



CAMERA DI
COMMERCIO
MILANO
MONZABRIANZA
LODI



GUIDE TO RESIDENTIAL LEASES TO NON-RESIDENT UNIVERSITY STUDENTS

Promoted by



In collaboration with



With the participation of:



MARCH 2021

With special thanks to

Fabio La Foresta, Esq. - Legal Advisor to the Chamber of Commerce for
his assistance with writing this guide

Civica Scuola Interpreti e Traduttori Altiero Spinelli – Fondazione Milano
and Milano&Partners for the English translation

GUIDE TO RESIDENTIAL LEASES TO NON-RESIDENT UNIVERSITY STUDENTS

TABLE OF CONTENTS:

INTRODUCTION.....	2
PREMISE: THE LEASE AGREEMENT.....	3
1) BEFORE SIGNING THE LEASE AGREEMENT.....	5
2) SIGNING THE LEASE AGREEMENT: IMPORTANT REMINDERS.....	7
3) CONDUCT OF THE LEASE: SOME SUGGESTIONS.....	10
4) TERMINATION OF THE LEASE.....	11

In the event of disputes, the reference text is the one in Italian

INTRODUCTION

ROLE OF THE CHAMBER OF COMMERCE OF MILAN, MONZA BRIANZA AND LODI

The Chamber of Commerce regulates the competing interests of businesses and consumers, as redefined by Legislative Decree No 219/2016, which confirmed its authority in the field of market regulation. Its functions also include consumer protection (Art. 2, Letter c) and the promotion of activities aimed at consolidating balanced and fair economic relations among operators in a fair and equitable market.

The Chamber's core market regulation competence is the drafting of Standard Contracts between business organisations and consumer associations, which contain standard fair provisions that prevent litigation and discourage misleading or unfair commercial practices. The Chamber's market regulation functions also include the creation of further tools for the benefit of consumers, such as guides.

WHAT PROMPTED THE NEED FOR THIS GUIDE

The writing of a "Guide to residential leases to non-resident university students" is part of the new initiatives of the "Study in Milan" project which YesMilano has been part of since 2014 - together with the Municipality of Milan, Agenzia delle Entrate (Italian Revenue Agency), universities, higher education institutions and other public bodies - with the aim of offering services and carrying out activities to facilitate the arrival and stay of international students. The project was relaunched in 2019 also thanks to the involvement of Associazione Milano & Partners, which was entrusted with the management of a new welcome hub for foreign students and the "YesMilano Students" website, where one of the hot topics appears to be housing.

The purpose of this Guide is to make students who plan to stay in our territory for a certain period aware of all the options available to them and of the attention to be paid when signing a lease agreement. It is also aimed at clarifying their doubts and providing useful information on their rights and obligations. This information will also be useful for landlords, especially in preventing both parties from encountering various problems and the risk of fraud, as often reported to the desks of trade and consumer associations, but also to the "One Stop Shop" for foreign students, which is currently located in the Camera dei Notari (Notaries' Chamber).

The working group for the writing of the Guide involved both landlords' and tenants' organisations, as well as the representatives of estate agents and consumer associations, to guarantee the necessary debate, neutrality, impartiality, and the right balance of their various needs. It was also supported by a legal advisor appointed by the Chamber of Commerce to analyse the existing rules and regulations and the relevant case law and specialist opinions.

The current health emergency has indeed reduced the number of university students in the city, but this paper is aimed at both Italian and foreign students who will soon be returning to our country.

PREMISE: THE LEASE AGREEMENT

In Italy, a student who wishes to live in a flat or in one or more of its rooms must enter into a "contratto di locazione" (lease agreement) with the owner of the property ("locatore", i.e., landlord), which governs the use of the property against payment of a monthly or quarterly fee called "canone" (rent).

