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# Public Law

Newsletter | Portugal

1<sup>st</sup> Quarter 2019

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## Contents

- > **Legislation**
- > **Relevant Case Law**



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## I. Legislation

### Energy

**Statement of Rectification no. 18/2019 of Energy Services Regulatory Authority (ERSE) – Official Gazette no. 4/2019, Series II of 2019-01-07**

Rectifies Directive no. 16/2018, of December 13<sup>th</sup> of ERSE 13 which approves the rules on the labelling of electric energy.

**Directive no. 1/2019 of Energy Services Regulatory Authority (ERSE) - Official Gazette no. 4/2019, Series II of 2019-01-07**

Promotes the first amendment of the Manual of Procedures of the Mechanism of Joined Management of Portuguese-Spain interconnection

**Directive no. 2/2019 of Energy Services Regulatory Authority (ERSE) - Official Gazette no. 4/2019, Series II of 2019-01-07**

Approves the Notice of GTG on guaranties regarding the accession to the overall technical management of the SNGN.

**Regulation no. 35/2019 of National Entity of the Energy Sector – Official Gazette no. 6/2019, Series II of 2019-01-09**

Approves the organic of the National Entity of the Energy Sector.

**Law no. 5/2019 - Official Gazette no. 8/2019, Series I of 2019-01-11**

Establishes the regime of compliance with the information requirement by energy suppliers to consumers.

**Directive no. 3/2019 of the Energy Services Regulatory Authority (ERSE) - Official Gazette no. 8/2019, Series II of 2019-01-11**

Establishes the loss of energy profiles in 2019.

**Directive no. 4/2019 of the Energy Services Regulatory Authority (ERSE) – Official Gazette no. 10/2019, Series II of 2019-01-15**

Approves the rules of the Pilot Project on the participation of consumption on the market of regulation reserve

**Directive no. 5/2019 of the Energy Services Regulatory Authority (ERSE) - Official Gazette no. 13/2019, Series II of 2019-01-18**

Tariffs and prices of electrical energy and other services in 2019.

**Directive no. 6/2019 of the Energy Services Regulatory Authority (ERSE) - Official Gazette no. 13/2019, Series II of 2019-01-18**

Consumption, production and auto-consumption Profiles applicable in 2019



**Regulation no. 76/2019 of the Energy Services Regulatory Authority (ERSE) - Official Gazette no. 13/2019, Series II of 2019-01-18**

First amendment of the Charging /Tariff Regulation of the Electric Sector.

**Order no. 895/2019 – Official Gazette no. 16/2019, Series II of 2019-01-23**

Defines the corresponding parameter to the impact of the non-market measures and events in the European Union on the formation process of the average electricity price in the wholesale market in Portugal.

**Ministerial Order no. 43/2019 of the Ministry of Environment and Energy Policy – Official Gazette no. 22/2019, Series I of 2019-01-31**

Amends Article 7 of Ministerial Order no. 102/2015, of April 7<sup>th</sup>, as established by Ministerial Order no. 246/2018, of September 3<sup>rd</sup> (authorization procedures of over-equipment of the wind farms)

**Directive no. 7/2019 of the Energy Services Regulatory Authority (ERSE) – Official Gazette no. 40/2019, Series II of 2019-02-26**

Formation of the price of the secondary regulation band.

### Territorial Planning

**Law no. 1/2019 – Official Gazette no. 6/2019, Series I of 2019-01-09**

First amendment of Law no. 56/2018, August 20<sup>th</sup> that creates the Independent Technical Centre for the analysis, monitoring and assessment of forest and rural fires which occurred in the national territory.

**Resolution of the Council of Ministers no. 9/2019 – Official Gazette no. 9/2019, Series I of 2019-01-14**

Approves the projects of installation and improvement of the Primary Network of Fuel Management

**Decree-Law no. 9/2019 of the Presidency of the Council Minister – Official Gazette no. 13/2019, Series I of 2019-01-18**

Creates the statue of the «Jovem Empresário Rural» and defines their recognition procedure.

**Resolution of the Council of Ministers no. 12/2019 – Official Gazette no. 14/2019, Series I of 2019-01-21**

Approves the vision, objectives and measures of the execution of the System of rural fires integrated management.

