

## Report on Government Bill

### I. General:

#### 1. Objective and main content:

**1.1.** Since Provincial Law Gazette No75/1997, the spreading of sewage sludge on soil has only been permitted in the form of sewage sludge fertiliser and, since Provincial Law Gazette No26/2018, only after prior composting. At present, sewage sludge compost can still be used for fertilising purposes in agriculture, in private home gardens and allotment gardens as well as in landscaping. It should be noted that the soil-related recycling of sewage sludge compost has long been on the decline: In 2023, only about 0.2 per cent of the sewage sludge produced annually in Vorarlberg was spread in the form of sewage sludge compost on soils in Vorarlberg.

In recent years, sewage sludge has been continually analysed for contaminants, foreign substances and other parameters. The range of parameters analysed has been continually adapted to new findings on environmental pollutants. In particular, the analyses revealed contamination by pollutants such as poly- and perfluorinated alkyl substances (PFAS), heavy metals, microplastics, pathogenic germs and pharmaceutical residues (see Federal Waste Management Plan 2023, Part 1, 192 et seq.). The substance group PFAS has proven to be particularly environmentally relevant. PFAS do not degrade easily and are very difficult or impossible to remove once released into the environment. Spreading on soils can cause PFAS to enter feed, food and drinking water. Many PFAS are toxic, accumulate through the food chain and are therefore classified as substances of very high concern. Analyses have also revealed significant concentrations of PFAS in sewage sludge composts (see *Environment Agency Austria*, Per- and polyfluorinated alkyl compounds – PFAS, <https://www.umweltbundesamt.at/umweltthemen/stoffradar/pfas>, dated: 09.08.2023; *Environment Agency Austria*, PFAS Report 2022, REP-0820, 3 and 30; *Environment Agency Austria*, ‘Circular Economy’ im Abfallbereich – Evaluierung im Hinblick auf Klärschlammkompost, [‘Circular Economy’ in the Waste Sector – Evaluation of Sewage Sludge Compost], REP-0805, 2022; Environment Institute, Per- und polyfluorierte Alkylsubstanzen (PFAS) in Vorarlberg [Per- and polyfluorinated alkyl substances (PFAS) in Vorarlberg], Report UI-05/2021; *Austrian Water and Waste Management Association*, Klärschlammverwertungswege für kleinere kommunale Anlagen [Sewage Sludge Recovery Routes For Small Municipal Facilities] (2023), 26).

For that reason, the spreading of sewage sludge compost should now be prohibited as well in order to prevent additional soil pollution. In this context, exemptions from the prohibition of the spreading of sewage sludge and septic tank contents should be made more stringent. In addition, requests for amendments due to practical application should be taken into account in the Soil Quality Protection Act and the Sewerage Act.

The draft bill primarily contains the following amendments:

Soil Quality Protection Act (BSchG):

- Sewage sludge compost: The spreading of sewage sludge compost should be prohibited in order to prevent additional contamination of the soil with harmful substances (§ 6(1)).
- Septic tank contents: The prohibition should be clarified by replacing the term ‘septic tank contents’ with ‘collected wastewater’ (§ 6(1)).
- Revision of exemption provisions: Exemptions from the prohibition on the spreading of sewage sludge, including sewage sludge compost, and septic tank contents should be made more stringent (§ 6(2) to (4)).
  - o Mixtures of liquid manure with domestic or agricultural wastewater: The spreading of farm manure mixed with domestic wastewater in small quantities or with agricultural wastewater should be permitted (§ 6(2)(a)).
  - o Domestic wastewater from structures that are used exclusively or predominantly for agricultural use: The spreading of domestic wastewater in small quantities should continue to be permitted; however, the existing exemption should be clarified (§ 6(2)(b)).

- o Agricultural wastewater: The spreading of certain types of wastewater produced in agricultural holdings should be permitted (§ 6(2)(c)).
- o Alpine, Vorsäss and Maisäss buildings [used in three-stage alpine farming practices]: The spreading of sewage sludge and domestic wastewater from exclusively agricultural or remote alpine, Vorsäss and Maisäss buildings should be permitted (§ 6(3)).
- o Remote hunting and forestry lodges: An exemption from the prohibition on the spreading of sewage sludge and domestic sewage sludge may be granted upon request (§ 6(4)).
- o Remote shelters: An exemption from the prohibition on the spreading of sewage sludge may be granted upon request (§ 6(4)).

#### Sewage Treatment Act (KanalG):

- Agricultural wastewater: Certain wastewater that accumulates on agriculture holdings and may be spread on soil in accordance with § 6(2)(c) BSchG should be exempted from the obligation to connect to the public sewer system (§ 3(5)).
- Structures used exclusively or predominantly for agricultural use: The exemption from the obligation to connect to the public sewer system for domestic wastewater should be clarified (§ 4(2)).

