

# Draft Act

of the State Government

## Fourth Bavarian Modernisation Act

### A) Problem

The Fourth Bavarian Modernisation Act ties in with the First Bavarian Modernisation Act (Official Record 19/3023), the Second Bavarian Modernisation Act (Official Record 19/3617) and the Third Bavarian Modernisation Act (Official Record 19/6494) and implements further deregulation and debureaucratisation measures in state law in an omnibus act.

### B) Solution

The Fourth Bavarian Modernisation Act includes amendments to the following legal standards: Competence Ordinance, Act Implementing the Transplantation Act, Health Services Act, School Health Care Ordinance, Ordinance on Competence in the Construction Sector, Bavarian Building Code, Bavarian State Planning Act, Courts Constitution Implementation Act, Bavarian Arbitration Act, Bavarian Act on the Psychiatric Confinement and Temporary Placement of Criminal Offenders, SME Promotion Act, Bavarian Restaurant Ordinance, Public Pensions Act, Ordinance on the Implementation of the Public Pensions Act, Bavarian Nature Conservation Act, Bavarian Act on Equal Opportunities of Persons with Disabilities, Act on Local Public Transport in Bavaria, Bavarian Lobbying Register Act, Bavarian State Representatives Act, Act on State Awards for Rescuing Persons from Danger, Act on the University of Applied Sciences for Public Administration in Bavaria [HföD], Act on the Formation of Pension Reserves in the Free State of Bavaria, Bavarian Equal Opportunities Act, Nursing Association Act, Bavarian Mental Health Assistance Act, Bavarian Climate Protection Act, Bavarian Higher Education Innovation Act, Bavarian University Hospital Act, Bavarian Higher Education Admission Act, Bavarian Act to Promote Elite Students, Bavarian Child Education and Care Act, Bavarian Adult Education Promotion Act, Bavarian Broadcasting Act, Bavarian Media Act, State Forestry Act, Bavarian Forest Act, Ordinance on Responsibilities in the Transport Sector, Bavarian Rescue Service Act, Bavarian Act on Education and Teaching, State Electoral Code, Bavarian Constitution Protection Act, Police Duties Act, Police and Regulatory Authorities Act, Bavarian Civil Service Act, Bavarian Digital Act, Bavarian Digital Ordinance, Registration Data Ordinance, Ordinance on the Central Electronic Civil Status Register, Cancer Registry Ordinance, Burial Ordinance, Act on Noise Protection Requirements for Children's and Youth Play Facilities, Bavarian Waste Management Act, Ordinance on the Bavarian Waste Management Plan, Ordinance on the Implementation of the Bavarian Rescue Service Act, Electronic Legal Communications Ordinance for the Judiciary, Ordinance on Electronic Files for Labour and Social Courts, Ordinance on Electronic File Management in the Administrative Jurisdiction in the Free State of Bavaria, Ordinance on Electronic Records for Financial Courts, Bavarian Mining Ordinance, Bavarian IPPC Waste Water Ordinance, Bavarian Act on the Implementation of the Wastewater Charges Act, Bavarian Railway and Cableway Act, Bavarian Remuneration Act, Civil Service Career Act, StMB Ordinance on Competence in Civil Service Law, StMI Competence Ordinance for Civil Service Law, StMWK Competence Ordinance, StMFH Competence Regulation, Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Economic Affairs, Regional Development and Energy, Regulation on Competence under Service Law in the Area of Responsibility of the Bavarian State Ministry of Food, Agriculture, Forestry and Tourism, Ordinance on Official, Judicial, Disciplinary and Salary Competence, Responsibilities for Travel Expenses and the Classification of Posts in the Domain of the Bavarian State Ministry for Family, Labour and Social Affairs, StMGP Competence Ordinance, Bavarian Civil Service Pensions Act.

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**C) Alternatives**

None

**D) Costs**

The measures under the Act are cost-neutral or are implemented within the framework of existing bodies and funds. The reduction of complexity also leads to a reduction in bureaucratic costs at the individual administrative levels.

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## **Fourth Bavarian Modernisation Act<sup>1)</sup>**

**of [...]**

### **§ 1**

#### **Amendment to the Competence Ordinance**

In the sentence fragment after Point 2 in § 37(2) of the Competence Ordinance (ZustV) of 16 June 2015 (GVBl.[Law and Ordinance Gazette] p. 184, BayRS [Collection of Bavarian Laws] 2015-1-1-V), last amended by § 4 of the Ordinance of 20 May 2025 (GVBl.p. 158), the specification 'No 1' is deleted.

### **§ 2**

#### **Amendment to the Act implementing the Transplantation Act**

Art. 3(5) of the Act implementing the Transplantation Act (AGTPG) of 24 November 1999 (GVBl. p. 464, BayRS 212-2-G), last amended by § 1(28) of the Ordinance of 4 June 2024 (GVBl. p. 98) is repealed.

### **§ 3**

#### **Amendment to the Health Services Act**

In Art. 12(3)(5) of the Health Services Act (GDG) of 10 May 2022 (GVBl. p. 182, BayRS 2120-12-G), last amended by § 1 of the Act of 23 December 2024 (GVBl. P. 632), the words 'and in the case of further school vaccination consultations' are deleted.

### **§ 4**

#### **Amendment to the School Health Care Ordinance**

§ 10(1) of the School Health Care Regulation (SchulgespfIV) of 20 December 2008 (GVBl. 2009 p. 10, BayRS 2126-3-2-G), last amended by § 1(43) of the Ordinance of 4 June 2024 (GVBl. p. 98), shall be worded as follows:

'(1) The lower authorities for health, veterinary affairs, nutrition and consumer protection shall carry out vaccination counselling and surveys on vaccination rates on an annual basis as part of the school entry examination in accordance with §§ 6 and 7.'

### **§ 5**

#### **Amendment to the Ordinance on Competence in the Construction Sector**

§ 5 of the Ordinance on Competence in the Construction Sector (ZustVBau) of 5 July 1994 (GVBl. p. 573, BayRS 2130-3-B), last amended by the Ordinance of 3 January 2025 (GVBl. P. 16), shall be amended as follows:

1. In Para. 1, the specification 'No 1' shall be deleted.
2. Paragraph 2 shall be worded as follows:

'(2) The tasks of the lower building supervisory authority as defined by Art. 83(9) BayBO [Bavarian Building Code] are assigned to the towns of Pfaffenhofen an der Ilm and Waldsassen.'

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<sup>1</sup> )Notified in accordance with Directive (EU) 2015/1535 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 (OJ L 241, 17.9.2015, p. 1).

## § 6

### Amendment to the Bavarian Building Code

The Bavarian Building Code (BayBO) in the version promulgated on 14 August 2007 (GVBl. p. 588, BayRS 2132-1-B), last amended by §§ 12 and 13 of the Act of 23 December 2024 (GVBl. p. 605) and by § 4 of the Act of 23 December 2024 (GVBl. P. 619), shall be amended as follows:

1. Art. 2 shall be amended as follows:
  - a) Para. 3(1)(4) shall be worded as follows:

‘4. Building class 4:  
Buildings with a height of up to 13 m and

    - a) functional units of no more than 400 m<sup>2</sup> each, or
    - b) parts of functional units that are delimited by external or partition walls in accordance with Art. 27(2)(1) and have escape routes that are independent of other parts in accordance with Art. 31 Para. 1, each with no more than 400 m<sup>2</sup>,’.
  - b) In Para. 4(21), the number ‘19’ is replaced by the number ‘20’.
2. Art. 20(2) shall be worded as follows:

<sup>2</sup>If no risks pursuant to § 3(1) are to be anticipated, in a particular case, the supreme building supervisory authority can stipulate that their approval in a particular case is not required.’
3. Art. 53 is amended as follows:
  - a) Para. 2 is amended as follows:
    - aa) Sentence 1 shall be worded as follows:

‘<sup>1</sup>The State Ministry for Housing, Construction and Transport entrusts the tasks of the lower building supervisory authority to capable district municipalities by way of statutory instrument upon request.’
    - bb) In Sentence 3, the specification ‘Para. 3, Sentences 1 to 4’ are replaced by the specification ‘Para. 3, Sentences 1 to 3’.
    - cc) Sentences 5 and 6 are repealed.
  - b) Para. 3 is amended as follows:
    - aa) Sentence 4 is repealed.
    - bb) Sentence 5 becomes Sentence 4.
4. Art. 57 is amended as follows:
  - a) Para. 1(12) is worded as follows:

‘12. the following advertising installations:

    - a) advertising installations with a visible area of up to 1.5 m<sup>2</sup> as well as vending machines and cash machines,
    - b) signs indicating the owner and nature of commercial enterprises (information signs) if they are combined on a single board before main thoroughfares,
    - c) advertising installations at the place of performance, at and on airfields, sports facilities, on defined places of assembly, exhibition and trade fair grounds, as long as they do not affect the open landscape, with a clear height of up to 10 m,

as well as the associated change in the use or external appearance of the installation, if they are erected in, on or at an existing structure,’.
  - b) In Para. 4(1), the term ‘öffentliche-rechtliche’ [under public law] is replaced by the term ‘öffentlich-rechtliche’ [under public law].
5. In Art. 58(1)(1)(5), the specification ‘Para. 3(5)’ is replaced by the specification ‘Para. 2(5)’.

6. In Art. 82(5)(1), the specification 'Art. 14' is replaced by the specification 'Art. 16'.
7. The following Para. 9 shall be added to Art. 83:
 

'(9) <sup>1</sup>A of the lower building supervisory authority pursuant to Art. 53 para. 2 sentence 1 no. 2 in the version applicable on ...**[insert: date of the day prior to entry into force pursuant to § 75(1)]** shall continue to apply until the end of ... **[insert: date five years after the entry into force pursuant to § 75(1)]**.  
<sup>2</sup>Art. 53(2) Sentences 2 and 3 apply accordingly. <sup>3</sup>In the cases referred to in Sentence 1, Art. 53 (2) Sentences 5 and 6 shall continue to apply in the version applicable on ...**[insert: date of day prior to entry into force as per § 75(1)]**.'

## § 7

### Amendment to the Bavarian State Planning Act

The Bavarian State Planning Act (BayLplG) of 25 June 2012 (GVBl. p. 254, BayRS 230-1-W), last amended by § 4 of the Act of 23 July 2024 (GVBl. p. 257), shall be amended as follows:

1. Art. 2 shall be amended as follows:
  - a) In Point 2, the specification 'Art. 17' is replaced by 'Art. 19'.
  - b) In Point 4, the words 'of the spatial planning procedure' are replaced by the words 'of the spatial impact assessment'.
  - c) The following Point 5 is inserted after Point 4:
 

'5. Spatial planning objectives in preparation:  
       objectives of regional planning contained in a draft plan for which a participation procedure has been initiated;'
  - d) The previous Points 5 and 6 become the new Points 6 and 7.
  - e) The previous Point 7 becomes Point 8 and the words 'Art. 19 and 21' are replaced by the words 'Art. 14 and 15'.
  - f) The previous Point 8 becomes Point 9.
2. Art. 4 shall be worded as follows:

#### 'Art. 4

#### Target deviation procedure

(1) <sup>1</sup>If a failure to meet a target is identified in a planning or authorisation procedure, the competent authority shall grant an application for a deviation from a spatial planning objective in a special procedure in individual cases if the deviation is justifiable from a spatial planning perspective and does not affect the basic outline of the plan. <sup>2</sup>The affected public bodies at the relevant administrative level as well as the municipalities and Regional Planning Associations concerned must be consulted. <sup>3</sup>If a deviation from an exclusively regional planning objective laid down in a regional plan is applied for, the consent of the Regional Planning Association concerned will also be required. <sup>4</sup>In all other respects, the provisions of the Bavarian Administrative Procedure Act (BayVwVfG) shall apply.

(2) <sup>1</sup>The higher state planning authority in whose jurisdiction the Regional Planning Association is located is competent for the decision on the deviation exclusively from a regional planning objective laid down in a regional plan, otherwise the supreme state planning authority shall have competence. <sup>2</sup>Public bodies and persons under private law who must observe the spatial planning objectives under Art. 3 are authorised to apply. <sup>3</sup>In addition, persons under private law whose proposed project requires planning approval or authorisation with the legal effect of planning approval or whose proposed project is to be assessed in accordance with Art. 3 Para. 2 are also authorised to apply.'

3. Art. 8 shall be amended as follows:
  - a) The following Sentence 4 is added to Para. 1:
 

<sup>4</sup>The right of the respective member to perform the task himself is not affected by this, as long as this does not conflict with the performance of the tasks of the Regional Planning Association.'
  - b) In Para. 3(2), the specification 'Art. 19' is replaced with 'Art. 14'.
4. Art. 9 shall be amended as follows:
  - a) Para. 1 is amended as follows:
    - aa) Sentence 2 shall be worded as follows:
 

<sup>2</sup>Approval of the articles of association by the higher state planning authority pursuant to the Art. 20(1)(1) of the Act on Municipal Cooperation (KommZG) is not required.'
    - bb) The following Sentences 3 and 4 are added:
 

<sup>3</sup>The assumption of tasks and powers under Art. 8(1)(3) is subject to a corresponding provision in the association's articles of association. <sup>4</sup>An obligation for individual members of the association to pay contributions to finance such management shall be subject to their consent to the corresponding amendment of the association's articles of association.'
  - b) Para. 2 is repealed.
  - c) Para. 3 becomes Para. 2.
5. In Art. 10(2)(11), the words 'of the Act on Municipal Cooperation (KommZG)' are replaced by the words 'KommZG'.
6. In Art. 12(2), the words 'shall be determined by a statutory instrument of the State Government' are replaced by the words 'shall be provided for by the supreme state planning authority by means of statutory instrument'.
7. Art. 13 shall be worded as follows:

'Art. 13

Regional planning council

<sup>1</sup>The supreme state planning authority has a regional planning council which supports it with expert opinions, suggestions and recommendations. <sup>2</sup>The council is chaired by the supreme state planning authority. <sup>3</sup>The supreme state planning authority shall provide for the details by means of a statutory instrument.'

8. After Art. 13, the following Art. 14 and 15 are inserted:

'Art. 14

State development programme

(1) <sup>1</sup>The state development programme defines the basic outline of the spatial planning and development of the state territory to be pursued. <sup>2</sup>Special stipulations in this respect can also be made for supra-regional sub-regions. <sup>3</sup>Specifications on individual plans and measures can be included in the state development programme if the plans and measures have the same spatial significance for the entire state territory or large parts thereof.

(2) The state development programme may contain

1. the division of the state territory into regions;
  2. the definition of the central locations as well as the requirements for their security and development with regard to their central local tasks and requirements for the determination of the central locations of basic services;
- Art. 15(2)(1) remains unaffected,

3. the areas that are to be treated uniformly with regard to their problem situation, their need for order and their desired development (regional categories), as well as the superordinate specifications required according to their respective characteristics and
4. definitions of spatial significance throughout the state.

(3) <sup>1</sup>The state development programme is drawn up by the supreme state planning authority. <sup>2</sup>The provisions contained in the state development programme shall be adopted as a statutory instrument by the State Government, with the approval of the State Parliament.

#### Art. 15

##### Regional plans

(1) <sup>1</sup>Regional plans shall be developed from the state development programme. <sup>2</sup>They shall define the spatial planning and development of a region to be pursued, taking into account the spatial planning objectives set out in the state development programme.

(2) Regional plans may include:

1. the definition of the central locations of the basic services as well as the requirements for their security and development with regard to their central local tasks,
2. definitions of the regional categories and
3. region-wide spatially significant definitions.

(3) <sup>1</sup>Regional Plans shall be drawn up by the competent Regional Planning Associations and the provisions contained therein shall be adopted by the Regional Planning Associations in agreement with the competent higher state planning authority as a statutory instrument. <sup>2</sup>The agreement shall be limited to the formal and substantive legality of the regional plan.'

9. The current Art. 14 becomes Art. 16 and Para. 2 is amended as follows:

- a) Sentence 2 is repealed.
- b) Sentence 3 becomes Sentence 2.
- c) The following Sentences 3 to 5 are added:

<sup>3</sup>One or more exclusion zones may only be designated in conjunction with one or more priority zones and only if space is substantially created for the respective use or function. <sup>4</sup>These definitions must be made on the basis of an overall spatial planning concept. <sup>5</sup>A systematic distinction as to whether the exclusion is based on factual, legal or planning reasons is not required in this regard.

10. The previous Art. 15 becomes Art. 17 and is amended as follows:

- a) The heading is worded as follows:

#### 'Art. 17

##### Environmental assessment'

- b) Para. 1 is amended as follows:

'(1) When drawing up spatial development plans, an environmental assessment shall be carried out where required by other provisions and an environmental report shall be drawn up at an early stage as a separate part of the draft explanatory memorandum.'

- c) In Para. 3(1)(1), the words 'in participation' are replaced by the words 'after hearing'.
- d) Para. 4 is amended as follows:

aa) In Sentence 1, the word 'can' is replaced by 'should' and the words 'taking into account' are deleted.

bb) In Sentence 2, the words 'in participation' are replaced by the words 'after hearing'.

e) In Para. 5, the word 'can' is replaced by 'should'.

11. The previous Art. 16 becomes Art. 18 and is worded as follows:

#### 'Art. 18

##### Participation procedure

(1) <sup>1</sup>The general public and public bodies shall be given an opportunity to comment when spatial development plans are being prepared. <sup>2</sup>For this purpose, the draft of the spatial development plan shall be published on the internet for four weeks (publication period). <sup>3</sup>This period may be extended as needed for good cause. <sup>4</sup>An alternative means of access should be provided upon request. <sup>5</sup>This, together with the internet address, the time limit for publication and the place where there is an opportunity to submit comments in electronic form or, if necessary, in writing by the end of the publication period must be announced in advance in a manner customary for the locality. <sup>6</sup>The notice should also point out that all comments that are not based on special titles under private law will be excluded at the end of the publication period. <sup>7</sup>Participation does not establish grounds for legal entitlement.

(2) <sup>1</sup>At the same time as the procedure under Para. 1, the following bodies shall be given an electronic opportunity to submit their comments in exclusively electronic form:

1. the public bodies and the persons under private law referred to in Art. 3(1)(2) for which a duty of consideration is to be established,
2. associations recognised under nature conservation law in the Free State of Bavaria, insofar as they are affected in their statutory area of responsibility,
3. the economic, agricultural, forestry and social associations concerned,
4. the competent authority of the neighbouring state, insofar as the implementation of the spatial development plan may have an impact on their local areas,
5. the competent authority of the neighbouring state, in accordance with the principles of reciprocity and equivalence, in so far as the implementation of a spatial development plan may have significant effects there; in addition, in the case of significant environmental effects, in accordance with §§ 60 and 61 of the Environmental Impact Assessment Act (UVPG).

<sup>2</sup>Para. 1 shall apply to the procedure accordingly. <sup>3</sup>In addition to the draft state development programme, the municipal umbrella associations in the Free State of Bavaria must also be given an electronic opportunity to submit an exclusively electronic opinion.

(3) <sup>1</sup>The supreme state planning authority is responsible for the participatory procedure for the state development programme and the Regional Planning Association for the participatory procedure for the regional plan. <sup>2</sup>The publication referred to in Para. 1(5) shall be made by the regionally affected higher state planning authority, district offices and independent municipalities in the scope of the participatory procedure for the regional plan.

(4) <sup>1</sup>In the case of a minor amendment to a spatial development plan, participation shall be limited to those members of the general public and those public bodies affected by the amendment in their interests if the amendment is not expected to have any significant environmental impact in accordance with the environmental report referred to in Art. 17 and no significant impact on third parties is expected. <sup>2</sup>Para. 1 and Para. 2 Sentence 1(1) and Sentence 3 shall apply to the participation procedure accordingly.

(5) <sup>1</sup>If the draft of the spatial development plan is amended after the participation procedure has been carried out in accordance with Paras. 1 to 4, this procedure must be carried out again. <sup>2</sup>Comments may only be made on the amendments. <sup>3</sup>The publication period should be shortened appropriately. <sup>4</sup>Participation shall be limited to those members of the general public and those public bodies affected by the amendment in their interests. <sup>5</sup>If the amendments do not introduce any new duties of consideration or heighten any existing ones and do not affect the basic outline of the plan, a new participation procedure may be dispensed with.

