

RENTAL OF TOURISTIC HOUSING – NEW OBLIGATIONS

The new Royal Decree 28/2016, which regulates touristic accommodation, has been published on 11th February 2016 in the Official Gazette of the Andalusian Government.

What is meant by touristic accommodation?

The Royal Decree classifies touristic accommodation as properties located on **residential land**, which **regularly offers accommodation** for touristic purposes, in exchange of a payment.

It is presumed that there is a touristic purpose and regularity, when the property is marketed or promoted through “channels of touristic offers”. Travel agents, touristic intermediary companies, or organizers that offer the option to reserve a property for rental, will be considered as “channels of touristic offers”.

As the law explains, during the last years, there has been a significant increase in the use of private accommodation for touristic purposes, that may be providing cover to situations of intrusion and unfair competition, which go against the law of tourism of Andalusia. Hence, the aim of this new Royal Decree is to regulate those properties that offer the service of touristic accommodation, in order to establish minimum guarantees of quality, comfort and safety for the consumers.

To market and promote this type of properties (both renting the property as a whole, or renting spare bedrooms – “*Bed & Breakfast*”), the Royal Decree

- i) establishes certain specifications and requirements that the properties must fulfil,
- ii) regulates the minimum information that rental contracts must contain, and
- iii) obliges the owner to register these touristic accommodations in a special registry (“*Registro De Turismo de Andalucía*”).

The new regulation **does not apply to:**

- a) Properties rented without any monetary compensation.
- b) Rental contracts for more than two consecutive months for the same tenant.
- c) Properties in rural areas, that is subject to their own specific regulation.
- d) Also excluded are complexes of three or more properties, all owned by the same person, located within the same building or group of buildings, whether or not these are adjoining.

I. Requirements for properties offered for touristic purposes

- a) They must have habitation license, and comply at all times with the quality and technical conditions demanded in all dwellings.
- b) Rooms must have external ventilation, or windows to patios and some sort of system to prevent light to come through windows (e.g. shutters) (this condition is not required for listed properties of Cultural Interest that are unable to carry out refurbishment works).
- c) Properties must be adequately furnished and equipped with appliances and utensils needed for immediate use, and in accordance to the number of beds offered.
- d) Air-conditioning by fixed equipment in all bedrooms and living rooms, when rented from May to September. Likewise, they must have heating system when rented from October to April (same exemption applies to Properties listed as Cultural interest).
- e) First Aid Kit.



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- f) Touristic information from the area, available in physical or electronic form, regarding entertainment, restaurants and cafes, shops and food stores, the closest parking to the property, existing medical services in the area, urban transport and guide of existing shows, cinemas.
- g) Complaint forms available to customers and notice board displayed in a visible place of the property.
- h) Cleaning services upon entrance and exit of new customers.
- i) Double set of household linen and general household utensils in relation to the beds offered.
- j) Provide customers with a phone number for the immediate enquiry, question or issue related to the property.
- k) Provide customers with information and operating instructions for appliances or other devices that may require it for its proper use.
- l) Inform customers of internal regulation regarding the use of the premises and/or other equipment of the property, the admission and presence of pets in the house, restrictions on smokers as well as areas of restricted use, if any.

II. Requirements of the rental contracts of touristic properties

The rental contract of touristic properties should at least contain: personal information of the owner (or intermediary, in such case); the registration code number (*código del "Registro de Turismo de Andalucía"*); number of persons that will occupy the property; entry and exit dates; total price of the stay (that will include the water, electricity, and cleaning); telephone number available for the event of any issue or enquiry, personal identity documents of the consumers; and stipulations regarding price, reservation deposit, cancelation policy and penalizations.

The contract, once completed and signed by both parties, shall be kept by the owner or intermediary, and shall remain available to the competent administrative entities of the Junta de Andalucía, for period of one year.

If a cancellation occurs, both by the part of the customer or the owner, due to force majeure duly justified, no penalty can be applied.

III. Registration in the tourism Registry of Andalusia

To start providing services of touristic accommodation, the owner or the intermediary operator will have to formalize the correspondent "statement of compliance", declaring compliance with all legal requirements, and filing this sworn declaration in the "*Registro de Turismo de Andalucía*". From the moment the registration code number is obtained, these properties can start offering touristic accommodation. The minimum content of this statement is the following:

- a) Identification details of the property, land registry information, cadastral reference, and capacity (depending on occupancy license or equivalent document).
- b) Personal details of the owner and address for notifications.
- c) Identification of the intermediary operator, if it is not the owner, and legal document that enables the commercialization of the touristic accommodation.

Once registration of the touristic accommodation is completed, the **registration code number** obtained must be included in all advertising or promotion of the touristic property.

The owner of the property will be responsible for complying with all the requirements of this law. It is presumed that the owner is also the merchandiser, unless otherwise stated in the "statement of compliance" filed in the "*Registro de Turismo de Andalucía*".



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Penalties for failing to comply with the relevant registration (filing the “statement of compliance” in the authorities) will **range from 2.001 to 18.000 euros**, unless the infringement is considered very severe - notorious injury or serious damage to the tourism image of Andalusia and its tourist destinations-, where the fine **could amount to 150.000 euros**.

The Royal Decree enters into force three months after its publication, this is on **11th May 2016**, although it allows for the owners that do not have the air conditioning system (hot and cold) installed, a period of one year to complete the installation as required, before this law is enforceable in that particularity.

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