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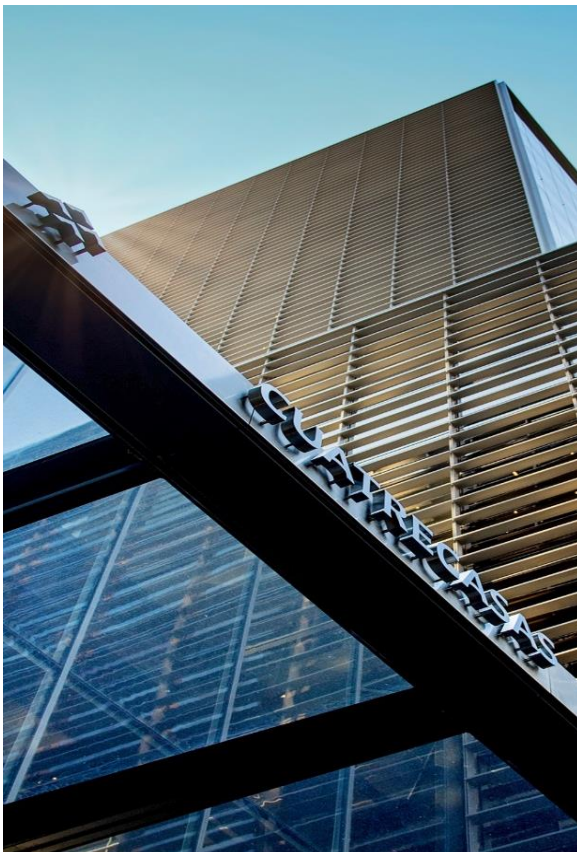
# Balearic Islands: New Decree Law on urgent measures to protect the territory

Legal flash.

May 2020

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**The Balearic Islands government approves Decree Law 9/2020, of May 25, on urgent measures to protect the territory of the Balearic Islands (Official Gazette of the Balearic Islands (BOIB) no. 92, of May 25, 2020)**



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## Key aspects

- Decree Law 9/2020 (the “Decree Law”) aims to introduce measures for the protection and conservation of the environmental, landscape and urban values of the territory of the Balearic Islands, intended to restrict the expansion of new real estate development and strengthen the protection of rural land, to ensure the rehabilitation and recovery of this type of land.
- It adopts measures applicable to urban land lacking consolidated development (the so-called *falsos urbanos*, i.e. false urban development). It envisages that they may be reclassified as developable land or rural land.
- Developable land is automatically classified as common rural land in certain circumstances.
- A general prohibition is imposed on the construction of new single-family homes on land classified as a Risk Prevention Area (SRP-APR).
- The maximum percentages are reduced on single-family homes built on rural land.
- New requirements are laid down for the construction of buildings on rural land.



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## Introduction

The new Decree Law aims to increase the protection of rural land in the Balearic Islands, restrict the urban development of land that does not comply with the conditions set out under applicable land-use planning instruments, and introduce measures on landscape and environmental integration related to the recovery and conservation of rural properties, and water conservation measures.

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## Measures applicable to land for urban development

### > Measures on urban land lacking consolidated development

The Balearic Island governing bodies (and the Palma City Council in the case of that municipality) must assume the authority to modify any planning before December 31, 2021, in any municipalities that have not begun making the adaptation within the given time frame, as set out under the eleventh transitory disposition of Act 12/2017, of December 29, on urban planning of the Balearic Islands. The aim is to reclassify urban land lacking consolidated development (destined to be used for residential purposes, tourism or mixed purposes) as developable land or rural land, or to provide new planning to the land, maintaining its classification as urban land lacking consolidated development.

To reclassify urban land lacking consolidated development, certain conditions must be met, among others, that the general municipal planning cannot be adapted to the Territorial Island Plan and that the material implementation of urban transformation activities cannot have begun.

If the Balearic Island governing bodies or the Palma City Council, where applicable, do not exercise the authority provided under this article before December 31, 2021, it will be assumed by the Balearic Islands Government, which must approve the corresponding planning instrument before December 31, 2022.

The processing and approval of development plans and management instruments, as well as the granting of authorizations and licenses related to these areas, have been suspended until December 31, 2022.

It is worth noting that the law that lays down this procedure (the eleventh transitory disposition of Act 12/2017, of December 29, on urban planning of the Balearic Islands) specifies that no compensation will be awarded for these reclassifications.