(6) <sup>1</sup>Spatial development plans of neighbouring planning spaces within the territory of Germany must be coordinated with each other. <sup>2</sup>If the draft of a non-Bavarian spatial development plan is coordinated with the supreme state planning authority or a Regional Planning Association, the higher state planning authorities whose jurisdiction the effects of this spatial development plan are to be expected in, shall involve the public in accordance with Para. 1, provided this does not conflict with the requirements of the non-Bavarian authority. <sup>3</sup>The notice shall indicate that there is an opportunity to submit comments to the body with which the non-Bavarian spatial development plan is coordinated. <sup>4</sup>If the documents prepared during the environmental assessment have also been submitted, the authorities referred to in Art. 17(3) shall be given the opportunity to comment within a reasonable period of time.'

12. The previous Art. 17 becomes Art. 19 and is amended as follows:

- a) In Sentence 1(1) the words 'the interests' is replaced by the word 'these'.
- b) Sentence 2 is amended as follows:
  - aa) In Point 1, the specification 'Art. 20' is replaced by 'Art. 14' and the specification 'Art. 22' is replaced by 'Art. 15'.
  - bb) In Point 2, the specification 'Art. 15' is replaced by 'Art. 17'.
  - cc) In Point 3, the specification 'Art. 16' is replaced by 'Art. 18'.

13. The previous Art. 18 becomes Art. 20 and is worded as follows:

#### 'Art. 20

##### Announcement and posting on the internet

(1) The state development programme is announced by the State Government, while the regional plan is announced by the competent higher state planning authority.

(2) <sup>1</sup>Starting on the date of entry into force, the state development programme shall be posted on the internet by the supreme state planning authority, and the regional plan shall be posted on the internet by the higher state planning authorities concerned with the justification for the determinations. <sup>2</sup>This must be indicated in the relevant official gazette. <sup>3</sup>The justification for the spatial development plan must also include:

1. a summary declaration,
  - a) how environmental considerations have been integrated into the spatial development plan,
  - b) how the environmental report prepared in accordance with Art. 17, the results of the participation procedures in accordance with Art. 18 and the alternatives examined were taken into account in the assessment, and
2. a summary of the measures to be taken to monitor significant environmental effects in the implementation of the spatial development plan.'

14. The previous Articles 19 to 22 are repealed.

15. Art. 23 is renumbered Art. 21 and amended as follows:

- a) Para. 1 is amended as follows:

- aa) In Point 1, the specification 'Art. 16' is replaced by 'Art. 18' and the words 'individual persons or public bodies have not been involved or cross-border participation has been incorrectly carried out' are replaced by the words 'individual persons to be involved under Art. 18(2) have not been involved or have been involved incorrectly'.
  - bb) Point 2 is worded as follows:
    - '2. the provision in Art. 16(4) concerning the justification for the determinations in the spatial development plan and its drafts has been violated, regardless of whether the justification is incomplete;'
  - b) Para. 2 is amended as follows:
    - aa) Point 1 is repealed.
    - bb) In Point 2, the specification '2.' is deleted.
  - c) Para. 3 is amended as follows:
    - aa) In Sentence 1, 'Art. 17' is replaced by 'Art. 19'.
    - bb) The following Sentence 3 is added:
      - '<sup>3</sup>If one or more exclusion zones are incorrectly defined in a spatial development plan in relation to one or more priority zones, the spatial development plan also remain effective provided that the other priority areas substantially provide space for the priority use or function.'
  - d) Para. 4 is amended as follows:
    - aa) In the part of the sentence before Point 1, the specification 'Art. 15' is replaced by 'Art. 17'.
    - bb) In Point 1, the specification 'Art. 15' is replaced by 'Art. 17' and the specification 'Art. 18' is replaced by 'Art. 20(2)'.
    - cc) In Point 2, the specification 'Art. 15' is replaced by the words 'Art. 17'.
  - e) Para. 5(1) is amended as follows:
    - aa) In the sentence fragment preceding Point 1, the words 'of one year' are replaced by 'of six months'.
    - bb) Point 2 is repealed.
    - cc) Point 3 is replaced by Point 2 and the words 'significant deficiencies pursuant to Para. 3' are replaced by the words 'a significant deficiency pursuant to Para. 3'.
    - dd) Point 4 becomes Point 3.
  - f) Para. 7 is repealed.
16. Articles 24 and 25 become Articles 22 and 23 and are worded as follows:

'Art. 22

Subject of a spatial impact assessment, competence

(1) <sup>1</sup>Projects of significant supra-regional spatial significance must be examined for their spatial compatibility before a decision on their permissibility is made, unless the higher state planning authority refrains from doing so. <sup>2</sup>The spatial impact assessment includes:

1. an assessment of the spatially significant effects of the project in consideration of supra-regional aspects, in particular on the economic, settlement, infrastructure and open space structure, as well as compliance with the requirements of spatial planning and coordination with other spatially significant plans and measures,
2. an assessment of the alternatives seriously considered by the project sponsor and

3. an approximate assessment of supra-regional, spatially significant environmental protection concerns with regard to the effects of the project on protected assets under § 2(1) UVPG, taking the criteria in Annex 3 UVPG into account.

<sup>3</sup>Spatial impact assessments are carried out exclusively in the public interest.

(2) <sup>1</sup>The higher state planning authority with local jurisdiction for the project is responsible for the spatial impact assessment. <sup>2</sup>The supreme state planning authority may declare one of them responsible for projects involving multiple higher state planning authorities. <sup>3</sup>The latter decides in consultation with the other higher state planning authorities concerned.

## Art. 23

### Implementation and conclusion of a spatial impact assessment

(1) <sup>1</sup>The project sponsor shall submit to the higher state planning authority in an electronic format the documents necessary to decide whether a spatial impact assessment is necessary. <sup>2</sup>The higher state planning authority examines the submitted documents and decides within four weeks on the need for a spatial impact assessment or a simplified spatial impact assessment. <sup>3</sup>A spatial impact assessment should not be carried out if the project:

1. clearly meets or contradicts spatial planning objectives, or
2. conforms to the determinations of a development plan in accordance with § 12 or § 30(1) of the Building Code (BauGB), adapted to the objectives of regional planning, or contradicts itself and the permissibility of the project is not determined by a planning approval procedure or other procedure with the legal effects of the planning approval.

<sup>4</sup>In the case of projects by federal public bodies, other public bodies acting on behalf of the Federal Government and persons under private law pursuant to § 5(1) Spatial Planning Act (ROG), the higher state planning authority shall decide on the necessity of the spatial impact assessment in consultation with the competent body or person.

(2) <sup>1</sup>Where a spatial impact assessment is carried out, the project sponsor must submit the documents required for an assessment of any supra-regional effects of the project with spatial significance pursuant to Art. 22(1)(2) to the higher state planning authority. <sup>2</sup>If a simplified spatial impact assessment is to be carried out, the project sponsor must also submit the necessary documents required for the sponsor process to the higher federal state planning authority. <sup>3</sup>In the case of defence projects, the competent Federal Ministry or body designated by it; in the case of civil protection projects, the competent body shall decide on the nature and scope of the information for the project.

(3) <sup>1</sup>The general public and public bodies shall be given the opportunity to comment in the scope of the spatial impact assessment. <sup>2</sup>For this purpose, the documents are published on the internet for four weeks (publication period); this period may be extended as needed for good cause. <sup>3</sup>An alternative means of access should be provided upon request. <sup>4</sup>This, together with the internet address, the time limit for publication and the place where there is an opportunity to submit comments in electronic form or, if necessary, in writing by the end of the publication period must be announced in advance in a manner customary for the locality. <sup>5</sup>The notice should also point out that all comments that are not based on special titles under private law will be excluded at the end of the publication period for this procedure. <sup>6</sup>Participation does not establish grounds for legal entitlement. <sup>7</sup>The project sponsor is entitled to ensure that its trade and business secrets are not disclosed without consent. <sup>8</sup>The same applies to the federal government and the federal states if there are indications that certain information may be detrimental to the interests of the federal government or the federal state or if it must be kept confidential by law or on account of its nature. <sup>9</sup>However, the higher state planning authority may require the relevant documents describing the project

and its effects to be submitted without revealing any confidential information. <sup>10</sup>In the case of defence or civil protection projects, public participation may be restricted or excluded at the request of the bodies referred to in Para. 3(3).

(4) <sup>1</sup>At the same time as the procedure under Para. 4, the following bodies shall be given an electronic opportunity to submit their comments in exclusively electronic form:

1. public bodies and other planning authorities affected by the project;
2. associations recognised under nature conservation law in the Free State of Bavaria, insofar as they are affected in their statutory area of responsibility,
3. the economic, agricultural, forestry and social associations concerned,
4. the competent authority of the neighbouring state, insofar as the project may have an impact on their local areas,
5. the competent authority of the neighbouring country, insofar as the project may have a significant impact on its territory, in accordance with the principles of reciprocity and equivalence.

<sup>2</sup>Para. 4 shall apply accordingly.

(5) The participation referred to in Paras. 4 and 5 may also take place by the higher state planning authority incorporating spatial impact assessment issued in another procedure, including the comments made by the general public, which are relevant to a spatial impact assessment (simplified space impact assessment).

(6) <sup>1</sup>The higher state planning authority shall complete the spatial impact assessment within six months of receiving the complete documents or, in the case of a simplified spatial impact assessment, within three months of receiving the comments submitted in the other procedure, including the comments of the public, with a state planning assessment in the form of an expert opinion and shall forward this to the project sponsor and, in the case of a simplified spatial impact assessment, to the competent authority in charge of the other procedure as well.

<sup>2</sup>If no transmission takes place within the time limit under Sentence 1, the decision on the permissibility of the project may be made. <sup>3</sup>In such case, the higher state planning authority shall promptly complete the space impact assessment and forward its state planning assessment to the competent authority and the project sponsor. <sup>4</sup>The state planning assessment shall be published on the Internet. <sup>5</sup>The publication shall be promulgated. <sup>6</sup>The competent authority should use the findings from the spatial impact assessment and include the land planning assessment on the basis of Art. 3(1)(1) in its decision.

(7) The outcome of the spatial impact assessment may be reviewed in the context of the appeal procedure in comparison with the decision made in the subsequent procedure.'

17. Art. 26 is repealed.

18. Art. 27 becomes Art. 24 and is worded as follows:

#### 'Art. 24

##### State planning statement

If no spatial impact assessment is carried out, the higher state planning authority shall issue a state planning opinion in technical consultation and participation with the authorities.'

19. The previous Art. 28 becomes Art. 25 and is amended as follows:

- a) In Para. 1, the words 'supreme state planning authority may' are replaced by the 'state planning authorities may' and, after the specification 'Art. 3', the specification 'Para. 1' is inserted, and after the words 'public bodies', the words 'and persons under private law' are inserted.
- b) Para. 2 is amended as follows:

- aa) The wording becomes Sentence 1, the words 'supreme state planning authority may' are replaced by the 'state planning authorities may', after the specification 'Art. 3', the specification 'Para. 1' is inserted, and after the words 'public bodies', the words 'and persons under private law for up to two years' are inserted.
  - bb) The following Sentence 2 is added:  
    - <sup>2</sup>'The prohibition may be extended for an additional year.'
  - c) Para. 3 is amended as follows:  
    - '(3) <sup>1</sup>The higher state planning authority in whose jurisdiction the Regional Planning Association is located is responsible for prohibiting spatial planning objectives exclusively defined in a regional plan or in preparation. <sup>2</sup>The supreme state planning authority otherwise has competence.'
  - d) Para. 4 is amended as follows:
    - aa) The wording becomes Sentence 1.
    - bb) The following Sentence 2 is added:  
      - <sup>2</sup>'The sponsor of the planning or measure to be prohibited shall be consulted.'
  - e) Paras. 5 to 6 are deleted.
  - f) Paras. 7 and 8 become Paras. 5 and 6.
20. Art. 29 becomes Art. 26.
21. Art. 30 becomes Art. 27 and is worded as follows:

'Art. 27

Reporting and disclosure duties, use of information

- <sup>1</sup>The public bodies of the Free State of Bavaria referred to in Art. 3(1) and persons governed by private law are required to notify the higher state planning authorities concerned of spatially significant plans and measures without delay. <sup>2</sup>Other private planning sponsors are obliged to provide the state planning authorities with information on spatially significant planning and measures upon request. <sup>3</sup>The state planning authorities make use of information in the performance of their duties, in particular for spatial observation.'
22. Art. 31 and 32 are repealed.
23. Art. 33, Art. 28 and Para. 1 is worded as follows:  
  - '(1) <sup>1</sup>The supreme state planning authority may require municipalities to adapt their legally effective urban development plans to the spatial planning objectives. <sup>2</sup>When adapting solely to the objectives of a regional plan, the higher state planning authority shall be responsible.'
24. Art. 34 becomes Art. 29 and in Sentence 2 the words 'collected by the supreme state planning authority' are replaced by the word 'are' and the word 'collected' is inserted after the word 'expenses'.
25. The following Art. 30 is inserted after Art. 29:

'Art. 30

Precedence of the State Treaty

The provisions of the State Treaty between the State of Baden-Württemberg and the Free State of Bavaria on cooperation in regional development and regional planning in the Danube-III Region of 31 March 1973 (GVBl. p. 305, BayRS 01-1-7-W), as amended, shall take precedence over the provisions of this Act where the provisions of the State Treaty differ from the provisions of this Act.'

26. Art. 35 becomes Art. 31 and is worded as follows:

DRAFT

27.

'Art. 31

#### Inapplicability of the Spatial Planning Act

The Spatial Planning Act shall not apply within the substantive scope of application of this Act.'

28. Art. 36 becomes Art. 32 and is worded as follows:

'Art. 32

#### Transitional provisions

(1) Procedures for the preparation of spatial development plans in accordance with Art. 14 and 15 for which the participation procedure was initiated before ... **[insert: date of entry into force of this Act pursuant to § 75(1)]** shall be concluded in accordance with the version of this Act in force on ... **[insert: date of entry into force of this Act pursuant to § 75(1)]**.

(2) Spatial impact assessments pursuant to Art. 22 for which the documents pursuant to Art. 23(2) were submitted to the competent authority before ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** shall be completed in accordance with the version of this Act in force on ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** .

(3) Deviation procedures pursuant to Art. 4 applied for prior to ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** shall be concluded in accordance with the version of this Act in force on ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** .

(4) <sup>1</sup>Art. 21 in the version valid on ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** shall apply to spatial development plans that entered into force before ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** .  
<sup>2</sup>Otherwise, Art. 23 (2) in the version valid on ... **[insert: Date of entry into force of this Act pursuant to §75(1)]** shall continue to apply to these.'

29. Art. 37 becomes Art. 33.

30. Annex 1 is amended as follows:

- a) The specification '(re Art. 15(2)(2))' is replaced by '(re Art. 17(2)(2))'.
- b) In Point 2 of the sentence fragment preceding (a), the specification 'Art. 15' is replaced by 'Art. 17'.

31. In Annex 2, the words '(re Art. 15(4)(1))' are replaced by '(re Art. 17(4)(1))'.

## § 8

### Amendment to the Courts Constitution Implementation Act

The Courts Constitution Implementation Act (AGGVG) in the revised version published in the Bavarian Collection of Law (BayRS 300-1-1-J), last amended by § 1 of the Act of 23 December 2022 (GVBl. p. 714), is amended as follows:

1. Art. 8 is repealed.
2. Art. 29 is repealed.
3. In Art. 32, the word 'Girozentrale' is deleted.
4. In Art. 34(1), the title 'Kostenordnung [Schedule of Costs]' is replaced by the title 'Court and Notary Fees Act (GNotKG)'.
5. Art. 35 shall be worded as follows:

‘Art. 35

Notification to the probate court in the event of death  
outside Germany

<sup>1</sup>The municipality in which the deceased had his last place of residence or habitual abode must notify the probate court in its district of a death outside the territory of the Federal Republic of Germany as soon as the death becomes officially known. <sup>2</sup>If the probate court that receives the notification does not have jurisdiction, it must submit the notification of death to the competent probate court.’

6. Art. 38 and 39 are repealed.
7. Art. 43 is repealed.
8. Art. 51 is repealed.
9. In Art. 53(1), the words ‘to make use of the provisions of § 2(3) of the Judicial Records Retention Act (JAktAG) and’ is inserted after the words ‘statutory instrument’.
10. Art. 66 is amended as follows:
  - a) Para. 1 is repealed.
  - b) Para. 2 to 6 become Para. 1 to 5.
11. Art. 67 is amended as follows:
  - a) The reference <sup>(1)</sup> in the text is deleted.
  - b) Footnote <sup>(1)</sup> is removed.

**§ 9**

**Amendment to the Bavarian Arbitration Act**

Art. 5(3) of the Bavarian Arbitration Act (BaySchlG) of 25 April 2000 (GVBl. p. 268, BayRS 300-1-5-J), last amended by § 2(15) of the Act of 8 April 2013 (GVBl. P. 174), is amended as follows:

1. In Sentence 1, the sentence number <sup>(1)</sup> is deleted and the words ‘Paragraphs 1 and 2’ are replaced by the words ‘Paras. 1 and 2 as well as the arbitration committees recognised under Art. 22 AGGVG’.
2. Sentence 2 is repealed.

**§ 10**

**Amendment to the Bavarian Act on the Psychiatric Confinement and Temporary Placement of Criminal Offenders**

Art. 47(3) of the Bavarian Act on the Psychiatric Confinement and Temporary Placement of Criminal Offenders (BayMRVG) of 17 July 2015 (GVBl. p. 222, BayRS 312-3-A), last amended by § 11 of the Act of 23 December 2022 (GVBl. P. 718), is amended as follows:

1. In Sentence 1, the sentence numbering <sup>(1)</sup> is deleted.
2. Sentences 2 and 3 are repealed.

## § 11

### **Amendment to the SME Promotion Act**

Art. 19 of the SME Promotion Act (MfG) of 20 December 2007 (GVBl. p. 926, BayRS 707-1-W), last amended by § 1(317) of the Ordinance of 26 March 2019 (GVBl. p. 98) is repealed.

## § 12

### **Amendment to the Bavarian Restaurant Ordinance**

In § 1(1)(2) of the Bavarian Restaurant Ordinance (BayGastV) of 23 February 2016 (GVBl. p. 39, BayRS 7130-1-L), last amended by § 1 of the Ordinance of 13 May 2025 (GVBl. p. 139), the words 'Art. 53(2)(1)(1) of the Bavarian Building Code' are replaced by 'Art. 53(2)(1) of the Bavarian Building Code (BayBO)'.

## § 13

### **Amendment to the Public Pensions Act**

Art. 15 of the Public Pensions Act (VersoG) in the version promulgated on 16 June 2008 (GVBl. p. 371, BayRS 763-1-I), last amended by § 3 of the Act of 7 July 2023 (GVBl. P. 327), is amended as follows:

1. In Para. 1, the specification '(1)' is deleted.
2. Para. 2 is repealed.

## § 14

### **Amendment to the Ordinance on the Implementation of the Public Pensions Act**

The Ordinance on the Implementation of the Public Pensions Act (DVVersoG) of 20 December 1994 (GVBl. p. 1083, BayRS 763-1-1-I), last amended by the Ordinance of 30 September 2019 (GVBl. P. 611), is amended as follows:

1. In § 5(2)(2), the specification 'Para. 1' is deleted.
2. In § 9(2)(1), the specification 'Para. 1' is deleted.

## § 15

### **Amendment to the Bavarian Nature Conservation Act**

The Bavarian Nature Conservation Act (BayNatSchG) of 23 February 2011 (GVBl. p. 82, BayRS 791-1-U), last amended by *...[insert... Third Bavarian Modernisation Act]*, is amended as follows:

1. Art. 3a is repealed.
2. Art. 19 is amended as follows:
  - a) Para. 3 is repealed.
  - b) Para. 4 becomes Para. 3.

## § 16

### **Amendment to the Bavarian Act on Equal Opportunities of Persons with Disabilities**

Art. 18(3) of the Bavarian Disability Equality Act (BayBGG) of 9 July 2003 (GVBl. p. 419, BayRS 805-9-A), last amended by § 1 and § 2 of the Act of 24 July 2020 (GVBl. P. 388), is worded as follows:

'(3) The officer works across all departments and

1. works together with all business areas to fulfil the official duties,
2. proposes measures to improve the involvement of people with disabilities,
3. without prejudice to the right of petition and the decision-making responsibility of the executive bodies, processes the suggestions addressed to him or her by individual persons affected, associations, self-help groups, municipal representatives and other organisations in the thematically relevant field,
4. is consulted at an early stage on all laws, ordinances and other important projects of the state government addressing or affecting thematically relevant issues.'

