

STATE LAW GAZETTE

FOR UPPER AUSTRIA

Year 2023	Issued on 7 December 2023	www.ris.bka.gv.at
No 95 State Act:	Upper Austrian Construction Technology Act 2023 (29th Legislative Period: Government Proposal Supplement No 536/2023, Committee Report Supplement No 616/2023, 19th State Parliament sitting: Directive (EU) 2020/2184 of 16 December 2020, OJ L 435, 23.12.2020, p. 1 [CELEX No 32020L2184])	

State Act

amending the Upper Austrian Construction Technology Act 2013 and the Upper Austrian EU Accompanying Regulations and Implementation Act (Upper Austrian Construction Technology Act 2023)

The Upper Austrian Parliament has adopted the following Act:

Article I Changes to the Upper Austrian Construction Technology Act 2013

The Upper Austrian Construction Technology Act 2013, LGBl. No. 35/2013, in the version of state act LGBl. No. 111/2022, is amended as follows:

1. *The table of contents is amended as follows:*

The following entries are inserted after § 70:

“7b. Section

Provisions implementing Directive (EU) 2020/2184 of the European Parliament and of the Council of December 16, 2020 on the quality of water intended for human consumption

§ 71 Definitions

§ 72 Supplementary provisions on the use of construction products that come into contact with water intended for human consumption

§ 73 Risk assessment of house installations”

2. *In § 18, the following (5) shall be inserted after (4):*

“(5) If house installations containing components made of lead pose a significant risk to human life and health, in particular because the parametric value for lead according to Annex I Part D of Directive (EU) 2020/2184 is significantly exceeded, the authority to prescribe the replacement of these components to the extent that this is technically and economically feasible. The definitions set out in § 71 shall apply”.

3. *§§ 71 to 73, together with the section name, read:*

“7b. Section

Provisions implementing Directive (EU) 2020/2184 of the European Parliament and of the Council of December 16, 2020 on the quality of water intended for human consumption

§ 71 Definitions

For the purposes of this section the following meanings apply:

1. **Danger:** a biological, chemical, physical or radiological agent in the water or any other aspect of the state of water that may affect human health;
2. **Dangerous event:** an event that leads to hazards to the water supply system for human consumption or causes hazards to that system not to be eliminated;
3. **House installation:** Piping, fittings and equipment located between tapping points normally used for water intended for human consumption, both in public and private places, and the distribution network, unless they are the responsibility of the water supplier in its capacity as water supplier;
4. **Food business:** a food business within the meaning of Art. 3 No. 2 or 3 of Regulation (EC) 178/2002;
5. **Priority locations:** large non-domestic premises and sites where many users are exposed to potential water-related risks, especially large, publicly-used premises such as hospitals, sanatoriums and other healthcare facilities, nursing homes - or those in need of care, in particular older people, childcare facilities, hospitality businesses for accommodating guests, other larger hospitality businesses, camp sites, shopping centres, leisure, recreation, sports and exhibition facilities or prisons;
6. **Risk:** a combination of the probability of occurrence of a hazard event and the extent of damage, should the hazard and the hazard event occur in the water supply system for human consumption;
7. **Water intended for human consumption:**
 - a) all water, whether in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes in both public and private places, regardless of its source and regardless of whether it is provided from a distribution network or in tankers, or placed in bottles or other containers, including spring water;
 - b) all water used in a food business for the manufacture, treatment, preservation or placing on the market of products or substances intended for human consumption;
8. **Water supplier:** a body that provides water for human consumption.

§ 72

Supplementary provisions on the use of construction products that come into contact with water intended for human consumption

Without prejudice to §§ 59, 65 and 67, a building product for domestic installations that comes into contact with water intended for human consumption may only be used if it:

1. does not directly or indirectly endanger the protection of human health;
2. does not affect the colouring, smell or taste of the water;
3. does not promote the propagation of micro-organisms; and
4. will not result in contaminants being discharged into the water in concentrations greater than is strictly necessary for the purpose of the material.

§ 73

Risk assessment of housing installations

(1) The Austrian Institute of Construction Engineering has carried out a general analysis of the risks that can emanate from domestic installations and the building products, materials and raw materials used for them, and whether these potential risks affect the quality of the water at the outlet from those taps that are normally used for water for human use. This general analysis shall not include analysis of individual objects and shall be carried out for the first time until 12 January 2029. The risk assessment shall be reviewed every six years and updated as necessary.

