

Newsflash Luxembourg

The law on commercial lease (the “**Law**”) has been adopted yesterday, Wednesday, January 17, 2018 by the Chamber of Deputies and will come into force after its publication which is expected in the coming weeks.

This Law creates a legal status for commercial leases and its main purpose is to enhance sustainable business activity. All provisions of the Law will be immediately applicable to existing commercial leases except the new prohibition of rent supplements paid upon the contract’s signature and the limitation of the sublease rent amount that will take effect 12 months after the entering into force of the Law.

The following main changes can be summarized briefly:

Scope of the law

- The Law is applicable to any lease of a building intended for the exercise of a commercial, industrial or craft activity.
- The Law does not apply to contracts concluded for less than one year (“pop-up stores” leases are therefore excluded).

New restrictions on lease signature

- The rental guarantee amount cannot exceed a 6 months’ rent.
- The payment of rent supplements upon the signature of the lease (such as a “*pas-de-porte*”) is null and void.
- Sublease remains possible but the rent cannot exceed the rent of the principal lease, except in case of specific investments that have been made by the lessee because of the nature of the sub-lessee activity.

New rights for the lessee

- The lessee has a right to renew his lease, which the lessor can only refuse in the following cases:
 - the lessor or his/her children intend(s) to occupy the leased premises personally;
 - the lessor wants to change the activity of the leased premises;
 - the lessor intends to rebuild or transform the premises; or,
 - after 9 years of lease subject to the payment of a compensation to the lessee. If the contract does not contain a clause to determine the compensation, it shall be set by

judicial decision (on the basis of the market value of the business (*fonds de commerce*)).

- The lessee who has leased the premises for at least 18 years is entitled to a right of preemption on the leased premises (provided that the premises constitute a separate unit).
- The suspended execution (*sursis à execution*) in case of forced eviction of the lessee is limited to a maximal period of 9 months and subject to following conditions:
 - the lessee has paid all the due rents and common charges on the date of the request;
 - the suspended eviction shall allow the lessee to find new premises in order to continue its activity and to fulfill its obligations as an employer.

Please feel free to contact us for further information.



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