

The New RJUE and Real Estate Brokerage

What Decree-Law No. 108/2026 of 29 May changes in the listing, marketing and transfer of property

Decree-Law No. 108/2026 of 29 May introduces the 21st amendment to the Legal Framework for Urbanisation and Building (Regime Jurídico da Urbanização e da Edificação – “RJUE”), approved by Decree-Law No. 555/99 of 16 December, and **enters into force on 1 October 2026** (Article 13(1), as amended by Decree-Law No. 155-B/2026 of 31 July). It applies to procedures commenced on or after that date and to procedures commenced earlier that are still at the stage of preliminary review (Article 12(1)). The Decree-Law does not amend the legal framework governing real estate brokerage (Law No. 15/2013 of 8 February). However, by substantially revising the RJUE, it changes the documentary and planning context in which properties are brought to market and calls for greater rigour in the information provided to owners and purchasers.

1. The planning title returns to the centre of the transaction

The position until now: since 1 January 2024, under Decree-Law No. 10/2024 of 8 January (the “Planning Simplex”), the use permit (*autorização de utilização*) has no longer had to be produced when a deed of sale is executed.

From 1 October: the new regime does not reinstate that requirement, but it does impose an express statement. Under **Article 4-A(14) of the RJUE**, in any legal transaction involving the transfer of land for urban construction, of buildings already built or under construction, or of their autonomous units, the land registrar, notary, lawyer, solicitor or other legally competent officer must record in the document formalising the transaction:

(a)	(b)	(c)
The existence of the corresponding planning title, where it is produced	The transferor’s declaration that it holds the corresponding planning title, where the title is not produced	The transferor’s declaration that it does not hold a planning title

Failure to include this statement renders the **transaction voidable**. The same article further provides that the use title for a building or autonomous unit is transferred automatically with the ownership to which it relates (paragraph 13).

In practice: a property without a planning title may still be transferred, but that position must be expressly declared in the instrument itself. For an estate agency, “no licence” does not mean “cannot be sold”; nor does it mean that the planning position may be disregarded. Since the statement must appear in the document formalising the transfer, the issue should be identified well in advance: ideally when the property is listed and, at the latest, when the promissory purchase and sale agreement (CPCV) is negotiated.

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2. The right question is no longer simply “is there a use permit?”

Agents should establish the planning framework applicable to the property. The RJUE now distinguishes three forms of prior control — licence, prior notification and prior notification with a time limit (Article 4) — and expressly regulates the corresponding titles (Article 4-A), as well as the title of a favourable prior information decision (Article 16(8)). In addition, certain operations are exempt from both licensing and prior notification (Article 6).

The absence of a licence does not necessarily mean an irregularity

Works carried out on a property may be lawful without a municipal licence if they fall within an exemption. An agent should not conclude that works are unlawful merely because no licence can be found, nor assert that they are lawful without appropriate confirmation. Works carried out without a title are not necessarily beyond remedy either: regularisation (*legalização*) is one of the measures for restoring planning compliance (Article 102(2)(d)), and the applicable procedures are to be laid down in municipal regulations (Article 3(2)(m)).

Prior information and tacit approval

A favourable prior information decision containing all the elements listed in Article 14(2) exempts the operation from licensing or prior notification, provided that it is carried out exactly as assessed (Article 17(2)). Where approval is tacit, the licence and the prior information decision are evidenced, in particular, by the application containing the summary of the operation, proof of its submission and proof of payment of the applicable fees (Articles 4-A(2) and 16(8)), which makes them easier to demonstrate to third parties.

3. Use of buildings

The use of buildings, and changes of use, are now subject to two mechanisms. Where they follow works carried out under a licence, a prior notification or an exemption based on a favourable prior information decision, a prior notification suffices, accompanied by a statement of responsibility from the works director or the works supervision director, and the building may be used immediately upon submission (Article 62-A). In all other cases, the prior notification with a time limit applies (Article 62-B): use may begin ten days after submission, unless within that period the mayor rejects the notification or orders an inspection (Article 64).

For new or recently refurbished properties, the operative question is no longer merely “has the use permit been issued?” but rather: “which title is required for the use, and is it already effective?”

4. Reconstruction: the benchmark becomes the “last valid precedent”

This point is particularly relevant when marketing older houses, ruins and properties advertised “for reconstruction”. Reconstruction works are now defined by reference to the building’s **last valid precedent** (Article 2(c)), meaning the last valid and effective planning operation, or one which, when carried out, did not require a title (Article 2(r)) — and not necessarily what physically exists on site.