## **§ 17**

### **Amendment to the Bavarian Lobbying Register Act**

Art. 7 of the Bavarian Lobbying Register Act (BayLobbyRG) of 6 July 2021 (GVBl. P. 386, BayRS 1100-7-I), as amended by § 2 of the Act of 23 December 2021 (GVBl. P. 661), is amended as follows:

1. Para. 1 is repealed.
2. In Para. 2, the specification '(2)' is deleted.

## **§ 18**

### **Amendment to the Bavarian State Representatives Act**

Art. 2 of the Bavarian State Representatives Act (BayBeauftrG) of 25 March 2019 (GVBl. p. 58, BayRS 1102-12-S) is amended as follows:

1. In Para. 1, the specification '(1)' is deleted.
2. Para. 2 is repealed.

## **§ 19**

### **Amendment to the Act on State Awards for Rescuing Persons from Danger**

Art. 11 of the Act on State Awards for Rescuing Persons from Danger in the revised version published in the Bavarian Collection of Laws (BayRS 1132-2-S), last amended by § 1(11) of the Ordinance of 26 March 2019 (GVBl. p. 98), is amended as follows:

1. In Para. 1, the specification '(1)' is deleted.
2. Para. 2 is repealed.

## **§ 20**

### **Amendment to the Act on the University of Applied Sciences for Public Administration in Bavaria [HföD Act]**

Art. 15 of the HföD Act (HföDG), in the version of the promulgation of 9 October 2003 (GVBl. p. 818, BayRS 2030-1-3-F), last amended by § 2 of the Act of 23 December 2024 (GVBl. p. 605) is repealed.

## **§ 21**

### **Amendment to the Act on the Formation of Pension Reserves in the Free State of Bavaria**

The Act on the Formation of Pension Reserves in the Free State of Bavaria (BayVersrücklG) of 11 December 2012 (GVBl. p. 613, BayRS 2032-0-F), last amended by § 9 of the Act of 23 December 2019 (GVBl. P. 724), is amended as follows:

1. The table of contents is deleted.

2. Art. 7(4) is repealed.
3. In Art. 10(3)(2), the words 'in the Bavarian Official Gazette' are deleted.

## **§ 22**

### **Amendment to the Bavarian Equal Opportunities Act**

Art. 22 of the Bavarian Equal Opportunities Act (BayGlG) of 24 May 1996 (GVBl. p. 186, BayRS 2039-1-A), last amended by the Act of 23 May 2006 (GVBl. p. 292) is repealed.

## **§ 23**

### **Amendment to the Bavarian Nursing Profession Act**

In Art. 4(2)(1) of the Bavarian Nursing Profession Act (BayPfleG) of 24 April 2017 (GVBl. p. 78, BayRS 2124-2-G), last amended by §§ 1 and 2 of the Act of 8 July 2024 (GVBl. p. 205), the words 'and to evaluate them at regular intervals, albeit at least every five years' are deleted.

## **§ 24**

### **Amendment to the Bavarian Mental Health Assistance Act**

Art. 4 of the Mental Health Assistance Act (BayPsychKHG) of 24 July 2018 (GVBl. p. 583, BayRS 2128-2-A/G), last amended by § 8 of the Act of 23 December 2022 (GVBl. p. 718) is repealed.

## **§ 25**

### **Amendment to the Bavarian Climate Protection Act**

Art. 9 of the Bavarian Climate Protection Act (BayKlimaG) of 23 November 2020 (GVBl. p. 598, 656, BayRS 2129-5-1-U), last amended by § 1 of the Act of 23 December 2022 (GVBl. p. 704) is repealed.

## **§ 26**

### **Amendment to the Bavarian Higher Education Innovation Act**

The Bavarian Higher Education Innovation Act (BayHIG) of 5 August 2022 (GVBl. p. 414, BayRS 2210-1-3-WK), last amended by § 14 of the Act of 23 December 2024 (GVBl. p. 605) and by § 8 of the Act of 23 December 2024 (GVBl. P. 632), is amended as follows:

1. Art. 7(2) is amended as follows:
  - a) Sentence 2 is repealed.
  - b) Sentence 3 becomes Sentence 2 and the words 'and external evaluation bodies under Sentence 2' are deleted.
  - c) Sentences 4 and 5 become Sentences 3 and 4.
2. In the second half-sentence of Art. 31(8), the words 'and submit annually to the higher education council a report from the university management on the performance of the university's tasks (accountability report), including, in particular, the performance of the university's tasks under Art. 22(1)' shall be deleted.
3. Art. 40(2) is amended as follows:
  - a) Points 3 and 4 are repealed.
  - b) Points 5 and 6 become Points 3 and 4.
4. Art. 84(6) is amended as follows:
  - a) Sentence 4 is repealed.

- b) Sentence 5 becomes Sentence 4.

## **§ 27**

### **Amendment to the Bavarian University Hospital Act**

Art. 17(3) of the Bavarian University Hospital Act (BayUniKlinG) of 23 May 2006 (GVBl. p. 285, BayRS 2210-2-4-WK), last amended by the Act of 23 July 2024 (GVBl. p. 259) is repealed.

## **§ 28**

### **Amendment to the Bavarian Higher Education Admission Act**

Art. 3 of the Bavarian Higher Education Admission Act (BayHZG) of 9 May 2007 (GVBl. p. 320, BayRS 2210-8-2-WK), last amended by Art. 130f(8) of the Act of 5 August 2022 (GVBl. P. 414), is amended as follows:

1. Para. 4 is repealed.
2. Para. 5 becomes Para. 4 and the words 'for Science and Art (State Ministry)' shall be inserted after the words 'State Ministry'.

## **§ 29**

### **Amendment to the Bavarian Act to Promote Elite Students**

Art. 4(3) of the Bavarian Act to Promote Elite Students (BayEFG) of 26 April 2005 (GVBl. p. 104, BayRS 2230-2-3-WK), last amended by § 1(213) of the Ordinance of 26 March 2019 (GVBl. p. 98) is repealed.

## **§ 30**

### **Amendment to the Bavarian Child Education and Care Act**

Art. 14(5) and Art. 14a(5) of the Bavarian Child Education and Care Act (BayKiBiG) of 8 July 2005 (GVBl. p. 236, BayRS 2231-1-A), last amended by the Act of 21 February 2025 (GVBl. p. 46) are repealed.

## **§ 31**

### **Amendment to the Bavarian Adult Education Promotion Act**

The Bavarian Adult Education Promotion Act (BayEbFöG) of 31 July 2018 (GVBl. p. 662, BayRS 2239-1-K), last amended by the Act of 10 August 2023 (GVBl. P. 501), is amended as follows:

1. Art. 9(3) is amended as follows:
  - a) In Point 4, the specification ',' at the end is replaced by the word 'and'.
  - b) Point 5 is repealed.
  - c) Point 6 becomes Point 5.
2. Art. 12 is amended as follows:
  - a) Para. 1 is repealed.
  - b) Para. 2 is amended as follows:
    - aa) The specification '(2)' is deleted.
    - bb) In Sentence 1, the words 'on their part' and the words 'each in good time prior' are deleted.

## **§ 32**

### **Amendment to the Bavarian Broadcasting Act**

Art. 21(9) of the Bavarian Broadcasting Act (BayRG), in the version promulgated on 22 October 2003 (GVBl. p. 792, BayRS 2251-1-S), last amended by the Act of 24 July 2023 (GVBl. p. 448) is repealed.

### **§ 33**

#### **Amendment to the Bavarian Media Act**

Art. 20 of the Bavarian Media Act (BayMG), in the version promulgated on 22 October 2003 (GVBl. p. 799, BayRS 2251-4-S), as amended by §§ 1 and 2 of the Act of 9 December 2024 (GVBl. p. 584), is amended as follows:

1. Para. 9 is repealed.
2. Para. 10 becomes Para. 9.

### **§ 34**

#### **Amendment to the State Forestry Act**

Art. 6(4) of the State Forestry Act (StFoG) of 9 May 2005 (GVBl. p. 138, BayRS 7902-0-L), last amended by § 1(78) of the Ordinance of 4 June 2024 (GVBl. p. 98) is repealed.

### **§ 35**

#### **Amendment to the Bavarian Forest Act**

Art. 25 of the Bavarian Forest Act (BayWaldG), in the version promulgated on 22 July 2005 (GVBl. p. 313, BayRS 7902-1-L), last amended by § 10 of the Act of 23 December 2024 (GVBl. p. 619) is repealed.

### **§ 36**

#### **Amendment to the Ordinance on Responsibilities in the Transport Sector**

In § 6(3)(c) of the Ordinance on Responsibilities in the Transport Sector (ZustVVerk) of 22 December 1998 (GVBl. p. 1025, BayRS 9210-2-I/B), last amended by the Ordinance of 3 December 2024 (GVBl. p. 682), the specification 'No 1' is deleted.

### **§ 37**

#### **Amendment to the Bavarian Rescue Service Act**

The Bavarian Rescue Service Act (BayRDG) of 22 July 2008 (GVBl. p. 429, BayRS 215-5-1-I), last amended by § 3 of the Act of 23 December 2024 (GVBl. p. 636), is amended as follows:

1. Art. 35(4) is amended as follows:
  - a) Sentence 3 is repealed.
  - b) Sentence 4 becomes Sentence 3.
2. Art. 41(1) is amended as follows:
  - a) In Sentence 1, the sentence numbering '1' is deleted.
  - b) Sentence 2 is repealed.

### **§ 38**

#### **Amendment to the Act on Local Public Transport in Bavaria**

The Act on Local Public Transport in Bavaria (BayÖPNVG), as amended by the promulgation of 30 July 1996 (GVBl. p. 336, BayRS 922-1-B), last amended by § 17 of the Act of 23 December 2024 (GVBl. P. 605), shall be amended as follows:

1. In Art. 4(3)(1), the words 'the state of the art and' shall be deleted.
2. Art. 17 is repealed.
3. Art. 29(1) is amended as follows:
  - a) In Sentence 1, the sentence numbering '1' is deleted.
  - b) Sentence 2 is repealed.

### **§ 39**

#### **Amendment to the Bavarian Act on Education and Teaching**

In the Art. 113b(9)(2) of the Bavarian Act on Education and Teaching (BayEUG), in the version of the promulgation on 31 May 2000 (GVBl. p. 414, 632, BayRS 2230-1-1-K), last amended by § 1 of the Act of 9 December 2024 (GVBl. p. 579), the words 'according to the latest state of the art' are deleted.

### **§ 40**

#### **Amendment to the State Electoral Code**

§88 of the State Electoral Code (LWO) of 16 February 2003 (GVBl. p. 62, BayRS 111-1-1-I), last amended by the Ordinance of 27 January 2023 (GVBl. p. 43), is amended as follows:

1. In Para. 1(1), the words 'Government Gazette' are replaced by the words 'Bavarian Ministerial Gazette'.
2. In Para. 2(2), the words 'according to the current state of the art' are deleted.

### **§ 41**

#### **Amendment to the Bavarian Protection of the Constitution Act**

The Bavarian Protection of the Constitution Act (BayVSG) of 12 July 2016 (GVBl. p. 145, BayRS 12-1-I), last amended by § 1 of the Act of 24 July 2023 (GVBl. p. 374), is amended as follows:

1. In Art. 10(2)(2) and (3), the words 'according to the state of the art' shall be deleted in each case.
2. Art. 33 shall be worded as follows:

'Art. 33

Restriction of fundamental rights

The fundamental rights of freedom of assembly, the inviolability of the home and the secrecy of correspondence, post and telecommunications (Art. 8(1), Articles 10 and 13 of the Basic Law, Art. 106(3), Articles 112 and 113 of the Constitution) may be restricted on the basis of this Act.'

### **§ 42**

#### **Amendment to the Police Duties Act**

The Police Duties Act (PAG) in the version promulgated on 14 September 1990 (GVBl. p. 397, BayRS 2012-1-1-I), last amended by § 1 of the Act of 23 July 2024 (GVBl. p. 247) is amended as follows:

1. Art. 27(3)(5) is worded as follows:

'Personal data are to be deleted before recovery of data media.'
2. In Art. 42(2)(4), the words 'according to the state of the art' are deleted.
3. In Art. 45(1)(5) and in Art. 48(7), the words 'according to the state of the art' are deleted.

4. Art. 100 shall be worded as follows:

‘Art. 100

Restriction of fundamental rights

The fundamental rights to life and physical integrity, personal freedom (Art. 2(2)(1) and (2) of the Basic Law and Art. 102(1) of the Constitution), freedom of assembly (Art. 8(1) of the Basic Law and Art. 113 of the Constitution), secrecy of correspondence, posts and telecommunications (Art. 10 of the Basic Law and Art. 112(1) of the Constitution), freedom of movement (Art. 11 of the Basic Law and Art. 109 of the Constitution) and inviolability of the home (Art. 13 of the Basic Law and Art. 106(3) of the Constitution) may be restricted on the basis of this Act.’

**§ 43**

**Amendment to the Police and Regulatory Authorities Act**

In Art. 15(1)(2) of the Police and Regulatory Authorities Act (POG) in the revised version published in the Bavarian Collection of Laws (BayRS 2012-2-1-I), last amended by § 2 of the Act of 23 July 2024 (GVBl. p. 247), the words ‘usable in accordance with police requirements’ are inserted before the words ‘communications-related’ and the words ‘in accordance with the state of the art’ are deleted.

**§ 44**

**Amendment to the Bavarian Civil Service Act**

In Art. 104(2)(4) Bavarian Civil Service Act (BayBG) of 29 July 2008 (GVBl. p. 500, BayRS 2030-1-1-F), last amended by § 1 of the Act of 23 December 2024 (GVBl. p. 605), the words ‘according to the state of the art’ are replaced by the word ‘sufficient’.

**§ 45**

**Amendment to the Bavarian Digital Act**

The Bavarian Digital Act (BayDiG) of 22 July 2022 (GVBl. p. 374, BayRS 206-1-D), last amended by § 3 of the Act of 23 December 2024 (GVBl. p. 599), is amended as follows:

1. Art. 30(1)(3) is worded as follows:  
‘<sup>3</sup>A suitable level of security for the user account shall be ensured.’
2. In Art. 33(3)(3), the words ‘according to the state of the art’ shall be deleted.
3. In Art. 39(1), the words ‘according to the state of the art and’ shall be replaced by the word ‘with’;
4. In Art. 48(2)(3), the words ‘according to the state of the art’ shall be replaced by the words ‘is sufficient’.

**§ 46**

**Amendment to the Bavarian Digital Ordinance**

§ 1 Bavarian Digital Ordinance (BayDiV) of 11 July 2023 (GVBl. p. 464, BayRS 206-1-1-D), last amended by the Ordinance of 26 March 2025 (GVBl. p. 86), is amended as follows:

1. In Para. 1, the specification ‘(1)’ is deleted.
2. Para. 2 is repealed.

## **§ 47**

### **Amendment to the Registration Data Ordinance**

The Registration Data Ordinance (MeldDV) of 15 September 2015 (GVBl. p. 357, BayRS 210-3-2-I), last amended by § 7 of the Act of 9 December 2024 (GVBl. p. 579), is amended as follows:

1. In § 2(2)(2) and (3)(2), the words 'according to the state of the art' are replaced by the words 'appropriate'.
2. In § 4(3)(4), the words 'according to the state of the art' are deleted.

## **§ 48**

### **Amendment to the Ordinance on the Central Electronic Civil Status Register**

The Ordinance on the Central Electronic Civil Status Register (ZEPRV) of 16 July 2013 (GVBl. p. 468, BayRS 211-5-I), as amended by § 2(11) of the Act of 17 July 2015 (GVBl. p. 243), is amended as follows:

1. In § 3(1)(1) the words 'by means of encryption according to the state of the art' are replaced by the words 'encrypted as appropriate for the situation'.
2. § 4(3)(5) is worded as follows:  
'<sup>5</sup>An electronic transmission of the random samples shall be encrypted in an appropriate manner.'

## **§ 49**

### **Amendment to the Cancer Registry Ordinance**

In § 12(1) of the Cancer Registry Ordinance (BayKRegV) of 26 March 2018 (GVBl. p. 201, BayRS 2126-12-1-G), the words 'the respective state of the art and' are deleted.

## **§ 50**

### **Amendment to the Burial Ordinance**

In § 30(1)(2)(5) of the Burial Ordinance (BestV) of 1 March 2001 (GVBl. p. 92, 190, BayRS 2127-1-1-G), last amended by § 1(48) of the Ordinance of 4 June 2024 (GVBl. p. 98) and §§ 1 and 2 of the Ordinance of 10 June 2024 (GVBl. p. 160), the words 'lowest possible according to the state of the art' shall be replaced by the words 'no inappropriate'.

## **§ 51**

### **Amendment to the Act on Noise Protection Requirements for Children's and Youth Play Facilities**

Art. 4 of the Act on Noise Protection Requirements for Children's and Youth Play Facilities (KJG) of 20 July 2011 (GVBl. p. 304, BayRS 2129-1-9-U) is amended as follows:

1. Point 1 is repealed.
2. Points 2 to 4 become Points 1 to 3.

## **§ 52**

### **Amendment to the Bavarian Waste Management Act**

The Bavarian Waste Management Act (BayAbfG), in the version promulgated on 9 August 1996 (GVBl. p. 396, 449, BayRS 2129-2-1-U), last amended by § 2 of the Act of 25 May 2021 (GVBl. P. 286), is amended as follows:

1. In Art. 3(6), the words 'according to the state of the art' are deleted.
2. In Art. 29(3), the specification 'Art. 31(2)' is replaced by the specification 'Art. 27(2)'.

### **§ 53**

#### **Amendment to the Ordinance on the Bavarian Waste Management Plan**

The Annex to the Ordinance on the Bavarian Waste Management Plan (AbfPV) of 17 December 2014 (GVBl. p. 578, BayRS 2129-2-10-U) is amended as follows:

1. In Point I(1) Indent 2, the words 'according to the state of the art' shall be deleted.
2. In Section II, Point 2.2(2), the words 'according to the state of the art' are deleted.
3. Section III is amended as follows:
  - a) In Point 1.2.1(3), the words 'the state of the art' are replaced by the words 'appropriate'.
  - b) In Point 2.5(2), the words 'according to the state of the art' are deleted.
4. In Section IV No 7, the words ' , which serve to further develop the state of the art' are replaced by the words 'for the development of new technologies'.

### **§ 54**

#### **Amendment to the Ordinance Implementing the Bavarian Rescue Service Act**

In § 26(2)(2)(2) of the Ordinance on the Implementation of the Bavarian Rescue Service Act (AVBayRDG) of 30 November 2010 (GVBl. p. 786, BayRS 215-5-1-5-I), last amended by the Ordinance of 19 December 2022 (BayMBl. No 760), the words 'adapted to the state of the art' are replaced by the words 'corresponding to the purpose of the rescue'.

### **§ 55**

#### **Amendment to the Electronic Legal Communications Ordinance for the Judiciary**

§ 17(1) and (2) of the Electronic Legal Communications Ordinance for the Judiciary (ERVV Ju) of 15 December 2006 (GVBl. p. 1084; 2016 p. 291, BayRS 31-1-1-J), last amended by the Ordinance of 2 June 2025 (GVBl. p. 170) is replaced by the following wording:

'The electronic file shall be kept and stored by means of a data processing system which keeps the file usable, legible and traceable and which meets the requirements set out in § 64(2)(1) GBV [Land Register Order].'

### **§ 56**

#### **Amendment to the Ordinance on Electronic Records for Labour and Social Courts**

§ 4(2) of the Ordinance on Electronic Records for Labour and Social Courts (eAktV ArbSozG) of 13 April 2023 (GVBl. p. 190, BayRS 32-2-A) is amended as follows:

'(2) The electronic file shall be kept and stored by means of a data-processing system which keeps the file usable, legible and traceable and which meets the requirements set out in § 64(2)(1) of the Land Register Order (GBV).'

### **§ 57**

#### **Amendment to the Ordinance on Electronic Record Management in the Administrative Jurisdiction in the Free State of Bavaria**

§ 3(1) of the Ordinance on Electronic File Management in the Administrative Jurisdiction in the Free State of Bavaria (BayeAktV-V) of 5 January 2023 (GVBl. p. 13, BayRS 34-6-I) is worded as follows:

'(1) The electronic file shall be kept and stored by means of a data processing system which keeps the file usable, legible and traceable.'

## **§ 58**

### **Amendment to the Ordinance on Electronic Records for Financial Courts**

In § 4(1) and (2)(1) of the Ordinance on Electronic Records for Financial Courts (eAktFGV) of 29 July 2019 (GVBl. p. 548, BayRS 35-2-F), the words 'according to the state of the art' are deleted.

## **§ 59**

### **Amendment to the Bavarian Mining Ordinance**

In § 19(1)(2) and § 51(1)(2) of the Bavarian Mining Ordinance (BayBergV) of 6 March 2006 (GVBl. p. 134, BayRS 750-19-W), last amended by § 1(322) of the Ordinance of 26 March 2019 (GVBl. p. 98), the words 'at least equivalent according to the state of the art' are deleted.

