

constructions - legal changes published in May 2017

Government Decision no. 343/2017 for the amendment of Government Decision no. 273/1994 on the approval of the Regulations for the handover of construction works and installations afferent thereto was published in the Official Gazette of Romania, Part I, no. 406 of May 30, 2017.

Said normative act refers to the approval of a new Regulation for constructions handover, for the purpose of strictly regulating the handover procedure, increasing the quality in the field of constructions, as well as for increasing the liability of investors, contractors and parties involved in the handover procedure.

According to the most important of the amendments, the commission in charge with the handover of the constructions and installations thereof no longer can make recommendations for the handover to be postponed, but only for such to be admitted or rejected. Also, in line with this provision, the handover can only be admitted without objections regarding the quality of the construction works.

Also, for the purpose of rendering the construction works handover procedure more flexible, the investor or landlord, as the case may be, can take over a part of the construction, by execution phases which are physically and functionally distinct, before the finalization of the entire project provided by the construction authorization, based on a protocol ascertaining the construction achievement phase. The protocol ascertaining the construction achievement phase also serves for the registration with the land book of the ownership title over constructions by execution phases.

Moreover, following said principle, the new regulations also indicate clearly the cases in which the representatives of the State Inspectorate for Constructions are under the obligation to take part as members of the handover commission, as well as their duties as members thereof. Thus, they shall participate in the handover commissions:

- regarding investment objectives, irrespective of their financing source, consisting in building new constructions which are categorized, according to the provisions of Annex no. 3 to the Government Decision no. 766/1997 for the approval of some regulations regarding the quality in constructions, as importance class A – “exceptional”, B – “special” and C – “normal”, as well as in the case of intervention works regarding these categories of constructions;
- regarding investment objectives which are of public or social interest or which are financed entirely or partially from public sources, consisting in building new constructions which are categorized, according to the provisions of Annex no. 3 to the Government Decision no. 766/1997 for the approval of some regulations regarding the quality in constructions, as importance class D – “reduced”, as well as in the case of intervention works regarding these categories of constructions.

From an organizational perspective, the handover commission can only function if at least 2/3 of its appointed members are present, whereas the commission can only make decision upon the majority of its members. As a novelty, the representatives of the public administration authorities and of the institutions which are in charge with supervision duties have *de veto* rights, and in case they propose that the handover should be rejected, such needs to be motivated in writing.

The new regulations shall come into effect on June 30, 2017, and the provisions thereof shall not apply to the constructions for which the handover procedures upon finalization of the works or, as the case may be, final handover procedures, are ongoing on this Government Decision's effective date.

Government Decision no. 343/2017 on amending Government Decision no. 273/1994 on the approval of the Regulation regarding the reception of construction works and related installations was published in the Official Gazette of Romania, Part I, no. 406 of May 30, 2017.

The act has as object the approval of a new Regulation regarding the reception of construction works, with the purpose of a strict enforcement of the reception procedure, of improving the quality of construction works, as well as enhancing the responsibilities of investors, builders and of those involved in the reception process.

As such, according to the most important amendment, the reception committee of constructions cannot recommend delaying the reception, only approving or rejecting it. Also, in continuation of the aforesaid norms, the reception may be admitted only without any objections presented with regard to the construction quality.

Additionally, in order to facilitate the process of reception of construction works, the investor or, if be the case, the owner may obtain part of the construction, on execution stages differing from a physical and functional point of view, before finalizing the entire construction as specified in the building permit, after concluding a building status protocol. The building status protocol may be used to register the ownership rights over the building on different stages in the land book.

Moreover, the new regulation expressly details the cases in which the representatives of the State Inspectorate in Constructions take part, mandatorily, as members of the reception committee and their prerogatives as members. Therefore, they shall take part in the reception committee:

- for investment objectives, regardless of the financing source, which represent buildings registered, according to the provisions of Schedule 3 of the Government Decision no. 766/1997 on approving several regulations regarding construction quality, in the importance category A – ‘exceptional’, B – ‘important’ and C – ‘normal’, as well as in the situation intervention works are performed on these buildings;
- for public or social investment objectives or social partially or totally finances from public funds, which represent the building of constructions newly registered, according to the provisions of Schedule 3 of the Government Decision no. 766/1997, in the importance category D – ‘reduced’, as well as in the situation intervention works are performed on these buildings.

From an organizational perspective, the reception committee may function only in the presence of at least two thirds of its appointed members, and the decision of the committee is adopted with a majority vote. As an innovation, the representatives of the public administrative authorities and of the institutions with control powers in the reception committee have a veto right, and when they propose the rejection of a reception, such must be argued in writing.

The new regulation is enforceable from July 30, 2017, and its provisions do not apply to construction works for which the reception, as well as the final reception, is underway at the date it becomes enforceable.

For additional details on this material, please do not hesitate to contact us.

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