

Legal opinion

New energy performance standards for buildings – Standard WT 2021

More stringent rules

As of 1 January 2021, all construction projects undertaken in Poland have to comply with new energy performance standards for buildings, known as “**Standard WT 2021**”. Standard WT 2021 toughens up the requirements in this respect. The new rules are laid down in §328 and §329 of the “Regulation of the Infrastructure Minister of 12 April 2020 on technical conditions for buildings and their location” (Journal of Laws 2020, item 1065) (henceforth the Regulation).

To ensure that new buildings constructed in Poland after 2020 are more energy efficient, Standard WT 2021 does two main things:

- lowers the maximum allowed annual demand for primary energy from non-renewable sources used for heating, hot water supply, cooling, and ventilation;
- mandates compliance with certain thermal insulation standards, by setting maximum allowed heat-transfer coefficients for interior partitions (i.e. walls, roofs, floors, ceilings) and technical systems.

Under §328 of the Regulation, a building and its heating, ventilation, cooling, and hot water systems – and in the case of public buildings, apartment buildings, production buildings, commercial buildings and warehouses, also recessed lighting systems – should be designed and constructed in a way that ensures that the following minimum requirements are fulfilled:

1. the annual demand for primary energy from non-renewable sources, expressed in kWh/m² per year, is equal to, or lower than, the maximum value calculated according to the formula referred to in § 329, item 1 or 3 of the Regulation;
2. interior partitions and technical systems meet at least the thermal insulation requirements set in Annex 2 to the Regulation.

Standard WT 2021 thus introduces strict regulatory oversight of the heat-loss performance and annual demand for primary energy from non-renewable sources of buildings designed from 1 January 2021 onwards, with the aim of minimising energy consumption and loss as much as possible.

Standard WT 2021 as an element of EU environmental policy

The requirements laid down in Standard WT 2021 are not new to construction market participants in Poland: they became part of the country’s legal system already back in January 2014, following the transposition into Polish law of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (henceforth the Directive). Poland decided to implement the Directive’s requirements gradually, in three steps, known as WT 2014, WT 2017 and WT 2021, so as to make it easier for market participants to comply.

The aim of the Directive is to significantly increase the number of what it calls “nearly zero-energy buildings”, thus contributing to the EU’s carbon-emissions reduction and climate-change mitigation objectives. It defines a near-zero energy building as *“a building that has a very high energy performance, as determined in accordance with Annex I. The nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby.”*

The need for Member States to make their building stock more energy efficient by increasing the number of nearly zero-energy buildings was further underscored in another directive, Directive 2018/844 of the European Parliament and of the Council of 30 May 2019 amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency. It orders each Member State to establish a long-term renovation strategy to support the renovation of the national stock of residential and non-residential buildings, both public and private, into a highly energy efficient and decarbonized building stock by 2050, facilitating the cost-effective transformation of existing buildings into nearly zero-energy buildings. Recital (8) of its preamble (Official Journal of the European Union L 156, p. 75) states: *“To achieve a highly energy efficient and decarbonised building stock and to ensure that the long-term renovation strategies deliver the necessary progress towards the transformation of existing buildings into nearly zero-energy buildings, in particular by an increase in deep renovations, Member States should provide clear guidelines and outline measurable, targeted actions as well as promote equal access to financing, including for the worst performing segments of the national building stock, while taking into consideration affordability.”*

New clause addresses Covid hold-ups in permits

In the final weeks of 2020, as the date of Standard WT 2021’s coming into force drew nearer, construction industry representatives began to voice concerns about the situation of projects originated and designed under Standard WT 2017 – i.e., the rules in force until the end of 2020 – but for which building permits were unlikely to be issued before 1 January 2021 due to significant delays in the processing of applications caused by the pandemic. They were worried their projects would come under the ambit of Standard WT 2021.

Responding to these concerns, the Minister of Development, Labour and Technology amended the Regulation by inserting a new clause, § 329a, which states that the energy performance of buildings requirements in force from 1 January 2017 till 30 December 2020 (i.e., Standard WT 2017) apply to construction undertakings with respect to which at least one of the following was filed, or issued, during that period:

3. application for building permit, for approval of building design, for approval of site/plot development plan, for approval of architectural design, for building permit alteration, for approval to resume construction, for approval of replacement building design, replacement site/plot development plan or replacement architectural design; or
4. notice of construction (where a building permit is not required); or
5. building permit, approval of building design, approval of site/plot development plan, approval of architectural design.

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