

Tallinn City Government

REGULATION

5 January 2022 No. 3

City property rental incentives and use of non-profit support to mitigate the impact of the COVID-19 outbreak

This regulation is established on the basis of § 30(1)(2) of the Local Government Organisation Act and Clause 26 of Annex 2 "Terms and conditions of a commercial lease" approved by the City Government's Regulation No. 73 "Approval of the standard form for the lease of commercial premises owned by the City of Tallinn" of 13 August 2003 and Clause 10 of Annex 2 "Conditions of the contract for the use of a facility or part of a facility belonging to the City of Tallinn for commercial activities" approved by the City Government's Regulation No. 51 "Establishment of the form and terms of the agreement on the use of a facility or part of a facility belonging to the City of Tallinn for commercial activities and the guidelines for the use of the agreement form." of 7 June 2006, and taking into account the negative impact of the measures and restrictions imposed in order to prevent the spread of COVID-19 disease on businesses, and in particular on the tourism sector, and following the European Commission's Decision C(2021) 9913 of 21 December 2021 extending State aid measures SA.57014 (2020/N) and SA.58783 (2020/N).

§ 1. Scope of application

(1) The target group for the rent concessions is enterprises whose economic activities are adversely affected due to exceptional circumstances caused by the COVID-19 outbreak and who are referred to in this Regulation.

(2) Under the Regulation, State aid within the meaning of the Communication of the European Commission of 19 March 2020 "Temporary Framework for State Aid to Support the Economy in the Context of the Current COVID-19 Outbreak" (OJ C 91 I, 20.3.2020, pages 1-9, hereinafter referred to as the COVID-19 Framework) is granted on the basis of Clause 3.1 of the said Framework and is subject to the provisions of the COVID-19 Framework and § 341 of the Competition Act.

(3) If the granting of an aid is not covered by the State aid authorisations referred to in § 1(2) of this Regulation, the compatibility of the granting of the aid shall be assessed with regard to the State aid conditions. If the granting of the aid qualifies as State aid, the landlord grants the aid as de minimis aid and, thus, the European Commission Regulation (EU) No 1407/2013 is applicable with regard to Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, pages 1-8) and § 33 of the Competition Act.

§ 2. City property rent concessions

(1) In the case of city property leased on the basis of Tallinn City Council Regulation No. 32 of 13 June 2013 "Procedure for giving city property into use", the rent shall be reduced as follows:

1) 80% for a tenant of commercial premises in the city centre who uses city property for catering, trade and service activities;

2) 80% for the tenant of a nightclub in the city centre. For the purposes of this Regulation, a nightclub is an entertainment establishment within the meaning of § 2(4) of Tallinn City Council Regulation No 14 of 17 September 2020 "Restrictions on the retail sale of alcoholic beverages for consumption on the premises";

3) 80% for the tenant of the underground building at Vabaduse väljak 9 // Kaarli Boulevard T2 in the city centre, who occupies it under a lease agreement with the City of Tallinn (Urban Environment and Public Works Department).

(2) The rent payable on the basis of a contract for the use of a city premise for commercial activities concluded on the basis of § 5(2)(1) to (4) of Regulation No. 21 of the Tallinn City Council of 8 April 2010 "Procedure for granting the use of a facility or part thereof belonging to the City of Tallinn for commercial activities" shall be reduced by 100%.

(3) If the recipient of the aid referred to in Clause 1 of this Paragraph has entered into a subletting agreement, they shall be entitled to receive the aid only if they grant the same aid to their subtenants. In the event that the recipient of the aid receives a rent concession, but does not grant the same concession to their subtenant, the City of Tallinn has the right to reclaim the concession from the recipient. The requirement set out in this paragraph does not apply to the joint-stock company Tallinna Tööstuspargid, which rents the underground building at Vabaduse väljak 9 // Kaarli puistee T2 referred to in § 2(1)(3) of the Regulation.

(4) It is not necessary to prepare an administrative act or enter into an agreement for amendment of the contract with regard to the granting of the concession.

(5) The concessions shall be applicable from 1 January to 30 April 2022.

§ 3. Circumstances precluding receipt of the city property rent concessions

(1) The provisions of § 2 of this Regulation shall not apply to tenants of the following city premises and those who use city premises for trade activities:

1) shops specialised in the retail sale of alcoholic beverages;

2) pharmacies;

3) petrol stations and petrol station shops;

4) stalls and similar permanent outlets (including the tenants of the commercial premises at 26 Viru Street);

5) office and agency premises;

(2) The measures provided in § 2 of this Regulation shall not apply to tenants who, by the 15th day of the month in which the concession is granted, are in arrears with rent or service charges to the city. Rental bills are issued every month from the 16th.

(3) The measures provided in § 2 of this Regulation shall not apply to:

1) city institutions, city companies and city foundations, as well as foundations, companies and non-profit organisations in which the city is involved, with the exception of the joint-stock company Tallinna Tööstuspargid renting the underground building at Vabaduse väljak 9 // Kaarli puistee T2 as referred to in § 2(1)(3) of this Regulation;

2) the tenant of commercial premises with a lease for a term of more than 10 years, regardless of the intended use;

3) contracts for the use of city property where the right to use the property was obtained on the basis of a special concession procedure laid down in the Public Procurement Act;

(4) an enterprise to which the aid granted under the COVID-19 framework, together with the rental concession granted under the Regulation, exceeds the threshold specified in the COVID-19 framework;

5) an enterprise who was facing difficulties as of 31 December 2019 in the meaning of Article 2 (18) of European Commission Regulation (EU) No. 651/2014 of 17 June 2014;

(6) an enterprise which processes and markets agricultural products, if it passes on all or part of the aid to primary producers and the aid is determined on the basis of the price or quantity of products bought in from primary producers or placed on the market by the enterprises concerned.

(4) As an exception, the measures provided for in § 2 of the Regulation may be applied to micro or small enterprises (within the meaning of Annex I to the General Block Exemption Regulation) that were already facing difficulties on 31 December 2019, provided that they are not subject to insolvency proceedings under national law and have not received rescue or restructuring aid.

(5) If it turns out that an enterprise that has been granted aid under this Regulation is not entitled to the aid as set out in Clause (3)(4), (5) or (6) of this Article, the city property manager shall reclaim the aid from the beneficiary. The claim for a refund shall be subject to compound interest calculated in accordance with Article 16(2) of Council Regulation (EU) No. 2015/1589 of 13 July 2015 and Articles 9 and 11 of Commission Regulation (EC) No 794/2004 of 21 April 2004.

3

§ 4. Use of aid for non-profit activities during the restriction period

If a non-profit project, activity or any part of it that received aid had to be cancelled in the last quarter of 2021 or has to be cancelled in 2022 due to restrictions, then the non-profit activity aid will only cover direct irreversible expenditures incurred before the restrictions were implemented. The rest of the aid shall be returned to the City of Tallinn.

§ 5. Repeal of the Regulation

Regulation No. 31 of the Tallinn City Government of 22 October 2020 "City property rent concessions and use of non-profit support to alleviate the impact of the COVID-19 outbreak" is hereby repealed.

(signed digitally)

Mihhail Kõlvart

Mayor

(signed digitally)

Evelyn Tohvri

Head of the Department as City Secretary