

NOVEMBER 6<sup>TH</sup>, 2024

## SUBJECT

### ***Changes to the Short-Term Lease (Alojamento Local) Rules***

## RELEVANT LEGISLATION

Decree-Law no. 128/2014, of August 29<sup>th</sup>

Decree-Law no. 76/2024, of October 23<sup>rd</sup>

Law no. 56/2023, of October 6<sup>th</sup>

## CONTEXT

Decree-Law no. 76/2024 was published in the Official Gazette on October 23<sup>rd</sup>, amending the legal framework for the e short-term lease activity (AL), approved by Decree-Law no. 128/2014 of August 29<sup>th</sup>, and repealing housing measures.

With these changes, the government intends to reestablish the conditions for the consolidation of the short-term lease activity in a balanced way with the housing environment, respecting the rights of private initiative, private property and housing.

We have thus seen a step backwards both in relation to *Mais Habitação* (Law no. 56/2023) and in relation to the changes promoted by Law no. 62/2018 of August 22<sup>nd</sup>, through the removal of a large majority of the restrictions on AL activity that were in force.

These changes came into force on November 1<sup>st</sup>, 2024, and the most relevant ones are described below.

### ***END OF SUSPENSION OF NEW AL REGISTRATIONS***

The **suspension of** the registration of new AL establishments (in the category of flats and accommodation establishments), integrated in autonomous units of buildings, for some areas of the country, **has been repealed**.

This general elimination of the suspension does not, however, limit the power of municipalities to define specific rules on the promotion or suspension of new registrations.

## *EXISTING RECORDS*

The **revision** of the existing AL registrations, that would have been carried out in 2030, **has been abolished**.

## *AUTONOMOUS UNITS - SUPPRESSION OF THE CONDOMINIUM'S DECISION*

The **obligation to obtain an unanimous decision** from the **condominium owners** in order to register an AL establishment in an autonomous unit of a building under horizontal property that is intended, in the title deed, for **residential purposes, has been revoked**.

## *TRANSFERABILITY OF ESTABLISHMENTS*

AL establishments **are once again transferable** in any form and after any type of transfer, except for any restrictions that may be imposed by the respective municipal regulations.

## *DURATION OF NEW ESTABLISHMENT REGISTRATIONS*

The registration of the AL establishment is **no longer limited in time** and it is no longer necessary to apply for its renewal.

## *CANCELLATION OF REGISTRATIONS*

- The cancellation of the registration of the AL establishment in the containment areas can be ordered if it is found that the property where the AL establishment is located has been the subject of **urban rental contracts for permanent housing in the 2 years prior to the submission of registration**, in violation of the applicable municipal regulations.
- In the case of buildings under horizontal property, the need for a **reasoned decision**, approved **by more than half of the building's permillage**, based on the repeated and proven practice of acts that disturb the normal use of the building, as well as acts that cause nuisance and affect the other owners, is reinstated, and **a decision** by the mayor of the municipality with territorial jurisdiction is **once again required**.
- The decision to cease the operation of the AL establishment, obtained by means of a reasoned resolution of the assembly of

## URBAN USE

owners, must be limited to a specific period to be determined in the decision, which **may not exceed 5 years**.

- **The right to a prior hearing was reinstated** after the cancellation of the AL registration.
- An **alternative procedure** to the cancellation of the AL establishment's registration has been created, whereby the mayor invites the parties involved to **reach an agreement**, accompanied, where available, by a **Local Accommodation Provider**, with a view to closing the procedure by accepting commitments and conditions, a procedure that must be concluded within a maximum of 60 days, with the approval of a final report, and contain the solutions and proposed measures to be adopted, or the conclusion that an agreement is not feasible, with a view to a final decision.
- Without prejudice to the specific rules laid down in the municipal regulations to be approved, for the purposes of the registration AL establishments, uses compatible with the exercise of local accommodation activity are admissible, namely the uses authorised by Decree-Law no. 555/99, of December 16<sup>th</sup> (RJUE), as follows:
  - a) In the «rooms» modality, only residential use is permitted;
  - b) In the case of "houses" and "flats", the admissibility of non-residential use depends on compliance with the requirements established in this decree-law;
  - c) In the case of 'accommodation establishments', including *hostels*, the town council may provide for uses other than residential depending on the type of accommodation and the capacity of the establishment.
- Without prejudice to the fact that the AL activity may be expressly prohibited in the building's title deed or in the condominium's rules and regulations, or even by a resolution of the condominium's general assembly, which must be approved by a majority representing 2/3 of the building's permillage (and which only takes effect for the future), the installation and operation of AL establishments in an autonomous unit **does not constitute a use other than that for which it was intended**, in accordance with and for the purposes of the provisions of letter c), no. 2, article 1422.<sup>o</sup> of the Civil Code (which prohibits condominium owners from assigning the autonomous unit to a use other than that for which it was intended).

## ***NEW REGISTRATIONS - NEW DEADLINES***

- Once the prior communication has been submitted via the [www.gov.pt](http://www.gov.pt) platform, the municipality now has a **maximum period of 60 days** (instead of the 10 days previously provided for), or a maximum period of 90 days in the case of applications to operate local accommodation in containment areas, to oppose the registration of the AL establishment.
- There is no longer a specific opposition' deadline for *hostels*.