**1.2. Sunset clause:** The present draft contains a sunset clause concerning the preferential treatment of the spreading of wastewater from farm slaughterhouses and alpine dairies generated on agricultural holdings (cf. § 15(3) BSchG): Wastewater from such activities, which are secondary in agricultural holdings, contain a certain proportion of chemicals, in particular detergents or disinfectants. Spreading is currently acceptable in terms of soil protection because the currently observable concentrations in slurry spreading are acceptable and, moreover, only a relatively small number of such farm slaughterhouses and alpine dairies apply their wastewater together with the slurry (see the explanatory notes on § 3(h)). It seems expedient to reassess the provision from a soil protection point of view and with regard to the need to support the (small-scale) farming structure in due course (before the time limit elapses on 31.12.2040).

## 2. Competences:

The B-VG [Federal Constitutional Law] does not provide for a specific ground of competence for soil protection of its own. As such, soil protection is the responsibility of the provinces in accordance with Art. 15(1) B-VG, unless it is the responsibility of the Federal Government by virtue of other competences.

The present draft bill is also based on Article 15(1) B-VG.

## 3. Financial impact/bureaucracy:

### 3.1. Financial impact on the province:

Under certain conditions, an exemption from the prohibition on spreading laid down in § 6(1) BSchG may be granted for hunting and forestry lodges upon request (§ 6(4) BSchG). It is assumed that procedures under § 6(4) BSchG are conducted by a provincial employee with a 'Matura' school-leaving certificate (salary grade 13, salary level 5), in which an average time expenditure of approx. 10 hours per procedure is to be expected. In the procedure, a technical assessment by an official expert on soil protection (provincial employees with academic level degrees, salary grade 17, salary level 4) will usually be required, in which an average time expenditure of approximately 5 hours will be required.

	Total costs in EUR for 10 hours in salary grade 13/5	Total expenditure in EUR for 5 hours in salary grade 17/4
Personnel costs	755.30	478.45
Workplace-related      operating	264.40	167.45

expenses 35%		
Total	1,019.70	645.90
<b>Total (rounded)</b>	1,020.00	646.00

As such, an average additional personnel cost (including workplace-related operating expenses) of approx. EUR 1,666 per procedure can be expected.

With regard to administrative burden, it should be noted that an ex lege exemption for alpine, hunting and forestry lodges – as in the case of alpine, Vorsäss and Maisäss buildings – cannot be considered because, due to the special circumstances of the location, the question of whether the area is suitable for the spreading of sewage sludge must be examined on a case-by-case basis. The associated administrative burden therefore seems justified.

#### Other changes:

Authorisation procedures for shelters under § 6(4) BSchG do not result in any additional expenses for the province, as a comparable authorisation condition is already included in § 21(2) of the Soil Quality Ordinance, which is now to be replaced by a statutory provision. Thus there is no additional administrative burden.

The operation of the electronic register for sewage sludge accounting (§ 10) currently costs approx. EUR 3,000 per year. Discontinuing sewage sludge accounting can reduce these costs as well as personnel and/or administrative costs.

The other provisions of this Act do not give rise to any additional costs for the province or any additional administrative burden.

### **3.2. Financial implications for the Federal Government and the municipalities:**

The draft bill does not entail any additional financial or administrative burden for the Federal Government or the municipalities. If a municipality operates a wastewater treatment plant, the explanatory notes under Point 3.3 apply accordingly.

### **3.3. External costs**

Municipal sewage sludge, which has previously been composted and spread on soil in Vorarlberg, will have to be recycled or disposed of in other ways in the future. Wastewater treatment plant operators may incur additional expenses as a result. In view of the fact that alternative disposal routes for sewage sludge are available and established (e.g. incineration) and, most recently, only about 0.2 per cent of the sewage sludge generated in Vorarlberg in the form of sewage sludge compost was applied to soils in Vorarlberg in 2023, these additional costs are estimated to be low. In addition, under § 20 of the Waste Incineration Ordinance 2024 (AVV 2024), Federal Law Gazette II No. 118/2024, which entered into effect on 1 January 2025, municipal sewage sludge from wastewater treatment plants with a design value of 20,000 population equivalents or more must be incinerated, and phosphorus recovery must be conducted starting on 1 January 2033 at the latest. The future disposal routes have therefore been clarified.

The expansion of the exemptions to remote alpine, Vorsäss and Maisäss buildings as well as hunting and forestry lodges (§ 6(3) and (4)) reduces the burden on the users of these structures, as costly transport is involved. A more detailed quantification of these savings is not possible, because neither the exact number of affected objects nor the current disposal routes are known in detail. Authorisation procedures for the spreading of sewage sludge from hunting and forestry lodges (§ 6(4)) result in additional expenditure or administrative burden for the persons concerned; however, this is offset by the overwhelming advantage that the sewage sludge can now be applied and no longer has to be transported away at great expense, as was previously the case. However, an ex lege exemption – as in the case of alpine, Vorsäss and Maisäss buildings – is not possible because the specific circumstances of the situation require a case-by-case examination as to whether a certain spreading area is suitable for spreading sewage

sludge. The administrative burden therefore seems justified. In addition, affected parties are free not to make use of the exemption.

