

LOCAL LODGING - TOURIST RENTAL

New Legal Regime - 2014



(Executive Law 128/2014, from 29th august)

The Decree-Law 128/2014, that approves the legal regime of local lodging exploration, came into effect on 27th of November 2014.

The article 2º e 3º, nº 1, of such law, considers as establishments of local lodging the villas, apartments and establishments of accommodation (in which is included the "hostel"), which have utilization license and render services of temporary lodging, through remuneration, but don't fulfil the conditions to be considered touristic developments.

The exploration of local lodging establishment's corresponds to the activity, by singular or collective entities, of accommodation services. The exploration and intermediation of local lodging establishment is presumed when a property or fraction:

a) Be advertised, made available or intermediate in any form, entity or mean, namely in travel and tourism agencies or websites, as accommodation for tourists or as temporary accommodation; or

b) Being furnished and equipped, is offered to the general public lodging and complementary housing services, such as cleaning or reception for periods not exceeding 30 days.

Therefore, taking in consideration the law in force, the building, where it is intended to install a local lodging establishment, has to possess the following characteristics:

- a) Not have more than nine rooms and a maximum capacity of 30 guests;
- b) have by building and owner, a maximum of nine local lodging establishments in apartment's mode;
- c) the regime of exploration, i.e., if it is done by the owner, travel and tourism agencies, and/or properties administration and lease agents is not important;
- d) be holder of an utilisation authorization/ license, issued by the competent Town Hall.

The local lodging registration process is required and prior to the beginning of exploration.

It is currently carried out by mere **communication submitted via "Balcão Único Electrónico"**, addressed to the Mayor of the territorially competent town hall.

With the prior communication you must submit the following documents:

- a) Simple copy of the identification document of the exploration licence holder, in case an individual, or code to access to the permanent certificate of commercial registration, if a collective entity;
- b) Responsibility term endorsed by the exploration licence holder, ensuring the integrity of the building or its autonomous fraction for the accommodation services and that it complies with legal and regulatory standards;
- c) Copy of the document certifying the applicant's legitimacy to make the application for registration: booklet ("caderneta predial");
- d) And, if the petitioner does not figure as owner of the building, copy of the contract that legitimises the establishment exploration, where specifically is included the authorization for the accommodation services or authenticated document containing such authorization from the landlord;

e) Simple copy of the beginning or change of activity from the exploration holder to exercise the activity of accommodation services, corresponding to Section I, subclasses 55201 or 55204 of the Portuguese Classification of Economic Activities (Revision 3, approved by Executive Law No. 381/2007 of 14th November), submitted to the Tax Authority (AT).

With the submission of the prior communication:

- Will be issued by "Balcão Único Electrónico" a document containing the registration number of the local lodging establishment, which is the **opening public Title**.

- The town hall holds within 30 days, an inspection to check the local lodging conditions.

The local lodging establishment exploration ceasing shall be communicated by any means legally admissible to the Mayor of the Town Hall within 60 days from its occurrence.

Any communication made to the Town Hall (prior communication, amendments and ceasing) are sent simultaneously to "Turismo de Portugal, IP", which in turn will communicate to the Tax Authority (TA).

Those communications are **Free of charges**:

Therefore, such establishment of local lodging should fulfil the following requirements (minimum):

- a) To be registered, for the effects of exploration of local lodging, on the competent town hall;
- b) To be installed in buildings, interior and exteriorly, with good conditions of conservation;
- c) To be connected on to the public net of water supply or endowed with a privative system of water supply with origin duly controlled;
- d) to be connected to the public net of sewers or endowed with sceptical cess-pool, dimensioned for the maximum capacity of the establishment;
- e) it must be endowed with hot and cold current water;
- f) to have a window or opening with direct communication for the exterior, which assures the adequate conditions of ventilation and airing;
- g) to have adequate furniture, equipment and adequate utensils;
- h) to make use of a system, which allows to stop the entrance of exterior light and doors equipped with a security system, which assures the privacy of the guests;
- i) the sanitary installation must have a safety system, which allows privacy;
- j) to have irreprehensible conditions of hygiene and cleanness;
- k) have extinguisher and fire blanket accommodated in an easily accessible place and in adequate quantity to the number of lodging units;

- l) to have first aid equipment;
- m) to have indication of the national emergency number (112);
- n) to have a claims book of, in the terms and conditions established, regarding the respective model, in the Executive Law nr. 156/2005, of 15th of September, change by the Decree Law nº. 371/2007, of 06 of November;
- o) are free to set their working period.

Regarding to establishments with a capacity exceeding ten (10) guests, they should comply with the safety rules against fire, in accordance with Executive Law No. 220/2008, from 12th November, and technical regulation of the administrative law No. 1532/2008 of 29th December.

Hostel

The name 'hostel' can only be used by local lodging establishments where the dormitory is the unique housing unit or the main one, which shall consist of a minimum of four beds.
Only these lodging establishments may use the name 'hostel' in its name, advertising, merchandising and commercial documentation.