Reconstruction works are exempt from licensing and prior notification (Article 6(1)(e)), except in the case of listed properties or properties in the process of being listed (Article 4(2)(d)). However, any

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intervention that increases the footprint, total floor area, façade height or the height or volume of the building constitutes extension works (Article 2(e)) and is subject to the corresponding regime. In practice, advertising a “possibility of reconstruction” requires knowing what that precedent is and what it actually permits.

5. Less prior control, greater responsibility and more stable titles

The new system relies more heavily on the declarations of the parties concerned, on the statements of responsibility issued by technical professionals and on subsequent inspection. For operations subject to prior notification, the municipality’s subsequent review lapses one year after payment of the fees (or after the start of use, if later), although compliance of the works with the projects may be inspected at any time (Article 35(10) and (11)). The fact that works have been completed, are occupied or have been placed on the market does not, in itself, mean that the planning position has been validated by the municipality.

In return, titles become more stable. **Until now**, the body that issued a licence or prior information decision could declare it null and void within ten years. **From 1 October**, that power lapses **three years** after the date on which the act was issued; the Public Prosecutor’s right to bring administrative proceedings and the right to bring a popular action lapse within the same period, save in respect of national monuments and their protection zones (Article 69(4)). Where the facts giving rise to nullity constitute a criminal offence, the period is extended to the applicable limitation period (Article 69(5)).

The new period also applies to legal situations already in existence, running from 1 October 2026, unless the period under the previous law would expire sooner (Article 12(3) of Decree-Law No. 108/2026 and Article 297(1) of the Civil Code). For purchasers and lenders, this is a significant factor of legal certainty; for agencies, it is a further reason to identify the existing title with precision.

Statements to avoid without documentary or technical support

- “Everything is legal.”
- “You can build a further 100 m².”
- “This swimming pool is licensed.”
- “You can convert the garage into a bedroom.”
- “This plot allows a 300 m² house to be built.”

6. What should change within an estate agency

01 Listing	Ask expressly about extensions, swimming pools, annexes, garage conversions, enclosed balconies or terraces, changes of use, approved projects, prior notifications and any regularisation or enforcement proceedings.
02 Documentation	Obtain, where applicable, the Land Registry certificate, the property tax record (<i>caderneta predial</i>), the energy performance certificate, floor plans, the planning title, prior notifications, documentation relating to use, approved projects and information on subsequent alterations.

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03 Advertising	Avoid expressions such as “fully legalised”, “guaranteed extension potential”, “plot suitable for...” or “licensed for...” without documentation or technical validation. For properties forming part of a subdivision, advertising must state the number and date of the subdivision title and its period of validity (Article 52).
04 Brokerage agreement	Strengthen the owner’s representations regarding the planning position, works carried out, available titles (including which of the three situations under Article 4-A(14) applies to the property), municipal proceedings and the accuracy of the documentation and information provided to the agency.

Due diligence: four realities that must be compared

What is registered?	Land Registry certificate
What is declared for tax purposes?	Property tax record (caderneta predial)
What is lawful from a planning perspective?	Planning title / municipal file
What exists on site?	Physical condition of the property

If these four realities do not match, there is an issue that must be clarified before the sale.

7. The practical rule for sales teams

IDENTIFY → GATHER → DO NOT ASSUME → REFER

Identify. Are there works, extensions, changes of use, documentary discrepancies or other indications that warrant planning verification?

Gather. What documentation exists, and what does it actually demonstrate about the property and the works carried out?

Do not assume. Agents should not characterise works in legal terms, guarantee building capacity or assert planning compliance without an adequate documentary or technical basis.

Refer. Where the issue is technical or legal, it should be referred to an architect, engineer or lawyer. The agency does not replace these professionals, but it must be able to recognise when validation is required.

Conclusion

Decree-Law No. 108/2026 does not turn estate agents into planning specialists. It does, however, make disciplined listing practices, the gathering of documentation and the accuracy of commercial information all the more important. Administrative simplification does not do away with due diligence: in many cases, it heightens the importance of verifying the specific situation before the CPCV and the deed are signed.

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At Martínez-Echevarría, we advise estate agencies, developers, owners and purchasers on the planning and legal analysis of real estate transactions in Portugal, including due diligence, brokerage agreements, promissory purchase and sale agreements and transaction structuring.

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