

CORONAVIRUS COVID-19 – REAL ESTATE – FRANCE

MARCH 26, 2020

ORDER NO. 2020-316 OF 25 MARCH 2020 RELATING TO THE PAYMENT OF RENT, WATER, GAS AND ELECTRICITY BILLS RELATING TO THE BUSINESS PREMISES FOR THE COMPANIES WHOSE BUSINESS IS AFFECTED BY THE SPREAD OF THE COVID-19.

This order is issued on the basis of the authorization given to the Government by article 11 of Act No. 2020-290 of 23 March 2020 on emergency measures to deal with COVID-19 epidemic, to take any measure by order:

“g) Allowing the full deferral or staggering of the payment of rents, water, gas and electricity bills for professional and commercial premises and the waiver of financial penalties and the suspension, interruption or reduction of supplies that may be applied in the event of non-payment of these bills, for the benefit of micro-businesses, within the meaning of Decree No. 2008-1354 of 18 December 2008 relating to the criteria for determining the category to which an enterprise belongs for the purposes of statistical and economic analysis, whose activity is affected by the spread of the epidemic; (...) ».

Who are the professionals concerned by this order?

1. Physical and legal persons of private law exercising an economic activity who are likely to benefit from the solidarity fund mentioned in Article 1 of Order No. 2020-317 of 25 March 2020 creating this solidarity fund - according to the press kit of 25 March 2020 put online by the Government on this subject^[1], these are the following professionals:

- i. Shopkeepers, craftsmen, liberal professions and other economic agents, whatever their status (company, individual entrepreneur, association, etc.) and their tax and social regime (including micro-entrepreneurs) who have cumulatively:
 - a workforce of up to 10 employees;

- an annual turnover for the last financial year ended of less than 1 million euros;
- an annual taxable profit of less than 60,000 euros.

ii. Among these professionals, only the following are eligible:

- those whose structure has been the subject of an administrative closure measure prohibiting the reception of the public;
- those which, without necessarily having undergone this administrative closure, suffered a loss of turnover of at least 70% in March 2020 compared with March 2019, it being specified that for those whose structure was created after March 2019, it is the average monthly turnover since the date of creation of the structure that is taken into account in the calculation.

2. **Persons who continue their activity in the context of safeguard, receivership or liquidation proceedings on the basis of the communication of a certificate from one of the judicial representatives appointed by the judgment initiating such proceedings.**

What are the measures provided for by this order?

Landlords may in no case implement the following sanctions against the above-mentioned professional tenants:


- apply to them financial penalties, interest for late payment, damages, or periodic penalty payments,
- set up against them the resolutive clause or penalty clause provided for in the lease, or any clause providing for forfeiture,
- activate the guarantees or deposits granted by these tenants,

due to non-payment of rent or rental charges relating to their business and commercial premises, notwithstanding any clause to the contrary in the lease concerned and notwithstanding the provisions of Articles L. 622-14 and L. 641-12 of the French Commercial Code, which notably allow the lessor of a tenant in safeguard proceedings, receivership proceedings or judicial liquidation to act to terminate the lease (judicial termination or under a resolutive clause) for non-payment of rent and charges due before or after the judgment initiating the collective proceedings concerned.

What are the rents and rental charges concerned by these measures?

Rents and rental charges for **which payment is due between 12 March 2020 and the expiry of a period of two months after the date of cessation of the state of health emergency** declared by Article 4 of Act No. 2020-290 of 23 March 2020 as an emergency to deal with the Covid-19 epidemic.

Our team is at your disposal to answer your questions.

 **LE FONDS DE SOLIDARITE** Quelles démarches pour quelles entreprises ?
https://www.economie.gouv.fr/files/files/PDF/2020/DP-Fonds_de_solidarite.pdf

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