



TECHNOLOGY AND PRIVACY

Amendment to the rules on selling at a reduced price – sales, promotions and liquidations

The amendments introduced by Decree-Law 109/2019 to the Sales, Promotions and Liquidations Law (DL 70/2007 of 26 March) came into force on 13 October.

The highlights of the amendments that have been made are:

- i) The possibility to offer promotions at the same time as sales;
- ii) The possibility to hold sales at any time of the year, with a total maximum duration of 124 days per year;
- iii) The introduction of new criteria to define the reference price to apply price reductions: the “lowest price previously applied” and the “reduction percentage”; and
- iv) The obligation to communicate the sales period to the Authority for Food and Economic Safety (ASAE) through the *e.Portugal* website.

All this means business are allowed to hold promotions and sales at the same time, which is undoubtedly (a beneficial) change to the old rules. However, those businesses will have to take greater care in determining the prices for their sales and promotions.

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The reasons for this are twofold. First, a sale is considered to be the sale of products (or services) at a **price lower than the lowest price previously applied** in the same commercial establishment, with the aim of promoting the rapid disposal of stocks. Second, a promotion is to boost the sales of a product, to launch of a new product in commercial establishment or to develop its commercial activity. The promotion involves the application of a **price lower than the lowest price previously applied** or with conditions more advantageous than those offered in selling periods without a price reduction or, in the case of new products, at a price lower than the one to be applied after the promotion.

The concept of “lowest price previously applied” is common to the two practices – sales and promotions. It is defined by the current wording of the law as the price at which the product has been sold, **outside any sales or promotion periods, in the 90 days prior** to the day on which it is put on sale in a sale or promotion.

This is a significant change to the rules that have applied to sales and promotions until now.

Finally, the prior communication to ASAE of the intention to hold a sale or liquidation must be made through the *e.Portugal* website. For sales, the minimum prior notice remains unchanged at 5 working days. For liquidations, the minimum prior notice is 15 working days and this is different to the period under the old rules.

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