## **§ 60**

### **Amendment to the Bavarian IPPC Waste Water Ordinance**

The Bavarian IPPC Waste Water Ordinance (IMUAbwV) of 12 December 2001 (GVBl. p. 1066, BayRS 753-1-20-U), last amended by § 6 of the Act of 24 July 2018 (GVBl. p. 604), is amended as follows:

1. Art. 7(2) is amended as follows:
  - a) In Sentence 1, the sentence numbering '1' and the specification 'the latest status' are deleted.
  - b) Sentence 2 is repealed.
2. § 9 is repealed.
3. § 17 becomes § 9 and the words in the heading "Entry into force" are replaced by the words "Entry into force".

## **§ 61**

### **Amendment to the Bavarian Act on the Implementation of the Wastewater Charges Act**

Art. 8a of the Bavarian Act on the Implementation of the Wastewater Charges Act (BayAbwAG) in the version promulgated on 9 September 2003 (GVBl. p. 730, BayRS 753-7-U), last amended by § 1(326) of the Ordinance of 26 March 2019 (GVBl. p. 98), is amended as follows:

1. Sentence 1 is repealed.
2. Sentences 2 and 3 become Sentences 1 and 2.

## **§ 62**

### **Amendment to the Bavarian Railway and Cableway Act**

In Art. 29(2)(13) of the Bavarian Railway and Cableway Act (BayESG), in the version promulgated on 9 August 2003 (GVBl. p. 598, BayRS 932-1-B), last amended by § 1(370) of the Ordinance of 26 March 2019 (GVBl. p. 98), the words 'required by the respective state of the art' are replaced by the words 'necessary for risk-appropriate operational safety'.

## § 63

### Amendment to the Bavarian Salaries Act

The Bavarian Salaries Act (BayBesG) of 5 August 2010 (GVBl. p. 410, 764, BayRS 2032-1-1-F), last amended by § 2 of the Act of 28 April 2025 (GVBl. P. 107), is amended as follows:

1. In Art. 2(3)(4), the specification '(Articles 66 to 74)' is replaced by '(Articles 67 to 74)'.
2. In Art. 58(2), the words 'Point 4 (with the exception of Articles 66 and 67)' shall be replaced by 'Point 4 (with the exception of Art. 67)'.
3. Art. 66 is repealed.
4. In Art. 67(2)(2), the words 'amount to at least EUR 400 and' are inserted after the word 'shall'.
5. Art. 68 is amended as follows:
  - a) Para. 1 is worded as follows:

'(1) <sup>1</sup>The budget of an employer for the performance bonus pursuant to Art. 67 shall, within the scope of approved budget funds, amount per calendar year to a maximum of 1.0 per cent of the basic salary sum as defined by Art. 2 para. 2 no. 1, which all civil servants of the respective employer falling within the scope of this Act in the salary groups of salary scales A and B received in the previous year. <sup>2</sup>Sentence 1 does not apply to employers with fewer than seven civil servants if a performance bonus is only granted to one civil servant in a calendar year.'
  - b) Para. 2 is amended as follows:
    - aa) In Sentence 1, the term 'performance-based benefits' is replaced by the term 'performance-based bonuses'.
    - bb) In Sentence 4, the specification 'of a performance-based benefit' is replaced by 'of a performance-based bonus'.
6. In Art. 83(1)(2)(2)(d), the words 'performance-based benefits as per Art. 66 and' are deleted.
7. The following Para. 15 is added to Art. 108:

'(15) Civil servants who have received a performance level for ...**[insert: year before entry into force as per § 75(2), planned 2025]** will continue to receive the level under the conditions in Art. 66 in the version in effect on 31 December ... **[insert: year before entry into force as per § 75(2), planned 2025]**.'

## § 64

### Amendment to the Civil Service Career Act

The Civil Service Career Act (LlbG) of 5 August 2010 (GVBl. p. 410, 571, BayRS 2030-1-4-F), last amended by § 3 of the Act of 23 December 2024 (GVBl. p. 605) and by § 1 of the Act of 23 December 2024 (GVBl. p. 619), shall be amended as follows:

1. Art. 62 is amended as follows:
  - a) The specification 'and 66' in the heading is deleted.
  - b) Para. 1 is amended as follows:
    - aa) In Sentence 1, the word 'decisions' is replaced by the word 'decision' and the specification 'and Art. 66(2) of the' is deleted.
    - bb) In the first clause of Para. 1(2) 1, the words 'of Art. 30(3) Sentences 1 and 3 and Art. 66(2)' are replaced by 'Art. 30(3) Sentences 1 and 3'.
  - c) Para. 2 is repealed.
  - d) Paragraphs 3 to 7 become paragraphs 2 to 6.

2. In Art. 70a(4)(3), the words 'decisions under Art. 30 and 66' are replaced by the words 'decision under Art. 30'.

## **§ 65**

### **Amendment to the StMB Ordinance on Competence in Civil Service Law**

In § 7(2)(1) of the StMB [Bavarian Ministry of Economic Affairs, Regional Development and Energy] Ordinance on Competence in Civil Service Law (ZustV-BM) of 24 July 2019 (GVBl. p. 544, BayRS 2030-3-2-1-B), last amended by the Ordinance of 24 September 2024 (GVBl. p. 485), the words 'of performance levels pursuant to Art. 66(1)(1) BayBesG and' are deleted.

## **§ 66**

### **Amendment to the StMI [State Ministry of the Interior] Ordinance on Competence in Civil Service Law**

§ 8 of the StMI Ordinance on Competence in Civil Service Law (ZustV-IM) of 2 March 2007 (GVBl. p. 216, BayRS 2030-3-2-1-I), last amended by the Ordinance of 4 July 2019 (GVBl. P. 514), is amended as follows:

1. Para. 1 is worded as follows:

'(1) <sup>1</sup>Unless otherwise provided for in Para. 2, the power to decide on the award of performance-based bonuses in accordance with Art. 67(1)(1) BayBesG is delegated to the authorities for the civil servants employed by them and for the heads of authorities directly subordinate to them. <sup>2</sup>In the case of seconded civil servants, the employment office shall decide.

2. Para. 2 is repealed.
3. Para. 3 becomes Para. 2.

## **§ 67**

### **Amendment to the StMWK Competence Ordinance**

In § 4(1)(1) of the StMWK [State Ministry of Science and the Arts] Competence Ordinance (ZustV-WKM) of 3 January 2011 (GVBl. p. 26, BayRS 2030-3-4-2-WK), last amended by the Ordinance of 23 August 2021 (GVBl. p. 568), the words 'performance-based benefits as per Articles 66 and 67' are replaced by the words 'performance-based bonuses as per Art. 67'.

## **§ 68**

### **Amendment to the StMFH Competence Ordinance**

§ 7(5) of the StMFH [Bavarian Ministry for Finance and Homeland Affairs] Competence Ordinance (ZustV-FM) of 3 January 2011 (GVBl. p. 31, BayRS 2030-3-5-2-F), last amended by the Ordinance of 4 November 2024 (GVBl. P. 564), is worded as follows:

'(5) The authority under Art. 68 Para. 2 BayBesG to decide on the awarding of performance-based bonuses shall be transferred to the immediate superiors for the civil servants reporting to them, including the heads of immediately subordinate authorities.'

## **§ 69**

### **Amendment to the Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Economic Affairs, Regional Development and Energy**

In § 7(1)(1) of the Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Economic Affairs, Regional Development and Energy

(ZustV-WM) of 11 July 2011 (GVBl. p. 384, BayRS 2030-3-6-1-W), last amended by § 1(78) of the Ordinance of 26 March 2019 (GVBl. p. 98), the words 'performance-based benefits as per Articles 66 and 67' are replaced by the words 'performance-based bonuses as per Art. 67'.

## § 70

### **Amendment to the Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Food, Agriculture, Forestry and Tourism**

The Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Food, Agriculture, Forestry and Tourism (ZustV-LM) of 9 August 2011 (GVBl. p. 443, BayRS 2030-3-7-1-L), last amended by § 1(14) of the Ordinance of 4 June 2024 (GVBl. p. 98), is amended as follows:

1. § 9 is amended as follows:
  - a) In the heading, the term 'performance-based benefits' is replaced by the term 'performance-based bonuses'.
  - b) In Sentence 1, the words 'performance-based benefits as per Articles 66 to 68' are replaced by the words 'performance-based bonuses as per Articles 67 and 68'.
2. § 17 is amended as follows:
  - a) In the heading, the term 'performance-based benefits' is replaced by the term 'performance-based bonuses'.
  - b) In Sentence 1, the words 'performance-based benefits as per Articles 66 to 68' are replaced by the words 'performance-based bonuses as per Articles 67 and 68'.

## § 71

### **Amendment to the Ordinance on Official, Judicial, Disciplinary and Salary Competence, Responsibilities for Travel Expenses and the Classification of Posts in the Domain of the Bavarian State Ministry for Family, Labour and Social Affairs**

§ 4(2) of the Ordinance on Official, Judicial, Disciplinary and Salary Competence, Responsibilities for Travel Expenses and the Classification of Posts in the Domain of the Bavarian State Ministry for Family, Labour and Social Affairs (ZustV-AM) of 15 September 2005 (GVBl. p. 494, BayRS 2030-3-8-1-A), last amended by § 1(15) of the Ordinance of 4 June 2024 (GVBl. p. 98), is worded as follows:

'(2) <sup>1</sup>The authorisation under Art. 68(2) BayBesG to decide on the awarding of performance-based bonuses shall be transferred to the immediate superiors for the civil servants in the respective department. <sup>2</sup>§ 2(2) shall apply accordingly.'

## § 72

### **Amendment to the StMUV Competence Ordinance**

§ 10 of the StMUV Competence Ordinance (ZustV-UM) of 11 May 2022 (GVBl. p. 238, BayRS 2030-3-9-1-U) is amended as follows:

1. In the heading, the term 'performance-based benefits' is replaced by the term 'performance-based bonus'.
2. In the text, the term 'performance-based benefits' is replaced by the term 'performance-based bonuses'.

## § 73

### **Amendment to the StMGP Competence Ordinance**

In § 7(1) of the StMGP Competence Ordinance (ZustV-GM) of 11 September 2015 (GVBl. p. 347, BayRS 2030-3-10-1-G), last amended by § 1(16) of the Ordinance of 4 June 2024 (GVBl. p. 98), the words 'performance-based benefits as per Articles 66 and 67' are replaced by the words 'performance-based bonuses as per Art. 67'.

#### **§ 74**

##### **Amendment to the Bavarian Civil Service Pensions Act**

In Art. 83(4)(3)(4) of the Bavarian Civil Service Pensions Act (BayBeamtVG) of 5 August 2010 (GVBl. p. 410, 528, 764, BayRS 2033-1-1-F), last amended by §§ 8 and 9 of the Act of 23 December 2024 (GVBl. p. 605), the words 'performance-based benefits in public service as per Articles 66 and 67 BayBesG' are replaced by the words 'performance bonuses in public service as per Art. 67 BayBesG'.

#### **§ 75**

##### **Entry into force**

<sup>1</sup>This act enters into force on ...*[insert: Date of entry into force]*. <sup>2</sup>In deviation from Sentence 1, §§ 63 to 74 enter into effect on ...*[insert: Date of different entry into force the following year, planned on 1 January 2026]* .

## **Justification:**

### **A) General part**

The Fourth Bavarian Modernisation Act debureaucratizes and deregulates further elements of state law. The omnibus act primarily focuses on state planning law, the abolition of statutory reporting and evaluation duties, vaccination passport inspection, the abolition of the 'small delegation' in building law, the modernisation of the Act Implementing the Courts Constitution Act, the restriction of the binding nature of technical standards ('state of the art') and the abolition of performance levels and adjustments to performance-based bonuses in civil service law.

See the following for the individual provisions.

### **B) Reduction in legislation**

The Fourth Bavarian Modernisation Act implements amendments to existing laws with the aim of deregulation and de-bureaucratisation. The reduction in legislation is not affected in this respect.

### **C) Specific part**

#### **Re § 1 (Competence Ordinance – ZustV)**

This is a consequential editorial amendment which is necessitated by the deletion of the small delegation (Art. 53(2)(1)(2) BayBO [Bavarian Building Code]) (see § 6(3)).

#### **Re § 2 (Courts Constitution Implementation Act – AGTPG)**

##### *Preliminary remarks on the changes to reporting and evaluation duties*

Many state bodies and institutions are burdened with obligatory reports and evaluation reports which they are required by law to file on a regular basis. Preparing them requires a great deal of manpower and paperwork. Removing numerous statutory reporting and evaluation duties should make the reporting and evaluation system more flexible: Instead of submitting reports and carrying out evaluations that only serve to fulfil the legal requirements, in future, these should only be made where necessary and appropriate. The reporting parties will largely be able to determine when to do so on their own, as they have broad insight into the processes and innovations in their respective domain. On account of this, the reporting parties must also be trusted to decide on the relevant date of the report or the evaluation themselves. Bureaucracy can only be successfully reduced if, instead of maximum control, trust is sought in those who apply the law and the processes are streamlined in practice. With this in mind, it is logical to significantly reduce the statutory reporting and evaluation duties and to leave the submission of reports and the performance of evaluations to the discretion of those in charge. It should be kept in mind that the flexibility sought also means that a (voluntary) report or evaluation will still be possible at any time the reporter deems appropriate. When exercising this discretion, it must be taken into account that – in addition to the deregulation factor – the intention of the rescissions is also to reduce bureaucracy and thus free up work capacity in the reporting offices. This objective would be counteracted if the addressees continued to report as before without critically scrutinising the necessity of the report in question.

##### *Re Courts Constitution Implementation Act – AGTPG*

The report of the Bavarian Medical Association provides an overview of the numerical development of referrals to the commissions for examining the voluntary and unpaid nature of living donations and the reasons for and number of rejections of living organ donations. In particular, it creates transparency about the activities of the committees. However, the data can be requested from the Bavarian Medical Association

responsible for the organisation of the committees at any time. Neither a statutory reporting duty nor a separate statutory disclosure duty is required for this.

### **Re § 3 (Health Services Act – GDG)**

Art. 12(3)(5) of the Health Services Act (GDG) requires the presentation of existing vaccination cards and vaccination certificates in accordance with § 22 of the Infection Protection Act at school entrance examinations and other school vaccination consultations. A 'further school vaccination consultation' as defined by the standard takes place in grade six of all types of schools (§ 10(1)(2) SchulgesplfV [School Health Care Ordinance]). This time-consuming inspection by the health authorities, which is no longer carried out this way in any other federal state, is no longer up to date and should be abolished in the interests of deregulation and reducing bureaucracy. The health authorities have no enforcement or sanction powers regarding the presentation duty. The inspection also puts a heavy work burden on the authorities: Once the vaccination status of each child becomes known, an individual recommendation is issued, indicating the missed vaccinations and vaccinations that are due. This is sent to the school, which then forwards it to the parents. By raising awareness of the importance of vaccinations through targeted campaigns, more modern and less bureaucratic possibilities can be used to increase awareness of the importance of vaccinations, to avoid missed vaccinations and to achieve a high vaccination rate. These include the continuation of general awareness-raising initiatives, the prospect of a voluntary digital vaccination book review by the health authorities or targeted information events or information provided by the health authorities. With regard to the recent coronavirus pandemic, promising, up-to-date alternatives to classical vaccination advice can also be created through targeted, digital and interactive information campaigns that integrate schools into their educational programmes. Only a cooperative approach can sustainably increase vaccine awareness and increase the vaccination rate in the long term. The amendment to the law is also compatible with the vaccination obligation against measles pursuant to § 20(9) of the Infection Protection Act, as corresponding vaccination documentation must be submitted in these cases before the start of care in the school.

### **Re § 4 (School Health Care Ordinance – SchulgesplfV)**

Vaccination counselling in the 6th grade is just as unnecessary checking existing vaccination cards and certificates. It is not possible to do so without prior checks on existing vaccination cards and vaccination certificates: If the authorities do not know the current vaccination status of the children, no individual recommendation can be given. The provision must therefore be repealed as a consequence of the adaptation of Art. 12(3)(5) GDG. Again, it should be noted that a high vaccination rate can also be ensured by consistent information through targeted campaigns.

### **§ 5 (Ordinance on Competence in the Construction Sector – ZustVBau)**

This is a consequential editorial amendment necessitated by the deletion of the small delegation (Art. 53(2)(1)(2) BayBO) (see § 6(3)).

### **Re § 6 (Bavarian Building Code – BayBO)**

#### **Re Point 1 (Art. 2)**

*Re Art. 2(3)(1)(4)*

Editorial adjustment with the aim of better comprehensibility of the addition to building class 4 introduced by the First Bavarian Modernisation Act (LT DRS.19/3023).

*Re Art. 2(4)(21)*

Editorial amendment.

#### **Re Point 2 (Art. 20)**

As a general rule, construction products not covered by harmonised European standards shall require proof of their conformity or applicability. For construction products, though, there is no way of waiving individual consent in justified cases. This leads to considerable bureaucratic effort and costs for the applicants at no added value for the substantive examination of the individual case. The new regulation enables the supreme building authority to declare that consent is not required in individual cases. The prerequisite is that no dangers to public security, public order, in particular life and health, and natural livelihoods may be expected. This amendment completely eliminates the costs of the administrative procedure for the applicant. Moreover, the reference to Art. 3(1) BayBO does not give rise to any risk to public security and public order resulting from this amendment. The new provision corresponds to § 20(2) Model Building Code (MBO). The procedure for notifying the draft Model Building Code – MBO – version November 2002 – last amended by decision of the Conference of Ministers of Construction of 23-24 November 2023 under Directive (EU) 2015/1535 was notified on 13 March 2024 and can be transposed into state law since the standstill period expired on 17 June 2024. There are no concerns about compatibility with European law in this respect.

**Re Point 3 (Art. 53)**

*Re Art. 53(2)(1)*

The amendment repeals the so-called small delegation. Up to now, responsibility for building supervision for the area of the two remaining small delegation municipalities has been shared. For less complex construction projects, the municipalities carry out the tasks of the building supervisory authority themselves; for more complex construction projects, the relevant district office is responsible. The provision was expedient at the time of its creation, but it has since become obsolete. The division of responsibility for the enforcement of public building law no longer meets today's requirements, as the number of decisions to be made by the small delegation municipalities has now been significantly reduced by numerous reform laws. The division of responsibilities creates considerable administrative burdens by retaining duplicate structures. Moreover, the change of responsibility for receiving the building application (see Art. 64(1) (1) BayBO) that has already taken place through participation in the digital building application in many places, now also provided for in Bavaria, means that the applicant itself must make the allocation of the building project, which is not always easy. This is not reasonable for the applicant in the interests of citizen-friendly administration. The only two municipalities that still make use of the small delegation option can apply to fulfil all building supervision tasks as large delegation municipalities in future. Otherwise, it shall be carried out by the competent district office.

*Re Art. 53(2)(3)*

Consequential editorial amendment.

*Re Art. 53(2)(5) and (6)*

This provision is no longer necessary due to the abolition of the small delegation.

*Re Art. 53(3)*

This provision is no longer necessary due to the abolition of the small delegation.

**Re Point 4 (Art. 57)**

*Art. 57(1)(12)*

The complete recasting of Art. 57(1)(12) introduces a shortened, compact and systematic regulation on the procedural exemption for advertising systems, which is understandable and appreciable for building owners and authorities alike. Case groups without application in practice are deleted. This applies in particular to the provision on advertising installations that are not visible to the public, which can be dispensed with due to lack of scope. The procedural exemption for temporary advertising installations is also superfluous, since advertising structures set up for a short period of time do not in any case constitute structures as defined by the Building Code. Specifically, this means that temporary advertising installations, which previously fell within the scope of Art. 57(1)(12)(d), continue not to require a building

permit because of the lack of relevance under the Building Code. This applies in particular to advertising posters for events.

The newly formulated Clause 2 applies to all advertising installations which are procedurally exempt, not only to procedurally exempt advertising installations at the place of performance. A change of use associated with a procedurally exempt advertising installation also continues to be exempt from the procedure.

Re (a): The procedural exemption under (a) applies without any local restriction, but only to machines and small advertising installations. This expands the procedural exemption for small advertising installations, which previously only applied up to a viewing area of 1 m<sup>2</sup>. Advertising installations in displays and display windows need not be mentioned in this context. Advertising installations in displays do not constitute structural installations anyway. On the other hand, advertising installations on display windows are regularly covered by the range of variation of the construction permit for the main use, so the question of an isolated procedural exemption only for the advertising use of the display windows does not arise.

