

The New Civil Transactions Law in Saudi Arabia - Lease Agreements

Civil Transactions Law of Saudi Arabia (Law) which has codified the principles and rules covering civil transactions will come into force on 21 December, 2023. This note highlights major provisions related to Beneficial Interest Contracts that also include Lease Agreements.

Introduction:

Lease Agreements are very common and cover not only movable and immovable properties but also benefits and rights that can be used, utilized and exploited. A properly drafted and well-executed lease agreement protects the rights of all parties.

Rent:

Similar to provisions related to determination of price for purchase and sale, the Law enables parties to decide on rental amount based on certain sound criteria. The rent could also be based on a lump sum amount plus a specific percentage of the proceeds or profits. Besides, the parties may agree on the mode and period of payments. In case, only aggregate rent is indicated in the agreement covering several units without mentioning rent for each unit; the rent will not be changed in case the units are found to be more than the units mentioned in the agreement. However, if units happen to be lesser than what is mentioned in the agreement, the lessee may request for invalidating the contract. The Law also enables parties to execute a lease agreement to be commencing in a future period.

Obligations of the Lessor:

While the Law requires the lessor to hand-over the leased property to the lessee in a condition that allows achievement of the intended purpose; yet, the lessor may refuse to handover the property unless the rent payable in advance is paid by the lessee. The stipulation that the effects of handover of sold item shall be applicable to the handing over of the leased property, unless otherwise agreed, in effect, the Law transfers the responsibility for upkeep and care of the property to the lessee. Although, the Law places the obligation of carrying out necessary repairs on the lessor and allows the lessee to do the repairs in case the lessor fails to do so; yet, the Law enables parties to decide anything contrary to such obligations placed on the lesser.

Unless otherwise agreed, if the lessee carries out repairs or constructions that are beneficial to the leased property with the consent of the lessor, he could claim reimbursement even if it is not stipulated in the contract. However, if the repairs or constructions are carried out by the lessee for his own benefit during the use, he shall have no right to claim any reimbursement.

Similar to the requirements for sale contracts, the lessor is required to warrant that the leased property shall be free of defects that will prevent or considerably impair the beneficial enjoyment of the property. In case any defect results in depriving the lessee wholly or partially of benefiting from the leased property, the lessee may request termination or reduction of the rent without prejudice to his right to compensation.

Obligations of the Lessee:

While the lessee is required to pay rent on the agreed dates, yet, the rent shall not be due for a period that has lapsed prior to the handover of the leased property unless the delayed handover was due to the act the lessee. As noted above, with the handing over of the leased property, the responsibility of the upkeep transfers to the lessee, the Law obliges the lessee to compensate the lessor for any damage or loss that is caused to the leased property due to improper use or negligence on part of the lessee.

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1. Royal Decree No: (D/191) of 1444 H. dated 29/11/1444 H. (18 June, 2023)
2. Fifthly of Cabinet Resolution No. 820 of 1444 H. approving the draft of the Law
3. Article 123 and 124 of the Law

Although the Law requires that the leased property be used for the purposes stated in the contract, however, it obliges the lessee to use according to its intended purposes in case purpose is not mentioned in the lease contract.

The lessor will be entitled to carry out necessary maintenance works for the leased property with proper notification to the lessee; however, if such works cause inconvenience to the lessee, he will be entitled to terminate the contract or ask for reduction in the rent.

Upon expiration of the agreed leased term, the lessee is required to return the leased property in the condition he had received, with fair wear and tear excepted. The lessor will not only be entitled to rent but also compensation in case the lessee unlawfully retains the possession of the leased property.

The lessee is obliged to remove any constructions or plant on the leased property that he had created or installed, even if the same was constructed with the permission of the lessor and the lessor may request the removal of the construction at the expense of the lessee with compensation (if applicable) or the lessor may retain the same by paying an amount equal to the increase in value of the leased property due to the same. However, the lessee may request the removal of any construction or plant that he had created if the same would not cause damage to the leased property, even if the lessor objects.

While the lessee may not lease or assign the leased property without prior permission of the lessor and in case he does with the permission of the lessor, the obligations and restrictions imposed on him shall apply to the sub-lessee and the assignees.

Termination of Lease:

The lease agreement shall terminate upon expiration of the agreed term, unless automatic renewal is stipulated therein. However, if the lessee continues to occupy the leased property based on an explicit or implicit consent of the lessor, the lease shall be deemed as renewed under its initial conditions. However, if the lessor demands a specific increase in the rent over the agreed rent and the lessee continues to occupy the leased property after the expiration of the contract term without objection to the demand for increase, the lessee shall be required to pay the increase starting from the date of expiration of the existing contract.

Either of the parties may request termination of the lease agreement due to any unexpected personal issue and in such a case, the requesting party will compensate the other party for any damage caused. If the lessor requests for termination, the lessee shall not be forced to handover the leased property until the lessor pays to him the compensation for the damage caused.

Conclusion:

While the Law provides for safeguards and protection for both the lessor and the lessee, it also provides greater flexibility for them to agree on relieving any party from fulfilling their obligations under the Law.

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