**Resolution of the Council of Ministers no. 13/2019 – Official Gazette no. 14/2019, of 2019-01-21**

Approves the diagnosis report and the measures for the forestry territory enhancement and for the incentive to the active forestry management.



**Decree-Law no. 11/2019 of the Presidency of the Council Minister – Official Gazette no. 14/2019, Series I of 2019-01-21**

Amends the legal framework of the development plans, of the management and intervention of forest matters.

**Decree-Law no. 12/2019 of the Presidency of the Council Minister – Official Gazette no. 14/2019, Series I of 2019-01-21**

Amends the legal framework for foresting and reforesting actions with recourse to forest species in the continental territory.

**Decree-Law no. 13/2019 of the Presidency of the Council Minister – Official Gazette no. 14/2019, Series I of 2019-01-21**

Amends general rules applicable to production and supply of forest reproductive material used to forestry purposes.

**Decree-Law no. 14/2019 of the Presidency of the Council Minister – Official Gazette no. 14/2019, Series I of 2019-01-21**

Clarifies the building constrains in the Nacional Defense System against Forest Fires.

**Decree-Law no. 15/2019 of the Presidency of the Council Minister – Official Gazette no. 14/2019, Series I of 2019-01-21**

Creates the procedure of identification and recognition of rural or mixed property without known owner, hereinafter referred as property without owner, and their register.

**Notice no. 1479/2019 of the Ministry of Environment and Energy Policy – Official Gazette no. 18/2019, Series II of 2019-01-25**

Adoption of the Official Administrative Charter of Portugal, in 2018's version.

**Ministerial Order no. 38/2019 of the Ministry of Finance and the Ministry of Ministry of Agriculture, Forestry and Rural Development – Official Gazette no. 20/2019, Series I of 2019-01-29**

Regulates the support legal scheme for projects provided for in PNRegadios and included in finance agreements entered into by the Portuguese Republic, the Investment European Bank (IEB) and the Council of Europe Development Bank (CEDB).

**Law no. 10/2019 – Official Gazette no. 27/2019, Series I of 2019-02-07**

Creates the Observatory of Housing, Lease and Urban Regeneration for the monitoring of the market of national urban lease.

**Ministerial Order no. 65/2019 of the Ministry of Environment and Energy Policy – Official Gazette no. 35/2019, Series I of 2019-02-19**

Reviews the legal regime of controlled cost housing.

**Ministerial Order no. 72-D/2019 of the Ministry of Agriculture, Forestry and Rural Development – Official Gazette no. 46/2019, 1<sup>st</sup> Supplement, Series I of 2019-03-06**

Establishes the applicable regime of support 6.2.1, «Prevenção de calamidades e catástrofes naturais», inserted in action no. 6.2, «Prevenção e restabelecimento do potencial produtivo»,



of measure no. 6, «Gestão do risco e restabelecimento do potencial produtivo», of Rural Development Programme of the Continent, abbreviated as PDR 2020

### Infrastructures

#### **Notice no. 310/2019 – Official Gazette no. 4/2019, Series II of 2019-01-07**

Sets the weighted indices of labor costs, support materials and equipment referred to the months of April, May and June 2018, for the purpose of the application of price revision formulae mentioned by Article 6 of Decree-Law no. 6/2004, of January 6<sup>th</sup>.

#### **Notice no. 311/2019 – Official Gazette no. 4/2019, Series II of 2019-01-07**

Sets the weighted indexes of labor costs, support materials and equipment referred to the months January, February and March 2018, for the purpose of the application of price revision formulae mentioned by Article 6 of Decree-Law no. 6/2004, of January 6<sup>th</sup>.

### Environment

#### **Ministerial Order no. 6-A/2019 of the Ministry of Finance – Official Gazette no. 3/2019, 1<sup>st</sup> Supplement, Series I of 2019-01-04**

Sets the additional rates of CO2 emissions (indice 2) provided for in Article 92-A of CIEC and the additional value resulting from the application of this rates to the additional facts related to each product (Code of the Consumption Specials Taxes/ carbon charge)

#### **Decree-Law no. 10/2019 of the Presidency of the Council Minister – Official Gazette no. 13/2019, Series I of 2019-01-18**

Amends the trading scheme of greenhouse gas emission.

