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A GUIDE TO THE NEW HOLIDAY LETTINGS REGULATIONS FOR ANDALUCIA

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As an expat living in Spain you will be well aware of the envy your location provokes in your non Spanish based friends and relatives, they are always eager to visit!

Just as they want to take advantage of your beautiful dwelling, so would many others and maybe you have undertaken the odd rental or even advertised your home for rental. Some of you may even have declared the income you received for this! All easy to do and a nice way of making your property cover some of its costs, no harm done.

Now times are changing, mainly due the number of private rentals that occur in Spain and the Spanish Hotel Industry perked up and has been complaining for some time about the unfairness of the fact that private individuals can rent out their property without having to adhere to the many regulations that they have to comply with. They couldn't care less if the income you receive is declared or not, they just feel they are being unfairly treated and that this unfairness should stop.

Someone listened. On 11 February 2016, the Junta de Andalucia gave their approval, with effect from 12 May 2016, to legislation that will now govern private landlord rentals.

The aim of this new law is to regulate the holiday rental market. Apparently standards need to be raised for the tourists and landlords will now be required to meet a list of requirements, including registration of their properties, before they can advertise them for rental or legally rent them out. Surely not just an altruistic act from the Junta on behalf of the tourists, of course not, this registration obliges the landlord to declare all rental income received and to pay the corresponding tax, no real surprise.

So from now until May 12, anyone wanting to rent out their property risk free needs to submit various documentation to register their intention of carrying out a rental activity, with the Junta de Andalucia. It's not only Andalucia that is bringing in these regulations, most other parts of Spain have introduced similar rules.

Once registered, the Junta de Andalucia will assign a unique code to the property, this code, by law, has to appear on any marketing advertisements for rental of the property. Properties found advertising without such a code, will eventually, be inspected and the corresponding fines applied. Lots of inspections are being carried out as the author writes.

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There are certain stipulations that the property has to meet before registration can commence, one being that the property must have a "Licence of First Occupation".

There are numerous lists of exclusions, definitions and other rental stipulations, I will not recite them all but here are a few:

Excluded Properties:

- Those which are used by friends or family without an exchange of money, one might ask how can this be proved.....
- Rural properties, located in rural areas, ie a lone finca not in a town or urbanisation. However, these properties have their own governing, yet to be completed, legislation.
- When a property has the capacity to be rented out to more than 15 guests such properties come under Hotel/Hostal regulations.

Definition of Holiday Rental Property:

- Property that is rented out on a holiday basis, ie daily, weekly or monthly, to tourists.
- Property that is rented out by means of advertising in specialised media.

As I have said above, this is just a flavour to get you in the mood.

Similarly, there are a number of absolute requirements that the landlord has to meet before being able to legally rent out the property, again a few of the more interesting ones are listed below:

- Rooms must be ventilated and windows must have blinds or shutters.
- Rooms must have the appropriate furniture in proportion to the number of persons per room.
- Air conditioning units will be required in all bedrooms and lounge areas where property is rented from May to September and heating units where a property is rented from October to April.

Not really as amusing as first thought, although landlords will have until 12th May 2017 to make such adaptations.

As said the above is not a complete listing.

There are also numerous stipulations for the content of the actual Rental Agreement, a flavour:

- The contract must contain the contact details of the landlord, the property's unique registration code given by the Junta de Andalucia, mentioned earlier in this guide.
- All guests will have to supply copies of their personal identification, passports etc. at time of making the reservation, note this is not just for the person making the booking but for all guests. All guests will be required to complete a registration form upon arrival. Such forms will be lodged with the Guardia Civil for every guest over the age of 16 and must be lodged within 24 hours of arrival.
- Landlords must keep copies of registration forms for up to three years.

OK if that hasn't put you off, the following rules also have to be adhered to, again just a few examples:

- Advertised price to be per night and all inclusive. This means that all utility costs and cleaning has to be included.

- Invoices for rentals must detail all expenses including any additional services requested by the guest.
- If the stipulated terms are not included in the rental agreement, the following, by default, will apply:
- The maximum reservation fee is 30% of the total price.
- Cancellations, if done 10 days prior to rental, landlord to return 50% of reservation fee, if less than 10 days the landlord can retain the full reservation fee.
- If the landlord cancels 10 days or more before rental commencement no reimbursement to the guest is due, if the landlord cancels within 10 days, 30% of the agreed total price is payable to the guest.
- In cases of force majeure, no refunds from either party.

Again, in case the above has not put you off, non compliance results in the following fines:

- Offences are categorised as light, serious and very serious with the fines ranging from 2,000 Euro to a maximum of 150,000 Euro.
- If a landlord is caught renting out a non registered property, this will be considered a very serious offence with fines ranging from 18,000 Euro to 150,000 Euro.

There is a lot more to know but the above gives you a fairly decent overview. To get the complete picture, please contact Claudia Vargas Puccio, at Spence Clarke, on claudia@spenceclarke.com or call on +34 952 822943.

Thank you for reading the above and good luck.

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