#### **4. EU law:**

This draft bill is in line with Directive 86/278/EEC on the protection of the environment, and of the soil in particular, for the use of sewage sludge in agriculture ('Sewage Sludge Directive').

Furthermore, European Union law does not contain any provisions that preclude the present draft bill.

#### **5. Impact on children and adolescents:**

The legislative proposal has no specific impact on children and adolescents.

#### **6. Impact on the goals of energy autonomy/climate protection/climate change adaptation:**

Since the recycling of sewage sludge through composting and spreading on soils should no longer be permitted, it will have to be eliminated in the future. The disposal of sewage sludge by incineration requires additional energy input due to the necessary drying process, whereas thermal utilisation releases energy. Relevant adverse effects on climate protection are not to be expected, as only about 0.2 per cent of the sewage sludge produced in the form of sewage sludge compost in Vorarlberg was applied to soils in Vorarlberg in 2023.

The expansion of the exemptions to remote alpine, Vorsäss and Maisäss buildings (§ 6(3)) as well as remote hunting and forestry lodges and shelters (§ 6(4)) leads to the elimination of transport routes and therefore has a positive impact on climate protection. Due to the location of the properties concerned, the transport would involve high energy consumption and the use of fossil fuels for motor vehicles and aircraft. Elimination of these transports contributes to the saving of fossil fuels and therefore to the achievement of the goal of energy autonomy. However, a significant contribution is not to be expected.

No impact on the goal of climate change adaptation is expected.

#### **7. Special features of the legislative procedure:**

The present draft bill must be subject to a notification procedure in accordance with the Notification Act and/or Directive (EU) 2015/1535, as the prohibition on the spreading of sewage sludge and collected wastewater (§ 6(1) BSchG) is a national technical regulation. For this reason, the government bill will have to be submitted to the Federal Government for notification to the European Commission and the standstill period of three months from receipt by the European Commission will have to be observed.

## **II. Regarding the individual provisions:**

### **Regarding the amendment to the Soil Quality Protection Act (Article I):**

#### **Re Points 1 to 4 (§ 3(f) to (i) and (l)):**

The definitions are to be adapted in connection with the intended amendments to the prohibition on the spreading of sewage sludge and septic tank contents (§ 6) in order to ensure a uniform understanding of the text of the Act:

#### *§ 3(f) (wastewater):*

The definition of the term 'wastewater' corresponds to the current § 2(1) KanalG. Since only the difference between domestic and other wastewater is relevant for the purposes of the Soil Quality Protection Act, it was possible to refrain from also adopting the term 'commercial' from § 2(1) KanalG.

#### *§ 3(g) (domestic wastewater):*

The definition of ‘domestic wastewater’ corresponds in substance to § 1(3)(2) of the General Wastewater Emission Ordinance (AAEV), Federal Law Gazette No 186/1996.

*§ 3(h) (agricultural wastewater):*

The term ‘agricultural wastewater’ covers certain wastewater that accumulates on agricultural holdings and may be spread on soil (see exemption provision in the new § 6(2)(c)). It is a tax-based enumeration of sewage from different areas of agricultural origin. These wastewaters may contain substances which, from a soil protection point of view, should ideally be prevented from being spread on soils (e.g. cleaning agents and disinfectants). Given that in practice, this wastewater is discharged into the fertiliser collection system (slurry or liquid manure pit) and spread together with liquid farm manure, it is sufficiently diluted so that, taking into account the concentration, there is generally no risk of it entering the soil when the slurry is spread. A prohibition on the spreading of these wastewaters could necessitate extensive conversion measures in agricultural buildings, which should be avoided in the public (economic) interest of strengthening and maintaining an efficient farming community and preserving the small-scale farming structure in Vorarlberg. For that reason, the spreading of these wastewaters on soils should not be subject to the prohibition of the spreading of collected wastewater (§ 6(1)).

‘Milk parlours’ refer to rooms used for the collection and storage of milk. ‘Alpine dairy’ refers to a premises used for the processing of milk. Wastewater from the cleaning of milking and feeding equipment is covered by the term ‘agricultural wastewater’, as milking and feeding equipment constitutes agricultural machinery and equipment. Uncontaminated cooling water from milk cooling or the cheese cellar does not fall under the definition of wastewater as defined by § 3(f), so the spreading of such cooling water is not prohibited by § 6(1).