Re (b): This provision is adopted unchanged.

Re (c): This provision focuses on certain locations, but does not impose any size restrictions, apart from the statically justified restriction to a clear height of up to 10 m. In future, advertising installations at the place of performance will no longer be restricted to specific areas under building planning law. The term 'place of performance' used here includes both the company headquarters or production site and any other place of performance of the service. The new provision replaces the provision on advertising installations at the place of performance of the service (formerly (a)).

*Re Art. 57(4)(1)*

Editorial amendment.

**Re Point 5 (Art. 58)**

Editorial amendment.

**Re Point 6 (Art. 82)**

Consequential editorial amendment.

**Re Point 7 (Art. 83)**

The existing small delegation municipalities of Pfaffenhofen a.d. Ilm and Waldsassen have prepared themselves with the personnel and organisation necessary to fulfil the function of lower building supervisory authority for an indefinite period of time. There is therefore a need for a generous phase-out period to allow the small delegation municipalities to react to this function being discontinued. During this phase-out period, municipalities may request the large delegation at any time (Art. 53(2)(1) BayBO, new version).

## **Re § 7 (Bavarian State Planning Act – BayLplG)**

*Preliminary remark*

This amendment to the Bavarian State Planning Act (BayLplG) aims to further optimise and modernise the framework conditions for spatial planning in Bavaria and to adapt them to current and future developments. In addition to changes to improve planning and legal certainty as well as regulations for the advancement of digitalisation, a large number of provisions will be introduced that aim to noticeably accelerate planning procedures. It should not be overlooked here that the preparation of comprehensive planning which takes all relevant aspects and interests into account takes time in order to make well-founded and sustainable decisions.

However, legally regulated procedural steps and periods will be significantly streamlined. The participation procedure for the establishment of spatial development plans is significantly accelerated by the statutory definition of tight deadlines. There is now a parallel publication and comment period of a total of four weeks. Up to now, the minimum interpretation period was one month. The deadline for the submission of comments could be freely set by the planning authorities, regardless of the

interpretation period, and in practice it regularly took up to three months. The spatial impact assessment also introduces this four-week period for publication and comments. Comments on drafts of spatial development plans and the spatial impact assessment are no longer possible once the four weeks have expired. This makes it faster and more efficient to take the various interests into consideration. In addition, the agreement or consultation of affected public bodies in the preparation of draft plans which sometimes used to be necessary is replaced by consultation in the participation procedure, so that they are also required to submit their comments within the four weeks. The deadline for publication and comments may only be extended for good cause. The previous binding declaration of the regional plans by the higher state planning authorities is replaced by an agreement, which is, however, limited to formal and substantive legality. This creates the potential for acceleration, as in practice it could take up to two years to issue the binding declaration.

A strong focus on digitalisation is being placed in the participation procedures. The introduction of exclusively electronic opinions for public bodies makes it possible to involve these stakeholders easily and quickly, while reducing administrative burdens. However, with regard to the participation of private persons, a similar opportunity to comment is still provided for if requested. The Act thus takes a decisive step towards full digitalisation while ensuring that all private persons are involved in the planning process and that their interests are upheld.

The clarification and optimisation of the provisions on the designation of exclusion and priority areas contained in the amendment to the Act ensure greater legal certainty and help to prevent assessment difficulties in practice and case law. In contrast to the Spatial Planning Act (ROG), the establishment of exclusion areas in connection with priority areas also enables so-called 'white areas' in which no regional planning decision is made on priority use or exclusion thereof. This possibility provides greater flexibility for the planning sponsors.

The provision deviating from the Spatial Planning Act on the temporal forward displacement of the 'objectives in preparation' makes it possible to secure future objectives in spatial development plans at an early stage. This strengthens the position of the planning sponsors and leads to greater legal certainty and clarity.

The amendment to the Bavarian State Planning Act (BayLplG) turns it back into a user-friendly, complete piece of legislation. This underlines the federal nature of spatial planning in Bavaria. Federal regulations are also optimised accordingly with regard to their practicability in application.

#### **Re Point 1 (Art. 2)**

##### *Re (a) (Art. 2(2))*

This is an editorial amendment due to the new numbering of the provisions in Part 4 spatial development plans.

##### *Re (b) (Art. 2(4))*

This is an editorial amendment with a view to replacing the spatial planning procedure with the spatial impact assessment (cf. Art. 22).

##### *Re (c) (Art. 2(5))*

A definition of 'objectives in preparation' that differs from § 3(1)(2a) Spatial Planning Act is included in Art. 2(5). The existence of 'spatial planning objectives in preparation' has already been established with the initiation of the participation procedure. The arrangement in federal law is not able to sufficiently safeguard 'spatial planning objectives in preparation'. In its statement on the federal government's draft bill, the Bundesrat rightly requested that the status at the beginning of a participation procedure be declared as 'objectives in preparation' in order to continue to enable early coordination of spatially significant measures and to make them legally certain (Bundesrat statement on the draft Act to amend the Spatial Planning Act and other provisions of 25.11.2022, Official record 508/22 (resolution), p. 3).

The introduction of this definition fulfils the need for legal clarity in practice and thus creates legal certainty. The definition is linked to the fact that the future objective of

spatial planning must be clearly identifiable in a draft plan. An objective then has the necessary level of detail once it has been clearly outlined in either graphic or verbal form. In addition, the planning must offer a sufficient degree of reliability. The envisaged objectives must be likely to be included in the final version of the spatial development plan. This can be assumed if the future objective is contained in a draft prepared by the planning sponsor for which the participation procedure is to be initiated. At this point in time, the required level of detail is also already at hand in any case. Furthermore, the parties involved must be informed of the objective that can be defined precisely. When the participation procedure is initiated, public bodies and private persons are informed of the 'objectives in preparation' which they are required to take into account. The participation procedure is initiated upon the publication of the planning documents.

The objectives set by the planner should be secured in this manner as early as possible. The objectives laid down in Art. 3(1)(1) must be taken into account from the beginning of the participation procedure. In particular, the aim of the provision is to ensure that, from that date, plans and measures of significance for space can be prohibited in accordance with Art. 25(2) which would make the achievement of the 'objectives in preparation' significantly more difficult or impossible. This interest in certainty does not unreasonably restrict any other interests. There is no duty of consideration. 'Objectives in preparation' can be overcome in conflict with other important concerns. They are also time-limited.

*Re (d) (Art. 2(6) and (7))*

This is a consequential editorial amendment.

*Re (e) (Art. 2(8))*

This is an editorial amendment due to the new numbering of the provisions in Part 4 spatial development plans.

*Re (f) (Art. 2(9))*

This is a consequential editorial amendment.

***Re Point 2 (Art. 4)***

The target arrangement takes the new § 6(2)(1) ROG into account. If the individual criteria are met, the target deviation should regularly be granted. The discretion granted to the planning authority under the current legal situation is guided by the amendment to the effect that, if the criteria are met, the target deviation request must regularly be granted. The amendment also fulfils a requirement which the European Commission called for in connection with the infringement proceedings against Germany regarding the scope of spatial control of large-scale retail trade, which have been pending since 2008/2009 and have now been concluded. In addition, it is now clarified that a target deviation procedure can only be considered upon application after a failure to meet a target has been identified in a planning and authorisation procedure. This does not entail a material change, as a target deviation was previously only possible if a failure to meet a target was officially identified and an application was submitted. The target deviation procedure is not part of another procedure, such as the authorisation procedure. Since the basic outline of the plan must remain unaffected, it is ensured that a target deviation procedure will continue to be limited to individual cases in the future and is not available as a general instrument for changing the plan. The deviation must be within the scope of what the planner intended or would have intended if they had known the reason for the deviation.

In order to simplify and accelerate the procedure and strengthen the position of the state planning authority, Sentence 2 replaces the previous agreement and consultation arrangement with a hearing, with the exception of the arrangement in Sentence 3. In order to take into account the importance of the municipal Regional Planning Association (RPV) and the fact that the deviation decision is made by the state planning authority, which is not part of the RPV, the agreement of the RPV is retained.

Sentence 4 clarifies that the target deviation procedure is an administrative procedure subject to the Bavarian Administrative Procedure Act.

Para. 2 governs the competence and eligibility to apply for the target deviation procedure. A deviation from previous law arises only to the extent that the extended application power of § 6(2)(3) ROG, which is intended to enable project sponsors to submit applications, is taken over in Sentence 3 in order to address concerns under EU law. The power to apply is extended to private individuals whose proposed project requires planning approval or approval with the legal effect of planning approval or is to be indirectly measured against the requirements of spatial planning through spatial planning clauses.

**Re Point 3 (Art. 8)**

*Re (a) (Art. 8(1)(4))*

If tasks are transferred by the members to the Regional Planning Association, the new Art. 8(1)(4) makes it clear that the member can continue to operate in the area in question in a subsidiary manner, provided that this does not conflict with the performance of the tasks of the Regional Planning Association.

*Re (b) (Art. 8(3)(2))*

This is an editorial amendment due to the new numbering of the provisions in Part 4 spatial development plans.

**Re Point 4 (Art. 9)**

*Re (a) (Art. 9(1)(2), (3) and (4))*

By removing the need for a majority of two-thirds of the members of the association for a provision under Art. 8(1)(3) BayLplG, the scope for action by smaller groups of association members is to be extended. These should be able to make use of the structures of the Regional Planning Association for regional development without having to achieve a two-thirds majority. Sentence 4 is intended to protect members of the association looking for housing, i.e. regularly to protect smaller district municipalities from additional involuntary financial burdens.

With the deletion of Para. 2, the arrangement under Art. 20 KommZG [KommZG] would apply again, with the consequence that the articles of association would have to be approved. To prevent this, it is necessary to clarify in Sentence 2 that approval of the association's articles of association by the higher state planning authority is not necessary.

*Re (b) (Art. 9(2))*

The notification procedure is dispensed with in order to reduce bureaucracy and strengthen local autonomy. The possibilities for state supervision are not affected by this.

*Re (c) (Art. 9(2))*

This is an editorial amendment due to the previous Para. 2 being repealed.

**Re Point 5 (Art. 10)**

Consequential editorial amendment.

**Re Point 6 (Art. 12)**

In the interests of deregulation and accelerating the procedure, the statutory instrument is enacted by the supreme state planning authority.

**Re Point 7 (Art. 13)**

The previous arrangement on the regional planning council will be shortened and streamlined without calling into question the function of the regional planning council and the group of possible organisations to be involved. The organisational procedure previously laid down in Para. 1(2) also follows from the Ordinance on the Regional Planning Council; there is no need for a duplicate arrangement. The statutory authorisation in Sentence 2 is reduced to a necessary minimum compared to the previous provision in Para. 3 without any restriction in terms of content. In addition, the departmental designation is replaced by the supreme state planning authority in order to avoid having to amend the Act in the event of any future changes to the departmental designation.

Para. 1(3) is also repealed in order to streamline the provision. This does not affect the organisational discretion of the supreme state planning authority to continue to appoint experts as participants in the regional planning council.

**Re Point 8 (Articles 14 and 15)**

In order to streamline the provisions and improve clarity, the previous Art. 19 and Art. 20 of the Bavarian State Planning Act (BayLplG) on the state development programme have been merged into a new Art. 14 and placed at the beginning of Part 4 for systematic reasons.

Art. 14(2) reflects the maximum content of the state development programme. The paragraph is being streamlined without fundamentally changing the content of the four regulatory areas. Only the restriction on the State development programme that sufficiently technically protected interests cannot be included (prohibition of double protection; No 4) has been deleted. Due to its cross-sectional task, regional planning must be able to make comprehensive determinations and be flexible, in which it is clear that interests already secured in specific legislation need not also be secured in spatial planning. There is therefore no need for a statutory provision in this regard.

The new Art. 14(3) corresponds to the previous provision in Art. 20, but, for reasons of procedural simplification and acceleration as well as to strengthen the position of the supreme state planning authority, the agreement of the state ministries has been deleted. Since the provisions are decided by the State Government, the legal position of the other departments is sufficiently taken into account. At the same time, there is no formalised consultation with the regional planning council. The associations belonging to the regional planning council shall be given the opportunity to express their views in the participation procedure. There is therefore no need for a separate consultation of the regional planning council. However, even under the current legal situation, the regional planning council can make suggestions and recommendations on the state development programme.

The new Art. 15 summarises the previous provisions on the regional plans (Art. 21 and Art. 22) in a streamlined manner and relocates them. Para. 2 contains the three regulatory fields as the maximum content of the regional plans, as was previously the case. The only substantive change is provided for in Para. 2(3). The restriction for the regional plans that interests that are already adequately secured cannot be taken into account (ban on double-safeguarding) has been deleted (cf. above on Art. 14(2)).

Under Art. 15(3), the preparation of the regional plans will no longer take place in consultation with the public bodies in order to simplify and accelerate the planning process and to strengthen the position of the Regional Planning Associations. The participation of public bodies is now governed solely by Art. 18. The agreement of the higher state planning authority replaces the binding declaration of the regional plans previously provided for in Art. 22(1)(3) by the higher state planning authority. This means that in the future, it will not be possible for much time to pass between the adoption of the regional plan and its entry into force after it has been declared binding. This should thus achieve acceleration. In future, the time of the examination by the higher state planning authority will be changed to the time prior to the final decision of the Regional Planning Association. The granting of the agreement thus has a different quality than the declaration as binding, which was previously downstream. This is a special feature compared to the previously rather similar declaration as binding based on municipal law. The agreement extends to the formal and substantive legality of the regional plan.

**Re Point 9 (Art. 16)**

*Re (a) (Art. 16(2)(2))*

The arrangement on development areas was repealed in the new Spatial Planning Act. An exclusion of this regional category in Bavaria has therefore been completed. The deletion is intended to clarify the legal situation.

*Re (b) (Art. 16(2)(2))*

This is a consequential editorial amendment.

*Re (c) (Art. 16(2)(3) and (4))*

The new provision in Art. 16(2)(3) demonstrates the existing administrative court case-law that purely negative planning is not permitted and clarifies that the designation of an exclusion area may only take place in connection with the determination of a priority area.

After the removal of the development areas, priority areas with exclusion effect were included in the Spatial Planning Act. This regional category means that, in addition to the established priority, an exclusion applies in the rest of the planning area. This regional category introduced by the Spatial Planning Act is not incorporated into state law. Rather, the establishment of exclusion areas in connection with priority areas, in contrast to the Spatial Planning Act rule, should also allow so-called 'white areas' to remain in which no regional planning decision is made on priority use or exclusion thereof. This possibility provides greater flexibility for the planning sponsors. This determination option in the regional plan applies to all concerns determined in the state development programme (see Para. 2(2) new version) and thus also to the determination of priority areas for wind energy. There is no conflict with the provisions of § 249 BauGB. This can be found in the tool for the implementation of the Onshore Wind Act [Gesetz zur Erhöhung und Beschleunigung des Ausbaus von Windenergieanlagen an Land], Onshore Wind tool, adopted by the Expert Commission on Urban Development and the Committee for Law and Procedure of the Conference of Ministers for Spatial Planning of 3 July 2023, under No. 3.2.7. It states that the determination of an exclusion effect in the scope of planning can be dispensed with. The wording with 'can' makes it clear that an exclusion effect can still be established. In connection with priority areas, regional planning can therefore continue to define exclusion areas (Art. 14(2)(1)(3)) in which wind energy use is not possible for regional planning reasons. In addition, individual parts of the planning space may also remain unplanned with regard to wind energy use, so-called 'white areas'. It is also made clear that a 'exclusion effect' to the detriment of use in all or part of the planning room is possible only if substantial space is provided for it in the planning area in return. 'Substantial' means that appropriate spatial precautions are taken for the respective use or function on the basis of current and future needs, including from a sustainability perspective. The question of whether 'substantial' space is actually available is a matter for the individual assessment of the individual case. In this respect, in addition to the size, criteria may include the suitability of the area for use from a functional perspective or also political or legislative objectives of the respective technical policy.

The simplifications provided by the new Spatial Planning Act for priority areas with exclusion effect are transferred in Art. 16(2)(4) for Bavaria to the designation of one or more priority areas in connection with one or more exclusion areas, as the high requirements imposed by case law have so far led to assessment difficulties in practice (e.g. differentiation between soft and hard taboo criteria) and the associated legal uncertainties. In this respect, it is stipulated that the identification of one or more priority areas in connection with one or more exclusion areas must be based on an overall planning concept of the planning body. An 'overall spatial planning concept' is a coherent concept relating to the respective planning area for the control of spatially significant uses and planning that takes into account the general requirements of the obligation to weigh up interests under planning law and, as a result, does not prove to be impermissible negative planning. If, according to this planning concept, the planning area outside the priority area or parts thereof are excluded for the priority uses or functions, it should not be necessary to systematically differentiate whether the exclusion is due to factual, legal or planning reasons.

These provisions mean a significant simplification and improvement for planning sponsors and create greater legal certainty.

***Re Point 10 (Art. 17)***

*Re (a) (heading)*

Editorial adjustment; the current legal situation is further explicitly clarified.

*Re (b) (Art. 17(1))*

When drawing up spatial development plans, the competent authority must carry out an environmental assessment and draw up an environmental report at an early stage as a separate part of the draft explanatory memorandum. This is in line with European law and current practice. The addition is made in order to make the environmental assessment clearer. This serves solely for clarification purposes and has no new substantive regulatory content. It is also clarified, without any new substantive regulatory content, that Para. 1 does not itself justify the need for an environmental assessment, but that the need must arise on the basis of other provisions. So far, an environmental assessment has also been carried out and an environmental report has been prepared. This is now expressed more clearly in the text of the Act.

*Re (c) (Art. 17(3))*

Participation is specifically defined as a hearing in order to accelerate the procedure.

*Re (d) (Art. 17(4))*

In the case of minor changes to spatial development plans, an environmental report is not to be drawn up. The discretion of the planning authority is specified in order to accelerate the procedure. The deletion of the words 'taking into account' serves to clarify that the criteria listed are to be applied in accordance with Annex 2. Participation is also specifically defined as a hearing in order to accelerate the procedure.

*Re (e) (Art. 17(5))*

Replacing 'may' with 'should' serves to accelerate the procedure.

**Re Point 11 (Art. 18)**

Participation in the preparation of spatial development plans, which was previously regulated in Art. 16 and now in Art. 18, is an essential area which is suitable for simplification, acceleration and digitalisation in the context of deregulation. The participation procedure under the new Art. 18(1) and (2) and the participation procedure in the context of the spatial impact assessment in accordance with the new Art. 23(4) and (5) are harmonised in structure for the sake of simplification.

The following changes should be highlighted in particular:

The previous minimum period for the design is replaced by a four-week publication period. At the same time, a parallel of the publication deadline and the deadline for submission of observations (cf. Art. 18(1)(5)) is defined. These amendments are intended to accelerate the procedure. The list of parties to be involved under the previous Art. 16(1) is combined with the terms 'general public and public bodies'. The general public includes all natural persons and legal entities with the exception of public bodies (see Art. 18(1)(1)). The publication of the planning documents exclusively on the internet will reduce the administrative burden and accelerate digitalisation. In order to avoid discrimination in the participation procedure, an alternative means of access should be provided on request for those persons who demonstrate that they are unable to participate in the procedure by electronic means. The comments are to be sent in electronic form. Comments may also be submitted in writing if necessary – for example, when using the alternative access option referred to in Sentence 4. The need does not have to be justified in a qualified manner. Once the deadline has elapsed, preclusion continues to apply as before.

Art. 18(2) now contains the electronic participation of public bodies, the persons governed by private law referred to in Art. 3(1)(2), associations recognised under nature conservation law, in so far as they are affected by their statutory tasks, the economic, agricultural, forestry and social associations concerned, and the competent bodies of neighbouring countries and neighbouring countries. The authorities referred to in Art. 17(3) shall be covered by the public sector bodies; the previous independent reference may be waived. Due to the high digital affinity of the public administration and the associations, it seems justified to arrange their participation exclusively in electronic form.

Art. 18(3) sets out the responsibility for the participation procedure in the context of the establishment of the state development programme and the regional plans in a clearer

and simpler manner. The announcement pursuant to Para. 1(5) in the context of the preparation of the regional plan by the higher state planning authority, district offices and independent municipalities is maintained, as the Regional Planning Association does not have a publication body.

