



Update

Momentum



Finance and Governance

6 May 2015

LOCAL LODGING – AMENDMENTS TO THE EXPLOITATION

The Decree-Law no. 128/2014, of August 29 has established the legal regime of the operation of the local lodging, by empowering of this type of establishment.

The existing legal framework has recently been amended by Decree-Law No. 63/2015, of April 23, although its entry into force only occurs 60 days after its publication.

Of the amendments introduced it is worth to highlight the amendment regarding the exploitation of local lodging establishments.

Pursuant to Decree-Law No. 128/2014, of 29 August it was established the forbiddance on the exploitation by the same owner or holder of exploitation of more than 9 lodging establishments in apartment modality. With the amendment introduced by Decree-Law No. 63/2015, of April 23, this forbiddance shall only be applied if the number of establishments exceeds 75% of the number of existing fractions in the building, i.e., the holder of exploration can explore more than 9 apartments in local lodging as long as these 9 apartments do not represent more than 75% of the building. For example, in a building composed of 15 apartments it may have 11 apartments in local lodging exploited by the same holder.

However, this prohibition cannot be seen without reference to the method of calculation of operation provided by the legislator. It is considered local lodging establishments in the modality of apartment the ones that are registered in the name of the spouse, ascendant and descendant of the owner or holder of



the exploitation, as well as those registered in the name of different legal entities in which there are common partners.

Thus, it is our understanding that under the new regulatory framework there may be two distinct situations where there is an exploration of over 9 establishments in the apartment modality for building, namely:

- (i) The building includes over 13 apartments, in which case there may be more than 9 apartments operated by the same holder.
- (ii) In the same building we have different holders of exploitation.

It is important to note that the possibility of having more than one operating holder by building is already permitted in the current legal framework, i.e., without the amendment now introduced by Decree-Law no. 63/2015, of 23 April. However it is our understanding that this will lose part of its usefulness with the entry into force of the new diploma, becoming an alternative in cases where the building does not have more of the 13 apartments, in which case it may have an operating holder for 6 apartments and another for 7 apartments.

Joana Pinto Monteiro

jpm@servulo.com

Sérvulo & Associados | Sociedade de Advogados, RL

This publication was prepared by Sérvulo & Associados exclusively for information purposes and its content does not imply any sort of legal advice nor establish a lawyer client relation. Total or partial copy of the content herein published depends on previous explicit authorization from Sérvulo & Associados.

Rua Garrett, n.º 64 1200-204 Lisboa - Portugal Tel: (+351) 21 093 30 00 Fax: (+351) 21 093 30 01/02
geral@servulo.com www.servulo.com