In case these requirements are unfulfilled, initially and/or afterwards, or in its lack, the Town Hall registry of local lodging will be automatically cancelled, by the respective town hall.

Rules to remember:

1. Complaint book

In case of complaint, the original sheet should be sent to the entity that holds the competence on surveillance and inspection - Food Safety and Economic Authority (ASAE).

2. Opening Public Title

Just local lodging establishments registered in the respective Town Hall can be used for tourism purposes either by their owners or by travel and tourism agencies.

3. Identification plate for AL

In case of villa or apartment is optional.

If the owner chooses to affix identification plate near the main entrance of the establishment, as a way to communicate the type to which it belongs, this must be provided by the municipality, and must follow the guidelines and layout set out in the above regulations.

However, in case of **lodging establishment** (the local lodging establishments whose accommodation units consist of rooms), **including the "hostel"** the affixation of the identification plate is mandatory, outside near the main entrance.

A placa identificativa dos estabelecimentos de alojamento local é de material acrílico cristal transparente, extrudido e polido, com 10 mm de espessura, devendo observar as seguintes características:

- a) Dimensão de 200 mm × 200 mm;
- b) Tipo de letra Arial 200, de cor azul escura (pantone 280);
- c) Aplicação com a distância de 50 mm da parede, através de parafusos de aço inox em cada canto, com 8 mm de diâmetro e 60 mm de comprimento.

Modelo da Placa Identificativa

AL

(Alojamento Local)

4. Accommodation Bulletin (BA): Communication to SEF (Law 23/2007, of 4th July)

Must be communicated the accommodation of foreign citizens, by which is meant all those who do not have Portuguese nationality. It is clear from paragraph a) nº1 of Article 45 the application of the Convention implementing the Schengen Agreement (CISA).

This information is important for reasons related with homeland security and the national economy (tourism, trade, import and export, scientific research, etc.).

The communication is always made to SEF by accommodation bulletin BA (electronically or on paper).

So, if it is considered "hotel or similar establishment" the communication is directly and necessarily made to the SEF, electronically, via the Internet, which requires a computer application (from SEF) - the "System Information Accommodation Bulletins "(SIBA).

In other cases i.e. for "all those that provides, on an onerous basis, accommodation to foreign" communication is made by Accommodation Bulletin on paper, which is delivered to the SEF (Regional Departments or in the SEF services Centre located in "Lojas do Cidadão") or in places where it does not exist, the National Republican Guard (GNR) or the Public Security Police "(PSP) which then forward the BA's for SEF.

5. Advertising and Offer

Advertising, commercial documentation and the merchandising of local lodging establishments must indicate:

- Its name or logo and registration number,
- Can't suggest features that establishments don't have, not even suggest that they are part of a tourist resort;
- Energy Certificate.

From the 1st of December 2013 that it is mandatory to include in the sales or lease ads of real estate the energy class (Article 14, paragraph 1. al. I) of Executive-Law No 118/2013 of 20th August). As a result, owners should indicate the energy rating of the building, contained in its pre-certified or energy certificate in all advertisements for the sale or lease. The breach of this duty is an offence, punishable by a fine that can be fixed between 250,00 EUR and 3 740, 00 EUR in the case of an individual and to 2 500,00 EUR a 44 890, 00 EUR in the case of companies. The above obligation is extended to real estate companies in the terms and for the purposes of nr.2 from Article 14 and paragraph b) of nr. 1 of Article 20 of that diploma.

Tax Infractions

Failure to comply with tax obligations arising from the activities performed under this executive-law is a tax offence, in accordance with the general law of Tax Infractions.

Administrative Offences

Are considered administrative offences (art. nr. 67 DL):

- a) the supply, availability, advertising and intermediation of local lodging establishments not registered or with outdated registration;
- b) the supply, availability, advertising and intermediation of local lodging establishments in breach, violation or non-compliance:
 - i) the lease contract;
 - ii) the exploration licence;
- c) the non-compliance by local lodging establishments of the minimum requirements;

- d) engaging in acts of customer-raising for local lodging establishments not registered or with outdated registration;
- e) Violation of obligations and duties fixed in the diploma.

Fines: In the case of individuals, the fine can be fixed between 2500€ and 3.740,98€ and in the case of companies, the fine can be fixed between the amount of 25.000€ and 35.000€.

Penalties

Due to the gravity of the offence, reiteration and guilty of the entity the following penalties may be applied, added to the amount of the fine:

- a) apprehension of the material, with which was practised the infraction (e.g, property furniture, etc);
- b) suspension of the activity exercise, by a period that can reach 2 years;
- c) closing, by the maximum period of 2 years, of the company or the installations, where are rendered the services of touristic lodging, without valid title.

Vale de Lobo, 09 of February of 2015

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