The spreading of wastewater from farm slaughterhouses and alpine dairies generated in agricultural holdings is also to be permitted (at least for the time being) in accordance with § 3(h) in conjunction with § 6(2)(c) BSchG, provided that the structure or the attached area is not located within the catchment area of a collection channel as defined by § 3(1) KanalG and must therefore be connected to the public sewage disposal system in accordance with § 3(3) KanalG (especially as the Sewerage Act does not provide for an exemption from the obligation to connect to the public sewer system for wastewater from slaughterhouses or alpine dairies, see § 3(5) KanalG). However, in view of the chemicals they contain, in particular cleaning agents and disinfectants, the preferential treatment of this wastewater is to be limited (for the time being) to 31.12.2040, in which the Provincial Government is obliged to carry out an evaluation with regard to a possible extension of the preferential treatment before it expires (§ 15(3) BSchG). Only a relatively small number of farms are affected by this regulation, as only about 10 farms in Vorarlberg currently process milk and discharge their cleaning water into the slurry pit, and only about 15-20 farms (about half of which are already connected to the public wastewater disposal system or collect this wastewater in a closed pit and transport it to the wastewater treatment plant) carry out slaughtering on the farm.

It should be noted that only slaughterhouses and alpine dairies are included in the scope of agricultural holdings. A secondary agricultural business as defined by § 2(4) GewO 1994 [Industrial Code] is only at hand if the activity in question is subordinate to the main agricultural business (see VwGH [Higher Administrative Court] 03.07.2007, 2005/05/0253; *Paliege-Barfuß/Lechner-Hartlieb*, GewO<sup>7</sup> § 2 Recital 185 et seq.). As such, a farm slaughterhouse or alpine dairy as defined by § 3(h) is only at hand if the activity of the slaughterhouse or dairy is subordinate to primary agricultural production; otherwise, it constitutes a commercial holding that does not fall under the exemption provision.

The provisions of federal law, in particular those of water or waste law, remain unaffected.

*§ 3(i) (farm manure):*

The definition of ‘farm manure’ ((i)) was taken from § 1(d) of the Soil Quality Ordinance and is in line with the relevant definitions on federal level (see e.g. § 2(1)(2) of the Fertilisers Act 2021, § 2(6) of the Ammonia Reduction Ordinance; § 1(2)(15) of the Nitrate Action Programme Ordinance).

*Omission of the previous § 3(f) (sewage sludge compost):*

The definition of ‘sewage sludge compost’ can be omitted, as no special provisions are provided for sewage sludge compost.

*Repeal of the previous § 3(l) (supply):*

The definition of ‘supply’ can be deleted as no regulations on the supply of sewage sludge compost are provided for any longer.

**Re Points 5 to 7 (heading of the second section; omission of § 4; heading of § 5):**

§ 4 currently provides for the production, supply and acceptance of sewage sludge compost with a view to its spreading on soils. This provision is no longer necessary, as the spreading of sewage sludge is generally to be prohibited and the exemptions have a narrow scope of application. Municipal sewage sludge may no longer be spread on soil without exception. Exceptions exist only for certain alpine, Vorsäss and Maisäss buildings (§ 6(3)) and certain hunting and forestry lodges and shelters (§ 6(4)). The sewage sludge covered by these exemptions and any sewage sludge compost produced from it does not require any regulation on supply, as it is in small quantities or must be applied to an area associated with the respective building or in the vicinity. § 4 can therefore be omitted.

The heading of the second section should be adapted accordingly; consequently the heading of § 5 should also be adapted for stylistic reasons.

**Re Point 8 (§ 6(1)):**

The prohibition on the spreading of septic tank contents is to be clarified by replacing the term ‘septic tank content’ with the term ‘collected wastewater’ (§ 3(f)).

A septic tank is understood as a liquid-tight container for the collection of wastewater (see EB RV [Explanatory notes on government bill] 15/2018 30. LT, 13). The prohibition on the spreading of septic tank content is therefore equivalent to a prohibition on the spreading of collected wastewater. With regard to wastewater, the original version already used the term of § 2(1) KanalG (‘water that is contaminated by domestic, commercial or other use or is otherwise altered in its natural state as a result’) (see again EB RV 15/2018 30. LT, 13). Practical application has shown that wastewater is also collected in structures that are not designated as septic tanks in other legal provisions. This applies in particular to slurry pits. On one hand, slurry pits fall under the broad definition of septic tanks in § 6(1), and, on the other hand, in other legal provisions, a distinction is made between septic tanks and slurry pits (see e.g. § 26(2) Structural Engineering Ordinance). In the interests of a uniform legal order, the term ‘septic tank content’ does not therefore appear to be appropriate for the purpose of prohibiting the spreading of collected wastewater.

‘Collection’ of wastewater is to be understood as the storage thereof. Collection channels as defined by § 2(3) KanalG, with which the wastewater supplied by the connecting sewers is collected and sent to the wastewater treatment plant, do not fall within the scope of § 6(1) (the obligation to connect to the public sewer system under § 3(3) KanalG already precludes the spreading of such wastewater).

