

Ordinance concerning health and safety on building sites (Construction Site Ordinance - BaustellV)^{*)}

**dated 10 June, 1998
(Federal Law Gazette I, p. 1283),
changed by Section 15 Ordinance dated 23 December, 2004
(Federal Law Gazette I, p. 3758)**

In accordance with section 19 of the Occupational Safety and Health Act of 7 August 1996 (Federal Law Gazette I p. 1246) the Federal Government decrees as follows:

Section 1 Objectives; Definitions

- (1) This Ordinance is designed to ensure an essential improvement of safety and health protection for employees on construction sites.
- (2) This Ordinance shall not apply to activities and installations within the meaning of section 2 of the Federal Mining Act.
- (3) A construction site within the meaning of this Ordinance is a place where a construction project is carried out. A construction project is a project to build, alter or demolish one or several physical structures.

Section 2 Design of project execution

- (1) When designing the execution of a construction project, in particular scheduling work to be executed simultaneously or in succession, and allocating the estimated time for the execution of such work, the general principles set out in Section 4 of the Occupational Safety and Health Act shall be taken into account.
- (2) In the case of construction sites on which
 1. work is scheduled to last longer than 30 working days and on which more than 20 employees are occupied simultaneously, or
 2. the volume of work is scheduled to exceed 500 person days,

prior notice containing at least the details specified in Annex I shall be communicated to the competent authority not later than two weeks before the construction site is set up.

The prior notice shall be clearly displayed on the construction site and shall be updated in the case of substantial changes.

- (3) If prior notice is to be communicated in the case of a construction site on which employees of several employers will be occupied, or if work involving particular risks as specified in Annex II is performed on a construction site on which employees of several employers will be occupied, measures shall be taken to ensure that prior to the setting up of the construction site a safety and health plan is drawn up. The plan shall indicate the safety

* This Ordinance, together with the Occupational Safety and Health Act, is designed to implement Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ. EC No. L 245 p. 6)

and health provisions applicable to the construction site concerned and shall also include specific measures concerning work involving particular risks set out in Annex II. When necessary, industrial activities taking place on the site shall be taken into account, when drawing up the plan.

Section 3 Co-ordination

(1) For any construction site on which employees of several employers will be occupied one or several suitable co-ordinators shall be appointed. The client or the third party authorised by him in accordance with Section 4 may themselves perform the duties of the co-ordinator.

(1a) By authorising suitable co-ordinators, the client or any third party authorised by him is not absolved from responsibility.

(2) When planning the execution of the construction project the co-ordinator shall

1. co-ordinate the measures set out in Section 2 (1),
2. draw up, or cause to be drawn up, the safety and health plan, and
3. prepare a file containing relevant safety and health information to be taken into account during any subsequent work on the physical structures.

(3) During project execution the co-ordinator shall

1. co-ordinate implementation of the general principles set out in Section 4 of the Occupational Safety and Health Act,
2. see to it that employers and contractors without employees meet their obligations under this Ordinance,
3. make, or cause to be made, any adjustments to the safety and health plan in cases where substantial changes in project execution have occurred.
4. organise co-operation among employers, and
5. co-ordinate arrangements to check that the working procedures are being correctly implemented by employers.

Section 4 Authorisation

The measures specified in Section 2 and Section 3 (1), 1st sentence, shall be taken by the client unless he has authorised a third party to take the measures in independent responsibility.

Section 5 Obligations of employers

(1) When the work is carried out employers shall take the necessary safety and health measures, in particular as regards

1. the maintenance of working equipment,
2. arrangements for the storage and disposal of working substances and waste, in particular hazardous substances,
3. adaptation, based on progress made with the site, of the time for the execution of work,
4. co-operation between employers and contractors without employees,
5. interaction between work on the construction site and other industrial activities at the place within which or in the vicinity of which the former work is carried out

and shall take into account directions from the co-ordinator for safety and health matters as well as the provisions of the safety and health plan.

(2) Employers shall inform employees, in comprehensible form and language, about the protective measures taken on their behalf.

(3) The employers' responsibility for the fulfilment of their safety and health obligations shall not be affected by the measures specified in Sections 2 and 3.

Section 6 Obligations of other persons

In order to guarantee the workers' safety and health, contractors without employees working on a construction site shall also comply with the applicable safety and health provisions. They shall take into account directions from the co-ordinator for safety and health matters as well as the provisions of the safety and health plan. Sentences 1 and 2 shall also apply where employers are personally working on the construction site.

Section 7 Administrative offences and penal provisions

- (1) Any person who, deliberately or through negligence,
1. in violation of Section 2 (2) 1st sentence together with Section 4, fails to communicate to the competent authority a prior notice or fails to communicate it correctly, completely or in due time, or,
 2. in violation of Section 2 (3) together with Section 4, 1st sentence, fails to take measures to ensure that prior to the setting up of the construction site a safety and health plan is drawn up,

shall be guilty of an administrative offence within the meaning of Section 25 (1) No. 1 of the Occupational Safety Act

(2) Any person who, through deliberate acts referred to in paragraph 1, endangers a worker's health or life, shall be guilty of a criminal offence under Section 26 (2) of the Occupational Safety and Health Act.

Section 8 Entry into force

(1) This Ordinance shall enter into force on the first day of the calendar month following its promulgation.

(2) For construction projects the execution of which started before 1 July 1998, the previous provisions shall remain applicable.

The Bundesrat has given its consent.

Annex I

1. Location of the construction site,
2. Client's name and address,
3. Type of project
4. Name and address of third party responsible on behalf of the client,
5. Co-ordinator's name and address,
6. Date planned for start of work and planned duration of work,
7. Estimated maximum number of workers on the construction site,
8. Planned number of employers and contractors without employees on the construction site,
9. Details of employers and contractors without employees already chosen.

Annex II

Work involving particular risks within the meaning of Section 2 (3) is:

1. Work which puts workers at risk of engulfment or burial under earthfalls in building excavations or ditches of a depth of more than 5m or of falling from a height of more than 7m,
2. Work which puts workers at risk from explosive, highly inflammable, carcinogenic (group 1 or 2) or mutagenic substances or preparations, or substances or preparations which are highly toxic or toxic to reproduction within the meaning of the Hazardous Substances Ordinance, or from biological agents of risk groups 3 and 4 within the meaning of Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work (OJ EC No. L 374 p. 1),
3. Work with ionizing radiation requiring the designation of controlled or supervised areas within the meaning of the Radiation Protection Ordinance and of the X-ray Ordinance,
4. Work at a distance of less than 5 m from high voltage power lines,
5. Work exposing workers to a direct risk of drowning,
6. Work on wells, underground earthwork and tunnels,
7. Work with diving equipment having a system of air supply,
8. Work carried out in compressed-air atmosphere,
9. Work involving the use of explosives or explosive cords,
10. Work involving the assembly or dismantling of prefabricated components in solid construction with a unit weight of more than 10 t.