

D r a f t

concerning the Regulation of the Federal State Government of Upper Austria, amending the Upper Austrian Construction Engineering Regulation 2013 (Upper Austrian Construction Engineering Regulation Amendment 2025)

A. General Part

I. Objective and content of the draft Regulation

The present amendment to the Upper Austrian Construction Engineering Regulation 2013 (Bautechnikverordnung) pursues the following objectives:

- Implementation of the new directives of the Austrian Institute of Construction Engineering (OIB Directives) 1 to 5, May 2023 version, which reflect the current status of the federal state harmonised construction engineering regulations; The OIB Directive 6 has not yet been implemented, as the 2023 edition is currently being revised in connection with the new Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 (hereinafter: EU Buildings Directive).
- Timely amendments and clarifications based on experiences in administrative practice.

The OIB Directives serve to harmonise construction engineering regulations throughout Austria and since their publication in 2007 have undergone an update every four years.. With regard to the fifth edition of the new OIB Directives, which were adopted by the General Assembly of the Austrian Institute of Construction Engineering (OIB) on 25 May 2023, the following is to be noted:

The current revision focused in particular on including provisions to combat climate change, such as photovoltaic systems as well as green roofs and façades; on making it easier to reduce construction costs in order to promote affordable housing; and on clarifications and specifications to ensure uniform enforcement in the federal states (cf. *Jansche, Löffler, Meszaros, Thoma, Unger, Zagrajsek*, The OIB Directives 2023, in '*OIB aktuell*', Issue 03/23). The revision of the directives was again carried out under the direction of the OIB and with the involvement of a wide range of interest groups.

II. Basis of legislative competence

Building law – with a few exceptions that are not affected by this draft Regulation – is the responsibility of the federal states in terms of legislation and implementation in accordance with Art. 15 paragraph 1 of the Federal Constitutional Act (B-VG).

III. Financial impact on regional authorities

This Regulation is not expected to result in any additional costs for the state or the municipalities (or the federal government) compared to the current legal situation. It will not result in any additional administrative processes.

IV. Financial impact on citizens and businesses

The regulations contained in this Regulation do not in principle entail any financial burden on citizens in general and for businesses in particular. On the contrary, the clarifications and facilitations provided for with the implementation of new OIB Directives 1 to 5 (May 2023 edition) will contribute to cost savings.

Decarbonisation and the associated promotion of alternative energy sources, in particular PV systems on buildings, is becoming increasingly important, which is why it has become necessary to integrate regulations on preventive fire protection. A certain additional effort will therefore be required due to the new safety provisions for PV systems on existing roof structures and the fire protection requirements for green façades, PV systems and charging stations for electric vehicles.

V. Relationship with European Union legislation

This Regulation does not – as far as it appears – conflict with any mandatory provisions under EU law.

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

The envisaged regulations have no direct or indirect differential impact on the various social groups, in particular on women and men. The texts of this Regulation have been worded using gender-neutral language.

VII. Impact on environmental policy, particularly climate protection

The regulations contained in this draft amendment have no environmental relevance.

B. Specific part

Re Art. I clause 1 (Sec. 1):

In addition to the update of Directive 1 in the May 2023 edition, the guideline to OIB Directive 1, which was not previously included in the Upper Austrian BauTV 2013, will also be declared binding. The handbook is intended to support the consistent and practical application of the standards cited in OIB Directive 1, and provide planners with a good basis for surveying buildings from a structural point of view or for handling existing building constructions. In addition, the guide provides practical examples of how to handle PV systems on existing roof structures.

Re Art. I clause 2 (Sec. 2 paragraph 1, Sec. 3 paragraph 1, Sec. 4 paragraph 1 and Sec. 14 paragraph 1):

The amendments (only) formally concern the updating of the issuance date of the referenced OIB Directives 2, 3 and 4 (for OIB Directives 1 and 5, cf. Art. I clauses 1 and 6. In terms of content, the binding declaration of the new OIB Directives (May 2023 edition) is one of the key concerns of the present amendment (cf. point I, first indent of the General Part).

Re Art. I clause 3 (Sec. 2 paragraph 2 clause 2):

The previous list of points 4.1 to 4.6 is deleted since point 4 of OIB Directive 2 only consists of points 4.1 to 4.6.

Re Art. I clause 4 (Sec. 4 paragraph 2 clause 2):

The amendment is made to update the source citation where the referenced handbooks are available.

Re Art. I clause 6 (Sec. 5):

Here, the date of issue of the referenced OIB Directive 5 is updated, but without adopting the completely new regulations in point 5 on 'Protection against sound emissions from technical systems for the conditioning of buildings in the event of outdoor transmission'.

In addition to technical systems, such as ventilation units, which in any event are not covered by building laws, point 5 of the above-mentioned OIB Directive primarily targets air source heat pumps and air-conditioning systems. However, heating and air-conditioning systems fall within the scope of the Upper Austrian Air Pollution Management and Energy Technology Act 2002 (Luftreinhalte- und Energietechnikgesetz). It is therefore necessary to exclude this point in its entirety.

Re Art. I clause 7 (Sec. 8 paragraph 2):

This is only an update of the referenced federal regulations.

Re Art. I clause 8 (Sec. 9 paragraph 1):

The contact fax number is no longer up-to-date and therefore no longer applicable.

Re Art. I clauses 9 and 10 (Sec. 9 paragraphs 2 and 3):

Since this amendment only implements OIB Directives 1 to 5 as amended in May 2023 (see General Part), a distinction must also be made in the binding declaration of the associated documents. Paragraph 2 therefore states the documents of May 2023 that are relevant to the directives referred to in Secs. 1 to 5 to be binding. In the new paragraph 3, the documents of April 2019 that continue to be relevant to the directive referred to in Sec. 6 are declared binding.

Re Art. I clause 11 (Sec. 16 paragraph 2 clause 1):

Here, it is clarified that the reference figure 'per 60 m² started' refers to the total useful area of the building (and not to the floor space of each dwelling). This can reduce the (minimum) number of bicycle parking spaces in residential construction.

Re Art. I clause 12 (Sec. 19):

In practice, it has been shown that this requirement leads to challenges, especially in roofed parking spaces such as carports. For example, the retrofitting of roofing on existing parking spaces – for example, on previously unpaved or gravelled parking areas – a liquid- and oil-impermeable substrate would have to be created from a certain size onwards. This would lead to considerable additional costs and unnecessarily complicate subsequent roofing, including any PV systems. This amendment creates a more practical solution that enables the economic and sustainable use of existing parking spaces.

Re Art. I clause 13 (Sec. 21 paragraph 3 clause 6):

This is only an update of the referenced federal state regulations.

Re Art. II (entry into force):

This Article contains the entry into force provision (paragraph 1) of the Regulation.

This draft Regulation will be notified in Brussels in accordance with (Information) Directive (EU) 2015/1535 in the parts where this is mandatory (paragraph 2).