The introduction of the definition of ‘wastewater’ (§ 3(f)) and the use of the term ‘collected wastewater’ in § 6(1) are intended to increase legal clarity and make it easier for those applying the law to understand the content of the prohibition. A substantive change or expansion of the prohibition is not intended by this.

**Re Point 9 (§ 6(2)):**

Certain wastewater should be exempted from the prohibition on the spreading of collected wastewater (§ 6(1)). It should be noted that spreading is in any event prohibited if the building is subject to the obligation to connect to the public sewer system under § 3(3) KanalG or if the materials do not comply with the requirements of the Ordinance under § 7. The legal provisions on fertilisers remain unaffected.

*§ 6(2)(a) (mixtures of liquid farm manure with agricultural wastewater or domestic wastewater):*

Farm manure (§ 3(i)) does not constitute wastewater as defined by § 3(f). The spreading of pure farm manure on soils for fertilisation purposes is therefore not covered by the prohibition laid down in § 6(1). In current practice, however, various types of wastewater are in many cases also discharged into the fertiliser collection system (slurry or liquid manure pit), even though the mixture produced may be unsuitable for spreading on soil. The spreading of liquid manure (slurry, liquid manure), which is mixed with agricultural wastewater (§ 3(h)) or a small amount of domestic wastewater (§ 3(g)), should not be prohibited in the public (economic) interest in strengthening and maintaining an efficient farming community or the preservation of the small-scale farming structure in Vorarlberg, especially since spreading on soils appears to be acceptable due to the large dilution with farm manure in practice; the explanatory notes on § 3(h) concerning this apply accordingly.

For the purposes of lit. (a), a mixture refers to liquid farm manure mixed with agricultural wastewater, domestic wastewater or agricultural wastewater and domestic wastewater.

If the mixture contains domestic wastewater, spreading is only permitted if a proportion of 25% domestic wastewater is not exceeded in relation to the sum of liquid farm manure and domestic wastewater. In this calculation, any agricultural wastewater is not to be taken into account; this corresponds to the practical application of the previous § 6(2). Reference is made to the explanatory notes on § 6(2)(b) accordingly.

*§ 6(2)(b) (domestic wastewater from structures used exclusively or predominantly for agricultural purposes):*

The spreading of domestic wastewater from structures that are exclusively or predominantly used for agricultural purposes has already been exempted from the prohibition on spreading under § 6(1). This exemption provision is to be redrafted to reflect practical application to date. In particular, it should be clarified that the exemption under lit. (b) only applies to domestic wastewater.

In the case of private room rentals, holiday apartment use, commercial accommodation or wine taverns, this exception cannot be claimed in some cases because in this case, structures located in the catchment area of a collection sewer are subject to the obligation to connect to the public wastewater disposal system (see § 3(3) in conjunction with § 4(2)(a) KanalG). With regard to the proportion of domestic wastewater, the vague expression 'in subordinate quantities' has created ambiguity in practical application to date; this should therefore be replaced by a clearer provision. The maximum limit of 25% is in line with practical application to date and takes into account the relevant case law of the Higher Administrative Court (see VwGH 20.02.1997, 97/06/0034; 19.09.1985, line 85/06/0058). The reference value should be the sum of liquid farm manure and domestic wastewater. Wastewater which does not constitute domestic sewage shall not be taken into account in the calculation.

Lit. (b) applies to domestic sewage that is collected separately from farm manure. If domestic wastewater is discharged into the fertiliser collection system, lit. (a) shall be applied.

Reference is made to § 4(2) KanalG, which provides for an exemption from the obligation to connect to the public sewer system pursuant to § 3(3) KanalG for domestic wastewater as defined by § 6(2)(b) (Article II).

*§ 6(2)(c) (agricultural wastewater):*

The spreading of agricultural wastewater (§ 3(h)) on soils should not be prohibited in the public (economic) interest in the strengthening and maintenance of an efficient farming community or the preservation of the small-scale farming structure in Vorarlberg, especially since the spreading on soils appears to be justifiable due to the large dilution with manure in practice. Reference is made to the explanatory notes on § 3(h).

Lit. (c) applies to agricultural wastewater collected separately from farm manure. If agricultural wastewater is discharged into the fertiliser collection system, lit. (a) shall be applied.

Reference is made to § 3(5) KanalG, according to which agricultural wastewater is exempt from the obligation to connect to the public sewer system under § 3(3) KanalG (Article II).

