

NEWS ALERT

Regional government of Catalonia issues act on rent control in housing lease agreements

September 22, 2020



On September 21, 2020, the Official Journal of the Catalan Government published **Act 11/2020, of September 18, on urgent measures on rent control in housing lease agreements** amending Act 18/2007, Act 24/2015 and Act 4/2016, on protecting the right to housing (the “Act”). The Act enters into force today.

The Act establishes a rent control system for the lease agreements of housing used as a permanent residence signed after the Act enters into force, and for housing located in areas declared tight market areas (“Tight Market Areas”). It will also apply to agreements novated after the declaration of Tight Market Areas that involve extending their term or modifying the amount of rent paid.

Although declaring Tight Market Areas comes within the competence of the Catalan government's housing department and, in the city of Barcelona, also of the city council, the Act contains an annex listing the municipalities where the provisions will be applied temporarily, including those in the Barcelona Metropolitan Area.

Under the Act, **the rent agreed at the start of the lease must not exceed the reference rental price for similar housing in the same urban environment**, as determined and published by the relevant housing department (the “Reference Price”). The parties can agree to a rent amount lower or higher than 5% of the Reference Price if the property has at least three of the features or services listed in the Act, such as being furnished or having a lift, a car park, a communal pool or a concierge service.



If the property was leased during the five years before the Act entered into force, nor can the rent in the new agreement exceed the amount agreed in the previous lease agreement increased by the competitiveness guarantee index applicable to the period between the date the previous agreement was entered into and the date on which the new agreement is signed.

If the lessor is an individual and the joint revenue of his/her cohabitation unit is equal to or less than 2.5 times the sufficient income indicator of Catalonia (amounting to approximately €19,919 a year), only the limit of the amount established in the previous agreement will apply, unless the lessee's income is equal to or less than 3.5 times that indicator (amounting to approximately €27,887 a year).

The parties can agree that, while the agreement is in force, the lessee will assume the general expenses and individual services of the property, and to update the rent as provided under applicable law.

The lessee can request reimbursement from the lessor for all sums paid in excess of the amounts set in the Act plus statutory interest marked up by 3 percentage points. Also, any lessor that breaches the provisions on rent control may face a fine of between €3,000 and €90,000.

In the case of new built housing and housing resulting from major refurbishment processes, the Act will apply to agreements entered into up to three years after its entry into force and, for five years after obtaining the works completion certificate, the rent agreed must not exceed the upper limit of the Reference Price.

According to several press reports, some parliamentary groups have announced their intention to file an appeal against the Act on the grounds of unconstitutionality. Note that even if an appeal on the grounds of unconstitutionality is admitted to processing, this does not generally result in the automatic suspension of the challenged provisions, unless the Spanish prime minister files the appeal requesting their suspension. In this case, the Act would cease to apply from the date on which the Official Gazette of the Spanish State publishes the Constitutional Court's admission of the government's appeal on the grounds of unconstitutionality and the Constitutional Court would have five months to ratify or lift the suspension.



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