When the lease agreement is entered into by two private individuals, the Italian legislation provides for the following type of agreement as applicable to leases between landlords and university students:

- a) Lease agreement "at an agreed rent" pursuant to Art. 5, Paragraph III, Law No 431/98**, on the basis of agreements stipulated in municipalities that are home to universities, local division courses and specialisation courses, or in any case home to institutes of higher education governed by Royal Decree No 1592 of 31 August 1933, and by Law No 508 of 21 December 1999, as well as in the neighbouring municipalities, on the basis of agreements between organisations representing landlords, on the one hand, and tenants, on the other, as well as between organisations for the right to study and students' associations, cooperatives and non-profit organisations operating in the sector. The agreements stipulated under these arrangements provide for a subsidised rent (which is, therefore, much lower than market rents), with a value that varies depending on the area of the city, and a shorter duration than those referred to in Paragraph b) below. On its first expiry date, the agreement is renewed automatically for the same period if the tenant does not give the landlord at least a one-month notice and no more than a three-month notice before the expiry date. The notice period for termination by the tenant due to serious reasons is three months. In the Municipality of Milan, a local agreement has been signed which provides for a minimum agreement duration of 6 months and a maximum of 36 months, together with a subsidised rent calculated according to tables for "standardised areas".

Alternatively, the parties are free to enter into a

- b) "freely negotiated" lease agreement pursuant to Art. 2, Paragraph 1, Law No 431/98**, which establishes, amongst other things:
- i) the term of four years, tacitly renewed for a further four years, unless the landlord informs the student (the "conduttore", i.e. tenant) in writing at least six months in advance, that he/she does not wish to renew the agreement; the landlord may, however, only refuse to renew the agreement in certain mandatory cases, provided for by Art. 3 of Law 431/98 (e.g. if the landlord intends to live in the property or to use it as an office for their professional, handicraft or commercial activity, or to have their relatives or close relatives live there; or if the property must be rebuilt, etc.);

- ii) that the tenant may always terminate the agreement for "serious reasons" (i.e., reasons beyond the tenant's control, which have arisen since the conclusion of the agreement and are such that continuation of the tenancy would be excessively burdensome); however, the parties may provide for termination by the tenant without serious reasons, in any event subject to a six-month notice (unless a shorter notice period is agreed between the parties);
- iii) the rent is freely determined by the parties.

Italian law does not provide for any other type of agreement for leases to university students.¹

* * *

Lease agreements with a term of more than 30 days must be registered (usually by the landlord).

Agreements referred to in Paragraph b) are subject

- i) either to ordinary taxation of the income from the rentals received by the landlord, to the payment of a registration tax (equal to 2% of the annual rent multiplied by the annual instalments, which is to be paid 50% by each party) and a stamp duty equal to 16 euros every 4 pages or, in any event, every 100 lines (to be paid by the tenant);
- ii) or, at the option of the landlord, to the so-called "cedolare secca", which currently provides for the payment of a flat rate tax (21%), an exemption from registration tax and stamp duty, but also the waiver by the landlord to their right to annual increases in the rent (in accordance with the indices measuring the increase in the cost of living, known as "ISTAT indices").

As to the agreements referred to in Paragraph a), on the other hand, the landlord may opt for a very favourable flat rate substitute taxation ("cedolare secca"), currently at a rate of 10% to be paid only by the landlord (again waiving periodic rent increases) and a 25% discount on IMU (municipal tax payable by property owners).

Students who earn an income in Italy and intend to file a tax return (the 730 Form or the "Unico", unified tax return, Form) may obtain tax deductions for the rents they have paid if their overall income is below a certain threshold set by the law. These deductions will be significantly higher if they have signed a "fixed rent" agreement (see above, Letter a).²

¹ Students may still choose different housing solutions, such as traditional accommodation, which are not considered in this document as it is only aimed at illustrating "residential lease agreements".

² For tax year 2020 see https://www.agenziaentrate.gov.it/portale/documents/20143/2266032/730_2020_istr.pdf/1de280c0-0431-33f5-22d1-bca1a239cc80 p. 47, cod. 18 and p. 53 et seq.