### > Reclassification of developable land

The following will be automatically classified as common rural land:

- (i) Land classified under the general planning as unprogrammed developable land, the validity of which exceeds eight years, that was not initially approved in the Urban Construction Work Scheme before Act 12/2017, of December 29, on urban planning of the Balearic Islands came into force.
- (ii) Land classified under the general planning as developable or apt for urban development, to be used for residential purposes, tourism or mixed purposes, which at the time the Decree Law came into force fulfilled a series of requirements (i.e., the general municipal planning is not adapted to the provisions of the Territorial Island Plan, the material implementation of new urban development has not begun, and the deadlines set in the planning instruments or the urban development project has expired for reasons not attributable to the authorities).

In any case, the Decree Law sets out the following exceptions:

- (i) Land that, under a town planning agreement (*convenio urbanístico*) entered into for that purpose, was acquired to build infrastructures and facilities that were already built, or are used for subsidized public housing or any other public protection system.
- (ii) Land included in the scope of a partial plan or an urban development project being processed.
- (iii) Land that has not begun the material implementation of urban transformation activities for reasons not attributable to the authorities.

The article states that no compensation will be awarded for the reclassification of developable land.

### > Transitional regime

Classification as urban land, unprogrammed developable land, or land apt for urban development will still apply to land classified as such and that, at the time the Decree Law came into force, had a procedure under way to adjust to the measures related to land for urban development provided in the Territorial Island Plan (as long as less than three years have passed since the most recent essential step in the procedure).



## Conditions for the management of rural land<sup>1</sup>

- **Measures related to the implementation of new construction and use of certain plots of rural land**

A general prohibition is imposed on the construction of new single-family homes on land classified as Risk Prevention Areas (“SRP-APR”), at risk of flooding, fire, erosion or detachment.

However, construction of these homes is authorized as long as the building does not enter into the surface of the plot included in that area, in the case of plots partially built on SRP-APR.

- **Building restrictions on the use of single-family homes built on rural land**

New construction parameters are established on single-family homes built on rural land (as long as that use is not prohibited). Specifically, the percentages have been reduced as follows:

	Red Natura 2000 and protected rural land classified as a Rural Area of Scenic Interest (SRP-ARIP) (*)	All other categories of rural land (*)
Maximum buildable area	1%	1.5%
Surface of maximum capacity	1.5%	2%

	All types of rural land
Maximum volume of the whole building	900 m <sup>3</sup>

(\*) Expressed as a percentage with respect to the total area of the plot.

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<sup>1</sup> The measures explained in this section only apply to islands that have definitively approved a revision or amendment of their Territorial Island Plan, if it was over two years' old (i.e., Majorca and Menorca).



- **Measures on landscape and environmental integration related to the recovery and conservation of rural properties, and water conservation measures**

Requests to construct new buildings and carry out full renovation works on rural land (except those linked to businesses dedicated to agriculture and livestock, which are governed by specific laws) must include a technical project explaining the measures adopted to ensure landscape and environmental integration. These measures include the recovery and conservation of land, respecting their natural characteristics, and the recovery and conservation of elements of ethnographic value (heritage), such as river banks, dry-stone walls and other similar features.

Projects to construct buildings on rural land (except those linked to businesses dedicated to agriculture and livestock) must include rain harvesting measures, collecting water from roofs to reuse for building needs.

Also, only one swimming pool is allowed on plots of urban land, the water surface area of which cannot exceed 35 m<sup>2</sup> and the volume of which cannot exceed 60 m<sup>3</sup>.

- **Transitional regime**

Provisions set out in the Decree Law on rural land do not apply to requests for building licenses that include all the documents required by law and that were submitted before the Decree Law entered into force.

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## Other changes to regulations

- Repeal of rules contrary to the measures adopted under the Decree Law, specifically section 3 of the first transitory provision of the general regulation of Act 2/2014, of March 25, on land use and planning, for the Island of Majorca.
- Amendment of Act 5/2005, of May 26, for the conservation of the spaces of environmental significance (LECO) and, at the same time, in an instrument separate to this Decree Law, Decree 17/2020, of May 22, has been enacted, approving the Natura 2000 Management Plan of Formentera (Official Gazette of the Balearic Islands (BOIB) no. 92, of May 25, 2020).
- Amendment of article 6 of Decree Law 8/2020, of May 13, on urgent extraordinary measures to boost economic activity and streamline procedures carried out by Balearic Islands public administrations to mitigate the effects of the public health crisis caused by COVID-19, which refers to the extraordinary urban planning procedure to regulate general systems of infrastructures and facilities to carry out local waste collection activities (recycling centers).



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