#### **Re Points 10 and 11 (§ 6(3) and (4)):**

*§ 6(3):*

An exemption from the prohibition on the spreading of septic tank contents has already been provided for alpine, Vorsäss and Maisäss buildings that are used exclusively for agricultural purposes (lit. a) in order to take the special situation of alpine, Vorsäss and Maisäss farming practices into account. With regard to wastewater, the exemption should now only apply to domestic wastewater (§ 3(g)), since the application of agricultural wastewater (§ 3(h)) is already permitted by § 6(2)(c) and other wastewaters is not to be spread on soils. In addition, however, the spreading of sewage sludge should be permitted. Insofar as exemptions for domestic wastewater are provided for in § 6, it appears to be generally necessary to extend these to sewage sludge, because the environmental risks in the spreading of sewage sludge – compared to sewage sludge and domestic wastewater of the same origin – are not greater, at most tend to be even lower (the pollutant loads deposited in the treatment of domestic wastewater with a sewage treatment plant can ultimately only be equal to or even smaller as a result of the decomposition of pollutants compared to unpurified domestic wastewater). A limitation of the exemption provision in paragraph (3) to

sewage sludge compost is not possible, since it has been shown that the composting of sewage sludge is not practical for remote properties, especially since the spatial and climatic conditions and the available aggregates hardly allow proper composting in these cases. An area is considered to be used for agriculture as defined by lit. (a) if it is used for the production of plants for the purpose of food for humans, animals and trade (cf. Article 2(c) of the Sewage Sludge Directive).

In the case of alpine, Vorsäss and Maisäss buildings which have not been developed with suitable access road or with suitable means of ascent (lit. (b)), the disposal of sewage sludge and domestic wastewater currently poses a problem that can only be solved with disproportionate effort. Due to the location of these buildings, transporting the waste involves high energy expenditure and the use of fossil fuels for motor vehicles and aircraft. The spreading of sewage sludge and domestic wastewater should therefore be permitted for these buildings even if they are not used exclusively for agriculture. A strict standard must be applied when assessing whether a suitable access road or means of ascent is available. Suitability must be assessed on the basis of the possibility of removing the wastewater generated. A piste that can be used by snow vehicles can also serve as an access road. In particular, passenger cable cars or material cable cars with a suitable payload can be considered means of ascent. An area is considered to be located in the vicinity of an alpine, Vorsäss and Maisäss building (lit. b) if it is located in the same Maisäss, Vorsäss or alpine area.

In the case of sewage sludge and domestic wastewater from alpine, Vorsäss and Maisäss buildings, a lower risk of soil contamination by foreign matter and pollutants or excessive nutrient losses is to be assumed in comparison with municipal sewage sludge. Although localised adverse effects on soil health and fertility in excess of precautionary values or soil limit values as well as consequential effects for other protected goods cannot be completely ruled out, widespread damage to the soil is not to be expected. The exemption also eliminates transport routes and therefore has a positive impact on the environment and climate protection. Finally, there is also a reduction in costs for users, as transport costs are eliminated. Therefore, the exemption seems justifiable on the whole, especially since there is no apparent alternative.

It should be noted that spreading is in any event prohibited if the building is subject to the obligation to connect to the public sewer system under § 3(3) KanalG or if the materials do not comply with the requirements of the Ordinance under § 7. The legal provisions on fertilisers remain unaffected.

§ 6(3) is in line with the Sewage Sludge Directive. The sewage sludge in question falls under Art. 2(a)(ii) of the Sewage Sludge Directive (sludge from septic tanks or similar systems for the treatment of wastewater) and may be used in agriculture in accordance with Art. 3(2) first indent of the Sewage Sludge Directive, subject to national conditions.

§ 6 (4):

For hunting and forestry lodges and shelters which have not been accessed by means of suitable access roads nor means of ascent, an exemption from the prohibition on spreading under § 6(1) may be granted upon request by way of a decision. The exemption should be allowed for sewage sludge and domestic wastewater in the case of hunting and forestry lodges, while it should only be allowed for sewage sludge in the case of shelters. An exception for domestic wastewater cannot be considered for shelters because the amount of domestic wastewater produced is no longer within acceptable limits for spreading on soil. In addition, managed shelters can also produce wastewater other than domestic wastewater. Reference is made to the explanatory notes on § 6(3)(b) accordingly.

In the case of hunting and forestry lodges and shelters, it is necessary to examine on a case-by-case basis whether a spreading area suitable for the application of sewage sludge is at hand, taking into account the particular circumstances of the situation. Unlike the case of buildings for alpine, Vorsäss and Maisäss buildings (§ 6(3)), it cannot be assumed that an agricultural area is normally available for spreading. It is therefore intended to provide for an authorisation condition and not an ex lege exemption.

Furthermore, spreading is impermissible in any case if the building is subject to the obligation to connect to the public sewer system pursuant to § 3(3) KanalG or if the materials do not meet the requirements of the Ordinance pursuant to § 7. The legal provisions on fertilisers remain unaffected. Forest soil as defined by the Forestry Act 1975 is not considered to be a suitable area for spreading, especially since the application of sewage sludge or domestic wastewater to forest soil pursuant to § 16(2)(d) is regarded as waste deposit and therefore as prohibited forest degradation.

