

## Andalucian Decree on renting tourist establishments

### **(DECRETO 28/2016, de 2 de febrero, de las viviendas con fines turísticos y de modificación del Decreto 194/2010, de 20 de abril, de establecimientos de apartamentos turísticos)**

This Decree published in the official Boletín on 11/2/2016 will come in to force on **11/5/2016**. By that date all owners wishing to rent out their property to holidaymakers other than privately, on a short term basis (less than 2 months), must register with the Andalucía Tourism Authorities. They will have a further year in which to make changes to the dwelling necessary to ensure compliance with the Decree.

**NB** The Law will not apply where an owner or operator rents out 3 or more properties in the same building or within a 1km radius; in those circumstances Decreto 194/2010 regulating *tourist apartments* will apply.

### **So what are the changes?**

The dwelling must have :

- Bedrooms must have ventilation to exterior and means to provide darkness
- Air-conditioning in living room and bedrooms, and heating if the property is to be rented during the months October-April (inclusive). *ie by May 2017*
- First aid kit
- Tourist information including information on local shops, car parks, restaurants and doctors
- Complaints sheets - with a notice displayed confirming this is available
- Cleaning prior to handover
- Bed linen, and crockery etc suitable for the number of places offered and replacement set
- Telephone number supplied for the "immediate resolution" of any issues concerning the property
- Instructions for use of white goods etc

### **Contract/Handover**

1. The tenant must be given a document specifying:
  - Name of person or entity renting the property
  - Reg N<sup>o</sup> with Andalucian Authorities -when available, the Registry opens on 16th May 2016 so the N<sup>o</sup> will not be immediately available

- Number of persons taking the rental
  - Dates of entry and departure
  - Price
2. The guests aged over 16 must present their ID with a view to completing this in the registration document, which must in turn be submitted to the Guardia Civil /Policia Local (can be done on line). The registration document must be kept for 3 years.
  3. The document referred to at 1 above must be signed by the user and retained for 1 year.
  4. The guest will be given information on white good use and any other pertinent information about the property or Community Rules such as swimming pool use etc , together with any keys necessary for access to the facilities.
  5. Entry will be from 16h and departure at 12h, unless otherwise stated.

#### **Pricing and Reservation**

- The price stated must be per night and is to include all utilities and cleaning
- Receipt must be given for any deposit paid
- Conditions regarding cancellation and other booking terms covering eg deposit must be clearly stated. Any reservation must be confirmed with confirmation of total price, any deposit received and penalty for cancellation
- If nothing expressly agreed, 30% deposit may be requested
- Standard conditions on cancellation *if nothing expressly agreed* - 50% of deposit may be kept if cancellation made with 10 or more days notice, entire deposit may be kept if less than 10 days notice given. If owner cancels, deposit must be returned and if less than 10 days notice given compensation of 30% of price of stay unless force majeure applies

#### **Registration with Junta de Andalucia**

There must be a person or entity responsible before the Authorities. This will be presumed to be the legal owner, unless another person or entity is named in the ***Declaracion Responsable***. This is a standard declaration which must be made , which must contain:

- Catastral reference, capacity according to occupation licence
- Details of owner , or person or entity exploiting the property if this not the owner with details of his legal title
- Address for purpose of receiving notifications if different to owner

#### **Licence of First Occupation**

This must be to hand when the Declaracion Responsable is submitted. Where no licence of occupation is available , where perhaps the date of construction predates this requirement, an alternative certificate from the Town Hall will be acceptable.

All details to be kept up to date. Once Reg N<sup>o</sup> given, this must be included in all promotional literature.

**At Puerta Vides we can review whether the new law will apply to your situation, and assist with the entire registration process including obtaining any necessary documentation/the licence of first occupation.**

*Please note this is intended as general guidance only, specific advice should always be sought.*

**Rebecca Kettell Solicitor, Puerta Vides SL, APRIL 2016**