1) BEFORE SIGNING THE LEASE AGREEMENT

- a) Before signing a lease agreement, foreign students must apply for a tax code (also necessary for the registration of the agreement, see Par. 2, Letter m below).³
- b) Both the landlords and the students should avoid signing agreements of a different type from those indicated in the previous paragraph, because, as mentioned, they would not be valid. Moreover, they should only set out contractual agreements in writing: Italian law provides that the lease must be in writing under penalty of nullity (in other words: verbal lease agreements are not valid).
- c) If students use websites or online platforms to look for a flat, they should carefully check their reliability; they should also examine the reviews of the chosen property carefully to make sure that the site or platform provide sufficient guarantees as to the existence of the flat and the verification of its ownership.

To avoid any fraud, they should then demand to meet and know the owners personally when they sign the agreement, asking for their identity document and, if possible, proof of ownership or, at least, of the availability of the property (conveyance deed for the flat in their name, power of attorney of its owner or any other document proving the power to lease the property) and check whether the actual condition of the flat matches that shown on the plans usually present on the site.

- d) If students use qualified brokers (whose role can be verified by asking them for a Chamber of Commerce certificate), before signing any document they should enquire about the amount of the commissions requested by the agents and ask to sign the lease agreement only in the presence of the owners, after checking their identity document and, if possible, their title of ownership or, at least, proof of availability of the property.
- e) Estate agents are required to identify the parties, also for the purposes of privacy and anti-money laundering legislation and must be professionally insured under the law.
- f) A single flat may also be rented by more than one student: in this case, the agreement may also provide for the replacement of a tenant (for example, if that tenant wants to move house or university) with a new one who is in any case to the liking of the other guests (since they will have to live together) and who will have to take on the obligations under the agreement by replacing the previous tenant.

The amount of tax deductions may change every year according to the provisions of the Finance Act. ³ For information on this subject, visit the following link on the Agenzie delle Entrate website: https://www.agenziaentrate.gov.it/portale/web/guest/schede/istanze/richiesta-ts_cf/come-si-chiede-il-codicefiscale#:~:text=Stranieri%3A%20l'attribuzione%20del%20codice,di%20collegamento%20con%20l'Anagrafe

Replacement is not part of the tenant's rights and must therefore be permitted by the landlord in advance or authorised on a case-by-case basis.

In the event of termination of the entire Agreement, the notice must be signed by all the contracting tenants.

- g) If a property is leased to several students, the students are jointly and severally liable to pay the landlord the rent and any extra charges, which means that the landlord may request the full rent from only one tenant (who will then recover the respective share of rent from the other tenants).
- h) If the lease is for individual rooms or portions of a building, there will be as many separate and independent leases as there are rooms or portions leased.
- i) The landlord may lawfully ask the parents of the student (tenant) to provide a guarantee for their son's/daughter's payment of the rent and any extra charges (building charges, see following Paragraph, Letters a - b).
- j) Before signing the lease agreement, it is also very advisable for both parties to draw up and sign an analytical inventory, preferably accompanied by photographs, which contains a description of the condition of the premises (e.g. whether painted or not; floor in good state of repair or damaged, marks on the floor or furniture, etc.) and a list of what the landlord has left in the student's flat (kitchen, furniture, furnishings, etc.).

In this way, upon termination of the Agreement, both parties will be able to check whether there has been any damage or loss and whether the property will be returned in the condition in which it was handed over, subject to normal wear and tear.

- k) It is also advisable for students to check the condition of equipment left in the flat: e.g., that the refrigerator works, that the taps do not leak, that the cooker may be turned on correctly, that the shutters work, etc.
- l) It is advisable for students who need an Internet connection to make sure that the flat has a good Wi-Fi connection, the cost of which will be paid for by the student (see Par. 2, Letter c).
- m) It is advisable for foreign students to be given a draft of the agreement before signing it and to have it translated into their own language, if it is not possible to have the text correctly translated by the landlord at least into English.

