

AL - Local accommodation rules changes in 2023

The local accommodation law suffered significant changes, since the 7th of October of 2023, when the Law n.º 56/2023, of 6th October has entered in force. The most significant affect AL registered in apartments, which destiny is habitation. Let's see what the changes were and which impact these measures will have on AL business in the future.

New registration requires unanimity of the condominium owners

Every registration of future AL obliges to have a previous decision of the condominium, which has to be taken with unanimity of the votes (100%).

The AL licence is no longer transferable

The registration number of the AL establishment becomes personal and non-transferable, except in the case of succession. If the AL is in a company name, the share capital transfer will cancel the AL registration.

The condominium can oppose to an AL

In the case where the AL activity is carried out in an autonomous fraction (apartment) of a building, the assembly of condominium owners, by decision of at **least two thirds of the votes**, may oppose to the exercise of an AL activity on the referred fraction, except when the constitutive title of the building expressly provides for the use of the apartments for AL purposes, mostly used in urbanisations solely for tourism, or there has been an express decision by the condominium assembly to authorise that apartments use. If a decision is taken in this regard, then the condominium assembly will have to inform the Town Hall, so the title is cancelled in 60 days. For the apartment, object of such a decision, to return to AL activity again is necessary to have an opposite decision from the condominium assembly.

Emergency permanent contact

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The AL establishments have to supply to all condominium owners a number of contact, in case of emergency.

Fixing a noise timetable

The owners of the AL are obliged to fix a timetable predicted on the Noise National law, inside of the apartments where easily can be seen.

AL licenses validity

The new law has introduced a validity date on the AL registration licenses. New AL licences issued after the entry of this law will be valid for 5 years.

Existing licences issued before this law will be re-evaluated during 2030. If the licence will be accepted for renewal in 2030, it will then be valid for a further 5 years. On these cases, if the property licensed for AL is a security of a bank loan contracted until 16/02/2023 and is not paid by 31/12/2023, the AL licenses revaluation will only happen after repayment of the full loan.

The renewal of these licenses will depend on the competent Town Hall decision.

Suspension of new AL licences

The issuance of new AL licences for apartments, is suspended throughout the national territory, with the exception of interior territories of the mainland and the autonomous regions of Madeira and the Azores. The local Town Halls can change the suspension and allow new registries of AL in apartments, through the approval of a Habitation Council map.

Expiry of inactive licences – confirmation of Business activity

Within two months from the date of entry into force of this law, ie, 7th of October 2023, **ALL holders of an AL licence are required to provide proof of the activity (apartments, villas, hostels)**, through the RNAL platform – *Registo Nacional de Alojamento Local*, by the *Balcão Único Eletrónico*. The last IRS or Vat declaration which includes income from AL is the evidence of the business activity required by law. If the AL licence was registered just in 2023, you shall include receipts issued for AL clients in 2023 or the begging of activity declaration for those that just registered in September/October and didn't have opportunity to issue invoices yet.

There is no need to present evidence of the activity by the holders AL licences that are used for accommodation in their own permanent home, provided that such activity does not exceed 120 days per year. Anyway, these AL holders shall submit an application form at the same platform, by the same deadline.

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Non-compliance of this reporting duty implies the cancellation of the respective licences, by decision of the president of the local council.

The application form registration has to be completed by the 7th of December 2023, on the above platform.

New Tax– Extraordinary contribution on apartments (only) with AL

An additional tax contribution of 15% will be levied on apartments subject to AL, due on the 31st December 2023, which is to be paid the latest by 25th June of the following year. The assessment is produced by the holder of the AL, which has to submit a tax form by 20th June of the following year, the latest. In case, the AL holder doesn't submit the declaration in time, the tax department can produce it officially with the elements they are aware of, to which can add a fine for non-compliance.

The owners of the properties are responsible on the payment of this additional tax, in case they are not the same entity/ individual/ company.

Exceptions to this payment:

- 1) *Fractions located in the interior of the country;*
- 2) *Fractions where the Habitation council map allows AL;*
- 3) *Fractions used for accommodation in their own permanent home, provided that such activity does not exceed 120 days per year.*

The referred law created tax incentives for the AL owners, applicable to who decide to rent permanently or sell their properties, as the exemption of paying capital gains taxes. So, if you are considering to sell a fraction for a habitation it is worth to consider the benefits and execute them, by the limit date of 31st December 2024.

These new rules are certain to create barriers on the AL activity and it is believed (at least, by the resigning Government) that will free much more fractions for habitation or permanent rental. So, let's see what the future dictates.

Please feel free to contact, in case of doubts and questions.

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