

29.03.2021

ENERGY

GEIG – NEW REQUIREMENTS FOR DEVELOPERS AND OWNERS OF BUILDINGS TO CREATE CHARGING INFRASTRUCTURE

Germany's Act to Develop a Building-Integrated Charging and Connection Infrastructure for Electric Mobility (the "GEIG") came into force on 25 March 2021. The Act is intended to contribute to expansion of the charging infrastructure for electric vehicles by obliging developers and owners of both residential and non-residential buildings to install connection infrastructure and recharging points. This will increase costs for the undertakings concerned, although the Act does provide for exemptions.

Background to the Act

The German Federal Government's Climate Protection Program 2030 provides that seven to ten million electric vehicles be registered in Germany by 2030. Currently, however, there is insufficient charging infrastructure to meet this goal. The GEIG is intended to create the conditions under which electric vehicles can be electrically charged at residential buildings, at places of work, and while being used for everyday household errands. Large parts of the GEIG transpose the provisions of the 2018 EU Buildings Directive one to one.

Duties to act under the GEIG

The GEIG provides that a preparatory connection infrastructure (conduits for electric cables) be created and charging infrastructure be installed in the immediate vicinity of buildings with a larger number of parking spaces. It also obliges developers and property owners to install the charging infrastructure. The Act differentiates on the one hand between residential buildings and non-residential buildings and on the other between existing buildings and those to be built. For **buildings to be built**, the following requirements apply:

- › When constructing residential buildings with more than five parking spaces, the developer must equip each parking space with conduits for electric cables.
- › When constructing non-residential buildings with more than six parking spaces, the developer must equip at least each third parking space with conduits for electric cables. In addition, at least one recharging point must be set up.

For **existing buildings**, the following requirements will generally apply:

- › Where major renovation is undertaken on residential buildings with more than ten parking spaces, the property owner must ensure that each parking space is equipped with conduits for electric cables.
- › Where major renovation is undertaken on non-residential buildings with more than ten parking spaces, the property owner must ensure that at least each fifth parking space is equipped with conduits for electric cables. In addition, at least one recharging point must be set up.
- › In the case of existing non-residential buildings with more than twenty parking spaces, the property owner must ensure that after 1 January 2025 a recharging point is set up, irrespective of any renovation.

Exemptions and relaxations

Over the course of the legislative process, two GEIG obligations have been relaxed to facilitate a more flexible and needs-based expansion of charging infrastructure.

- › Some property owners may need to set up a recharging point at more than one non-residential building. Such owners can meet the obligation by bundling the total of recharging points to be set up at one or more sites. Such **bundling** is permitted where existing or expected charging infrastructure needs are met at the sites in question.
- › A **district-based solution** has also been included. Developers or property owners whose buildings are in proximity may make written agreements to jointly fulfil their duties under the GEIG. Germany's Renewable Energy Sources Act (EEG) and the Act on Energy in Buildings (GEG) take a similar district-based approach.

The GEIG also provides for a variety of **exemptions** to prevent hardship. These include the following:

- › The Act does not apply to non-residential buildings owned by **small and medium-sized enterprises** (SME) and largely used by them.
- › The obligations relating to existing buildings do not apply where the **costs** of charging and connection infrastructure exceed seven per cent of the entire costs of major renovation.
- › **Public buildings** are exempt from GEIG obligations where such buildings are already subject to comparable requirements pursuant to the EU Directive on the deployment of alternative fuels infrastructure.

Small and medium-sized enterprises (SME)

The exemption likely to be most relevant to companies concerns non-residential buildings owned by **and** largely used by SMEs themselves. SMEs are defined according to an EU Commission recommendation from 2003. Two cumulative requirements must be met for an undertaking to qualify as an SME:

- › The undertaking employs less than 250 people **and**
- › generates annual turnover of no more than 50 million euros **or** its annual balance sheet total is no more than 43 million euros.

But when the definition is applied to individual cases it should be noted that in some circumstances it is necessary to include the workforces and commercial data of partner companies or affiliates. In corporate groups or franchise structures, in particular, SME status will therefore need to be checked in the individual case.

Conclusion

Companies should carefully check whether they fall within the scope of the GEIG and are obliged to set up charging infrastructure. The costs of setting up connection infrastructure and recharging points can run into several thousand euros per case. The Federal Government estimates that they will total EUR 40 million annually across Germany. So developers and owners of buildings could be severely impacted. Non-compliance with GEIG stipulations constitutes an administrative offence leading to a potential fine.

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