#### **Ministerial Order no. 28/2019 of the Ministry of Interior/Internal Affairs, of the Ministry of Labor, Solidarity and Social Security, of the Ministry of health, of the Ministry of Planning, of the Ministry of Infrastructures and of the Ministry of Environment and Energy Policy – Official Gazette no. 13/2019, Series I de 2019-01-18**

Amends Ministerial Order no. 145/2017, of April 26<sup>th</sup> that defines the rules applicable to road, rail, inland waterway, sea and air transport of waste in national territory, and creates the electronic guides for the monitoring of waste (e-GAR), and Ministerial Order no. 289/2015, September 17<sup>th</sup> which approves the Regulation of the Functioning of the Integrated Waste Electronic Register System (SIRER).

#### **Resolution of the Council of Ministers no. 14/2019 – Official Gazette no. 14/2019, Series I of 2019-01-21**

Approves the structural prevention projects against fires, of restoration, conservation and enhancement of natural habitats and of the environmental education of various protected areas.

#### **Ministerial Order no. 42/2019 of the Ministry of Labor, Solidarity and Social Security and of the Ministry of Environment and Energy Policy – Official Gazette no. 21/2019, Series I of 2019-01-30**



Second Amendment of Ministerial Order no. 349-D/2013, December 2<sup>nd</sup>, rectified by the Statement of Rectification no. 3/2014, of January 31<sup>st</sup>, and republished by Ministerial Order no. 17-A/2016, February 4<sup>th</sup>, that establishes the requirements for the granting related to thermal quality and efficiency of technical systems of new buildings, buildings subjected to intervention and existing buildings.

**Ministerial Order no. 116-A/2019 of the Ministry of Finance, of the Ministry of Internal Affairs, of Deputy Minister and Ministry of Economy, of the Ministry of Science, Technology and Higher Education, of the Ministry of Health, of the Ministry of Planning and of the Ministry of Environment and Energy Policy – Official Gazette no. 24/2019, 1<sup>st</sup> Supplement, Series II of 2019-02-04**

Approves the Quality Improvement Plan of the Air of Region of Lisboa e Vale do Tejo for the pollutants particles PM (indice 10) and nitrogen dioxide in the agglomerations of North Lisbon Metropolitan Area and South Lisbon Metropolitan Area.

**Order no. 1761/2019 – Official Gazette no. 35/2019, Series II of 2019-02-19**

Allocation Plan of supports and use of revenues of Environmental Found for 2019.

**Commission Communication 2019/C 77/01 – Official Journal of the European Union of 2019-03-01**

Guidance for the development of National Air Pollution Control Programmes under Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants.

**Law no. 25/2019 - Official Gazette no. 60/2019, Series I of 2019-03-26**

Fourth Amendment of framework law on environmental offences, enshrines the principle of no prior notice of inspection and supervision actions.

**Resolution of the Assembly of Republic no. 43/2019 – Official Gazette 60/2019, Series I of 2019-03-26**

Recommends the Government to legislate on soil prevention of contamination and remediation.

### Public Finances

**Notice no. 212/2019 of Cash and Public Debt Management Agency – Official Gazette no. 3/2019, Series II of 2019-01-04**

Rate of interest on arrears applicable to State debts and other public entities to 2019.

**Resolution of the Council of Ministers no. 8-A/2019 – Official Gazette no. 8/2019, 1<sup>st</sup> Supplement, Series I of 2019-01-11**

Authorizes the issue of Public debt, in execution of the State Budget for 2019.

**Opinion no. 2/2019 of the Court of Auditors – Official Gazette no. 15/2019, Series II of 2019-01-22**

Opinion on the State General Account of 2017.



**Statement no. 11/2019 of the Ministry of Finance – Official Gazette no. 29/2019, Series II of 2019-02-11**

Provisional Account from January to December of 2018.

**Statement of Rectification no. 6/2019 – Official Gazette no. 43/2019, Series I of 2019-03-01**

Statement of Rectification of Law no. 71/2018, December 31<sup>st</sup>, that approves the State Budget for 2019.

## Administrative Organization

**Decree-Law no. 5/2019 of the Presidency of the Council Minister – Official Gazette no. 9/2019, Series I of 2019-01-14**

Establishes the procedures for the settlement of debts of local authorities in the sector of water and treatment of wastewater.