2) SIGNING THE LEASE AGREEMENT: IMPORTANT REMINDERS

- a) The Agreement will also provide for the tenant's obligation to reimburse the landlord for the building charges (i.e., additional charges), but these must be paid by the tenant within the limits established by law and, in particular:
- the tenant is usually required to reimburse only the "ordinary" and not the "extraordinary" expenses, i.e. those relating to structural works in the common areas or systems, which are carried out as a result of unforeseen, fortuitous or exceptional events or that in any case may not be prevented by ordinary maintenance works (in freely negotiated lease agreements, the parties may derogate from this rule and provide that the tenant must pay both ordinary and extraordinary expenses);
 - the ordinary charges borne by the tenant include a maximum amount of 90% of the expenses related to the cleaning service, the lift service and ordinary maintenance, the supply of water, electricity, heating, and air conditioning and of the expenses related to the concierge service.

Payment of additional charges is usually required together with the rent fee, in advance instalments, annual adjustment excluded.

The tenant has the right to receive the final balance of the building charges to verify the correctness of amounts requested by the landlord and compliance with the above limits.

- b) Even if the agreement provides for a lump sum payment of the building charges, the tenant has the right to check the balance of payments of these expenses; if a tenant has paid the landlord more than the amount due according to the criteria set out above (Paragraph a), they may ask the landlord to return any excess amount.
- c) The cost of the utilities (electricity, gas, any internet connection, etc.) will be borne by the student and the relative supplies may be registered in their name or, if specified in their contractual agreements, remain registered in the name of the owner who can request their reimbursement upon presentation of the related invoices.
- d) Unless otherwise agreed between the parties, the tenant is only responsible for "ordinary" maintenance of the apartment: "ordinary maintenance" consists of minor repairs aimed at keeping the systems or parts of the property efficient. For example, repair of the boiler or periodic servicing and repair of the electric shutters or of the washing machine.
- e) Always unless otherwise agreed between the parties, the agreement provides that extraordinary maintenance is entirely the responsibility of the landlord (e.g., replacement of an old boiler and of the roller for electric shutters or replacement of the washing machine).

- f) The law allows the tenant to terminate the agreement for serious reasons, but the parties can provide for termination in the absence of serious reasons: the inclusion of this term is advisable for students, considering any risks associated with their performance in university exams or any possible change of university premises.
- In this regard, any agreement stipulated in the Municipality of Milan (see Introduction, Paragraph a) provides that, regardless of the existence of serious reasons, the tenant is allowed to terminate the agreement, giving a two-month written notice by registered letter with return receipt or certified e-mail (PEC) to the landlord, when studies are interrupted before expiry of the contract.
- g) The parties may shorten the legal notice period in case of termination at will by the tenant, for example from six to three months for freely negotiated lease agreements and from three months to 45 days for “agreed rent” lease agreements.
- h) Depending on the type of agreement (see first Paragraph), if the landlord is allowed to terminate the agreement before its automatic renewal, such termination must be notified to the tenant at least six months beforehand. Therefore, the landlord cannot ask the tenant to return the premises before the expiry of this six-month term.
- i) Upon execution of the agreement, the lessor must deliver the A.P.E. (Attestazione di Prestazione Energetica, energy performance certificate, which is the document that describes the energy characteristics of the apartment) and the certificates of compliance of the electrical system, the water heater, or the boiler.
- j) As a general rule, the tenant is also expected to pay a security deposit, which allows the landlord to pay for the repairs in case of any damage found in the apartment at the end of the lease. If there is no damage, the security deposit must be returned by the landlord. A different form of guarantee for damages may also be requested by the landlord, e.g., a bank guarantee or surety.
- k) It is absolutely not advisable for the tenant to pay cash and without a receipt: it is better to pay any fees and expenses by bank transfer, with a payment description (e.g., “fee and down payment for charges of January 2021”) or in any other traceable form (e.g., Paypal), or at least pay by cheque by having a specific receipt issued (e.g., “I, the undersigned _____ received the sum of € _____, 00 from _____ by cheque No _____ for the fee and down payment for charges of January 2021”); if you have no other option than to pay cash, do not forget to ask for a specific receipt and make sure you keep that receipt.
- l) If tenants are non-EU students, they must provide the landlord with a copy of a valid residence permit and any renewals thereof during the lease.

