lease will be subject to general contract law provisions in which case, where there are no restrictions on the rent that may be charged to a tenant.

5. Describe any laws permitting tenants to terminate a lease prior to its stated expiration date.

There are no such statutory provisions. In any action against the tenant for the premature termination of a lease, tenant may however argue that the leased premises have become untenable and/or uninhabitable not due to his fault.

6. Describe any laws allowing tenants to assign or sublease without landlord's consent.

Under s. 11(1b) of the Rent Control Law, any sublease of the leased premises without landlord's consent, may lead to eviction but this would ultimately be at the discretion of the Court. Although assignments are not expressly mentioned in the Rent Control Law, they would be equated to subleases for the purposes of the said law. Where the Rent Control Law does not apply, any assignment or sublease without consent from the Landlord could be deemed a breach of contract and may lead to termination.

7. Describe any laws allowing landlord to restrict assignments or subleases by tenants.

The Landlord may restrict absolutely the right of the tenant to assign or sublease the lease premises. Even when the assignment or sublease is permitted, the relevant clause usually makes such assignment or sublease subject to the written consent of the landlord, which consent shall not be unreasonably withheld.

8. What is the common form of eviction proceeding? What is the customary length of time for that proceeding?

S. 11 of the Rent Control Law stipulates the grounds for eviction when the leased premises are subject to the Rent Control Law, (as already mentioned in Para. 4 above). These include, inter alia, non-payment or delay in the payment of the rent (for more than 21 days from service upon the tenant of the relevant notice and thereafter, if the tenant does not pay within 14 days from service of the application for eviction); misconduct of the tenant that constitutes a nuisance for the neighbors; serious damage to or destruction of the premises out of gross negligence; subletting the premises without the consent of the owner; demolition and/or

reconstruction of the premises; works on a listed building and for reasonable use by the owner himself. In all cases, except where the law provides otherwise, the landlord must give at least one month's notice for eviction. If the tenant files a defence to the eviction proceedings, judgment on the matter can take up to a year.

9. Are there any legal restrictions on pledging a leasehold interest as security for a financing?

Although, there is no legal restriction on the pledging of a leasehold interest (or any other interest) in practical terms, such security would probably need to be subject to the owner's consent and would be of little, if any, value.

10. Describe any requirements for landlords to hold security deposits in separate accounts and, if such requirements exist, describe if there can be one separate account for all tenant security deposits or whether each security deposit must be held in its own separate security deposit.

There is no statutory provision governing security deposits.

11. Describe any required statutory or other legal disclosures to be made to all tenants.

None, other than the standard contractual disclosures.

12. Describe all taxes on rent or other taxes that landlord are required to collect from tenants.

There is no VAT on rents. The landlord is not required to collect any taxes from the tenant. However, in practice, the landlord may collect the common expenses, where applicable, either separately or as part of the agreed rent.

13. Describe any limitations on the ability of landlords to exercise self-help.

The landlord may not exercise self help without a court order or judgment.

14. Describe whether remedies such as acceleration of rent must be expressly stated or whether they are implied.

Rent acceleration would be implied as loss of profit. The landlord may seek to recover due rents under the initial lease until a new tenant is found. Damages awarded may cover the period the property was not leased at the highest possible rent and also any shortfall in a subsequent rent provided that the landlord took appropriate measures to mitigate his damages by re-renting the premises.

15. Describe whether there are any expedited remedies for tenant default and, if so, what lease provisions (such as waiver of jury trial, for example) would be required for a landlord to seek expedited remedies.

See grounds applicable to statutory tenants in Para. 8 above.

16. Describe any formal requirements for the execution of a lease.

Under s. 77 of the Contract Law, Cap. 149, leases in excess of one year must be in writing and signed by the parties or their duly appointed representatives in the presence of two

witnesses. Where a company with a multi-member Board of Directors is party to a lease, it would be appropriate, as a matter of good practice, to execute minutes and powers of attorney authorising the signing of a lease.

17. Describe whether a memorandum of lease or other document would need to be recorded for the lease to be enforceable against third parties.

Under Clause 65B, of the Immovable Property, (Tenure, Registration & Valuation) Law, Cap. 224, leases may be registered as encumbrances with the local Land Registry office provided that the remaining period of lease exceeds 15 years at the time of registration and this is not expressly prohibited in the contract. Where applicable, the consent is required from an existing mortgagee.

18. Describe any restrictions on the transfer of ownership of real properties subject to a lease. Does such a transfer affect the tenant's rights or obligations?

Contractual considerations would apply. In the case of a lease that has been recorded in the Land Registry as per 17 above, sale and further encumbrance of the leased premises would be allowed unless expressly prohibited or limited by any agreement.