



New Law Distance Selling

On June 13, 2014 enters into force the new law applicable to distance selling and off-premises contracts.

The new provisions introduced by the Decree Law 24/2014, of 14 February, are the result of the transposition of Directive 2011/83/EU.

The new Decree-Law introduce several changes – the scope of the law its reduced through the exclusion of several areas of activity, increase of the information to be provided to the consumer, definition of specific requirements applicable to distance contracts and off-premises contracts and new provisions applicable to the right of withdrawal.

Outside of scope contracts

- * Financial services.
- * Concluded by means of automatic vending machines or automated commercial premises.
- * Concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer.
- * For the construction of new buildings, the substantial conversion of existing buildings and for rental of accommodation for residential purposes;
- * Social services and healthcare.
- * Gambling.
- * Package travel, holidays and tours.
- * Supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are physically supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace.
- * Established by a public office-holder who has a statutory obligation to be independent and impartial,
- * Passenger transport services.

Pre-contractual information

The trader should now provide several information to the consumer prior to the conclusion of the contract.

We highlight the mandatory information regarding prices and costs associated with the purchase, under penalty of the consumer shall not bear those charges or costs.

Under the withdrawal provisions, note that the Decree-Law includes as attachment a form that should be provided to the consumer with the information concerning the exercise of the right of withdrawal.

Distance contracts

According to the new rules, **the contract should be confirmed within 5 days after its conclusion** or, at the lasted, in the moment of the delivery of the good or the beginning of the rendering of services through the delivery of the pre-contractual information in a durable medium.

Off-premises contracts

The contracts concluded outside of the premises should be written contracts and should include all the mandatory pre-contractual information in Portuguese language and in a clear and intelligible manner.

The consumer should receive a copy of the contract duly signed.

The Decree-Law also foresee new requirements applicable to catalogs, magazines or other audio or audio-visual content associated with the contract.

DISTANCE SELLING and OFF-PREMISES CONTRACS

Right of Withdrawal

The provisions related to the right of withdrawal of distance contracts and off-premises contracts are subject to significant changes:

- The consumer shall have a period of **14 days to withdraw** from a distance or off-premises contract without giving any reason. This deadline remains unchanged but new provisions are applicable to the start of the term.
- If the trader has not provided the consumer with the information on the right of withdrawal, the **withdrawal period shall expire 12 months** from the end of the initial withdrawal period.
- It is approved a withdrawal form that should be provided to the consumer:

B. Model withdrawal form

(complete and return this form only if you wish to withdraw from the contract)

- To [here the trader's name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:
- I/We (*) hereby give notice that I/We (*) withdraw from my/our (*) contract of sale of the following goods (*)/for the provision of the following service (*),
- Ordered on (*)/received on (*),
- Name of consumer(s),
- Address of consumer(s),
- Signature of consumer(s) (only if this form is notified on paper),
- Date.

- The trader shall **reimburse all payments received from the consumer not later than 14 days** from the day on which he is informed of the consumer's decision.
- The consumer shall **send back the goods not later than 14 days** from the day on which he has communicated his decision to withdraw. The consumer is also responsible for the payment of the cost with the return of the goods except if the trader did not inform the consumer.
- In case of **rendering of services**, the consumer shall pay an amount which is in proportion to what has been provided until the time the consumer has informed the trader of the exercise of the right of withdrawal.
- The Decree Law foresee several **exceptions to the right of withdrawal** essentially related with the features of the goods.

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