**Ministerial Order no. 11/2019 of the Ministry of Culture, of the Ministry of Planning and the Ministry of Infrastructures – Official Gazette no. 9/2019, Series I of 2019-01-14**

Approves the regulation for the classification and assessment of information produced in the exercise of functions by Infraestruturas de Portugal, S. A., and its undertakings - Grupo IP

**Statement of Rectification no. 2/2019 of the Presidency of the Council Minister – Official Gazette no. 17/2019, Series I, of 2019-01-24**

Rectifies Decree-Law no. 98/2018, of November 27<sup>th</sup> that implements the framework for the transfer of powers to municipal in the field of authorization to operate the related modalities of gambling and other forms of gambling, published in Official Gazette, Series I, no. 228, of November 27<sup>th</sup>, 2018.

**Statement of Rectification no. 3/2019 of the Presidency of the Council Minister – Official Gazette no. 18/2019, Series I of 2019-01-25**

Rectifies Decree-Law no. 100/2018, which implements the framework for the transfer of powers to municipal bodies in the field of communication routes, published in Official Gazette, Series I, no. 229, of November 28<sup>th</sup>, 2018.

**Ministerial Order no. 39/2019 of the Ministry of Culture, of the Ministry of Planning and of the Ministry of Infrastructures – Official Gazette no. 20/2019, Series I of 2019-01-29**

Approves the Regulation for the Classification and Assessment of Information produced in the exercise of functions by CP - Comboios de Portugal, E. P. E

**Decree-Law no. 20/2019 of the Presidency of the Council Minister – Official Gazette no. 21/2019, Series I of 2019-01-30**

Implements the framework for the transfer of powers to municipal bodies in the field of animal health and food safety.

**Decree-Law no. 21/2019 of the Presidency of the Council Minister – Official Gazette no. 21/2019, Series I of 2019-01-30**



Implements the framework for the transfer of powers to municipal bodies and intermunicipal entities in education matters.

**Decree-Law no. 22/2019 of the Presidency of the Council Minister – Official Gazette no. 21/2019, Series I of 2019-01-30**

Develops the framework for the transfer of powers to municipalities in culture matters.

**Statement of Rectification no. 10/2019 of the Presidency of the Council Minister – Official Gazette no. 59/2019, Series I of 2019-03-25**

Rectifies Decree-law no. Decree-Law no. 10/2019, which implements the framework for the transfer of powers to municipal bodies and intermunicipal bodies in health matters, published in Official Gazette no. 21, Series I, of January 30<sup>th</sup>, 2019.

**Law no. 26/2019 – Official Gazette no. 62/2019, Series I of 2019-03-28**

Legal regime of balanced representation of men and women in the managerial staff and in the bodies of Public Administration.

### Transport

**Ministerial Order no. 41/2019 of the Ministry of Finance, of the Ministry of Internal Affairs, of the Ministry of Planning, of the Ministry of Infrastructures and of the Ministry of Environment and Energy Policy – Official Gazette no. 21/2019, Series I of 2019-01-30**

First amendment of Regulation of Found for the Transport Public Service, approved by Ministerial Order no. 359-A/2017, of November 20<sup>th</sup>.

**Regulation no. 150/2019 of the Mobility and Transport Authority – Official Gazette no. 28/2019, Series II of 2019-02-08**

Regulation of supplied services charges.

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## II. Relevant Case Law

**Ruling by Constitutional Court No. 7/2019, 2<sup>nd</sup> Chamber, of January 8<sup>th</sup>, 2019 (Case no. 141/16), available at [www.tribunalconstitucional.pt](http://www.tribunalconstitucional.pt)**

Rules in favor of the constitutionality of Articles 2, 3, 4, 11 and 12 that establishes the legal framework of “Extraordinary Contribution on Energy Sector”, approved by Article 288 of Law no. 83-C/2013, of December 31<sup>st</sup>.

**Ruling by Constitutional Court No. 23/2019, 3<sup>rd</sup> Chamber, of January 9<sup>th</sup>, 2019 (Case no. 1397/17), available at [www.tribunalconstitucional.pt](http://www.tribunalconstitucional.pt)**

Rules against of the constitutionality of Article 5(1,b) of the Legal Framework of the emoluments of the Court of Auditors for infringement of the constitutional principle of proportionality.





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