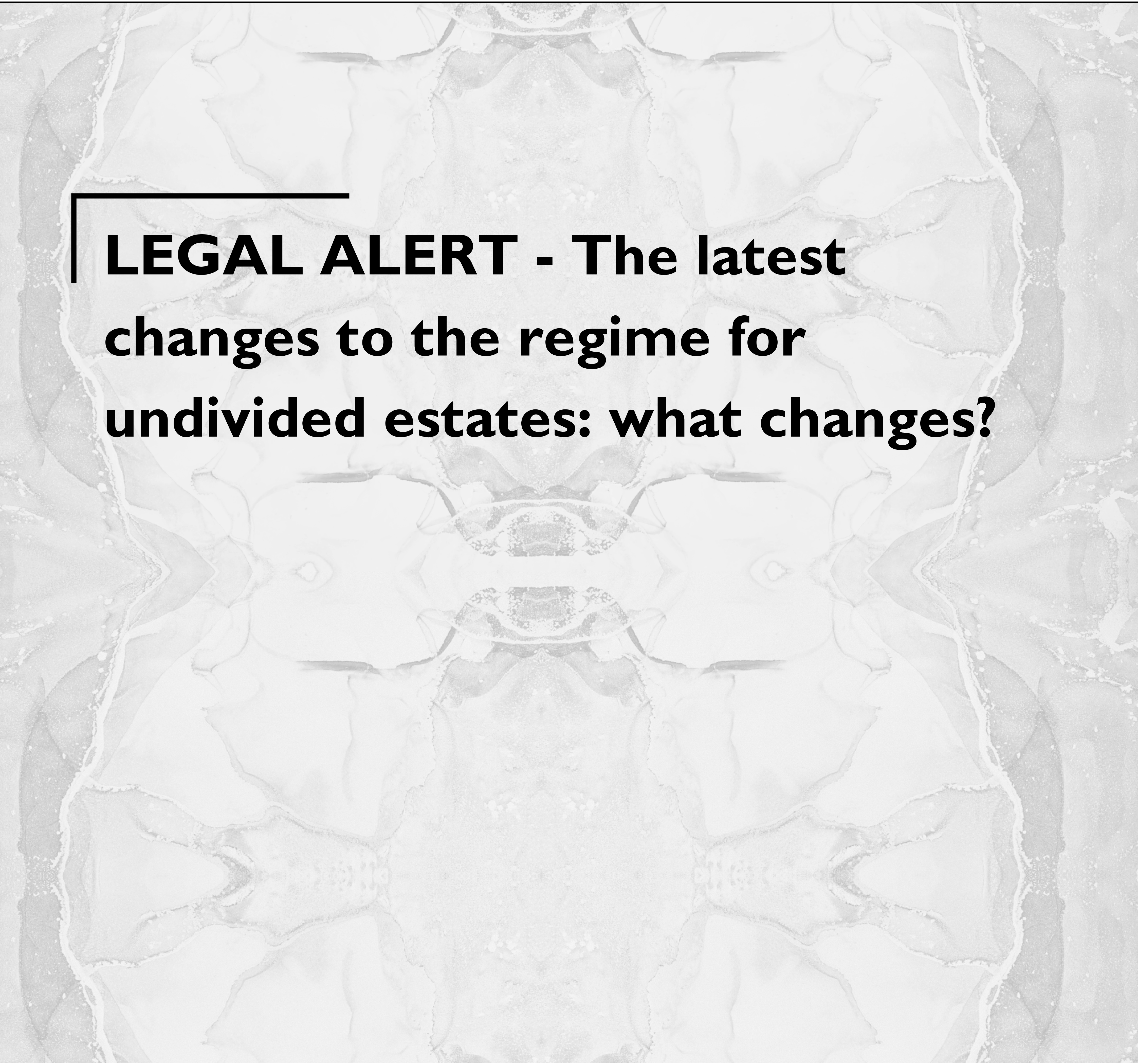


Building Projects Over Strong Relationships



LEGAL ALERT - The latest changes to the regime for undivided estates: what changes?

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On 17 July 2026, Parliament approved the Government's bill introducing far-reaching changes to the regime for undivided estates in Portugal.

