

ALL THE NEWS ABOUT THE SALVA CASA, CONVERTED WITH LAW OF 24 JULY 2024 NO. 105 PUBLISHED IN THE OFFICIAL JOURNAL ON 27 JULY 2024 NO. 175

The text of the decree-law no. 69/2024, the so-called *Salva Casa*, including the amendments made by the Environment Commission of the Parliament, was converted with law of 24 July 2024 no. 105, published in the Official Journal on 27 July 2024 no. 175. In our previous Public Law News: Client Alert n. 10/2024, we summarized in detail the most important changes made by the mentioned decree-law, in its original version, to the Building Consolidated Act. In this update, all the changes and innovations to the national building legislation of our country are analytically reported.

As regards building activity, notwithstanding the distance limits between buildings (art. 2-*bis*), the use of attics for residential purposes is permitted, as long as: the distance limits in force at the time of construction of the property are respected, the attic area has not been modified and the maximum height permitted by the building permit is respected.

As regards the building permits, the following changes have been made:

- Awnings, pergolas including bioclimatic ones, attached or annexed to buildings, even with fixed structures, are included among free building works, as long as they do not determine the creation of a permanently closed space and have characteristics that minimize the visual impact and apparent bulk.
- For the demonstration of the legitimate status in relation to individual real estate units, non-conformities in the common parts of the building are not relevant; similarly, its demonstration in relation to the entire building is not affected by any non-conformities in the individual real estate units of the same.
- For the purposes of the urbanistically relevant change of use, changes resulting from free building works are assimilated to those without works.
- The principle of functional indifference, i.e. the admission of the change of use within the same functional category, is established indifferently for changes with or without works. Not only: changes between the functional categories of residential, tourist-receptive, productive and management and commercial, of a single real estate unit in properties located in the historic centers, in the built-up areas and in the partially built-up areas of the Municipalities are always permitted, unless the municipal urban planning tools establish specific conditions. Finally, free building activities and works which need the C.I.L.A. (i.e. the sworn notification of the start of work) are subject to S.C.I.A. (i.e. the certified notification of the start of work); the remaining interventions, however, are subject to the issue of the building permit required for the execution of the necessary works.

As regards the use and occupancy of the buildings, the minimum characteristics for the design engineer certification have been modified, in particular:

1. minimum internal height less than 2.70 meters up to the maximum limit of 2.40 meters;
2. single-room accommodation, with a minimum surface area, including services, less than 28 square meters, up to the maximum limit of 20 square meters, for one person, and less than 38 square meters, up to the maximum limit of 28 square meters, for two people.

To this end, the requirement of adaptability must be fulfilled, together with at least one of the following two requirements: the premises must be located in buildings undergoing renovation and improvement of the hygienic-sanitary characteristics, or a renovation project must be presented at the same time with alternative solutions aimed at ensuring, in relation to the number of occupants, suitable hygienic-sanitary conditions of the accommodation, obtainable by providing a larger surface area of the accommodation and habitable rooms or the possibility of adequate natural ventilation supported by the size and type of windows, by transverse air flows and by the use of auxiliary natural ventilation means.

As regards supervision and sanctions, the following changes have been introduced:

- The 90 days deadline for compliance with the demolition injunction can be extended by a justified act of the municipality up to a maximum of 240 days, in the event of health reasons, necessity or socio-economic hardship of the residents.
- The possibility of selling the property and the building area by the municipality, on the condition that the buyer actually remove the illegal works, in the event that the construction does not oppose significant cultural, landscape, urban planning, environmental or hydrogeological interests.
- The increase in the sanctions for partially non-compliant works with the building permit, to triple the production cost if for residential use and triple the market value if for other uses.
- New construction tolerances, considering only the surface area approved with the enabling building permit for the calculation of the surfaces, i.e.:
 - 2% for real estate units with a surface area greater than 500 sqm;
 - 3% for real estate units with a surface area between 300 sqm and 500 sqm;
 - 4% for real estate units with a surface area between 100 sqm and 300 sqm;
 - 5% for real estate units with a surface area between 60 sqm and 100 sqm;
 - 6% for real estate units with a surface area less than 60 sqm;

