



C&C

Summer Legal Roundup

Part I

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Amendment to the eviction action regime

Prompted by the challenges reported by landlords in recovering rent arrears within a reasonable period of time, the Government submitted to the Legislative Assembly (“LA”) last May the draft law entitled “Amendment to the eviction action regime of the Code of Civil Procedure”, which aims to amend the regime currently regulated in articles 929 to 945 of the Code of Civil Procedure (“CPC”).

Under the current framework, when a tenant defaults on rent payments under a lease agreement, the landlord is presented with two options:

- Accept the rent and late payment compensation, in which case the lease will remain valid (article 996, no. 1 of the Civil Code (“CC”));
- Refuse the rent and compensation, seeking contract termination due to non-payment of rent (Civil Code Articles 1017 and 1034, par. a)).

By choosing the latter option and terminating the lease, the tenant is obliged to vacate and return the property to its original condition (CPC Article 983(j) and Article 1025). If the tenant fails to vacate voluntarily, the landlord can initiate eviction proceedings under Article 929 et seq of the CPC.

The new law now under discussion, along with the existing judicial procedures, aims to provide another option for landlords, with a view to “simplifying procedures, lowering the financial burden and enabling the eviction result to be achieved”. Upon reviewing the draft law presented by the government, several significant changes are evident:

- Section III is added to Chapter I of Title VIII of Book V of the CPC, under "*Eviction action on the grounds of 5 months' delay*," comprising 11 articles governing the new eviction procedure;
- The Court Official can serve the defendant without prior judicial order, sending notices via registered mail to the tenant's address stated in the lease agreement, or if unavailable, to the leased property's address. In case of unsuccessful attempts to serve summons, the tenant will be served immediately by public notice, without the need to obtain alternative contact details of the tenant;
- Counterclaims are not permissible, with a deadline of 15 days for the defendant to submit a reply;
- A trial is discretionary, enabling the judge to rule based on clear evidence promptly. If a trial is warranted, it must occur within 20 days, with no postponements allowed on the grounds of the absence of any of the parties (even if justified);
- Unless deemed exceptionally complex, judgments must be briefly reasoned and entered in the trial minutes, with the defendant required to surrender the property within 15 days of notification of the decision rendered, which is a sufficient title for the Court Official to carry out the eviction;

- Upon expiration of the voluntary eviction deadline and after court notification, the Court Official, aided by the Public Security Police, may enforce evictions without prior court orders, with the judge's ruling serving as an eviction warrant;
- For residential, commercial, or professional rent disputes, ordinary appeals to the Court of Appeal are permitted, regardless of case value;
- In evictions under this new regime, legal representation by a lawyer is waived except during the appeal stage.

Last July, after hearing the opinions from the 1st AL Standing Committee, the Executive Council proposed two amendments to the draft law:

- Reducing the minimum rent arrears period from five to **three months**;
- Retaining Article 994 of the Civil Code unchanged, thus preserving the guarantee's purpose and eliminating provisions allowing rent and other obligations to be offset against the guarantee.

As a result, according to the current wording of the text and the proposed amendments of the Executive Counsel, the new judicial procedure for eviction may be used by landlords in cases where the following requirements are cumulatively met:

- The grounds for the eviction action consist of **3 months' delay** in paying any rent;
- It has been agreed that the **rent will be paid through a deposit in a bank account authorized to operate in Macau**, facilitating the tracking and proof of non-payment of rent;

- The landlord has informed the tenant in writing of the situation of rent arrears. Based on the text of the draft law and after an explanation from the Government, the possibility of communication via post, email, text message (SMS), and digital text processing applications (e.g. WhatsApp or WeChat) is allowed, provided that it is possible to confirm the status of the message sent.

Having received general approval, the proposed law is currently under review by the 1st Standing Committee, pending approval in the specialty.

As the final law is drafted and new measures come into effect, significant impacts on the local rental market are expected. Therefore, safeguarding the interests of landlords and tenants, as well as mediators, associations, financial institutions, and other key players involved in this sector, is crucial. To that extent, we look forward to seeing the finalized version of the law.

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