

## New single environmental licensing regime - VdA



**Following the conclusion, in May 2014, of the Programme of Economic and Financial Assistance (involving the International Monetary Fund, the European Commission and the European Central Bank), the Portuguese Government launched the 'Green Growth Strategy' and recently approved the 'Green Growth Commitment', which aims to link economic growth with responsible and sustainable economic behaviour.**

In this context, and based on the imperative of simplifying environmental licensing in order to enhance economic growth as well as promote investment and create an attractive business environment, the Council of Ministers approved a Single Environmental Licensing Regime ("Licenciamento Único Ambiental"), recently published in the official gazette through Decree-Law nr. 75/2015 of May 11. The main innovation of this legal regime is the incorporation, in a single title ("Título Ambiental Único – TAU"), of up to 10 different environmental regimes, many of which enacted EU Directives.

The regimes are: (i) Environmental Impact Assessment (Directive 2011/92/EU), (ii) Prevention of major accidents involving dangerous substances (Seveso II – Directive 96/82/EC), (iii) Industrial Emissions (Directive 2010/75/EU), (iv) Greenhouse Gas Emission Allowance Trading Scheme (Directive 2009/29/EC), (v) Waste Prevention, Production and Management (Directive 2008/98/EC), (vi) Use of Water Resources (Directive 2000/60/EC), (vii) Landfill of Waste (Directive 1999/31/EC), (viii) Hazardous Waste Licensing and Elimination, (ix) Management of Waste from Extractive Industries (Directive 2006/21/EC), and (x) Environmental Assessment (Birds and Habitats Directives among others).

The new decree-law entered into force on 1 June, 2015 and applies to all operators that carry out or develop any projects or activities within the scope of any of the above mentioned environmental regimes.

All licensing and authorisation requests will be supervised by a procedure manager ("*Gestor do Procedimento*") responsible for guaranteeing the adequate procedural steps, compliance with terms, and the articulation with the various licensing entities. Said requests shall be submitted in an electronic platform (SILIAMB) managed by the Portuguese Environment Agency (APA).

The Single Environmental Title (TAU), issued by the competent licensing authority – APA or the Regional Licensing Authority (CCDR) – is an electronic title describing the licensing request, as well as all licenses and

authorisations applicable to the request according to the environmental regimes within the scope of this new framework. The title also identifies all applicable legal requisites. The TAU will be a condition precedent for the exercise of the activity or development of the project at stake and shall be permanently updated, allowing the Public Administration to keep the environmental history and track record of the activity/project, in a single document.

The terms set forth in the 10 environmental legal regimes shall remain unaltered and the Annex to the decree-law contains a table with the maximum time-frame for the issue of the TAU regarding each legal regime. Whenever more than one legal regime applies to the activity/project to be licensed, the term for the issue of the TAU shall correspond to the one with the longest term set forth in the law.

Finally, the several administrative fees foreseen in the 10 legal regimes within the scope of the Single Environmental Licensing Regime, are replaced by a single environmental fee (“Taxa Ambiental Única” - TUA) which is significantly reduced in comparison with the fees contained in said legal regimes when individually considered.

The new regime will not have a significant impact on companies' current operations as the main changes are of a procedural and organisational nature with the clear purpose of allowing the government to complete and organise the environmental information regarding each economic operator. However, this may allow for quicker and better-quality decisions as the flow of information between the different licensing entities is expected to improve.

Nevertheless, it will be essential to guarantee an adequate and simple functioning of the SILIAMB electronic platform, as well as the human capacity for the existence of procedure managers with effective control regarding each project or activity.

In order to guarantee articulation with the Single Environmental Licensing Regime, the Portuguese Government has also recently amended the Industrial Licensing Regime through Decree-Law nr. 73/2015 of May 11.

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[http://www.iberianlawyer.com/legal-updates/environmental/4740-new-single-environmental-licensing-regime-vda?utm\\_source=Iberian+Lawyer%2C+In-House+Club+y+Marketing&utm\\_campaign=67ceacebfe-Iberian\\_Lawyer\\_email\\_alert&utm\\_medium=email&utm\\_term=0\\_ac7950f7d1-67ceacebfe-66656621](http://www.iberianlawyer.com/legal-updates/environmental/4740-new-single-environmental-licensing-regime-vda?utm_source=Iberian+Lawyer%2C+In-House+Club+y+Marketing&utm_campaign=67ceacebfe-Iberian_Lawyer_email_alert&utm_medium=email&utm_term=0_ac7950f7d1-67ceacebfe-66656621)