One month later, on 17 August 2026, the Government was authorised to approve the Legal Regime for the Special Procedure for the Sale of Real Property forming part of an Undivided Estate (Law no. 49/2026).

These changes respond to a long-standing and well-known problem in the real estate sector: thousands of properties left idle for decades, unable to be sold, let or rehabilitated, because a single heir disagrees with the partition.

For anyone who buys, sells, invests in or inherits real estate, this reform shifts the balance of power within an estate. For the first time, there is an urgent court route to sell a property even without the agreement of every heir.

The new special procedure for selling properties in an undivided estate

The Government has been authorised to create and regulate this special, urgent procedure: its participants, the steps to follow, the procedural rules, deadlines, scope of application and other matters to be safeguarded.

The new procedure will allow any heir, the surviving spouse entitled to half of the marital property (cônjuge meeiro) or an executor with partition powers to request the sale of an urban or rural property forming part of an undivided estate (the assets of a deceased person not yet divided among the heirs).

The procedure can be brought in two ways:

- i) On its own, once two years have passed since the opening of the succession; or
- ii) While inventory proceedings are pending, with no minimum period.

The procedure does not apply where there is an agreement to remain undivided, where the right to partition cannot be exercised, or where the estate is insolvent.

Main deadlines, terms and constraints:

Agreement to remain undivided and deadline to accept

Heirs cannot waive the right to partition, but they may agree, by authenticated private document, that the estate remains undivided for a fixed period (up to five years), renewable by a new agreement with the consent of all heirs.

Five years after the opening of the succession, or two years after that agreement expires, the head of the estate (cabeça-de-casal) must arrange the partition or request inventory proceedings.

The deadline to accept an inheritance is cut from ten years to two.

Protection of the family home

The reform expressly protects the right to live in the family home of both the surviving spouse (even if they renounce their status as heir) and the surviving de facto partner.

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These properties are excluded from the special sale procedure whenever this or any other independent right of residence applies to them.

Setting the sale price and the heirs' right of redemption

If the parties disagree on the sale value of the property, the court sets the base price on the basis of objective expert valuations.

Where valuations differ significantly (by more than 20%), a new valuation is carried out and weighed together with the earlier ones in the final decision.

Once the price is set, the judge orders the sale, preferably by electronic auction. At the parties' request, the judge may also authorise an early sale by private negotiation.

Although the special procedure can be brought without the agreement of all heirs, the heirs keep a priority right to acquire the property through their right of redemption (direito de remição), at the price actually achieved in the sale, ahead of all other pre-emption holders. This ensures the property can stay in the family regardless of the procedure.

The executor with partition powers and broader powers for the testator

These changes create the role of executor with partition powers, who may be appointed head of the estate with priority. The executor can arrange the partition and, where there are indivisible properties with no agreement on their allocation, sell them directly.

As for the general administration of the estate, the agreement of all heirs is no longer needed to hand these duties to a third party: a simple majority is enough, except where the head of the estate is the surviving spouse or an executor with partition powers already exists.

The deceased can now specify in a will, in a binding way, which assets make up each heir's forced share (legítima), without needing consent. This is a significant boost to the testator's autonomy in succession planning.

Succession arbitration

Alongside the other authorisations granted to the Government, the law provides for a Legal Regime for Succession Arbitration. The deceased can choose it as a faster, alternative way of resolving disputes between heirs, with a possible appeal to the Court of Appeal (Tribunal da Relação).

Practical impact and next steps

This reform is part of the Government's package of measures to increase housing supply, by unlocking vacant properties kept off the market for decades by succession deadlocks, especially in urban centres and rural areas.

In practice, the Government is expected to approve, within 180 days, the definitive regime implementing these and other changes to the rules on undivided estates. Deadlock between heirs will no longer be a way to delay a decision on a property indefinitely.

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Anyone managing an undivided estate, any surviving spouse or heir in a deadlocked process, and anyone looking to invest in properties currently “stuck” in succession disputes should start preparing for this new framework now, for example through updated valuations, well-drafted agreements to remain undivided, or early succession planning.

MATLAW is closely following this reform and the publication of the decree-law that will implement it, and is ready to help heirs, families and investors assess the impact of these changes on their assets.

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