

**PUBLIC LAW**

Arrangements for the extraordinary revision of prices

Categories of public service provision contracts covered

Ministerial Order 74-A/2023¹ entered into force on 8 March 2023. This order determines the categories of public procurement contracts for services to which the exceptional and temporary arrangements relating to price increases affecting public procurement apply.

In fact, since 21 May 2022, exceptional and temporary arrangements have been in force for the revision of prices and the award of contracts above the base price. These arrangements were approved by Decree-Law 36/2022 of 20 May in response to the sudden and exceptional increase in the cost of raw materials, materials, labour and auxiliary equipment, which affected public contracts, particularly public works contracts. Although these arrangements were originally intended to last until 31 December 2022, they have been extended until 30 June 2023².

These exceptional arrangements apply to public contracts that are either already being performed or have yet to be signed. They also apply to public procurement procedures that have already started or are yet to start. Although they are specifically intended for public works contracts, the arrangements also apply, with the necessary adaptations, to public contracts for the purchase of goods and, in the case of the purchase of services, to the categories of contracts defined by order of the members of the Government responsible for the area of finance and the sector of activity (see Article 2(1) and (2) of Decree-Law 36/2022).

The Ministerial Order specifies the categories of service contracts to which the exceptional price revision arrangements apply.

Ministerial Order 74-A/2023 specifies the categories of service contracts to which the exceptional and temporary price revision arrangements apply.

Diogo Duarte
Campos

Joana Brandão

António Brás
Simões

Bernardo Patrão

Public Law team

¹ Of 7 March.

² The extension of Decree-Law 36/2022 was approved by Decree-Law 67/2022 of 4 October.

From 8 March 2023, the price of all public contracts whose object is the provision of any of the services listed in the preceding paragraphs can be subject to extraordinary revision, provided that the procedure laid down in Decree-Law 36/2022 is complied with.

Categories of contracts subject to extraordinary price revision

In accordance with the provisions of Article 2(2) of the Decree-Law, the Ministries of (i) Internal Administration, (ii) Finance, (iii) the Economy and the Sea, (iv) the Environment and Climate Action, (v) Infrastructure and (vi) Agriculture and Food have jointly issued Ministerial Order 74-A/2023 of 7 March. This order defines the categories of service contracts covered by the extraordinary price revision arrangements as follows:

- i) Health and safety coordination for works contracts
- ii) Operation of canteens
- iii) Supervision of works contracts
- iv) Supply of energy
- v) Supply of meals
- vi) Management of waste, sludge and other by-products
- vii) Waste water collection
- viii) Collection and treatment of municipal and hazardous waste
- ix) Sewage, refuse, cleaning and environmental services
- x) Water transport by tanker
- xi) Transport of persons and goods.

Thus, from 8 March 2023, the price of all public contracts whose object is the provision of any of the services listed in the preceding paragraphs can be subject to extraordinary revision, provided that the procedure laid down in Decree-Law 36/2022 is complied with. ■