

D r a f t

concerning the Ordinance of the Upper Austrian Provincial Government amending the the Upper Austrian Lift Ordinance 2010 (Upper Austrian Lift Ordinance Amendment 2025)

A. General part

I. Objective and content of the draft Ordinance

Commission Recommendation 95/216/EC of 8 June 1995, OJ L 134, 20.6.1995, p. 37, concerning improvement of safety of existing lifts laid the foundations for regular safety and technical testing and possible retrofitting of lifts.

This recommendation was implemented by the Ordinance of the Federal Minister for Economic Affairs and Labour on the safety and technical testing and possible retrofitting of lifts (STPAV), Federal Law Gazette (BGBl.) II No 442/2005, as well as by the Ordinance of the Federal Minister for Economic Affairs, Family and Youth on the safe operation and modification of lifting systems (Hebeanlagen-Betriebsverordnung 2009, HBV 2009), BGBl. II No 210/2009.

However, these federal regulations do not cover lift systems that fall within the competence of provisions under provincial law.

Following the example of the other provinces (cf., for example, Section 8 of the Salzburg Lifting Systems Ordinance as amended by Provincial Law Gazette (LGBl.) No 19/2018 or Section 13 of the Lower Austrian Lift Technology Ordinance 2017 as amended by LGBl. No 23/2017), the present amendment is now also intended to implement Recommendation 95/216/EC concerning improvement of safety of existing lifts in Upper Austrian provincial law.

The main content is therefore the introduction of a provision allowing this objective to be achieved by providing for safety testing to be carried out on the passenger lifts referred to in this amended Ordinance within a fixed timetable and by ensuring, where necessary, any retrofitting measures.

II. Basis of legislative competence

Lift law – with a few exceptions that are not affected by this draft ordinance – is the

responsibility of the provinces in terms of legislation and implementation in accordance with Art. 15(1) B-VG.

III. Financial impact on local authorities

Neither the province nor the municipalities (or federal government) will (presumably) incur additional costs as a result of this Ordinance compared to the current legal situation. It will not result in any additional administrative processes.

IV. Financial impact on citizens and businesses

For the safety and technical testing of the passenger lifts mentioned in the present amendment, costs of approximately EUR 1 000 will have to be taken into account in each case.

With regard to possible retrofitting measures and the resulting financial impact, a serious cost estimate cannot be provided, as this depends very much on when the lift was placed on the market and what retrofitting measures have already been carried out since the passenger lift was placed on the market.

For this reason, the costs of possible retrofitting measures can only be roughly estimated on a flat-rate basis. The financial impact is likely to range from a few EUR 1 000 to several EUR 10 000.

However, it must not be disregarded that owners of (older) lifts that have safety defects are already obliged to remedy the defect in order to avoid civil and criminal liability in the event of an accident and on the basis of the general duty of care applicable to them.

V. Relation to European Union legislation

To the extent foreseeable, this Ordinance does not conflict with any mandatory regulations under European Union law. On the contrary, the present amendment implements Commission Recommendation 95/216/EC of 8 June 1995 concerning improvement of safety of existing lifts within the area of responsibility of the province.

VI. Impact on different social groups, particularly on men and women

The envisaged regulations have no direct or indirect different impact on the different groups in society, in particular on women and men. The texts of this draft Ordinance have been formulated in a gender-equitable manner.

VII. Impact on environmental policy, particularly climate protection

The regulations contained in this draft amendment have no direct impact on the environment.

VIII. Special features of the ordinance procedure

Pursuant to Section 3 of the Upper Austrian Notification Act 2017, the present draft Ordinance is to be transmitted to the Federal Government for forwarding to the competent European bodies in order to comply with the 'Information Directive' (EU) 2015/1535.

B. Specific part

Re Art. I(1) and (2) (§ 6a, § 7(4) and (5)):

Section 6a is the central provision of the present amendment and, in the light of Commission Recommendation 95/216/EC of 8 June 1995, OJ L 134, 20.6.1995, p. 37, concerning improvement of safety of existing lifts, standardises **in paragraph 1** the performance of a safety and technical test of specifically described lift systems in accordance with a predetermined timetable.

Paragraph 2 sets out, again in the light of Recommendation 95/216/EC cited above, how and according to which legal requirements the safety and technical test and the measures to be taken are to be carried out. It also lays down the basis for the application of ÖNORM B 2454-1:2025 ('Safety testing of existing passenger and freight lifts and safety rules for the modification of existing passenger and freight lifts — Part 1: National filtering to ÖNORM EN 81-80:2019') and that only one testing body may be entrusted with the safety and technical testing of lifts.

Insofar as safety components are affected during the implementation of appropriate remedies, **paragraph 3** governs the safety components to be installed as replacements. Furthermore, exceptions are defined, for example in the case of technical incompatibility of the installation of the originally specified safety components, concerning the conditions under which other types of safety components can be installed.

Paragraph 4 uses a table to stipulate the period of time within which the safety and technical testing is to be carried out, depending on the year of construction of the passenger lift.

Finally, **paragraph 5** lays down further periods of time within which appropriate retrofitting measures are to be carried out.

Against the background of the new Section 6a, the **subparagraphs 4 and 5** added to

Section 7 provide for further substantive records in the lift log.

Re Art. I(3) (§ 12):

Paragraphs 1 to 3 contain references to federal ordinances, provisions of Community law and ÖNORMEN and, unless a specific version is expressly mentioned, prescribe the version to be applied in each case. In addition, **paragraph 4** lays down where the ÖNORMS referred to in this Ordinance can be obtained. **Paragraph 5** takes account of the promulgation pursuant to Section 14(6) of the Upper Austrian Official Publication Act 2015 (Verlautbarungsgesetz).

Re Art. II (entry into force):

Art. II(1) contains the entry into force provision for the present amendment.