

**State Law,**  
**amending the Upper Austrian Building Technology Act 2013**  
**(Oö. Bautechnikgesetz-Novelle 2026)**

The Upper Austrian State Parliament (Landtag) has decided:

**Article I**

The Upper Austrian Building Technology Act 2013, Federal Law Gazette No. 35/2013, as amended by Federal Law LGBl. No. 84/2025, is amended as follows:

*1. The following amendments are made to the table of contents:*

*The entry "Annex 1 (CE Conformity Marking)" is removed; the previous entry "Annex 2 (installation symbol)" reads: "Annex (installation symbol)".*

*2. Section 51 reads:*

**"Section 51**  
**Construction Products**

(1) Construction products must be fit for purpose, that is to say, they must possess such characteristics (essential requirements) that the building or structure for which they are to be used by incorporation, joining, attaching or installing them, if properly planned and constructed, will meet the requirements of

1. mechanical strength and stability,
2. fire protection,
3. hygiene, health and environmental protection,
4. user safety,
5. sound insulation and
6. energy saving and thermal

insulation.

(2) Construction products shall be presumed to comply with the requirements of Paragraph 1, subject to rebuttal.

1. if they are manufactured in accordance with a harmonised European standard or a European technical assessment, bear the CE marking and the relevant essential characteristics are declared by the manufacturer in a declaration of performance, or
2. provided that no European technical specification exists and the construction products are listed in the Building Materials List ÖA (Section 60), if they comply with the conditions of the Building Materials List ÖA or deviate only insignificantly from them, or if
3. the construction product has a Building Technology Approval (Section 68).

(3) If no harmonised European Standard, European Technical Assessment or Building Approval exists for a construction product and the construction product is not listed in the Building Materials List ÖA, then – except in the cases of Section 86, Paragraph 2, Clause 6 – the building

owner must, upon request, prove the suitability of the construction product to the building authority by submitting suitable expert opinions.

(4) Used building materials and components may only be reused if they comply with the requirements of Paragraph 1; Paragraph 3 applies accordingly.”

3. *Section 54 reads:*

**“Section 54  
Definitions**

(1) Regulations are harmonised technical specifications within the meaning of Regulation (EU) No 305/2011, as well as national technical provisions of the Contracting Parties to the Agreement on the European Economic Area, such as technical standards, technical guidelines or principles of use of the Austrian Institute for Building Technology, if these are listed in the Building Materials List ÖA (Section 60) or ÖE (Section 66).

(2) The definitions laid down in Article 2 of Regulation (EU) No 305/2011, Article 3 of Regulation (EU) 2019/1020 and Article 2 of Regulation (EU) 2017/1369 shall also apply within the scope of this Chapter.”

4. *Section 55, Paragraph 1 reads:*

(1) Construction products for which

1. a harmonised European standard exists that is listed in the Building Materials List ÖE (Section 66), or
2. a European Technical Assessment (ETA) is available that was issued on the basis of a European Assessment Document (EAD) listed in the Austrian Building Materials List (ÖE),

They may only be made available on the market if they bear the CE marking and the declared performance does not contradict the requirements set out in the Building Materials List ÖE.”

5. *Section 60, Paragraph 5 reads:*

“(5) The Austrian Institute for Building Technology shall establish the Building Materials List ÖA by regulation. The Austrian Chamber of Commerce must be consulted before the regulation is issued. The enactment of the regulation requires the approval of the state government. The Building Materials List ÖA must be published on the website of the Austrian Institute for Building Technology. The publication of the regulation must be announced on the state website.”

6. *In Section 64, Paragraph 3, the number “2” is deleted after the word “Annex”.*

7. *Section 65 reads:*

**“Section 65  
Requirements for the use of**

construction products for which

1. a harmonised European standard exists that is listed in the Building Materials List ÖE (Section 66), or
  2. a European Technical Assessment (ETA) is available that was issued on the basis of European Assessment Document (EAD) listed in the Austrian Building Materials List (ÖE),
- They may only be used if they meet the performance requirements or usage specifications laid down in the Building Materials List ÖE and bear the CE marking.”

8. *Section 66, Paragraph 2 reads:*

“(2) The Austrian Institute for Building Technology shall establish the Building Materials List ÖE by regulation. The Austrian Chamber of Commerce must be consulted before the regulation is issued. The enactment of the regulation requires the approval of the state government. The Building Materials List ÖE must be published on the website of the Austrian Institute for Building Technology. The publication of the regulation must be announced on the state website.”

9. *Section 75 reads:*

**“Section 75  
Scope of application**

(1) For construction products that are subject to the harmonisation legislation of the European Union, market surveillance shall be carried out in accordance with Regulation (EU) 2019/1020 and the provisions of this section.

(2) For construction products not subject to the harmonisation legislation of the European Union, the provisions of Articles 16, Paragraphs 1 to 5, Article 17, Article 18 and Article 19, Paragraph 1, first sentence, and Paragraph 2 of Regulation (EU) 2019/1020 and the provisions of this section, with the exception of Section 77, Paragraph 1, Clauses 1 and 9, shall apply *mutatis mutandis*.