Art. 18(4) incorporates the new provision introduced to accelerate the procedure in Para. 9(5) Spatial Planning Act and modifies it in the interest of further deregulation. This meets the need in practice for simplified procedures in the event of minor changes to spatial development plans. If these amendments have no significant environmental impact or impact on third parties, the group of parties to be involved should be restricted. If the amendment affects the basic outline of the plan, it can no longer be deemed minor. The term 'amendment' also covers the addition or repeal of individual provisions. Art. 18(4)(2) states that the participation procedure must be carried out in accordance with Paragraphs 1 and 2(1)(1) and (3). The consequence of this is that the public bodies and, in the case of the state development programme, the municipal umbrella organisations, must also be given the opportunity to submit comments in electronic form.

Art. 18(5) incorporates the previous Art. 16(6) and is modified in that the second participation procedure is always limited to the amendments and only has to be conducted if new duties of consideration are introduced or the basic outline of the plan are affected. In any case, comments may only be made on the amendments. In addition, the publication period and thus the commenting period as well are to be shortened appropriately and the group of parties involved should be restricted. As a result, the broad discretion granted to the planning authority under the previous legal situation is now steered into a target arrangement in which the publication period – and thus the commenting period – must be shortened and the group of participants must be restricted when a new participation procedure is carried out. Refraining from these simplifications requires in-depth justification. The feature of affecting the basic outline of the plan, which previously had to be taken into account by the planning authorities as part of their discretionary powers, will be included in the facts of the case. It should be made clear that a new participation procedure may also be necessary, for example, if objectives are dropped to a considerable extent (e.g. multiple priority areas originally planned) or if significant principles are added or dropped. This was previously only evident from the previous explanatory memorandum (State Parliament Official Record 17/8107, p. 6). Inclusion in the legislative text as a constituent element serves to ensure legal certainty and avoid errors of application.

Art. 18(6) provides for Bavaria's participation in a non-Bavarian spatial development plan, as previously provided for in Para. 4, redrafts the provision from a linguistic point of view and clarifies the responsibilities.

**Re Point 12 (Art. 19)**

*Re (a) (Art. 19(1))*

This is a linguistic clarification.

*Re (b) (Art. 19(2))*

This consists of editorial amendments due to the new numbering of the provisions in Part 4 spatial development plans.

**Re Point 13 (Art. 20)**

To date, the publication of regional plans in Art. 22(3) and their inclusion on the internet from the date of entry into force is governed by Art. 18(1). The publication and discontinuation of spatial development plans on the internet after their entry into force are now summarised in one provision for state development programmes and regional plans, which significantly improves clarity. The aim of the State Government is promulgation in purely digital form.

Art. 20(2) now makes it clearer that the statement of reasons for the provisions, which is not part of the statutory instrument, is also published on the internet and must be available for consultation.

**Point 14 (Articles 19 to 22)**

The deletion of the articles is a consequence of the merging of the rules in Articles 14 and 15.

**Re Point 15 (Art. 21)**

*Re (a) (Paragraph 1)*

Art. 21(1)(1) is an editorial amendment due to the new numbering of the provisions in Part 4 spatial development plans and an extension of the maintenance provision on the basis of § 214(1)(2)(a) of the Building Code, so that it now covers each individual of the parties to be involved in accordance with Art. 18(2). This serves the legal certainty of the plans.

Art. 21(1)(2) is a linguistic adaptation and editorial amendment due to the new numbering of the provisions in Part 4 spatial development plans. The insertion of the words 'the determinations' serves to clarify the situation.

*Re (b) (Para. 2)*

The deletion follows the Federal Government, which has deleted this provision from the Spatial Planning Act to create legal certainty. The previous regulation declared a regional plan effective if further conditions are met, even if it was not developed from the state development programme. As a result, target definitions at the level of a regional plan and at the level of the state development programme could be contradictory, but effective. This inevitably led to a conflict in terms of attachment to the objectives of regional planning.

*Re (c) (Para. 3)*

This starts as an editorial amendment due to the new numbering of the provisions in Part 4.

In the interest of the sustainability of plans and in order to strengthen legal certainty, a new conservation provision is also introduced, which refers to the addition to Art. 16(2) (3). The possibility of defining one or more exclusion areas in connection with one or more priority areas also requires a provision for the maintenance of the plan in order to prevent the entire planning from being jeopardised in the event of incorrect definition of individual parts. This is especially important for wind energy areas in order not to jeopardise compliance with the area contribution value or the objective for a sub-area. This presupposes, however, that the Regional Planning Association has, as far as possible, determined a level above these values so that, despite the ineffectiveness of individual areas, there is still substantial room for priority use.

*Re (d) (Para. 4)*

These are editorial amendments due to the new numbering of the provisions in Part 4.

*Re (e) (Para. 5)*

To date, Art. 23(5)(1) BayLplG provides that the deficiencies referred to in the provision are to be disregarded if they have not been invoked in writing or electronically within one year of the publication of the spatial development plan, setting out the facts giving rise to the infringement. This is a limitation period which serves legal certainty and is intended to create planning certainty. The shortening of the time limit to six months is intended to provide legal certainty for all stakeholders at an earlier stage and thus to realise the potential for acceleration.

Moreover, this is a consequential editorial amendment resulting from the repeal of Art. 21(2)(1) and editorial amendments due to the new numbering of the provisions in Part 4 as well as a linguistic correction.

*Re (f) (Para. 7)*

This is a consequential amendment. Since the declaration as binding was replaced by an agreement, there is no need for a provision in this regard.

**Re Point 16 (Articles 22 and 23)**

The provisions on the spatial planning procedure are streamlined and restructured, taking over the term 'spatial impact assessment' in the Spatial Planning Act, and

adapted to the requirements of practice. In this respect, the amendments serve to simplify the procedure and to accelerate the procedure.

Art. 22(1)(1) regulates the subject-matter of a spatial impact assessment (RVP – Raumverträglichkeitsprüfung) without any substantive change. As in the past, the spatial impact assessment is carried out before a decision is taken on the permissibility of the project and not, as provided for in the Spatial Planning Act, before the application is made for the implementation of the project. This possible procedural economy increases the flexibility for project sponsors. Art. 22(1)(2) sets out the scope of the examination. This is now structured in numerical terms for the sake of clarity. It has been clarified that the examination of supra-regional spatial environmental protection concerns is carried out approximately according to the planning level; the environmental impact assessment required for the project will continue to be carried out in the approval procedure. In accordance with the provisions of the Spatial Planning Act, reference is made to the protected interests under § 2(1) Environmental Impact Assessment Act (UVPG) in order to specify the subject matter and scope of the assessment, taking into account the criteria set out in Annex 3 to the UVPG, without any substantive impact on the environmental assessment.

Art. 22(2) governs competence as before.

Art. 23 depicts the previous spatial planning procedure (now spatial impact assessment or RVP) and incorporates acceleration elements in favour of the project sponsor.

Art. 23(2) stipulates that the project sponsor must submit the documents in an electronic format, thereby taking advantage of the possibilities of digitisation. It is now clearly highlighted that only the documents necessary to examine the need for a spatial impact assessment are to be submitted by the project sponsor and not already the more extensive documents required for the spatial impact assessment. This means a facilitation for the project sponsor and thus ultimately serves to accelerate.

The provision in Art. 23(3)(2) ensures that the higher state planning authority is involved early in the simplified spatial impact assessment and can adapt to the following procedure.

Art. 23(4) and (5) regulate the participation procedure in accordance with the provisions of Art. 18 (participation procedure in the preparation of spatial development plans). A distinction is made here between publication on the internet and a targeted electronic request for comments for specific bodies. In exercising the deviation authority to which the state is entitled, a preclusion provision is now also being introduced in the scope of the spatial impact assessment in order to expedite the administrative process in this area as well. Para. 4 is supplemented by Sentences 7 and 8 with regulations on confidentiality in accordance with the Spatial Planning Act in order to protect this sensitive area. At the same time, Sentence 9 also anchors the right of the higher regional planning authority to demand informative documents that describe the project and its effects without disclosing confidential information.

In Art. 23(6), the simplified spatial planning procedure, previously regulated in Art. 26, is incorporated into the provision as a simplified spatial impact assessment and streamlined.

Art. 23(7) governs the completion of the spatial impact assessment. The previous period of six months is maintained; in the case of the simplified spatial impact assessment, a three-month period is newly introduced. It is also stipulated that a decision on the permissibility of the proceedings can be made after the expiry of the period of six or three months. This ensures that any delays in the procedure are not to the detriment of the project sponsor and that further swift processing can take place. Acceleration is achieved as a result. In contrast to the provision in the Spatial Planning Act, it is nevertheless possible for the higher state planning authority to complete the procedure with a state planning assessment and feed into the ongoing approval procedure. This takes procedural economy into account, but avoids delays in the subsequent approval procedure. Sentence 5 calls on the competent authority for the subsequent procedure to use findings from the spatial impact assessment in order to avoid duplication of checks.

Art. 23(8) serves for clarification.

**Re Point 17:**

The previous Art. 26 can be deleted by means of deregulation, as a future provision is planned as a simplified spatial impact assessment in the new Art. 23(6).

**Re Point 18 (Art. 24)**

The addition 'in the context of a participation by competent authorities' has been included for clarification.

**Re Point 19 (Art. 25)**

*Re (a) (Para. 1)*

The competence of the state planning authorities is newly regulated in Art. 25(3). It is also clarified that all those bound by the spatial planning objectives may be subject to an indefinite prohibition.

*Re (b) (Para. 2)*

This is firstly an editorial amendment. The competence of the state planning authorities is also rearranged in Art. 25(3). Finally, it is clarified that all those bound by the spatial planning objectives may be subject to a temporary prohibition. Furthermore, the provision of the previous Para. 6(1) has been integrated into Art. 25(2).

*Re (c) (Para. 3)*

In the interests of deregulation, competence for prohibiting objectives that are exclusively defined in a regional plan or are in preparation is transferred from the supreme state planning authority to the higher state planning authority in whose area of responsibility the regional planning association is located. For reasons of simplification and acceleration, there is no longer any need for an agreement arrangement as was previously provided for.

*Re (d) (Para. 4)*

Para. 4 is supplemented by Sentence 2 (previously Para. 5).

*Re (e) and (f) (Paras. 5 and 6)*

Consequential editorial amendments.

**Re Point 20 (Art. 26)**

Consequential editorial amendment.

**Re Point 21 (Art. 27)**

The provision is simplified and reduced to its essential content. The utilisation of information from the previous Art. 31 is overtaken, thus continuing to enable the monitoring of spatially significant facts and developments.

**Re Point 22**

For the sake of shortening and streamlining, Art. 31 is deleted by way of deregulation, without calling into question spatial observation as a task of regional development. The identification and monitoring of spatially significant facts and developments is an inherent part of the tasks of spatial planning and is still made possible by the provisions of the new Art. 27.

The previous Art. 32 has also been deleted with regard to deregulation, as there is no longer any need for statutory regulation. Most recently, every five years, a report on major spatially significant developments was drawn up with the involvement of other departments. In the digital age, it seems more expedient to provide targeted information on current developments at short notice in digital formats on an ad hoc basis at the department's own responsibility. The deletion does not affect the State Parliament's right to information, as this is already sufficiently regulated elsewhere.

**Re Point 23 (Art. 28)**

The deletion of the agreement in Art. 28(1) serves to facilitate the procedure and strengthen the responsibility of the supreme state planning authority. At the same time, responsibility for adapting a development plan is delegated exclusively to the

objectives of the regional plan within the framework of deregulation to the higher state planning authority.

**Re Point 24 (Art. 29)**

Since target deviation procedures are carried out by both the supreme and the higher state planning authority, a clarifying adjustment is made here.

**Re Point 25 (Art. 30)**

It is clarified that for the Regional Planning Association Donau-Iller, the provisions of the State Treaty take precedence over the provisions of the Bavarian State Planning Act (BayLplG).

**Re Point 26 (Art. 31)**

The provision once again makes it clear that the Spatial Planning Act does not apply within the material scope of application of this Act.

**Re Point 27 (Art. 32)**

The transitional provisions set out in Art. 32(1) to (3) govern the way in which proceedings are to be dealt with which were commenced but not yet completed before this Act's entry into force. This serves the purpose of legal clarity. If the participation procedure was initiated after this Act's entry into force, the provisions of the new Act shall apply. The participation procedure shall be initiated with the publication of the planning documents. Art. 32(4) updates the temporal scope of Art. 21 with regard to spatial development plans. The aim is to measure all spatial development plans, regardless of the legal basis on which they have been drawn up and put into effect, against the standard of the current planning regulations. The second half-sentence of Para. 4 lays down, as an exception to the first half-sentence, the date of application of the previous Art. 23(2) in relation to spatial development plans which entered into force before the amendment to Art. 23(2).

**Re Point 28 (Art. 33)**

This provision provides for the entry into force.

**Re Points 29 and 30 (Annex 1 and Annex 2)**

This is an editorial amendment.

**Re § 8 (Act Implementing the Courts Constitution Act – AGGVG)**

**Re Point 1 (Art. 8)**

The provision determines in purely negative terms that the local courts are not competent to record inventory as probate courts. The underlying state reservation of Art. 148 EGBGB [Introductory Act to the Civil Code] was amended by the Act on the Delegation of Tasks in the Field of Voluntary Jurisdiction to Notaries of 26 June 2013 (Federal Law Gazette p. 1800) with effect from 1 September 2013, since § 2003(1)(1) of the Civil Code assigns the official recording of the inventory nationwide exclusively to notaries from that date. Thus there is no longer any regulatory need for Art. 8.

**Re Point 2 (Art. 29)**

Art. 29 AGGVG provides that the public charges of agricultural land include contributions for animal life insurance and livestock insurance for slaughter which are payable in respect of the insurance of the livestock forming part of the accessories. Art. 29 AGGVG made reference to Art. 34 et seq. of the Act on Public Insurance (VersG) of 7 December 1933, which provided for such contributions to be paid to the Bavarian Livestock Insurance Institute [Landestiersicherungsanstalt] for animal life insurance and slaughter livestock insurance. With the exception of Art. 6(2) VersG, the VersG was repealed by Art. 29(1)(2) Act on the Reorganisation of the Legal Relationships of the Public Insurance Institutions of the Free State of Bavaria of 23 July 1994 (GVBl. p. 603). The contributions now payable to the Animal Disease Fund in accordance with Art. 5(4) of the Act Implementing the Animal Health Act (BayAGTierGesG) are not insurance contributions, but are made to fulfil the statutory

duties of the Animal Disease Fund [Tierseuchenkasse] in accordance with Art. 5(2) BayAGTierGesG. Thus Art. 29 AGGVG is also obsolete.

**Re Point 3 (Art. 32)**

Editorial amendment.

**Re Point 4 (Art. 34)**

Editorial amendment.

**Re Point 5 (Art. 35)**

*Re Heading*

The new version of the heading serves to clarify the limited scope of the reporting duty under state law. The amendment also constitutes an editorial change.

*On the repeal of Art. 35(1)*

Under Art. 35(1)(1) AGGVG, the registrar must notify the district court in whose district he has his seat of any death of which he is notified in accordance with § 28 Civil Status Act. At the same time, § 78e(1) of the Federal Notarial Code (BNotO) requires register offices throughout Germany to submit death notifications to the Federal Chamber of Notaries as the register authority for the Central Register of Wills (ZTR [Zentrales Testamentsregister]). The death notifications under § 6 of the Ordinance on the Establishment and Management of the Central Register of Wills (ZTRV) shall not only contain information about the death itself, but also other information required for the probate court to fulfil its statutory duties, such as the deceased's marital status, details on existing estate assets or any indications of the need for measures to secure the estate. In accordance with § 78e(3)(1) BNotO, the Central Register of Wills then informs the competent probate court of the death and, where available, data included in the Central Register of Wills, such as custody information on documents relevant to succession. In addition, the death notification is sent in accordance with § 7(3)(1) ZTRV.

As the Central Register of Wills has become fully operational, the need for separate notification obligations of the registry offices under state law has now been eliminated. The information required to fulfil the official obligation to identify heirs in accordance with Art. 37(1) AGGVG must also be sent to the Central Register of Wills by the registry offices in the scope of the reporting duty. The Central Register of Wills sending the comprehensive death notification to the probate court in accordance with §§ 6 and 7(3) ZTRV, which is mandatory under federal law, ensures that the probate court receives all the data known to the registry office in good time. Art. 35(1)(1) AGGVG is therefore repealed in order to avoid duplication of notification channels and to reduce bureaucracy. As a result, the provisions in Sentences 2 and 3 become redundant and can be deleted.

*Re revised version of Art. 35(2)*

Art. 35(2) AGGVG provides that, in the event of a death occurring outside the country, the municipality in which the deceased had his last domicile or habitual residence is obliged to notify the local court of that death as soon as the death becomes officially known. For deaths outside Bavaria, but within the federal territory, this reporting duty under state law can be waived to reduce the administrative burden. This is because in these cases the death is authenticated by a German civil registry office, with the result that the probate court is informed of the regular channels of notification under federal law about the Central Register of Wills. However, this does not apply to deaths abroad by persons residing in Bavaria in respect of whom there is no re-certification in the death register or any other German civil status entry shortly in relation to the death. In order to inform the district courts as early as possible, the municipality's reporting duty under state law in accordance with Art. 35(2) AGGVG is generally necessary. The scope of Art. 35(2) AGGVG is thus limited to deaths outside the territory of German. Other editorial adjustments.

*On the repeal of Art. 35(3)*

There is also a duplicate notification structure with regard to Art. 35(3) AGGVG. Under it, the local court must notify the competent probate court of every legally binding

declaration of death or determination of the time of death. Under federal law, the local court must notify the Register Office I in Berlin of decisions on the declaration of death or the determination of the time of death in accordance with § 73(22) PstG [Civil Status Act] in conjunction with 56(1)(4a) PStV [Civil Status Ordinance] and the specifying provision in Subsection XVIII/1 of the Order on Notifications in Civil Matters (MiZi). Under § 78e(1) BNotO and § 6(1)(9) of the ZTRV, the latter is required to forward the notification to the Central Register of Wills, which in turn, notifies the competent probate court and the custodian offices in accordance with § 78e(2) BnotO. There is thus no need to retain the parallel reporting duty under state law.

**Re Point 6 (Art. 38, Art. 39)**

*Re Art. 38*

The original purpose of Art. 38 AGGVG was to establish the competence of the local courts in Bavaria for the mediation of the settlement of the estate or the common assets in addition to the competence provided for until 1 September 2013 in § 363(1) in conjunction with § 373(1) of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG), which until 1 September 2013 provided for the competence of the local courts, to establish the competence of notaries. However, with effect from 1 September 2013, §§ 363 to 373 FamFG were amended by the Act on the Delegation of Tasks in the Field of Voluntary Jurisdiction to Notaries of 26 June 2013 (BGBl. 2013 I p. 1800) to the effect that it is no longer the court, but the notary, who must mediate the settlement of the estate or the common assets between the parties upon request. Since the original and sole competence of notaries is now laid down in the FamFG and thus at the level of federal law, Art. 38 AGGVG no longer has any regulatory content.

*Re Art. 39*

Art. 39(1)(1) AGGVG concerns the notarial competence to issue the certificates referred to in §§ 36 and 37 of the Land Register Code (GBO). Pursuant to § 36(1)(1) GBO, a court certificate is sufficient as proof of the succession and the declarations of the parties required for the registration of the transfer of ownership if, in the case of a plot of land or right of superficies belonging to the estate or total property of a community of property, one of the parties is to be registered as the owner or the person entitled to the right of superficies. Under § 36(1)(2) GBO, the local courts referred to therein are competent to issue the certificate in addition to the probate court. With effect from 1 September 2013, the Act on the Delegation of Tasks in the Field of Voluntary Jurisdiction to Notaries of 26 June 2013 (BGBl. 2013 I p. 1800) newly inserted the provision of § 36(2a) into the GBO. § 36(2a) GBO provides that the notary who arranged the dispute is also competent to issue the certificate in accordance with § 36(1)(1) GBO where a certificate of succession has been issued in respect of the succession law of all the heirs or a certificate of continuation of the community of property. That provision, which, under § 37 GBO, also applies to the situations in that State, is identical in substance to Art. 39(1)(1) AGGVG, for which there is no longer any scope of application. As a result, Art. 39(1)(2) AGGVG can also be deleted, as it also no longer has any independent regulatory content. The fact that, in addition to the other courts referred to in § 36(1)(2) GBO, the probate court has jurisdiction to issue the certificates referred to in §§ 36 and 37 GBO, in the absence of any of the situations of notarial jurisdiction described in Art. 39(1)(1) AGGVG or now in § 36(2a) GBO, does not require a separate rule. In that case, the general rule of court jurisdiction, which is conclusively defined § 36(1)(2) GBO, remains the same.