Also for interventions carried out by 24 May 2024, on the condition that they do not involve a violation of urban planning and building regulations and do not affect use and occupancy, also the smaller size of the building, the non-realization of non-structural architectural elements, the irregularities in the execution of external and internal walls and the different location of internal openings, the different execution of works falling within the definition of ordinary maintenance

ce, correction of design errors on site and material errors in the design representation of the works are considered construction tolerances.

These provisions also apply to real estate units located in seismic zones, in compliance with the specific provisions on the matter.

- The partial non-conformities, created during the execution of works provided with an enabling title, which have not been followed by demolition orders and obtained habitability or use and occupancy that can no longer be cancelled, are not subject to the rules of non-conformities from the building permit, but rather to the rules of the tolerability limits showed above. Those created before the date of come into effect of Law of 28 January 1977 no. 10 and not falling within the construction tolerances can be regulated by proving the date of the construction or certifying it by a technician under his/her own responsibility, by submitting a S.C.I.A. and paying the related sanctions (see below).
- The conformity verification is always possible until the imposition of sanctions in the event of interventions carried out in partial non-compliance with the P.d.C. (i.e. the permit to build) or the S.C.I.A., in the absence or non-compliance with the S.C.I.A. and in the event of essential variations with relation to the approved project. Specifically, the so-called double conformity is definitively overcome, since it is possible to obtain the P.d.C. or present the S.C.I.A. in amnesty if the construction is compliant with the urban planning regulations in force at the time of the submission of the application, as well as with the requirements prescribed by the building regulations in force at the time of the construction. If the works are carried out in the absence or non-compliance with the landscape authorization, the municipal office must acquire the binding opinion on the compatibility of the interventions from the competent authority within 180 days and the binding opinion of the superintendency within 90 days; if these terms elapse without any result, the silent-consent is formed and the municipal office proceeds autonomously, even if the works are incompatible with a landscape restriction placed after their implementation.
- The sanctions for the regularizations are:
 1. equal to double the construction contribution, increased by 20 percent in the case of interventions carried out in partial non-compliance with the P.d.C.; the increase is not applied if the "old" double urban planning and building conformity is fulfilled;
 2. equal to double the increase in the market value of the property assessed by the competent offices of the Revenue Agency, in an amount, determined by the person responsible for the procedure, not less than Euro 1,032 and not more than Euro 10,328 if the work is carried out in the absence of the S.C.I.A. or in breach of it and in an amount not less than Euro 516 and not more than Euro 5,164 if the "old" double urban planning and building conformity is fulfilled.
- The deadlines of the same regularizations, after which they are considered accepted, are: 45 days for the P.d.C. and 30 days for the S.C.I.A; in the case of the landscape compatibility procedure, the terms are suspended until the latter is defined. An important innovation consists in the duty of the administration, at request of the private individual, to issue a certificate regarding the procedure deadlines expiry and the formation of the enabling titles; if 10 days pass without response, the private individual can contest the silence of the administration.

As regards the movable structures built during the Covid-19 pandemic, built for health, welfare or educational purposes and kept in operation when the decree in question comes into force, they can be maintained for proven and objective needs suitable for demonstrating their necessity, by submitting a C.I.L.A. which certifies the mentioned reasons and the construction time of the structure.

Finally, the decree, at the time of conversion, is enriched by an art. 2-*bis*, which for **real estate units in the areas devastated by the Vajont catastrophe** of 9 October 1963 assimilates “*the issuing of the certificate of testing or regular execution or the verification of the state of the works on the basis of which the balance instalment of the contribution was paid*” to the use and occupancy certificate, as long as the urban planning and building conformity at the time of the works is fulfilled.

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