

Preamble

Objectives

Objective 1: To establish clear regulations for small bathing ponds that take account of their fundamental differences from swimming pools and surface waters

Objective 2: To adapt the regulations for small bathing ponds in line with progressive technical developments

Objective 3: To make up for the scientific uncertainties associated with the new regulations for small bathing ponds

Objective 4: To raise awareness among owners of small bathing ponds of their responsibility and among bathers of their personal responsibility

Content

The project mainly comprises the following measures:

Measure 1: Removal of the regulations for small bathing ponds from the Bathing Hygiene Ordinance 2012 and Creation of an ordinance dedicated to small bathing ponds

Measure 2: Redefinition of the term 'small bathing pond'

Measure 3: Shortening of the interval for water hygiene monitoring for small bathing ponds to 14 days

Measure 4: Prevention scheme, appointment of a competent specialist, additional duties to provide information to bathers, and data transmission for evaluation purposes

Significant impacts

No significant impacts will occur in the impact categories as defined in Section 17(1) BHG 2013.

Financial impacts on the federal budget and other public budgets

The measure in question will not result in any financial impacts on the federal government, the provinces, the municipalities, or the social security institutions.

Relationship with European Union regulations

The proposed provisions fall within the scope of EU legislation, but do not serve to meet the requirements set out in EU law

Special aspects of the regulatory process

Mutual agreement with the Federal Minister for Economic Affairs, Energy and Tourism and completion of the information procedure in accordance with the Notification Act or the directive implemented by it

Simplified outcome-oriented impact assessment

Small Bathing Pond Ordinance and 3rd Amendment to the Bathing Hygiene Ordinance of 2012

Submitting entity: Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection

Title of the project: Ordinance of the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection, which enacts the Small Bathing Pond Ordinance. and which amends the Bathing Hygiene Ordinance 2012

Project type: Ordinance

Entry into force/ 2026

Year created: 2026

Date of entry into
force: Last 04.03.2026

Update:

Contribution to an impact objective or measure in the Federal Budget

Contribution to:

- Impact objective: Ensuring the promotion, maintenance and restoration of the health of the entire population, with special consideration given to infectious diseases, chronic and mental illnesses, and taking into account specific target groups (e.g. children). (Breakdown 24 Health - Draft Federal Budget 2026)

Systems analysis

Definition of the problem

Small bathing ponds differ in key respects from both swimming pools and surface waters, and are therefore subject to their own regulatory framework. In the absence of water treatment pursuant to Sections 9 et seq. of the Ordinance of the Federal Minister for Health on hygiene in bathing facilities, heated whirlpools, sauna facilities, hot air and steam baths and small bathing ponds (Bathing Hygiene Ordinance (BHygV) 2012), published in Federal Law Gazette, II No 321/2012, and in the absence of environmental and hygienic stability comparable to surface waters, the use of small bathing ponds entails, in particular, an increased health risk. Nevertheless, small bathing ponds have so far been regulated within the scope of the BHygV 2012.

In addition, technical development in the area of small bathing ponds has progressed since the entry into force of the BHygV 2012. Filters and recirculation systems now enable hygienic safety and ecological stability in a comparable way to the existing mechanisms (in the form of the 'sedimentation principle'). These new systems are currently not explicitly regulated in the BHygV 2012, which, in practice, leads to legal uncertainties.

In addition, we must take into account practical experience gained by the authorities and the results of a nationwide evaluation of the regulations concerning small bathing ponds.

The draft in question takes account of the above-mentioned fundamental differences between small bathing ponds and the other facilities regulated as part of the BHygV 2012 by removing the provisions on small bathing ponds from the BHygV 2012 and creating a separate ordinance to regulate small bathing ponds (Ordinance of the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection on Small Bathing Ponds (Small Bathing Pond Ordinance (KBTV)).

The purpose of the Ordinance is to establish clear rules expressly applicable to all types of small bathing ponds, in particular independently of whether there is a regeneration area and of the visual appearance of the pond. The scientific uncertainties associated with the implementation of these new systems and the increased health risk generally associated with small bathing ponds are compensated for by strict accompanying measures (more frequent monitoring of newly constructed small bathing ponds, the submission of data for evaluation purposes during the first six years following the entry into force of the regulations, and encouragement of personal responsibility amongst bathers).

Furthermore, the Ordinance also takes into account the requirements for legal certainty and uniform enforcement, as well as the practical experience gained by the authorities and the results of evaluations.

Objectives

Objective 1: To establish clear regulations for small bathing ponds that take account of their fundamental differences from swimming pools and surface waters

Description of the objective:

Small bathing ponds differ in key respects from both swimming pools and surface waters, and they are subject to their own regulatory framework. Hence, the requirements for small bathing ponds must be clearly defined and set out in a separate regulation.

Implemented by:

Measure 1: Removal of the regulations for small bathing ponds from the Bathing Hygiene Ordinance 2012 and creation of a separate small bathing pond ordinance

Objective 2: To adapt the regulations for small bathing ponds in line with progressive technical developments

Description of the objective:

Since the previous regulations on small bathing ponds including in the BHygV 2012 came into force, there have been significant technical advances. This is particularly true with regard to maintaining hygienic safety and ecological stability through the use of filters and recirculation systems rather than using the sedimentation principle, as had previously been the case. The current KBTv must take this into account.