Art. 39(2) AGGVG provides for the notarial competence for issuing certificates in accordance with the laws on the Federal Debt Register and the State Debt Register. In the meantime, the notarial responsibility for the evidence to be provided is primarily governed by § 7(1) Federal Debt Administration Act (BSchuWG). In accordance with Art. 3(1) of the Act on the State Debt Register of the Free State of Bavaria (State Debt Register Act), § 7(1) BSchuWG applies to the State Debt Register Act accordingly. As such, Art. 39(2) AGGVG is also obsolete and can therefore be repealed.

**Re Point 7 (Art. 43)**

Art. 43 AGGVG concerns partial mortgage, partial land charge and partial annuity debt certificates and stipulates that the land registries alone have competence to create them. This standard under state law is now superseded by § 61(1) GBO, according to which a partial mortgage certificate can be issued not only by the land registry, but also by the notary. According to § 70(1) GBO, this provision is also applicable to mortgage and pension debt letters. Art. 43 AGGVG is therefore no longer of significance on its own.

**Re Point 8 (Art. 51)**

Art. 51 AGGVG stipulates that advisory assistance shall also be granted in legal matters not listed in § 2(2) Sentences 1 and 2 of the Counselling Assistance Act (BerHG), whereby the provisions of the BerHG shall be applied accordingly. The Act Amending the Counselling Assistance Act of 31 August 2013 (BGBl. p. 3533), § 2(2) (1) BerHG was expanded to the effect that counselling assistance under the BerHG is granted in all legal matters. Art. 51 AGGVG is therefore no longer of significance on its own.

**Re Point 9 (Art. 53)**

§ 2(3) of the Judicial Records Retention Act (JAKtAG) stipulates that the federal states may stipulate in general or for individual matters that the retention and storage periods under state law that were applicable until then continue to apply to files, file registers, file files, name and other registers that were already removed before the entry into force of the Judicial Records Retention Ordinance on 1 January 2022. The Bavarian State Ministry of Justice, the Bavarian State Ministry of Finance and Homeland, the Bavarian State Ministry of the Interior, Sport and Integration and the Bavarian State Ministry of Family, Labour and Social Affairs wish to make use of the opening clause under § 2(3) JAKtAG in order to avoid a heavy administrative burden on the courts and public prosecutor's offices for redefining the retention and storage period for files which have already been removed. The transfer of the state authorisation pursuant to § 2(3) JAKtAG to the competent state ministries leads to greater proximity of the decisions to be made and simplifies administrative enforcement.

**Re Point 10 (Art. 66)**

The provisions of Art. 66(1) provide that, in cases of succession which took place before 1 October 1902, the laws in force at the time when the succession occurred are decisive. According to the explanatory memorandum to the identical predecessor provision of Art. 60(2) AGGVG (old version), the provision corresponds to Art. 12 of the Bavarian Probate Act of 9 August 1902, which entered into force on 1 October 1902 and was applicable to successions from that date, whereas, under the transitional provision in Art. 12, the previous procedural rules were to remain applicable to successions before 1 October 1902. With the entry into force of AGGVG on 1 August 1981, the Bavarian Probate Act and the Bavarian Notarial Act of 9 June 1899, which still applies in parts, were repealed, since their rules, insofar as they were not devoid of purpose or necessity, were replaced by the provisions of AGGVG.

The Act only provided an explicit arrangement for dealing with inheritance cases prior to the entry into force of AGGVG in Art. 60(2) (old version) for the cut-off date of 1 October 1902. In addition, Art. 60(3) (old version) provided that proceedings for the conciliation of the succession were to be concluded in accordance with previous law. The legislator did not adopt the obligation to mediate the settlement of the estate ex officio under Art. 4 to 7 of the Bavarian Probate Act in the AGGVG.

The historical legislature AGGVG thus codified only in part the general principle of intertemporal succession law, expressed in particular in Art. 213(1) EGBGB, according to which the previous provisions remain applicable to the succession situation in which the testator died before the entry into force of the new provisions. In its Art. 12, on the other hand, the Bavarian Probate Act had comprehensively provided that, for inheritance cases before 1 October 1902, i.e. before the entry into force of the Bavarian Probate Act, the previous laws remain decisive. Art. 132 of the Bavarian Notarial Act, which entered into force at the same time as the Civil Code on 1 January 1900, had reserved, with reference to Art. 213 of the Introductory Act to the Civil

Code, the validity of the previous acts if the testator had died before the entry into force of the Civil Code. It is not apparent that the historical legislator of the AGGVG deliberately sought to deviate from this and, unlike in the predecessor standards, did not want to create a comprehensive transitional provision.

In order to avoid ambiguities that could result from the only partial explicit arrangement of intertemporal inheritance law by adopting the key date regulation from Art. 12 of the Bavarian Probate Act (1 October 1902) into the AGGVG, Art. 66(1) is repealed entirely. In the absence of special transitional provisions, the general legal principle of intertemporal inheritance law applies, according to which the previous provisions remain applicable if the testator died before the new provisions entered into force. The repeal of the only provision in Art. 66(1) that mentions a cut-off date does not therefore create a new transitional provision; rather, it is intended to avoid confusion due to a chain of transitional provisions that has become confusing.

**Re Point 11 (Art. 67)**

Editorial amendment.

**Re § 9 (Bavarian Arbitration Act – BaySchlG)**

Art. 5(3)(2) assigns the task of setting up and recognising further arbitration committees pursuant to § 794(1)(1) of the Code of Civil Procedure (ZPO) under the conditions of Art. 22 AGGVG to the President of the Higher Regional Court of Munich. The Act on the Establishment of the Bavarian Supreme Court of 12 July 2018 (GVBl. 2018 p. 545) amended Art. 22 AGGVG with effect from 15 September 2018 to the effect that the recognition of persons or associations as arbitration committees as defined by § 794(1)(1) ZPO is no longer carried out by the President of the Higher Regional Court of Munich, but by the President of the Supreme Court. This amended allocation of competence in the AGGVG is reflected in Art. 5(3). The amendments are intended to ensure lasting synchronisation.

**Re § 10 (Bavarian Act on the Psychiatric Confinement and Temporary Placement of Criminal Offenders – BayMRVG)**

See the preliminary remark on § 2 in general. The standard provides that, at the request of the specialised supervisory authority, the sponsors of institutions for psychiatric confinement must participate in certain statistical surveys or submit a quality report, whereby the specialised supervisory authority determines the content requirements and the frequency of the report. The quality report from the sponsors of the institutions for psychiatric confinement to the specialised supervisory authority has so far only to be submitted upon request and has never been requested in the past, despite the standard having existed since 1 August 2015. Due to the increased automated data collection and statistical evaluation by the specialist supervisory authority, it is also not expected that the latter will demand a quality report in the future.

**Re § 11 (SME Promotion Act – MfG)**

See the preliminary remark on § 2 in general. The reporting duty on the situation of small and medium-sized enterprises and the freelance professions can be removed in favour of an ad hoc reporting option, as its purpose and purpose can also be achieved in this way, albeit in a less bureaucratic way.

**Re § 12 (Bavarian Restaurant Ordinance – BayGastV)**

This is a consequential editorial amendment necessitated by the deletion of the small delegation (Art. 53(2)(1)(2) BayBO) (see § 6(3)).

**Re § 13 (Public Pensions Act – VersoG)**

**Re Point 1 (Art. 15(1))**

Consequential editorial amendment.

**Re Point 2 (Art. 15(2))**

See the preliminary remark on § 2 in general. In accordance with Art. 18 VersoG, the pension institutions are subject to legal and insurance supervision by the State Ministry. In order to carry out its tasks, supervision is dependent on the relevant information provided by the pension institutions, for which the reporting duty laid down in Art. 15(2) VersoG is used. This statutory reporting duty can be repealed, as the required information flow is better carried out on an ad hoc basis – if necessary at the request of the State Ministry – and thus the necessary information from the supervision can be ensured.

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**Re § 14 (Ordinance on the Implementation of the Public Pensions Act – DVVersoG)**

Consequential editorial amendment regarding § 14.

**Re § 15 (Bavarian Nature Conservation Act – BayNatSchG)**

See the preliminary remark on § 2 in general.

**Re Point 1 (Art. 3a)**

The report on the state of nature is largely identical in content to the report on the state of the environment under Art. 11 of the Bavarian Environmental Information Act. Only a few areas of the report on the state of nature are not included in the report on the state of the environment and can be integrated into its content. A virtually identical reporting duty must be avoided in the interest of reducing bureaucracy.

**Re Point 2 (Art. 19)**

*Re Art. 19(3)*

The status report on the biotope network, which is in any case only designed as a recommendation, can also be made as a voluntary, ad hoc report, so the provision is to be repealed in the interests of deregulation.

*Re Art. 19(4)*

Consequential editorial amendment.

**Re § 16 (Bavarian Act on Equal Opportunities of Persons with Disabilities – BayBGG)**

See the preliminary remark on § 2 in general. The report of the Disability Commissioner to the Council of Ministers is based on the UN Convention on the Rights of Persons with Disabilities (UN CRPD). Accordingly, States Parties must report to the Committee on the Rights of Persons with Disabilities within two years of the entry into force of the Convention, hereinafter at least every four years and at the request of the Committee (Art. 35(1) and (2) of the UNCRPD). The report also serves the state audit procedure that Germany must regularly undergo in accordance with the UN CRPD, as well as analysing problems and collecting ideas for the political bodies. However, these requirements can also be met without a statutory reporting duty. Ad hoc reporting, which is left to the discretion of the state representative(s), is also suitable for providing the necessary information and is preferable in the interests of deregulation and reducing bureaucracy.

**Re § 17 (Bavarian Lobbying Register Act – BayLobbyRG)**

**Re Point 1 (Art. 7(1))**

See the preliminary remark on § 2 in general. The statutory reporting duty on the application of the lobby register can be lifted thanks to the more favourable and less bureaucratic option of reporting on an ad hoc basis.

**Re Point 2 (Art. 7(2))**

Consequential editorial amendment.

**Re § 18 (Bavarian State Representatives Act – BayBeauftrG)**

**Re Point 1 (Art. 2(1))**

Consequential editorial amendment.

**Re Point 2 (Art. 2(2))**

See the preliminary remark on § 2 in general. State representatives are to be given more flexibility by only reporting on an ad hoc basis and only if there are appropriate reasons for doing so. Of course, even after the statutory reporting duty has ceased to

exist, the state representatives remain free to report on all areas relevant to their domain at any time. The switch to ad hoc reporting allows the state representatives to tie their reports to current events and instead of being dependent on a regular reporting schedule.

**Re § 19 (Act on State Awards for Rescuing Persons from Danger)**

**Re Point 1 (Art. 11(1))**

Consequential editorial amendment.

**Point 2 (Art. 11(2))**

See the preliminary remark on § 2 in general. The report is used to publicise rescue activities in order to identify the people who can be honoured with the Bavarian Rescue Medal, for example, or receive a public commendation with the Christophorus Medal. The rescue activities can also be announced by means of an ad hoc report, which is preferable in the interest of deregulation.

**Re § 20 (Act on the University of Applied Sciences for Public Administration in Bavaria – HfÖD)**

See the preliminary remark on § 2 in general. The aim of the evaluation, which is in any case only designed as a recommendation, to enable quality assurance of training and further education at the university for the civil service, can also be achieved through an ad hoc evaluation.

**Re § 21 (Act on the Formation of Pension Reserves in the Free State of Bavaria – BayVersRückIG)**

**Re Point 1 (Table of Contents)**

Editorial amendment.

**Re Point 2 (Art. 7(4))**

See the preliminary remark on § 2 in general. The report on the evolution of the provision of civil servants serves as a data base for policy decisions and is essential in view of the importance of personnel expenditures for the overall budget. The pension report also serves to ensure the transparency of state action vis-à-vis the budgetary legislature and the public. However, even after the repeal of Art. 7(4) BayVersRückIG, these objectives can be achieved by submitting the report on an ad hoc basis.

**Re Point 3 (Art. 10(3)(2))**

So far, the annual report has been published in the Bavarian Government Gazette and the Bavarian Ministerial Gazette. Since no graphics can be printed in the Bavarian Official Gazette, a text-only version also has to be produced. Cancelling publication in the Bavarian State Gazette avoids this additional expense.

**Re § 22 (Bavarian Equal Opportunities Act – BayGIG)**

See the preliminary remark on § 2 in general. Evidence of the status of equal rights in the public service in Bavaria can also be ensured by means of (voluntary) reporting on an ad hoc basis.

**Re § 23 (Bavarian Nursing Profession Act – BayPfleG)**

See the preliminary remark on § 2 in general. The purpose of the obligation evaluation to assess the state of reform and further development of the Association of Nurses in Bavaria [Vereinigung der Pflegenden in Bayern] can also be ensured via ad hoc evaluation.

**Re § 24 (Bavarian Mental Health Assistance Act – BayPsychKHG)**

See the preliminary remark on § 2 in general. Continuous and systematic reporting on health trends at population level is essential for the early recognition of negative developments and to chart developments in a meaningful way. The objective can also be achieved through ad hoc reporting, which is preferable.

#### **Re § 25 (Bavarian Climate Protection Act – BayKlimaG)**

See the preliminary remark on § 2 in general.

The relevant information value of the climate report consists of the presentation of current data on the development of greenhouse gas (GHG) emissions. For this purpose, there is now a comprehensive programme from the State Office for Statistics on behalf of the Bavarian State Ministry of the Environment and Consumer Protection (StMUV), which, in addition to the latest data, also contains extensive explanations of GHG statistics and their framework conditions. As a result, all relevant data and time series are publicly available and are significantly more timely, up-to-date and comprehensive than is possible with the climate history instrument.

For the other elements of the climate report (state of implementation of the Bavarian climate protection programme and the climate adaptation strategy, report on compensatory measures pursuant to Art. 4 BayKlimaG), there are adequate information offers from the StMUV, which create transparency and can take the information interest of the State Parliament and the public into account more closely than a static annual climate report.

#### **Re § 26 (Bavarian Higher Education Innovation Act – BayHIG)**

See the preliminary remark on § 2 in general.

##### **Re Point 1 (Art. 7)**

The external evaluation requirement for quality assurance systems at universities, which is already only conceived as being prescriptive, can also be handled on a case-by-case basis.

##### **Re Point 2 (Art. 31)**

A mandatory annual reporting duty for the president of an institution of higher education on the fulfilment of the institution's tasks (accountability report) is no longer appropriate in view of the aim of making the reporting system more flexible. The supervisory duties of the university council can also be exercised by requesting a report or by the president submitting a report on an ad hoc basis.

##### **Re Point 3 (Art. 40)**

The report on teaching (teaching report) is expedient in terms of content, as it serves as an exchange of information between the dean of studies and the faculty council. However, this exchange is maintained even if the reimbursement of the report is left to the discretion of the universities and is flexible. The imposition of the reporting duty in the law is not necessary for this purpose.

##### **Re Point 4 (Art. 84)**

The statutory provision has come to an end due to the passage of time and must therefore be repealed. Following the trial phase, the State Ministry of Science and the Arts has already had the Bavarian State Institute for Higher Education Research and Planning evaluate the system and report to the State Parliament on 29 July 2024.

#### **Re § 27 (Bavarian University Hospital Act – BayUniKlinG)**

See the preliminary remark on § 2 in general. In order to increase the capacity of a university hospital, the State Ministry may, at the request of the supervisory board, adopt statutory instruments in derogation from the specifications of Articles 7 to 10 BayUniKlinG. The decision on the extension of the statutory instrument, which is initially valid for six years, shall be made on the basis of an evaluation to be carried out at least one year before the expiry of the period of validity. The statutory

evaluation obligation thus laid down in Art. 17(3) BayUniKlinG can be abolished without creating any disadvantage. The evaluation will also be carried out by the clinics on a voluntary basis if they have an interest in continuing to apply the statutory instrument. There is therefore no need for a legal obligation.

#### **Re § 28 (Bavarian Higher Education Admission Act – BayHZG)**

##### ***Re Point 1 (Art. 3(4))***

See the preliminary remark on § 2 in general. In accordance with Art. 3(4) BayHZG, universities are required to submit a report with their capacity calculations to the State Ministry of Science and Arts before fixing admission numbers in the local procurement procedure. Anchoring such a reporting duty in law is not necessary and should be repealed in the interests of deregulation.

##### ***Re Point 2 (Art. 3(5))***

Consequential editorial amendments.

#### **Re § 29 (Bavarian Act to Promote Elite Students – BayEFG)**

See the preliminary remark on § 2 in general. There is no need for a statutory duty to evaluate the excellence programmes of highly talented students and particularly qualified young scientific staff in the interest of deregulation and debureaucratisation. Ad hoc reporting remains possible at any time.

#### **Re § 30 (Bavarian Child Education and Care Act – BayKiBiG)**

See the preliminary remark on § 2 in general.

##### ***Re Point 1 (Art. 14)***

The parents' council promotes better cooperation between parents, educational staff and the provider of each day care centre. The annual accountability report provided for by law under Art. 14(5) BayKiBiG is not necessary to promote this purpose. On the contrary, this creates unnecessary bureaucratic requirements, which must be abolished.

##### ***Re Point 2 (Art. 14a)***

In accordance with Art. 14a Para. 5 BayKiBiG, the State Ministry for Family, Labour and Social Affairs reports to the State Parliament on the implementation of the state parent advisory council. In the event of relevant changes, a report by the State Ministry would be made on an ad hoc basis anyway, so the bureaucratic effort involved in the planned statutory mandatory report cannot be justified.

#### **Re § 31 (Bavarian Adult Education Promotion Act – BayEbFöG)**

##### ***Re Point 1 (Art. 9)***

Consequential editorial amendment (see Point 2).

##### ***Re Point 2 (Art. 12)***

See the preliminary remark on § 2 in general. The report of the State Ministry to the State Parliament on the past and planned education work and funding in adult education should be made at the beginning of each legislative period (Art. 12(1) BayEbFöG). The mandatory report provided for by law carries the risk of imposing a heavy administrative burden in preparing the report without there being any circumstances worth reporting. The elimination of the statutory reporting duty ensures that the Bavarian State Parliament can be informed on an ad hoc basis and upon request, without unnecessary bureaucratic effort. The other amendments are editorial in nature.

#### **Re § 32 (Bavarian Broadcasting Act – BayRG)**

See the preliminary remark on § 2 in general. The statutory duty of the broadcasting data protection officer to report on his activities should be repealed, as ad hoc reporting is preferable. Moreover, Art. 21 BayRG will have to be repealed anyway upon the entry into force of the Reform State Treaty (expected on 01.12.2025). In parallel to Art. 21(9)(1) BayRG, the Reform State Treaty lays down a reporting duty for the bodies of Bavarian Broadcasting. This renders the provision in Art. 21 BayRG obsolete.

### **Re § 33 (Bavarian Media Act – BayMG)**

#### ***Re Point 1 (Art. 20(9))***

See the preliminary remark on § 2 in general. Under Art. 20(9)(1) BayMG, the media officer also reports on his activities as defined by Art. 49 GDPR to the bodies of the Regulatory Authority pursuant to Art. 10(2)(1) to (3) BayMG, i.e. the Media Council, the Administrative Board and the President of the Bavarian Regulatory Authority for New Media. This reporting duty exists in addition to the reporting duty of Art. 59 GDPR. In order to avoid double reporting – and therefore unnecessary bureaucracy – the statutory reporting duty under Art. 20(9)(1) BayMG must be abolished.

#### ***Re Point 2 (Art. 20(10))***

Consequential editorial amendment.

### **Re § 34 (State Forestry Act – StFoG)**

See the preliminary remark on § 2 in general. The mandatory report required by Art. 6(4) StFoG is intended for the supervisory authority to verify the exemplary management of state forest and the exemplary hunting practice. The report is therefore an essential basis for assessing the management of the Bavarian state forests as a whole. However, the supervisory authority is still able to fulfil its obligations without a statutory mandatory reporting duty. An ad hoc report, e.g. at the request of the supervisory authority, is also suitable for ensuring an exchange of the necessary information and also prevents unnecessary bureaucracy in the form of reports being submitted without there being any reportable circumstances at hand.

### **Re Section 35 (Bavarian Forest Act – BayWaldG)**

See the preliminary remark on § 2 in general. As part of the agricultural report, pursuant to Art. 25 BayWaldG, the State Government reports on the situation and development of forestry in the Free State of Bavaria and on the measures necessary to promote forestry. The spirit and purpose of the reporting duty can also be met in the context of less bureaucratic and ad hoc reporting, which is why the statutory provision can be deleted.

### **§ 36 (Competence Ordinance in the Transport Sector – ZustVVerk)**

This is a consequential editorial amendment necessitated by the deletion of the small delegation (Art. 53(2)(1)(2) BayBO) (see § 6(3)).