(3) For energy-related construction products within the meaning of Regulation (EU) 2017/1369, market surveillance shall be carried out in accordance with the provisions of Regulation (EU) 2019/1020 and the provisions of this section.”

10. *The introductory sentence in Section 77, Paragraph 1, reads:*

“The market surveillance authority is entrusted with the activities of a market surveillance authority pursuant to Article 11 of Regulation (EU) 2019/1020 and is responsible in particular for the following market surveillance tasks:”

11. *Section 77, Paragraph 1, Clause 5, reads:*

Market surveillance measures, in particular those pursuant to Article 16 of Regulation (EU) 2019/1020;”

*12. In Section 77, Paragraph 1, Clause 8, the word sequence "a serious danger" is replaced by the word sequence "a serious risk".*

*13. In Section 77, Paragraph 1, Clause 9, the term "Community market" is replaced by the term "Union market".*

*14. In Section 77 Paragraph 1, Clause 10, the word sequence "the central liaison office pursuant to Article 10 of Regulation (EU) 2019/1020" is inserted after the word sequence "Cooperation and exchange of information with".*

*15. Section 77, Paragraph 2, is renamed paragraph "(3)"; the following new Paragraph 2 is inserted:*

*"(2) The market surveillance authority shall be granted the powers for market surveillance pursuant to Article 14, with the exception of Paragraph 3, Letter c, of Regulation (EU) 2019/1020."*

*16. Section 78, Paragraph 3 reads:*

*"(3) Market surveillance measures pursuant to Article 16 of Regulation (EU) 2019/1020 may be taken as measures of direct command and enforcement without prior administrative procedure in the case of construction products that pose a serious risk and require rapid action."*

*17. In Section 79, Clause 2, the citation "Clauses 4 to 10" is deleted.*

*18. In Section 85, Paragraph 1, Clause 6, the word "the" is deleted.*

*19. In Section 85, Paragraph 1, Clause 7, the word sequence "or used" is inserted after the word sequence "makes available".*

*20. In Section 85, Paragraph 1, the full stop at the end of Clause 13 is replaced by a semicolon, and the following Clauses 14 to 16 are added:*

*"14. fails to comply with the obligations under Articles 3, 4, 5 and 6 or Article 11, Paragraph 13, of Regulation (EU) 2017/1369;*

15. fails to draw up or draws up a declaration of performance in accordance with Articles 4 to 7 of Regulation (EU) No 305/2011, or fails to make it available or fails to make it available in a timely manner;
16. fails to comply with the obligations set out in Articles 11 to 16 of Regulation (EU) No 305/2011.”

21. *Section 85, Paragraph 3, reads:*

“(3) An administrative offence pursuant to Paragraph 1 shall be punished by the district administrative authority with a fine of at least 2,500 Euro and up to 50,000 Euro, or, in the event of non-payment, with imprisonment for up to six weeks in lieu thereof.”

22. *Section 85, Paragraph 4, reads:*

“(4) Offences under Paragraph 1 shall be continuing offences insofar as the unlawful condition created thereby persists. The limitation period for prosecution begins to run for continuing offences from the point at which the legally compliant state is restored.

23. *In Section 85, Paragraph 5, the citation “Clauses 6 to 13” is deleted.*

24. *In Section 85, Paragraph 6, the citation “Paragraph 1, Clauses 6 to 13” is replaced by the citation “Paragraph 1, Clauses 1, 2 and 5 to 14”.*

25. *In Section 88, the following Paragraph 3a is inserted after Paragraph 3:*

“(3a) Where reference is made in this federal law to provisions of Community law, these shall apply in the following version:

- ‘Regulation (EU) No 305/2011’: Regulation (EU) No 305/2011 of the European Parliament and of the Council, of 9 March 2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, OJ L 88, 04/04/2011, p. 5, as amended on 08/04/2015, OJ L 92, p. 118;
- ‘Regulation (EU) 2019/1020’: Regulation (EU) 2019/1020 of the European Parliament and of the Council, of 20 June 2019, on market surveillance and conformity of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011, OJ No 169 of 25/06/2019, p. 1, as amended on 01/10/2024, OJ No L 90589, p. 1;
- ‘Regulation (EU) 2017/1369’: Regulation (EU) 2017/1369 of the European Parliament and of the Council, of 4 July 2017, establishing a framework for energy labelling and repealing Directive 2010/30/EU, OJ No 198 of 28/07/2017, p. 1, as amended on 05/06/2020, OJ L 177, p. 1;
- ‘Directive (EU) 2024/1275’: Directive (EU) 2024/1275/EC of the European Parliament and of the Council, of 24 April, 2024, on the energy performance of buildings, OJ L 2024/1275, of 08/05/2024.”

26. *Annex 1 is deleted; the former Annex 2 is renamed "Annex".*

## **Article II**

(1) This state law shall enter into force on the first day of the month following its publication in the Federal Law Gazette for Upper Austria.

(2) Administrative penalty proceedings pending at the time this state law enters into force shall be continued in accordance with the previously applicable legal provisions.

(3) This state law has been subject to an information procedure within the meaning of Directive (EU) 2015/1535/EC of the European Parliament and of the Council, of 9 September 2015, laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codified text), OJ L 241, of 17/09/2015, p. 1 et seq.