

New Registration Requirements for Tenancy Contracts in Abu Dhabi

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Executive Council Resolution No. (4) of 2011 ("Resolution No. (4)") has clarified whether or not tenancy contracts can be registered in Abu Dhabi. Law No. (3) of 2005 ("Law No. (3)") confirmed that leases of more than four years must be registered with the municipalities in Abu Dhabi City, Al Ain or the Western Region (the "Municipalities"). Law No. (3) also allowed discretion for landlords and tenants to voluntarily register tenancy contracts of less than four years. In practice however registration has only been undertaken for leases of more than four years.

Resolution No. (4) now requires the Municipalities to establish and maintain a register of tenancy contracts. All tenancy contracts of less than four years, whether existing prior to Resolution No. (4) taking effect on 31 January 2011 or entered into after that date, must now be registered. Landlords have until 31 July 2011 to ensure that all registrations have been completed.

If a tenancy contract has not been registered then it will not be recognised for transactions involving any government department, Abu Dhabi Distribution Company ("ADWEC") or Etisalat. If a tenancy contract is not correctly registered in accordance with Regulation No. (4) then the tenant could experience difficulties when applying for commercial licences and permits from government departments or when opening accounts with ADWEC and Etisalat.

Tawtheeq

Shortly after Resolution No. (4) was issued the Municipality of Abu Dhabi City introduced an online system known as Tawtheeq for the registration of letting properties and tenancy contracts throughout the Emirate of Abu Dhabi. The system will operate online and information will only be available to landlords and their appointed property managers. Tawtheeq will not require landlords to provide evidence of their ownership when registering properties, for example by providing a title deed, however cross-checks will be made with land registration records.

Terms of the Tenancy Contract

All tenancy contracts must be either in English and Arabic or in Arabic only. Tenancy contracts in English only will be rejected by Tawtheeq. Certain key information must be included in the tenancy contract and this will be inputted into the Tawtheeq system. It is expected that Tawtheeq will publish a compulsory standard form tenancy contract which will set out this key information. Landlords and tenants remain free to negotiate the terms of their tenancy contract and when a standard form tenancy contract is released it will be possible to include special conditions. If special conditions are included in the tenancy contract then Tawtheeq will review the special conditions to ensure that they comply with the law. This review is expected to take approximately five days. If the special conditions are approved then Tawtheeq will register the tenancy contract. Tawtheeq will only allow registration of a tenancy contract that breaches the rent cap, currently set at 5%, if the tenant confirms that he understands that the tenancy contract will breach the rent cap.

Registration Process

Resolution No. (4) states that it is the responsibility of the landlord to register all data concerning their properties. Once the landlord has been registered to use the Tawtheeq system and has added details of all his lettable properties the registration process should only take a few minutes per property. The

landlord will input details of each tenancy contract online and upload a copy of the signed tenancy contract. Tawtheeq will then send a PDF copy of the registered tenancy contract, which will include an individual bar code, by email to the landlord as an acknowledgement that the registration has been completed.

Registration Fees

When the landlord applies to register all the properties he lets with Tawtheeq a registration fee of AED1,000 per property will be charged. Once the landlord's properties have been registered the grant, expiry or amendment of all tenancy contracts must be added. The current fee to register the grant of a tenancy contract is AED100 and the fee to register amendments to a tenancy contract or its expiry is AED50. It is the landlord's responsibility to pay these registration fees however there is nothing to prevent the landlord passing on the cost to the tenant. New tenants would be wise to check that the landlord has registered the property before signing a tenancy contract in order to avoid difficulties and delays when dealing with ADWEC, Etisalat and government departments.

Landlords failing to register

If a landlord fails to register a property, a tenancy contract or amendments to a tenancy contract, then the tenant may apply to the Rental Disputes Settlement Committee ("Rent Committee") to issue a judgment on the validity of the tenancy contract. If appropriate, the tenancy contract or amendment will then be registered with Tawtheeq and the cost of registration will be borne by the landlord. The Rent Committee will not hear any other complaint from the tenant until judgment on validity has been issued and the registration completed.

Changes to Renewal Rights for Tenants

Executive Council Resolution No. (56) of 2010 (amending provisions of Law No. (20) of 2006) will bring about a change in the rights of tenants upon expiry of all tenancy contracts and leases with effect from 9 November 2011. Under the current law, a landlord may not request that a tenant vacates premises at the end of the term of the tenancy contract or lease except in very limited circumstances. From 9 November 2011 a landlord will be entitled to request that a tenant vacates and may refuse to renew a tenancy contract or lease provided that the landlord has given the prescribed notice. At least two months' written notice is required in the case of residential property and three months' written notice is required for commercial property.

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