Implemented by:

Measure 2: Redefinition of the term 'small bathing pond'

Objective 3: To make up for the scientific uncertainties associated with the new regulations for small bathing ponds

Description of the objective:

Compared to swimming pools and surface waters, small bathing ponds generally pose more elevated health risks for bathers. In addition, the admissibility of novel forms of small bathing ponds (without regeneration area) brings with it scientific uncertainties. Appropriate measures must be introduced to balance these uncertainties.

Implemented by:

Measure 3: Shortening of the interval of water hygiene monitoring for small bathing ponds to 14 days

Objective 4: To raise awareness among owners of small bathing ponds of their responsibility and among bathers of their personal responsibility

Description of the objective:

The health risk for a particular bather depends, in each individual case, on their personal vulnerability (e.g. pre-existing medical conditions). Moreover, the owner of a small bathing pond must exercise especial caution, particularly when compared to swimming pools. The KBTv aims to raise awareness of this.

Implemented by:

Measure 3: Shortening the interval for water hygiene monitoring for small bathing ponds to 14 days

Measure 4: Prevention scheme, appointment of a competent specialist, additional duties to provide information to bathers, and data transmission for evaluation purposes

Measures

Measure 1: Removal of the regulations for small bathing ponds from the Bathing Hygiene Ordinance 2012 and creation of a separate small bathing pond ordinance

Description of the measure:

The provisions relating to small bathing ponds, which have thus far been included in the BHygV 2012 – alongside those concerning bathing facilities, hot tubs, sauna facilities, hot-air baths and steam baths – will be removed from that regulation and set out in the KBTv in question. The corresponding previous provisions in the Bathing Hygiene Ordinance 2012 shall

be eliminated.

Implementation of:

Objective 1: To establish clear regulations for small bathing ponds that take account of the fundamental differences from swimming pools and surface waters

Measure 2: Redefinition of the term ‘small bathing pond’

Description of the measure:

The definition of small bathing ponds previously contained in Section 2(6) of the BHygV 2012 has been amended to the effect that the absence of water treatment and disinfection pursuant to Sections 9 et seq. of the Bathing Hygiene Ordinance 2012 is now the key distinguishing feature of such ponds (Section 2(1) of the KBTv). Furthermore, it is expressly stipulated that small bathing ponds may be designed in any geometric shape – including shapes similar to swimming pools – and that a regeneration area is no longer mandatory (Section 3 of the KBTv), in contrast to the legal situation that had prevailed until now.

Implementation of:

Objective 2: To adapt the regulations for small bathing ponds in line with progressive technical developments

Measure 3: Shortening the interval for water hygiene monitoring for small bathing ponds to 14 days

Description of the measure:

Until now, the water in small bathing ponds had to undergo a water hygiene test once a month during the annual operating period (Section 84(1)(2) of the BHygV 2012). The present KBTv shortens this interval to 14 days (Section 17(1)(2)) in order to take into account of the small margin for control associated with the lack of water treatment and disinfection and the broad range of fluctuation in the parameters to be tested. This applies especially to the current admissibility of novel small bathing ponds, which no longer operate using the principle of sedimentation.

In view of the increased burden on the owner that results from the shortened inspection interval, the shortened interval is limited to three years from the start of operations in each instance.

Implementation of:

Objective 3: To make up for the scientific uncertainties associated with the new regulations for small bathing ponds

Objective 4: To raise awareness among owners of small bathing ponds of their responsibility and among bathers of their personal responsibility

Measure 4: Prevention scheme, appointment of a competent specialist, additional duties to provide information to bathers, and data transmission for evaluation purposes

Description of the measure:

Section 10 of the KBTv requires the submission of a prevention plan to minimise the health risks associated with the use of the small bathing pond (e.g. establishing rules of use, regulations to manage the number of bathers). Such measures proved their worth during the COVID-19 pandemic as a means for owners to ensure compliance with hygiene regulations at their own responsibility.

As part of the prevention plan, a ‘competent specialist’ familiar with this plan and with the specific features of small bathing ponds must also be designated.

Section 15(3) of the KBTv stipulates that bathers must now be expressly informed, by means of notices displayed in the immediate vicinity of the small bathing pond and, where appropriate, also on the internet, calling attention to the lack of water treatment, the key difference compared with bathing in swimming pools. The aim is to increase bathers’ awareness of increased health risks and promote responsible behaviour.

The results of the water hygiene tests carried out pursuant to Section 17 of the KBTv must be compiled by the owner once a year and submitted in electronic form to the Federal Minister responsible for public health, in order to facilitate the assessment of the new regulations (Section 18(7) of the KBTv).

Implementation of:

Objective 4: To raise awareness among owners of small bathing ponds of their responsibility and among bathers of their personal responsibility

Impact assessment

Companies

Other material impacts

The reduction in the frequency of water quality tests to every 14 days (see Measure 3), as provided for in Section 17(1)(2) of the KBTV, during the first three years from the start of operations, will result in additional costs for owners of newly authorised small bathing ponds (under the previous legal framework, tests were only required to be carried out once a month). These additional costs are estimated to be approximately EUR 1 000 per small bathing pond per year, based on normal market fees for hygiene experts. Experience shows that, across Austria, around 30 new small bathing ponds are authorised each year and are operated as part of a business subject to the Trade Regulation Act. It is therefore estimated that this will result in additional annual costs totalling EUR 30 000 for those affected. Since the monitoring interval after the end of the third operating year corresponds to the previous legal situation (monthly), there are no further additional costs from the fourth operating year onwards.

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