⁴Stamp duty of € 2.00 must be affixed on this receipt if the amount received is higher than € 77.45.

m) The agreement may not provide for terms or obligations on the part of the tenant that are more onerous than those provided for by law.

For example, law does not allow:

- Provision for a duration of less than 4 years in freely negotiated lease agreements.
- Provision for a notice period of over six months for termination by the tenant due to serious reasons.
- Provision for the possibility of charging higher building charges than those actually payable by the landlord to the condominium.

n) Lease agreements must be registered (see first Paragraph): usually those who do not register the agreement do so to avoid paying taxes on the rent and sometimes demand payment in cash. This method is illegal and is not safe for either the tenant or the landlord, who will not be able to enforce their rights in court under the agreement, unless they opt for late registration, which entails the additional payment of interest and significant penalties.

It is advisable to obtain a copy of the agreement from the landlord, together with a receipt of its registration: if the landlord does not register the agreement, the tax authorities may ask the tenant to register it in full (unless the tenant claims 50% of the tax from the landlord), since the obligation to register is a joint and several obligation (between the landlord and the tenant) vis-à-vis the tax authorities.

3) CONDUCT OF THE LEASE: SOME SUGGESTIONS

- a) The landlord cannot enter the premises without the tenant's permission; the agreement may provide for a right of access to check the condition of the facilities or to have the premises visited, during the lease, and after termination by the tenant, but the tenant must agree on the date and time of the visits; in this case, tenants must allow access to the premises, making themselves available.
- b) Unless expressly provided in the agreement or by way of written permission from the landlord, the tenant cannot lease one or more of the rooms of the property or the entire property to other people (the so-called "sublocazione" sublease); in case of a sublease without permission or contractual provision, the landlord could demand the termination of the agreement.

In addition, the tenant cannot transfer the agreement to other people or have them take over the apartment without prior agreements with the landlord and termination of the agreement by mutual consent.

- c) The premises must be used in compliance with the condominium regulations (which must be delivered to the tenant) and the rules of peaceful cohabitation: therefore, the tenant must avoid parties or large gatherings to avoid complaints from neighbours and the landlord.

4) TERMINATION OF THE LEASE

- a) If tenants terminate the agreement (for serious reasons or, if provided in the agreement, even without serious reasons), they must give a six-month written notice (or a three-month notice for “agreed rent” contracts, unless a shorter notice period is previously agreed under the agreement).

The notice period will start from the date of receipt of the notice.

The tenant, on the other hand, cannot leave the premises and, above all, stop paying the rent, without complying with the notice period during which they are required to pay (unless otherwise agreed with the landlord).

- b) The landlord or the tenant’s notice of termination must be in writing, signed and sent to the other party by registered letter with return receipt or certified e-mail (PEC), which must be received within the six-month notice period (or the three-month period for “agreed rent” contracts, unless a shorter notice period is agreed in the agreement).
- c) On termination of the agreement (due to expiry or legally formalized termination at will or termination before automatic renewal), the tenant must hand over the keys and return the property in the same condition as they found it and with the furnishings provided at the beginning of the lease.
- d) It is important for both parties to draw up and sign a report before the return of the property, which will indicate any damage or losses with respect to the inventory drawn up at the start of the lease.
- e) Only if there are damages or missing items, the landlord will be able to withhold from the security deposit received from the tenant upon execution of the agreement an amount equal to the expense necessary to pay for the repair, to purchase any missing items or, in the case of an ornament, equal to its assessed value. Failing an agreement on these aspects, the parties may contact a lawyer or trade associations.
- f) Generally, in the event of disagreement between the parties on issues related to the termination of the lease or respective debts or credits, it will always be possible to contact a lawyer or trade associations which protect owners and tenants, to start a discussion or mediation, which may end in court if the negotiation or mediation are not successful.

