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Update

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Mais Habitação Package - Local Accommodation: the incentives to transfer local accommodation properties to housing leases

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Law no. 56/2023, of 6 October 2023 – commonly known as **Mais Habitação Package** – was published 6 October in the Portuguese Official Gazette, after promulgation by the President of the Republic (hereinafter the "Program"). In this Update, we summarize the main changes introduced by this Program, highlighting the following measures regarding Local Accommodation, in order to enhance the offer for residences in Portugal.

Non-transferability and expiry of Local Accommodation registries:

Until the Program came into force, the rule of non-transferability of the local accommodation registry number only applied to "**houses**" and "**apartments**" located in a containment zone.

The Program extends the scope of this rule and now establishes, for **all local accommodation establishments**, that the respective registry number is personal and non-transferable, even if held or owned by a legal person. As a result, it is impossible to acquire a registry by transmission.

The Program also changes the situations in which the registry held by a commercial company expires. This registry expires when the share capital of the legal person holding the registry is transferred, regardless of the percentage.

However, the Program allows for exceptions regarding non-transferability and expiry in cases of succession.

Lastly, there is another situation where local accommodation registries expire if they are inactive.

Thus, in order to avoid the cancellation of the respective registries, within two months as from the date of publication of this Program, the holders of local accommodation registries are obliged to provide proof of the maintenance of the operating activity, i.e. the effective exercise thereof - without prejudice to the **re-examination to take place during the year 2030**.

However, exceptions are made for local accommodation establishments in permanent housing, provided that the operation of the accommodation units does not exceed 120 days/year. For these cases, the obligation to provide proof and the consequences of failure to do so do not apply.

Suspension of new Local Accommodation registries:

The Program determines the general suspension of the issuance of new registrations of local accommodation establishments, in the form of "**apartments**" and "**lodging establishments**", integrated in an autonomous unit of a building, except for inland territories (see annex to Ordinance no. 208/2017, of July 13) and Autonomous Regions.

However, the Program protects situations in which municipalities, by means of **Municipal Housing Charters**, define the appropriate balance of housing supply and student accommodation, making it possible to withdraw the suspension of the granting of new local accommodation licenses.

It is also important to note that, in municipalities where a housing shortage has been declared, the suspension of registries may cover all or just part of the area of the municipality where the shortage has been declared.

Review of already issued Local Accommodation registries:

Through the amendment to the Legal Regime for the Operation of Local Accommodation Establishments, with the entry into force of the Program, the registries of these establishments will have a **duration of five years, renewable for equal periods**. The respective renewal of titles is subject to an express decision by the local council with territorial jurisdiction.

As for local accommodation registries already issued on the date of publication of the Program, it should be noted that they **will be reviewed in 2030**. Furthermore, after the first review, registries are also renewable for five years.

However, the Program makes exceptions in the case of local accommodation establishments that constitute a real guarantee for loan agreements signed until February 16, 2023, which have not yet been fully paid off by December 31, 2029. In these situations, the registry will only be reviewed after the full payment has been made.

Likewise, if a decision is made to maintain the respective registry, it will be renewed for a period of five years.

Opposition to the exercise of local accommodation activity and authorization from the Condominium - special rules for buildings under horizontal property regime:

With the entry into force of the Program, a new scenario is foreseen for the **cancellation of the registry of the local accommodation activity**, related to the risk of opposition on the part of the condominium owners, if the local accommodation activity is carried out in an autonomous unit of a building or part of an urban building susceptible to independent use.

Thus, **the condominium owners' meeting may oppose the exercise of the local accommodation activity, (i)** by resolution of at least two-thirds of the permillage of the building and **(ii)** provided that the constitutive title does not expressly provide for the use of the unit for local accommodation purposes or when there has been an express resolution of that meeting authorizing such use.

In these cases, and for the purposes of making the cancellations effective, the condominium owners' meeting must inform the Chairman of the municipality with territorial jurisdiction of the decision. Thus, the resolution will take effect sixty days after it is sent.

Deregister means that the establishment ceases to operate.

Furthermore, registries of local accommodation establishments made after the entry into force of the Program, which concern autonomous unit of buildings under horizontal property regime intended, in the constitutive title, for residential purposes, are now **subject to the prior authorization of the condominium** for a different use. This decision by the condominium is taken unanimously, and it is now compulsory to present the minutes of the condominium meeting, with the authorization, at the time of the prior communication.

Entry into Force of the New Regime:

This Law entered into force on the day following its publication, i.e. on October 7, 2023.