§ 6(4) is in line with the Sewage Sludge Directive. The sewage sludge in question falls under Art. 2(a)(ii) of the Sewage Sludge Directive (sludge from septic tanks or similar systems for the treatment of



wastewater) and may be used in agriculture in accordance with Art. 3(2) first indent of the Sewage Sludge Directive, subject to national conditions.

Due to the insertion of the new paragraphs (3) and (4), the designations of the previous paragraphs (3) and (4) had to be adapted accordingly.

**Re Points 12 to 16 (§ 7(1); § 7(1)(a); now § 7(1)(a), (b) and (e)):**

The power to issue ordinances under § 7 must be adjusted in the light of the amendments made by this draft bill. The provision on the supply of sewage sludge compost (§ 4) is deleted and para. (1) needs to be adjusted in this respect. Since inspection reports, lists of customers and delivery documents as defined by § 4 are no longer provided for because this provision is no longer applicable, there is no longer any basis for making more detailed provisions at ordinance level; the previous lit. (a) can therefore be omitted. The Provincial Government should also be able to issue more detailed regulations for application documents for approval of an exemption from the prohibition on application pursuant to § 6(4) by means of an ordinance; the current lit. (a) must be supplemented in this respect. More detailed rules on sewage sludge compost at ordinance level are no longer necessary due to the prohibition on the spreading of sewage sludge compost, and therefore lit. (b) and (e) of the current text need to be adapted.

**Re Points 17 to 22 (§ 7(1)(f); § 8(2) and (4); § 9(1); § 10(1)(a) and (b)):**

In view of the amendments made by the present draft bill, references to other provisions of the Soil Quality Protection Act should be adapted in §§ 7 to 10.

**Re Points 23 and 24 (§ 10a(1) and (2)):**

§ 10a (reporting obligation regarding sewage sludge) must be adapted, as no more data on sewage sludge is generated under the previous § 7 (a), (e) and (g). The spreading of sewage sludge, including sewage sludge compost, is now generally prohibited. However, under Art. 10 Sewage Sludge Directive, the quantities of sludge produced, the type of treatment and the recipients of the sludge and the places where it is to be recovered must also be reported and published. These provisions of the Directive are to be transposed at ordinance level on the basis of the previous § 7(1)(h) (now lit. (g)) or are already being transposed.

There are no reporting obligations under the Sewage Sludge Directive for sewage sludge that may be applied under the exemptions set out in § 6(3) or (4) (cf. the first indent of Article 3(1) of the Sewage Sludge Directive).

As a result of the amendment to § 7(1), the relevant reference in § 10a(2) must be adapted.

**Re Points 25 to 35 (§ 12(1)(a) to (c); now § 12(1)(a) to (h); § 12(2)(a); and § 12(4)):**

The penal provisions of § 12(1)(a) to (c) may cease to apply as a result of the omission of the provision on the supply of sewage sludge compost (§ 4).

The penal provision of lit. k (now lit. h) is to be adjusted so that acts (not only omissions) that infringe a regulation pursuant to § 7(2) are also subject to penalty.

In addition, terms and references to other provisions of the Soil Quality Protection Act must be adapted in the light of the amendments made by this draft bill.

**Re Point 36 (§ 15):**

§ 15(1) and (2) governs the entry into force of Article I of this Act (amending the Soil Quality Protection Act) and of an ordinance adopted on its basis in accordance with § 7(1).

Pursuant to § 3(h) in conjunction with § 6(2)(c) BSchG, the application of wastewater from farm slaughterhouses and alpine dairies is permitted provided that the structure or the paved area is not subject to the obligation to connect to the public sewer system pursuant to § 3(3) KanalG. However, the preferential treatment of these wastewaters should be limited (for the time being) to 31.12.2040, with the Provincial Government being obliged to carry out an evaluation with a view to a possible extension before the expiry of the term (§ 15(3) and the above explanatory notes at I.1.2. on the sunset clause).

Sewage sludge compost which was lawfully collected before this amendment's entry into effect may still be applied until 31.03.2026 for reasons of legitimate expectations, in compliance with the provisions

applicable before the amendment's entry into force (§ 15(4)). This is intended to protect people who have purchased sewage sludge compost in the belief that the legal framework will remain unchanged. A short transitional period should be established because the continued spreading of sewage sludge compost is associated with the risk of additional soil pollution, in particular by poly- and perfluorinated alkyl substances (PFAS). In addition, it can be assumed that sewage sludge compost is not kept in stock by customers in the long term anyway, but that the supply and spreading of sewage sludge compost is usually carried out at once.

