

Renting in Luxembourg

If you have just moved to Luxembourg, you may be thinking about renting a flat for a few years before committing full time to the country by buying. This article is primarily designed to set out your rights and obligations as a tenant.

Housing Act 2006

Leases in general are governed by the civil code. Derogations for private leases (or *baux à loyer à l'usage habitation*) are governed by the law of 21 September 2006 (the "**Housing Act 2006**"). This regulates matters such as length of the contract, rent, charges, and termination of contract.

The Contract and its Terms

Contrary to what is often assumed, a lease does not have to be in writing. It can be concluded orally. The problem is, of course, that in the event of a dispute, matters will probably be more difficult to prove. This then would not be recommended. You should always insist on a written lease. You should check for a description of the subjects (namely the address of the flat or house you are renting), the duration of the contract and the rent.

Rent

The Housing Act 2006 states that the rent may not be greater than 5% of the "capital invested by the client" in the subject. What this means can be set out in the contract but if it is not the law implies certain terms. To take a simple example, if total construction costs for the landlord of a house were EUR 500,000 then the rent per year should not be greater than EUR 25,000. This can be seen as acting as a protection against rapacious landlords and it is important to note your rent has a ceiling. Further, your rent may not be linked to any other variable scale, be it inflation or house prices. That said, the rent may be increased every two years if provision is made in the contract.

Charges

When renting an apartment in Luxembourg, you will often find an amount corresponding to monthly charges, eg EUR 700 basic rent plus EUR 90 charges. An amount for charges must relate only to energy consumption, daily upkeep of the subjects and the common parts, repairs as well as taxes relative to the use of the building. The tenant is entitled to see accounts relative to these expenses and can ask for adjustments of charges as required. The whole purpose of this is to avoid simply that a landlord uses "charges" as another way of obtaining a higher rent.

Deposit

A landlord will often ask a tenant for a deposit. This cannot be greater than three times the monthly rent. The purpose of this is to provide security for the landlord in case there is any damage to the property at the end of the lease's term. If a deposit is foreseen, an inventory (*état de lieux*) must be drafted and signed by the parties at the latest on the day of entry by the tenant to the subjects. This will be compared again when the tenant moves out.

Parties' Obligations

The landlord must allow the tenant peaceful enjoyment of the subjects and maintain the subjects in such a way that the tenant can reasonably be expected to live there. The subjects must be wind and watertight and the heating must work. A landlord cannot enter the premises of a tenant without notice. If the landlord does, this is a criminal offence.

The tenant must use the subjects as a reasonable person would and pay the rent. The subjects can be sub-let provided the lease does not state otherwise.

Termination of the Lease by the Tenant

If the lease is for a fixed period and the date arrives and neither party does anything then the lease is automatically renewed. This is called tacit relocation. So just because there is an end date in your lease, it does not necessarily mean you must leave the subjects on that date. However, depending on the terms of the contract, it is always best to give at least three months' notice by registered letter to the landlord before you leave. If, on the other hand, there is an end date in the lease, the tenant must respect this and must wait until the end date arrives before terminating the lease. The tenant should generally give three months' notice by registered letter (though the contract should be checked for any clauses relative to this).

Termination of the Lease by the Landlord

The landlord is more limited in terminating a lease. There are primarily three situations when a landlord can do this:

- (a) The landlord needs the subjects to live in himself or for a parent (or other relative as defined in the Housing Act 2006);
- (b) The tenant is not fulfilling his obligations under the contract;
- (c) There are other serious and legitimate reasons (*motifs graves et légitimes*) as to why the tenant cannot remain in the subjects.

Under (b) and (c) there is a certain discretion given to the judge. There must be serious faults (*fautes graves*) for (b) and similarly it is for the judge to decide on what is serious and legitimate in (c). A serious and legitimate reason could be, for example, that the building is going to have works done to it and it is not reasonable for the tenant to live there during that time.

It is worth the time then to read your lease thoroughly as it is a contract and like any other contract creates obligations enforceable in the courts.



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This article is intended to be a general statement of law only and should not be relied on in individual cases.