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REAL STATE

LEGAL RULES ON SETTING UP AND OPERATING TOURIST RESORT DEVELOPMENTS

MAIN CHANGES RESULTING FROM THE AMENDMENTS INTRODUCED BY DECREE-LAW 15/2014 OF 23 JANUARY

More than five years after the publication of Decree-Law 39/2008 of 7 March, the legal rules on setting up and operating tourist resort developments (Regime Jurídico da Instalação, Exploração e Funcionamento dos Empreendimentos Turísticos, referred to in this Newsflash by the Portuguese initials RJIEFET), have been subject to sweeping changes introduced with the approval of Decree-Law 15/2014 of 23 January, published in the Official Gazette.

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The aim of these changes is to adapt the legal rules to the current socio-economic climate and, to achieve this aim, the adjustments and changes introduced in the RJIEFET focus on two main issues:

The first is to simplify the licensing procedures applicable to the various ways in which tourist resorts are operated. This is achieved by reducing the costs involved in the licensing and classification procedures and also by liberalising some of the procedures governed by the RJIEFET.

The second is to reduce and clarify the conditions necessary for setting up the various types of tourist resorts covered by the law.

When it comes to the actual use and operation of tourist resorts, with the

wording introduced by Decree-Law 15/2014 of 23 January, the RJIEFET establishes a new tacit approval mechanism. Under this mechanism, the application for authorisation for tourist use must be properly submitted together with proof of payment of the applicable fees. Then, if the deadlines set for the issue of the use licence pass without the administrative authorities refusing the application, the developer automatically has the right to open the resort in question.

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In terms of the classification of tourist resorts, one crucial change is the elimination of the obligation to pay fees for mandatory classification audits. These audits are carried out both at the moment the classification is awarded and at the time of any successive and necessary renewals. It should be noted that the elimination of this obligation only applies when the audits are carried out by *Turismo de Portugal, I.P.* Another important change is the creation of a possible exemption from the legal requirements imposed on the various categories of resort. This exemption can apply not only at the discretion of the administrative entity responsible for the resort, but also by meeting certain criteria which will be established by Order in Council.

The RJIEFET also makes an important change in relation to the requirement for prior approval from *Turismo de Portugal, I.P.* to register at the land registry *Títulos Constitutivos* (deeds establishing horizontal property), which govern

tourism developments that include plots or units in one or more buildings. Under the new rules, registration can be dealt with directly by a decision of the land registrar at the request of the developer. The land registry office is then responsible for subsequently communicating the registration to *Turismo de Portugal, I.P.*

Finally, and of equal importance, the concept of 'Local Accommodation' (*Alojamento Local*), up to now regulated by Decree-Law 39/2008 of 7 March, is now covered by its own legislation, also in the form of a Decree-Law. The aim of this new legislation is to fit this type of accommodation into the existing range of supply of temporary accommodation.

In summary, we should see the publication of this legislation as a clear step towards imposing greater simplification and efficiency on the administrative procedures involved in setting up and operating tourist resort developments.

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