

OCTOBER 23TH, 2023

SUBJECT

LAW “*MAIS HABITAÇÃO*” (MORE HOUSING)

Lease

RELEVANT LEGISLATION

Law no. 56/2023, of October 6th

Law no. 6/2006, of February 27th

CONTEXT

Law no. 56/2023 was published in the Portuguese Republic Gazette on October 6th, approving the package of legislative known as “*Mais Habitação*” (More Housing) which amends Law no. 6/2006, as well as a number of other pieces of legislation, introducing new *ad hoc* rules in terms of leasing.

The changes to Law no. 6/2006 and additional rules, most of which came into force on October 7th, are aimed above all at protecting tenants and controlling the value of rents, either by expressly controlling their increases or by establishing a formal impossibility of converting pre-1990 contracts to the New Urban Lease Regime (NRAU) and, consequently, the impossibility of terminating those contracts. The legislator also intends to establish mechanisms that make it possible to coercively place vacant properties on the lease market.

The tax measures to promote leasing and affordable renting were dealt with in our Newsletter on “New Tax Rules” of the “*Mais*

Habitação” (More Housing) Programme, which you can consult via this [link](#).

The initial rent for new residential lease contracts on properties for which there were existing lease contracts in the 5 years prior to the entry into force of this Law may not exceed the value of the last rent practiced on the same property in a previous contract, **applied with a coefficient of 1.02**.

This limitation will, however, have the following exceptions:

- a) It will not apply to lease contracts whose rents do not exceed the general rent price limits by typology set out in Minister Order no. 176/2019, of June 6th, for the Lease Support Programme;
- b) The annual coefficients (up to a maximum of 3 years) for updating the rent that have not been applied are added to the aforementioned update limit. For the year 2023, the coefficient of 1.0543 is considered instead of the one set by the government (1.02);
- c) In case of properties that have undergone extensive remodeling or restoration work, duly certified by the City Council, the amount of the costs borne by the landlord may be added to the initial rent, up to an annual limit of 15%;
- d) This limitation will only be valid until December, 31st 2029.

LIMITATION OF THE AMOUNT OF THE RENT

PRE-1990 CONTRACTS

It will no longer be possible to promote the transition of residential lease contracts, entered into before the implementation of the Urban Lease Regime, to the New Urban Lease Regime (NRAU), in cases where the tenants:

- (a) Claim and prove that their household's Corrected Annual Gross Income (RABC) is less than 5 times the Annual National Minimum Income (RMNA); or
- (b) Are aged 65 or over or have a disability equal to or greater than 60% (or in cases where the tenant's spouse, civil partner or relative in first degree of lineage, who is in these same conditions, has resided in the property for more than 5 years, and the household's RABC is less than 5 RMNA).

If one of the above cases occurs, the rent may only be updated in accordance with the legally approved annual coefficients, except, in the case provided for in (b), if the tenant accepts the rent proposed by the landlord or, by proposing a new value, the landlord accepts it.

It is also expected that tax measures, including exemption from IRS and IMI, will define the amounts and limits of the compensation to be granted to the landlord and the rent to be set for to the tenant to be applied from 2024 onwards, and it is expected that these tax measures will be approved in the 2024 State Budget.

FORCED LEASE

The forced lease regime provided for in the Legal Regime for Urbanisation and Edification (RJUE), for situations in which the amounts owed by the owner in case of compulsory works have not been settled, will now apply to vacant housing situations. Accordingly, in case of autonomous fractions or parts of an urban building capable of independent use, for residential use and classified as vacant for more than 2 years, not located in interior territories or autonomous regions, the City Council may notify the owner:

- a) to fulfil the duty to preserve the property, as provided for in the RJUE. If the owner fails to comply, the Council may carry out the necessary works; or
- b) to fulfil the duty to make use of the autonomous fraction and, if they decide, submit a lease proposal.

In the case provided in b) and in the event of the owner refusing such a proposal or failing to reply within 90 days, and the property remaining vacant, the Council (or IHRU, IP, if the Council does not pretend it) may proceed with the force lease of the property.

This option will be exceptional and supplementary and if necessary to guarantee the social function of housing as lays down in the basic law on housing.

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