### **Re § 37 (Bavarian Rescue Service Act – BayRDG)**

#### ***Re Point 1 (Art. 35)***

See the preliminary remark on § 2 in general. The report on the implementation of the remuneration agreement for the participation of doctors in emergency rescue serves in particular to inform the social security institution as the cost unit of the rescue service of the implementation of the remuneration agreement with the Association of Statutory Health Insurance Physicians of Bavaria. This data will serve as a basis for the planning of the annual budgetary agreements. However, the reporting duty can be repealed, since ad hoc (voluntary) reporting is always possible and provides the necessary flow of information.

### **Re Point 2 (Art. 41)**

#### *Preliminary remark on the changes to the 'state of the art'*

The legislative amendments are aimed at removing references to the 'state of the art' from the relevant standards under state law. The state of the art is the level of development of progressive procedures, devices and operating methods which, in the prevailing opinion of leading experts, makes the attainment of the legally specified objective appear assured. As a matter of fact, the technical standards of DIN, VDE and others are used as a benchmark here – especially by the courts. In practice, this reference leads to continuous pressure to adapt and tighten technical standards, which in turn sets the technical maximum as the benchmark for implementation. This is often done without an appropriate proportionality or expediency assessment.

By referring to the 'state of the art', the legislator has externally shifted the standard of compliance with technical standards. This means that it is no longer the state itself that determines which technical standards must be complied with, but external technical standardisation bodies. This practice leads to a number of problems. The State has no control over the assessment of whether the technical requirements are proportionate to the associated costs and benefits, i.e. whether the technical requirements are indeed appropriate, necessary and proportionate to achieve the intended purpose.

The legal references create an excessive administrative burden, as constantly changing and increasingly stringent standards must be observed. This burden is covered by the present legislative amendments. This makes it possible for those responsible to find more practical and cost-effective solutions without the strict requirements of the 'state of the art'. At the same time, it is once again the responsibility of the acting entity in question to ensure that processes and products meet the required safety and quality standards. This promotes a culture of responsibility and quality awareness.

Furthermore, by deleting references to the 'state of the art', courts and administrative authorities can no longer readily make technical standards the basis of their decisions, which allows more flexibility in the application of the law. A 'maximum standard' laid down by technical standards is no longer a decisive factor from the outset; rather, a suitable standard below it can also be used. This is especially advantageous for small and medium-sized enterprises, which often do not have the resources to continuously adapt to the latest and highest technical standards.

Another positive effect of the legislative amendments is the promotion of innovation. Without the strict requirements of the 'state of the art', companies have more scope to develop innovative and tailor-made solutions that are better adapted to their specific needs and those of their customers. This can lead to an increase in competitiveness and a strengthening of the business location.

Overall, the legislative amendments contribute to reducing the bureaucratic burden, reducing costs, increasing the innovation capacity and flexibility in the application of the law. They ensure that technical standards are no longer easily used as a basis for decisions, while promoting a more practical and cost-effective implementation of technical requirements.

#### *Re Art. 41*

Art. 41(1) BayRDG provides that all emergency vehicles used by the emergency service must be suitably equipped and equipped for their operational purpose. Sentence 2, which uses the criterion of the state of the art for this purpose, can be deleted without replacement. The standard already results from the suitability of purpose in the previous Sentence 1.

### **Re § 38 (Act on Local Public Transport in Bavaria – BayÖPNVG)**

#### **Re Point 1 (Art. 4)**

See preliminary remark on § 37(2) in general. Art. 4(3) BayÖPNVG governs the requirements for public passenger transport vehicles. Environmental protection,

safety, convenience, acceleration of traffic and effort reduction are listed as criteria. The reference to the state of the art is not necessary and should be deleted.

**Re Point 2 (Art. 17)**

See the preliminary remark on § 2 in general. The obligation to draw up a local rail transport plan, which must be updated every two years, cannot in any event be complied with due to the constantly evolving framework conditions and uncertainties. The standard therefore does not have a practical scope of application and can be repealed.

**Re Point 3 (Art. 29)**

Consequential editorial amendment.

**Re § 39 (Bavarian Act on Education and Teaching – BayEUG)**

See preliminary remark on § 37(2) in general. A pseudonym is generated in statistical analyses across school years. The amendment to Art. 113b(9)(2) BayEUG removes the requirement that it must be designed according to the state of the art. The requirement remains that it must be impossible to draw any conclusions about individuals.

**Re § 40 (State Electoral Code – LWO)**

**Re Point 1 (§ 88(1)):**

On the occasion of the amendment, the announcement in the Official Gazette, as provided for in the state electoral code, is replaced by a notice in the Bavarian Ministerial Gazette, as this is more accessible to citizens without subscription and therefore more digitally accessible than the gazette.

**Re Point 2 (§ 88(2)):**

See preliminary remark on § 37(2) in general. The standard regulates public disclosure on the internet and specifically in Sentence 2 that the integrity, completeness and origin allocation of the publication must be ensured according to the current state of the art. 'State of the art' is to be removed from the provision.

**Re § 41 (Bavarian Protection of the Constitution Act – BayVSG)**

**Re points 1 and 2 (Art. 10)**

See preliminary remark on § 37(2) in general. Art. 10 of the BayVSG regulates covert access to information technology security systems. In accordance with Para. 2(2), the means used must be protected against unauthorised use according to the state of the art and in accordance with Para. 2(3), data collected must be protected against alteration, unauthorised erasure and unauthorised inspection according to the state of the art. The reference to the state of the art may be deleted without replacement. The decisive factor is that the protection is ensured as to whether this corresponds to the state of the art should not be relevant, but the achievement of the purpose.

**Re Point 2 (Art. 33)**

The provision serves to ensure compliance with the citation requirement under Art. 19(1)(2) of the Basic Law and merely repeats the pre-existing rule.

**Re § 42 (Police Duties Act – PAG)**

See preliminary remark on § 37(2) in general.

**Re Point 1 (Art. 27)**

Art. 27 PAG governs the recovery and destruction of confiscated property. In this context, Para. 3(5) stipulates that when data carriers are recycled, it must be ensured that personal data has previously been deleted according to the state of the art. The

reference to the state of the art does not bring any added value, but possibly an additional cost. The purpose – the deletion – must be achieved – no more and no less.

**Re Point 2 (Art. 42)**

Art. 42 PAG regulates the monitoring and recording of telecommunications by the police. In accordance with Para. 1(4), the means used for monitoring must be protected from unauthorised use according to the state of the art. 'State of the art' is to be removed from the provision.

**Re Point 3 (Art. 45)**

Art. 45(1)(5) PAG stipulates that the means used by the police for concealed access to information technology systems must be protected against unauthorised use according to the state of the art. In accordance with Art. 48(7) of the PAG, personal data collected as part of police measures are to be specially protected from unauthorised access, modification and deletion in accordance with the state of the art. Here too, the purpose must be achieved; compliance with the state of the art is not necessary. The provisions are to be cleared of the 'state of the art'.

**Re Point 4 (Art. 100)**

The provision serves to ensure compliance with the citation requirement under Art. 19(1)(2) of the Basic Law and merely repeats the pre-existing rule.

**Re § 43 (Police and Regulatory Authorities Act – POG)**

See preliminary remark on § 37(2) in general. Art. 15 POG stipulates that operators of public transport and airports must provide the police with the necessary equipment for their activities on site. In accordance with Para. 1(2), these facilities must be equipped and supplied with state-of-the-art communications technology systems. The amendment ensures that the communications technology systems comply with the police requirements without using the problematic term 'state of the art'.

**Re § 44 (Bavarian Civil Service Act – BayBG)**

See preliminary remark on § 37(2) in general. Art. 104(2) of the BayBG regulates the hybrid personnel file (partly in paper, partly in electronic form). In this context, in accordance with Sentence 2, when paper-based documents are included in electronic documents, it is necessary to ensure that the electronic documents correspond to the paper documents in terms of image and content according to the state of the art. The term 'state of the art' is replaced and the new term 'sufficient' guarantees the minimum standard. In any case, the purpose must be fulfilled by the method. However, there is no need to apply a standard that goes beyond that purpose.

**Re § 45 (Bavarian Digital Act – BayDiG)**

See preliminary remark on § 37(2) in general.

**Re Point 1 (Art. 30)**

Art. 30 of the BayDiG regulates details of the user account for the Bavaria portal network [Portalverbund Bayern]. In accordance with Para. 1(3) the security of the user account must be ensured in line with the state of the art. The change to 'appropriate' security puts the means to be used back into relation to the purpose, which is not guaranteed when using the state of the art as a benchmark.

**Re Point 2 (Art. 33)**

State authorities, regional council offices and other authorities should be able to keep their files in digital form. Art. 33(3)(3) BayDiG provides that, when documents are transferred from paper to digital, according to the state of the art, it must be ensured that the digital version corresponds to the paper document. 'State of the art' is to be removed from the provision.

**Re Point 3 (Art. 39)**

Under Art. 39(1) of the BayDiG, the infrastructures necessary for the digitisation of state public administration must be set up and kept available according to the state of the art and the appropriate availability. Here too, the 'state of the art' should be removed.

**Re Point 4 (Art. 48)**

Art. 48(2) BayDiG governs the storage and evaluation of log data. In this regard, according to Sentence 3, organisational and technical measures must be taken in line with the state of the art to ensure that an evaluation is only carried out automatically. The 'state of the art' benchmark is replaced by 'adequate'. The term "adequate" guarantees a minimum standard. In any case, the purpose must be fulfilled by the method. However, there is no need to apply a standard that goes beyond that purpose.

**Re § 46 (Bavarian Digital Ordinance – BayDiV)**

**Re Point 1 (§ 1(1))**

Editorial amendment.

**Re Point 2 (§ 1(2))**

See preliminary remark on § 37(2) in general. § 1(2) BayDiV, which is to be deleted, provides that an authentication procedure may only be certified if it corresponds to the state of the art. In accordance with Para. 1(1)(2), certification is carried out by the State Ministry of Digital Affairs. The State Ministry is independently able to determine whether an authentication procedure is to be certified for the purpose and does not require any technical standards for this purpose.

**Re § 47 (Registration Data Ordinance – MeldDV)**

See preliminary remark on § 37(2) in general.

**Re Point 1 (§ 2)**

§ 2(2)(2) and Para. 3(2) MeldDV each govern data encryption and up to now called for encryption in line with the state of the art. The change to 'appropriate' encryption puts the means to be used back into relation to the purpose, which is not guaranteed when using the state of the art as a benchmark.

**Re Point 2 (§ 4)**

§ 4(3)(4) MeldDV provides that, in the case of data transfers carried out by means of an automated search procedure, it must be possible to retrieve data on the internet, on the Federal Government's network or on state-internal networks which are secured according to the state of the art. 'State of the art' is to be removed from the provision.

**Re § 48 (Ordinance on the Central Electronic Civil Status Register – ZEPRV)**

See preliminary remark on § 37(2) in general.

**Re Point 1 (§ 3)**

§ 3(1) ZEPRV regulates the transfer of data between register procedures and specialist procedures and has so far provided for encryption according to the state of the art. The change from state-of-the-art to suitable encryption for the situation at hand makes it possible to consider the purpose/benefits individually. The reference to external standards by the 'state of the art' does allow such consideration. However, the encryption system should suite the application at hand and not necessarily external standards.

**Re Point 2 (§ 4)**

§ 4(3)(5) ZEPRV governs encryption in the electronic transmission of random samples. The standard of the state of the art should be replaced here too. By using the term 'in a suitable manner', encryption can in turn be adapted to the individual application.

**Re § 49 (Cancer Registry Ordinance – BayKRegV)**

See preliminary remark on § 37(2) in general. § 12(1) BayKRegV regulates compliance with data protection requirements. To this end, the necessary measures should be ordered according to the state of the art and the nature of the procedure used. 'State of the art' is to be removed from the provision.

**Re § 50 (Burial Ordinance – BestV)**

See preliminary remark on § 37(2) in general. Under Para. 30(1)(2)(5) BestV, materials other than solid wood may be used for strawberries if the gardens are designed to produce the lowest possible emissions during combustion according to the state of the art. With this wording, there is a risk that alternatives are hardly feasible, as, according to the state of the art, even lower emissions can still be achieved. The specification 'no inappropriate' emissions mitigates the requirement while maintaining emission protection.

**Re § 51 (Act on Noise Protection Requirements for Children's and Youth Play Facilities – KJG)**

See preliminary remark on § 37(2) in general. Art. 4(1) KJG regulates compliance with immission guidelines in the construction and operation of youth game facilities. For this purpose, outdoor installations can be constructed and operated according to the state of the art for noise reduction. 'State of the art' is to be removed from the provision. In the absence of any remaining area of application, the requirement can be cancelled entirely.

**Re § 52 (Bavarian Waste Management Act – BayAbfG)**

**Re Point 1 (Art. 3)**

See preliminary remark on § 37(2) in general. Under BayAbfG, the bodies responsible for disposal (waste disposal providers) are required to set up, operate and monitor facilities for the recovery and disposal of waste according to the state of the art. 'State of the art' is to be removed from the provision.

**Re Point 2 (Art. 29)**

Editorial correction.

**Re § 53 (Ordinance on the Bavarian Waste Management Plan – AbfPV)**

See preliminary remark on § 37(2) in general.

**Re Nos 1-3 (Sections I-III of the Annex)**

The Annex to the Ordinance on the Bavarian Waste Management Plan (AbfPV) is to be revised overall so as to remove the term 'state of the art'.

**Re No 4 (Section IV of the Annex)**

Under Section IV No. 7 of the Annex to the AbfPV, disposal facilities (hazardous waste) are to be made available for research and development activities that serve to advance the state of the art. The further development of the state of the art is replaced by the words 'for the development of new technologies'. Innovation is to be encouraged with the focus on novelty rather than orientation towards what already exists.

**Re § 54 (Amendment to the Ordinance Implementing the Bavarian Rescue Service Act – AVBayRDG)**

See preliminary remark on § 37(2) in general. According to § 26(2)(2)(2) AVBayRDG, the acting entity's suitability for mountain/cave or water rescue should be demonstrated

by sufficient and state-of-the-art rescue and medical equipment, among other things. In practice, rescue gear and equipment do not necessarily have to correspond to the current state of the art, but must fulfil the purpose of the rescue. Therefore, the requirement is amended to the effect that the equipment must meet the rescue purpose. The reference to the 'state of the art' is deleted.

**Re § 55 (Electronic Legal Communications Ordinance for the Judiciary – ERVV Ju)**

See preliminary remark on § 37(2) in general. § 17(1) and (2) ERVV Ju standardise the requirements for the data processing system for the electronic file of the judiciary. The amendment makes the standard more understandable and focuses the requirements for the system on the usability of the electronic file, instead of external factors.

**Re § 56 (Ordinance on Electronic Records for Labour and Social Courts – eAktV ArbSozG)**

See preliminary remark on § 37(2) in general. In parallel to the requirements for the data system of the judicial file, this amendment also adapts the requirements for the data system for the labour and social justice file and deletes the reference to the state of the art.

**Re § 57 (Ordinance on Electronic File Management in the Administrative Jurisdiction in the Free State of Bavaria – BayeAktV-V)**

See preliminary remark on § 37(2) in general. The requirements for the data system are also being adapted accordingly for the electronic file in administrative jurisdiction and the reference to the state of the art will be deleted.

**Re § 58 (Ordinance on Electronic Records for Financial Courts – eAktFGV)**

See preliminary remark on § 37(2) in general. This amendment will adapt the requirements for the data system of the electronic file in financial jurisdiction – in parallel with the other jurisdictions – and the reference to the state of the art will be deleted.

**Re § 59 (Bavarian Mining Ordinance – BayBergV)**

See preliminary remark on § 37(2) in general. The amendments delete two references to the state of the art from the Bavarian Mining Ordinance. § 19(1)(2) concerns the minimum requirements for drawing up, equipping and operating wells. § 51(1)(2) BayBergV governs the requirements for pipelines for the transport of dangerous gases and liquids as well as brine. In both cases, compliance with the protection objectives is relevant, not compliance with the state of the art.

**Re § 60 (Bavarian IPPC Waste Water Ordinance – IVUAbwV)**

**Re Point 1 (§ 7)**

See preliminary remark on § 37(2) in general. The IVUAbwV regulates the granting of permits for the discharge of waste water. The amendments to § 7(2) IVUAbwV remove requirements as to when the authority must review a permit. These requirements are not required in the case of an authority acting on its own responsibility, which must in any case regularly review the permit. The reference to the state of the art is also being deleted.

**Re Point 2 (§ 9)**

The standard is a transitional arrangement that has already become redundant due to the passage of time. It may be deleted.

**Re Point 3 (§ 17)**

Editorial amendment.

**Re § 61 (Bavarian Act on the Implementation of the Wastewater Charges Act – BayAbwAG)**

See preliminary remark on § 37(2) in general. Art. 8a BayAbwAG governs the permissibility of the dilution of waste water. Sentence 1 can be completely deleted because it contains a generally valid principle of waste water law that can be derived from the waste water legislation (WHG, AbwV).

**Re § 62 (Bavarian Railway and Cableway Act – BayESG)**

See preliminary remark on § 37(2) in general. Art. 29 BayESG contains the power to issue statutory instruments, in § 2(13) on the provisions on the construction and operating regulations required in accordance with the respective state of the art for the technical design of cableway installations and the management of operations. The state of the art cannot and should not be the benchmark here, but rather the actual requirements, namely the safety of the machine. The amendment therefore sets the benchmark on risk-appropriate operational safety.

**Re § 63 (Bavarian Salaries Act – BayBesG)**

**Re Point 1 (Art. 2)**

Consequential editorial amendment.

**Re Point 2 (Art. 58)**

Consequential editorial amendment.

**Re Point 3 (Art. 66)**

Performance levels are of little significance in administrative practice, especially since performance-based bonuses can also be split over a period of up to 12 months. They are also predominantly regarded as being particularly costly by the highest administrative authorities. In addition, compared to performance-based bonuses, the performance levels have no measurable additional human resources value. Art. 66 of the BayBesG is therefore repealed for the purpose of deregulation.

**Re Point 4 (Art. 67)**

In order for performance-based bonuses to achieve their purpose of also financially recognising outstanding individual achievements and to strengthen motivation, small premiums or unit premiums are to be excluded in the future. Therefore, the performance-based bonus should be at least EUR 400. This figure may be reduced with separate justification.

**Re Point 5 (Art. 68)**

Although the budget for performance-based benefits is defined in Art. 68(1)(2) and (3) BayBesG, these were regularly replaced by the budgetary legislator in the state sector. Thus for deregulation purposes, only the maximum amount is retained and reference is otherwise made to the respective budgetary provisions. Otherwise editorial consequential amendment.

**Re Point 6 (Art. 83)**

Consequential editorial amendment.

**Re Point 7 (Art. 108)**

A transitional arrangement for civil servants who receive a performance level on 31 December of the previous year in which the amendments enter into force is required for the duration of the approved performance level.

**Re § 64 (Civil Service Career Act – LlbG)**

Consequential editorial amendment.

**Re § 65 (StMB Ordinance on Competence in Civil Service Law – ZustV-BM)**

Consequential editorial amendment.

**Re § 66 (StMI Ordinance on Competence in Civil Service Law – ZustV-IM)**

Consequential editorial amendment.

**Re § 67 (StMWK Competence Regulation – ZustV-WKM)**

Consequential editorial amendment.

**Re § 68 (StMFH Competence Ordinance – ZustV-FM)**

Consequential editorial amendment.

**Re § 69 (Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Economic Affairs, Regional Development and Energy – ZustV-WM)**

Consequential editorial amendment.

**Re § 70 (Ordinance on Administrative Competences in the Domain of the Bavarian State Ministry of Food, Agriculture, Forestry and Tourism – ZustV-LM)**

Consequential editorial amendment.

**Re § 71 (Ordinance on Official, Judicial, Disciplinary and Salary Competence, Responsibilities for Travel Expenses and the Classification of Posts in the Domain of the Bavarian State Ministry for Family, Labour and Social Affairs – ZustV-AM)**

Consequential editorial amendment.

**Re § 72 (StMUV Competence Ordinance – ZustV-UM)**

Consequential editorial amendment.

**Re § 73 (StMGP Competence Ordinance – ZustV-GM)**

Consequential editorial amendment.

**Re § 74 (Bavarian Civil Service Pensions Act – BayBeamtVG)**

Consequential editorial amendment.

**Re § 75 (Entry into force)**

This provision regulates the entry into force of the Act. By way of deviation, the amendments to the BayBesG and the consequential amendments required as a result are only to apply at the beginning of the next financial year (1 January) after the entry into force of the Act.