The transitional provision in § 15(5) is intended to enable the Provincial Government to temporarily continue to conduct sewage sludge accounting (§ 10) in order to fulfil the reporting and publication obligations under Article 10 of the Sewage Sludge Directive. The data pursuant to § 7(1)(a), (e), (g) and (h) may therefore continue to be processed, published and transmitted to the European Commission in an automated manner in accordance with §§ 10 and 10a in the version prior to this amendment's entry into effect. When determining the transitional period, account had to be taken of the fact that sewage sludge compost may be applied until 31.03.2026 (§ 15(4)), that the data in question must be published by 31 August of the following year (Article 10 of the Sewage Sludge Directive; § 10a(1)) and that the data must be published until the data for the next calendar year are published (§ 10a(1)). As such, the transition period should end on 31.08.2028.

The penal provisions relating to the supply of sewage sludge compost (previously § 12(1)(a) to (c)) shall cease to apply upon this Act's entry into effect. However, administrative offences under the previous § 12(1)(a) to (c) committed before this Act's entry into effect shall continue to be punishable. A transitional provision (§ 15(6)) shall apply that the provisions in effect before this amendment's entry into effect shall continue to apply to such administrative offences.

#### **Amending the Sewerage Act (Article II):**

##### **Re Points 1 and 2 (§ 2(2)):**

The definition of 'domestic wastewater' was assumed from § 1(3)(2) of the General Wastewater Emission Ordinance (AAEV), Federal Law Gazette No 186/1996. Domestic wastewater is a central term of the Sewage Treatment Act, but has not yet been defined in this Act. In the light of the amendments to § 4(2), a definition of this term should now be added for clarification in order to ensure a uniform understanding of the text of the Act. This does not change the meaning of those provisions of the Sewerage Act, which currently refer to the term domestic wastewater, since the definition in § 1(3)(2) AAEV reflects the common understanding of the term in wastewater law.

Due to the insertion of the current paragraph (2), the designations of the previous paragraphs (2) to (6) had to be adapted accordingly.

##### **Re Point 3 (§ 3(4)):**

Due to the insertion of the current paragraph 5, the reference in paragraph 4 has to be adapted.

##### **Re Points 4 and 5 (§ 3(5)):**

Certain wastewater generated on agricultural holdings may be discharged under § 6(2)(c) BSchG and should therefore be exempted from the obligation to connect to the public sewer system under § 3(3). Due to its nature, wastewater from slaughterhouses and dairy farms should not be exempted from the obligation to connect to the public sewer system. If such wastewater is generated in the catchment area of a collection channel (§ 3(1)), it should be disposed of by way of the public wastewater treatment plant. Reference is made to the explanatory notes on Article I § 3(h).

If a connection is requested for the wastewater referred to in § 3(5), the owner may apply to the authority for a right to connect to the wastewater disposal plant in accordance with § 3(6).

Connection notices (§ 5(1)) that have been issued with legal effect prior to this amendment's entry into effect shall not be affected by § 3(5). The connectee is still authorised and obliged to discharge the wastewater in accordance with the legally binding connection notice. This means that there can be no frustrated expenses for existing connections for the connectees or the municipality. In order to avoid administrative burdens on the municipality, no possibility should be created for the connectee to subsequently obtain an exemption from the obligation to connect to the public sewer system for wastewater as defined by § 3(5) in spite of a legally binding connection notice. Since there is already a

legally binding connection notice and these structures or paved areas are already connected to the wastewater disposal system, it is justifiable that nothing will change for these connectees.

Due to the insertion of the current paragraph (5), the name of the previous paragraph (5) had to be adapted accordingly.

**Re Point 6 (§ 4(2)):**

The exemption from the obligation to connect to the public sewer system for structures that are used wholly or predominately for agricultural purposes is to be recast. It should be made clear that exemption can only be granted for domestic wastewater. It should not be possible to make use of this exemption in the case of private room rental, holiday apartment use, commercial accommodation, wine taverns, etc.; this corresponds to previous practical application. The vague expression ‘in lesser quantities’ is to be replaced by a clearer provision. The maximum limit of 25% reflects the previous practical application, which is based on the case-law of the Higher Administrative Court (see VwGH 20.02.1997, 97/06/0034; 19.09.1985, line 85/06/0058). In addition, the reference value is clarified, namely the sum of liquid farm manure and domestic wastewater; this is also in line with practical application to date.

Exemption decisions that have been issued with legal effect prior to the entry into force of this amendment shall not be affected by the new version of § 4(2). Once this time limit has elapsed, a further exemption is subject to compliance with the requirements of the new § 4(2).

**Re Points 7 and 8 (§ 5(8); § 13(4)):**

Due to the amendments made by the present draft bill, references to other provisions of the Sewage Treatment Act must be adapted.

**Re Point 9 (§ 30(6)):**

This provision governs the entry into effect of Article II of this Act (amendment to the Sewerage Act).