

Explanatory remarks

on the draft amendment to the Ordinance of 29 March 2016 on structural requirements for buildings and on the content and form of the energy performance certificate (Technical Building Regulations 2016 – TBV 2016)

I.

General

A.

On 1 May 2016, the Technical Building Regulations 2016, Provincial Law Gazette (LGBl.) No 33/2016, entered into force. Most recently, the Technical Building Regulations 2016 transposing the European requirements of Directive (EU) 2018/844 of the European Parliament and of the Council amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency, OJ 2018 No L 156, p. 75 were amended in light of the implementation of the objectives of the Paris Climate Protection Agreement to reduce greenhouse gases in the energy sector with Provincial Law Gazette No 61/2020 and due to necessary additions to clarify and/or complete the measures already implemented with Provincial Law Gazette No 102/2022.

The purpose of this Draft Ordinance is essentially to declare the new OIB Guidelines, May 2023 edition, to be binding, with the exception of OIB Guideline 6, September 2025 edition, which replaces OIB Guideline 6, May 2023 edition. OIB Guideline 6, September 2025 edition, is to be declared binding in 2026. As a result of the declaration of binding effect, various adaptations were also necessary in order to bring the technical building provisions into line with the OIB Guidelines, May 2023 edition.

Furthermore, Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), OJ L 328, p. 82 is implemented.

This amendment also serves to enact accompanying measures for Regulation (EU) 2024/1309 of the European Parliament and of the Council of 29 April 2024 on measures to reduce the cost of deploying gigabit electronic communications networks, amending Regulation (EU) 2015/2120 and repealing Directive 2014/61/EU (Gigabit Infrastructure Act), OJ L, 2024/1309, 08.05.2024.

B.

From a competence perspective, it is specified that under Article 15 (1) B-VG [Federal Constitutional Law], a matter remains within the independent sphere of action of the Federal States unless it is expressly assigned to legislation or the execution of the Federal Government by the Federal Constitution. According to the case law of the Constitutional Court, the constituent elements of building law include, in particular, regulations on the construction of buildings and the building inspectorate. The Federal Government only has jurisdiction in the field of building law in those cases where there is an indissoluble link between the matter falling within the legislative competence of the Federal Government and the relevant building regulations. The specific responsibility of the provincial government to issue an ordinance corresponding to this Draft arises from § 10, § 20(1) and (2), § 21(2) and (3), § 23(7), § 25(2) and § 31(3) of the Tyrolean Building Regulations 2022, Provincial Law Gazette No 44/2022, as amended by the Act published in Provincial Law Gazette No 72/2025.

C.

The adoption of an ordinance corresponding to this Draft does not entail any additional financial expenditure for the Province of Tyrol or for the municipalities.

II.

Comments regarding the individual provisions

Re Article I:

Re Points 1, 2, 4 to 8 and 14 (§§ 18(3), 24(2), 33(1), 34(1), 35(4), 35a(2)(b)(1), (3) and (4), 35a(2)(b)(4)):

Quotation adjustments and legislative adjustments are made in each of these provisions.

Re Point 3 (§ 27(2)):

The phrase ‘on neighbouring properties and in generally accessible areas’ is added to § 27(2) in order to comply with Point 5.2 of OIB Guideline 4.

Re Points 9, 10, 11, 15 and 18 (§ 36(2), § 37(1) and (2) and § 40(1) and (2)):

These provisions also lay down the accompanying measures for Article 10 and 15 of Regulation (EU) 2024/1309 of the European Parliament and of the Council of 29 April 2024 on measures to reduce the cost of deploying gigabit electronic communications networks, amending Regulation (EU) 2015/2120 and repealing Directive 2014/61/EU (Gigabit Infrastructure Act), OJ L, 2024/1309, 08.05.2024.

For example, Article 10(1) of the Gigabit Infrastructure Ordinance stipulates that all new buildings and buildings undergoing major renovations, including jointly-owned components for which building permits were applied for after 12 February 2026, must be equipped with glass-fibre-enabled in-building physical infrastructure and in-building fibre cabling, including connections to the physical point at which the end-user is connected to the public grid. This is an empty conduit line.

Article 10(3) of the Gigabit Infrastructure Ordinance stipulates that from 12 February 2026, all buildings, including jointly-owned components that undergo major renovations as defined by Article 2(10) of Directive 2010/31/EU must be equipped with glass-fibre-enabled in-building physical infrastructure and in-building fibre cabling, including connections to the physical point at which the end-user has a connection to the public grid, provided that this does not disproportionately increase the cost of the renovation work and is technically feasible. All multi-dwelling buildings undergoing such major renovations must also be equipped with an access point. This is an empty conduit line.