ASSOCIATIONS CONTACTS

ACU-ASSOCIAZIONE CONSUMATORI UTENTI

Via Mauro Macchi, 42 - 20124 Milan tel.3714591990
reclmi@acu.it
www.acu.it

ADICONSUM MILANO METROPOLI

Via Tadino, 23 - 20124 Milano
tel 0220525340 - fax 0229521690
e-mail: adiconsum_milano@cisl.it
PEC: adiconsum.milano@legalmail.it

A.N.A.M.A.- Confesercenti Milano

Via G.Sirtori 3 - 20129 Milano
info@confesercentimilano.it

ASSOEDILIZIA – Associazione Milanese della Proprietà Edilizia

Via Meravigli 3, 20123 Milano
email: info@assoedilizia.mi.it
Tel.: 02.885591

CASA DEL CONSUMATORE APS

Via Bobbio 6, 20144 Milano
tel. 0276316809
fax 0276392450
info@casadelconsumatore.it
www.casadelconsumatore.it

CONFCONSUMATORI LOMBARDIA

Via De Amicis 17
20123 Milano
tel: 02/83241893
fax: 02/58104162
mail: lombardia@confconsumatori.it
sito web: www.confconsumatorilombardia.com

FEDERCONSUMATORI MILANO

Corso di Porta Vittoria 43
20122 - Milano
Tel 0255025313
email: sportello@federconsumatori.milano.it

Presidente: Carmelo Benenti
email: benenti@federconsumatori.milano.it

FIAIP Collegio di Milano

Via Fabio Filzi, 2 20124 Milano
Tel 0236556836
www.fiaipmilano.com

FIMAA Milano Lodi Monza e Brianza

Collegio Agenti d'Affari in Mediazione di Milano, Lodi, Monza Brianza e Province dal 1945
Aderente Confcommercio Milano Lodi Monza e Brianza
Corso Venezia 39, 20121 Milano MI
Tel 0276007671
Fax 02783008
Email info@fimaamilano.it
www.fimaamilano.it

RESCASA LOMBARDIA – Associazione del Turismo in Appartamento

Corso Venezia, 47 – 20121 Milano
Tel. 027750696 – e-mail: rescasa@unione.milano.it
web: rescasalombardia.it

UNIONE INQUILINI

Via BELINZAGHI 11-Milano
unioneinquilini.milano@gmail.com

UNIONE NAZIONALE CONSUMATORI LOMBARDIA

Corso Lodi 8/a - 20135 Milano
Tel. 02 72003439
www.consumatorilombardia.it e-mail info@consumatorilombardia.it

SICeT (Sindacato Inquilini Casa e Territorio) Milano

Via Tadino 31, 20124, Milano
Tel. 02.36725320
Mail milano.segreteria@sicet.it
<http://www.facebook.com/sicetmi>

SUNIA- Federazione Provinciale di Milano

sede provinciale: via Privata della Torre 15 – 20127 Milano
tel. 02.86885607 - email: segreteria@sunia-milano.it - www.sunia.it
sede di consulenza: Corso di Porta Vittoria 47 (1 piano) – 20122 Milano
tel. 02.4232633 – 02.86885300 – 02. 4235006 – email: csu@sunia-milano.it

Published by:

Unità Organizzativa Regolazione del Mercato e Sanzioni
Chamber of Commerce of Milan, Monza Brianza and
Lodi

Camera di commercio di Milano Monza Brianza Lodi

SEDE LEGALE

Via Meravigli, 9/b

20123 Milano

Tel +39 02.8515.1

www.milomb.camcom.it

regolazione.mercato@mi.camcom.

SEDE MONZA BRIANZA

Piazza Cambiaghi, 9

20900 Monza

Tel +39 039.28071

SEDE LODI

Via Haussmann, 11/15

26900 Lodi

Tel +39 02.8515.1