(2) The risk assessment also includes the monitoring of the parameters listed in Annex I Part D of Directive (EU) 2020/2184 in locations in which specific risks for water quality and human health were identified in the course of the general analysis pursuant to paragraph 1. Concerning legionella and lead, monitoring should be focused on priority locations. The monitoring is to be based on a program that in any case includes the regular taking and analysis of individual water samples. Sampling shall be carried out in such a way that the samples are representative of the quality of the water in relation to those parameters throughout the year. The sampling points must meet the requirements of Annex II Part D of Directive (EU) 2020/2184 as far as relevant for the parameters mentioned. The analysis of those parameters must be carried out in accordance with Article 13 (4) in conjunction with the specifications set out in Annex III to Directive (EU) 2020/2184.

(3) If the risk analysis according to (1) shows that the house installations and the construction products, materials and raw materials used in these installations pose specific risks in relation to lead or legionella in certain locations, the Austrian Institute of Construction Engineering shall oblige the owners of the priority location affected by the specific risks to monitor compliance with the parameters according to Annex I Part D of Directive (EU) 2020/2184 and to share the results of the monitoring with the Austrian Institute of Construction Engineering.

(4) The state government is to be informed of the results of the general analysis pursuant to (1) and the monitoring pursuant to (2) by the Austrian Institute of Construction Engineering.

(5) If the building authority becomes aware that there are risks to human health in relation to certain locations on the basis of the general analysis pursuant to paragraph 1 or the monitoring pursuant to paragraph 2 shows that the parameters specified in Annex I Part D of the Directive (EU) 2020/2184 are not complied with and this is due to structural deficiencies, the owner of the property must be given suitable building inspection measures within a reasonable period of time in order to eliminate or reduce the risk of non-compliance with the parameter values.

(6) With regard to legionella, building police orders must be effective in accordance with paragraph 5 to prevent and deal with possible outbreaks of disease and, measured against the risks, provide for risk control and management measures”.

Article II

Amendment to the Upper Austrian EU Accompanying Regulations and Implementation Act

The Upper Austrian EU Accompanying Regulations and Implementation Act, LGBl. No. 113/2018, in the version of the State Act LGBl. No. 50/2022, is amended as follows:

1. *The following changes are made in the table of contents:*

The following entries are inserted after § 15:

“8. Section

Concerning implementation of Article 17 of Directive (EU) 2020/2184

§ Information about the water price

16

§ Penal provision”

17

2. *In the table of contents, the entry “Section 8” gets the name “Section 9”, § 16 gets the name “§ 18”.*

3. *After § 15, the following section including section heading is inserted:*

“8. Section

Concerning implementation of Article 17 of Directive (EU) 2020/2184

§ 16

Information about the water price

(1) Operators of water supply systems who prescribe fees in connection with the use of water supply systems within the meaning of the financial equalisation regulations must inform the fee-payers about the water price per litre and cubic metres on a regular basis, but at least once a year.

(2) Operators of water supply systems according to paragraph 1 that provide at least 10,000 m³ of water per day or supply at least 50,000 people with water must also provide information at least once a year regarding the structure of the usage fees per cubic meter of water. The fixed and variable costs must be taken into account.

(3) The information may be made in any appropriate and easily accessible manner, in particular as part of the fee prescription. The information can be provided in digital form, which the taxpayers have agreed to with the tax authorities.

(4) For the purpose of providing information about the water price in accordance with paragraphs 1 and 2, identification data and contact details of those liable to pay the fee may be processed if this data is required for this purpose.

§ 17**Penal provision**

Anyone who, as an operator of a water supply system, does not properly comply with the information obligation pursuant to § 16 is committing an administrative offence and is liable to a fine of up to EUR 1,000”.

4. The previous section 8 is now called “*section 9*”.

5. The previous § 16 is given the name “*§ 18*”.

Article III

(1) This state act comes into effect on the first of the month following its publication in the State Law Gazette of Upper Austria.

(2) Any individual administrative procedures that are pending at the time of entry into force of this ordinance shall continue in accordance with the various legal provisions in force at that time.

(3) This State Act has been subjected to a procedure for the provision of information within the meaning of 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 provisions on information society services (codification), OJ L 241, 17.09.2015, p 1.

The First President
of the Upper Austrian State Parliament:
Max Hiegelsberger

The Governor:
Mag. Stelzer