The provision of § 36(2) can be omitted because these are definitions that apply directly from Regulation (EU) 2024/1309 of the European Parliament and of the Council of 29 April 2024.

In accordance with Regulation EU 2024/1309, the definitions in § 37(1) and (2) need to be adapted to those implemented in Provincial Law Gazette No 7/2025, in the Tyrolean Building Code 2022 (see the explanatory remarks re Article II on staggered entry into force).

With regard to new buildings and renovations in § 37(1), it is therefore added and clarified that this includes extensive renovations as defined by the aforementioned Gigabit Infrastructure Ordinance and major renovations in accordance with § 2(33) of the Tyrolean Building Regulations 2022. The major renovations referred to are civil works at the end-user’s location that involve structural modifications to all or a substantial part of the in-building physical infrastructure and require a building permit in accordance with national law.

Re Points 12 and 17 (§ 37a and § 40(1)(5)):

Directive 2014/94 (EU) was repealed by Regulation (EU) 2023/1804 of the European Parliament and of the Council of 13 September 2023 on the deployment of alternative fuels infrastructure and expired on 12 April 2024, therefore the reference to the Directive in the definitions as well as in the transposition had to be deleted. Since the provisions on recharging points are now contained in Directive (EU) 2024/1275, which will be transposed separately in Tyrol by 29 May 2026, the provisions of Section 9 shall be retained unchanged until that date.

Re Point 13 (§ 38):

This provision updates and renders mandatory the output data of OIB Guidelines 1 to 5, OIB Guides, Definitions and the Directive on cited standards and other technical regulations. The numbering of the annexes is also adjusted.

The exceptions concerning OIB Guideline 1, ‘Mechanical strength and stability’, remain unchanged.

The exceptions to OIB Guideline 2, ‘Fire protection’, remain unchanged.

In addition to the new requirements for photovoltaic systems on ‘façades’ and on ‘roofs of building classes 3 to 5’ in OIB Guideline 2 ‘Fire Protection’ (May 2023 edition), reference can be made to the information sheet ‘Fire protection requirements for photovoltaic systems’ published by the Tyrol State Office for Fire Prevention. The exceptions to the regulations for photovoltaic systems also relate to the topic of ‘affordable housing’. A leaflet titled ‘Requirements for fire protection in photovoltaic systems’ issued by the State Office for Fire Prevention ensures that the level of protection is respected in the case of a deviation in photovoltaic systems. In detail, the fact sheet introduces deviations from Point 3.5.14 ‘Photovoltaic systems on façades’ and Point 3.13 ‘Photovoltaic systems on roofs of building classes 3 to 5’. The explanatory note has the same structure as OIB Guideline 2 so that the deviation from these two points is understandable.

The exceptions to Point 8.2 and Annexes A and B in OIB Guideline 3 ‘Hygiene, health and environmental protection’ have been deleted. Thus, OIB Guideline 3 is declared binding without exception. This is based on the Radiation Protection Act 2020 (Strahlenschutzgesetz 2020 – StrSchG 2020), Federal Law Gazette I No 50/2020, which entered into force on 1 August 2020. This Act does not require any further addition to OIB Guideline 3. The provisions of OIB Guideline 3, Point 8, relate to accommodation areas, see § 3(5) StrSchG 2020.

The exceptions to OIB Guideline 4 ‘Safety of use and accessibility’ remain unchanged.

The exception to Point 5 of OIB Guideline 5 ‘Sound protection’ is based on the fact that in § 3(7) of the Tyrolean Gas, Heating and Air Conditioning Systems Ordinance 2024 (Tiroler Gas-, Heizungs- und Klimaanlageverordnung 2024 – TGHKV 2024, Provincial Law Gazette No 57/2024, the provision of OIB Guideline 5, Point 5, is already applied. This would lead to double regulation. Furthermore, there is a conflict between the regulations according to the type of designation in the TGHKV and categories 1-3 in Point 5 of OIB Guideline 5.

The output data and the exceptions relating to OIB Guideline 6, ‘Energy saving and heat protection’, remain unchanged. This is due to the ongoing revision of OIB Guideline 6, May 2023 edition, in the context of Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings. At the time of the present amendment, the intention is to declare the revised OIB Guideline 6, edition 2025, to be binding in the first half of 2026.

Re Point 16 (§ 40(1)):

Directive 2009/28/EC was repealed by Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources and expired on 30 June 2021, which is why the reference to the Directive in the transposition notice had to be updated.

Re Point 19 (§ 40(4)):

Among other things, this Draft Ordinance is intended to declare numerous OIB Guidelines in their latest version to be binding. There has been a substantial amendment pursuant to § 2(9) of the Tyrolean Notification Act and a notification procedure pursuant to § 1 of the Tyrolean Notification Act had to be carried out.

Re Article II:

This provision lays down the entry into force.