



Compliance with Building Standards under the New Energy Regulations in Japan

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1. Introduction

The government of Japan has declared that it would strive to realize carbon neutrality by 2050. As its nationally determined contribution under the Paris Agreement, it also committed to achieve a 46% reduction of greenhouse gas emissions in 2030 compared to FY 2013.

Energy consumption of buildings takes up approximately 30% of the total energy consumption in Japan. Thus, the government deemed that initiatives were urgently needed for energy efficiency and renewable energy in the field of buildings. Hence, the Act on the Improvement of Energy Consumption Performance of Buildings, also known as the Building Energy Efficiency Act (the “**Act**”),¹ which is the main energy efficiency law for buildings in Japan, was amended in 2022 (the “**Amended Act**”). The Amended Act will take effect in stages from 2023 to 2025.

In the course of amending the Act, the possibility of requiring the installation of photovoltaic panels was considered, but such proposal was eventually dropped. As a result, currently, there is no national law serving as a renewable energy regulation for buildings in Japan.

In 2022, however, the Tokyo Metropolitan Government amended its Ordinance on the Environment for Securing the Health and Safety of Citizens of Tokyo (the “**Ordinance**,” and as amended, the “**Amended Ordinance**”)² to require the installation of photovoltaic panels for buildings of a certain size or larger. The Amended Ordinance will take effect in April 2025.

The Kyoto prefecture and Kyoto City have similar ordinances. Similar amendments to existing ordinances are being examined at other prefectures as well.

The foregoing are the renewable energy regulations for buildings in Japan. In the future, one must check whether the subject building complies with the applicable energy efficiency and renewable energy regulations not only when newly constructing, extending or rebuilding such building, but also when acquiring it. This article will describe below the obligation to conform to the standards required for buildings based on the amendments to the Act and the above-described Amended Ordinance.

1. Act No. 53 of 2015.

2. Ordinance No. 215.



2. Energy Efficiency Regulation for Buildings in Japan

a. Current law

Under the current Act, (i) as a general rule, if the building owner newly constructs a non-residential building with a floor area of 300m² or more, or (ii) if the building owner extends or rebuilds a non-residential building with respect to a floor area of 300m² or more, the building owner must ensure that the subject building conforms with the “Building Energy Efficiency Standards” (“standard conformity obligation”) (the Act, art. 11(1), and Order for Enforcement of the Act on the Improvement of Energy Consumption Performance of Buildings (“**Order for Enforcement of the Act**”),³ art. 4).

The “Building Energy Efficiency Standards” refer to the “standards relating to the structure and facilities of buildings stipulated by the Order of the Ministry of Economy, Trade and Industry and the Order of the Ministry of Land, Infrastructure, Transport and Tourism that are necessary for securing the energy efficiency⁴ required for the relevant building” (the Act, art. 2(1)(iii)). The details of the standards are provided by the Ministerial Order to Provide for Standards for Building Energy Efficiency, etc. Although such details will not be described here, thermal insulation performance, sunlight shielding performance, energy consumption, etc., of the subject building are some of the requirements needed to meet certain prescribed standards.

If the building owner fails to comply with the standard conformity obligation, the competent administrative authority may order the building owner to take the

necessary measures to remedy such violation within a reasonable period (“standard conformity order”) (the Act, art. 14(1)). If the building owner then fails to comply with the standard conformity order, then a fine of not more than JPY 3,000,000 will be imposed (the Act, art. 73). If any representative, employee, officer, etc., of a company fails to comply with the standard conformity order, then the company will also be subject to such criminal penalty (the Act, art. 78).

The person who is subject to the standard conformity obligation and the standard conformity order is the building owner. The “building owner” is defined as “a person ordering construction work for a building by contract, or a person undertaking the construction work by himself or herself without making a contract therefor,” and is clearly distinguished from “the owner, custodian or occupant of the building” (the Act, art. 2(1)(iv)). Accordingly, even if the building owner has assigned or transferred a building that is not compliant with the standard conformity obligation to a third party, such building owner will not be released from the obligation under the standard conformity order. Furthermore, if the building owner performs construction work to comply with a standard conformity order, and the relevant third party cannot use the subject building during such construction work, the building owner may have an obligation to compensate such third party for the damages suffered thereby.

b. The Amended Act

The limitations on the types of buildings that are subject to the standard conformity obligation were removed by the amendment of the Act in 2022 (the Amended Act, art. 10). Thus, even if the floor area of

3. Order No. 8 of 2016.

4. “Energy Efficiency” means “performance evaluated based on the amount of ... energy consumed in the use of a building under a predetermined condition” (the Act, art. 2(ii)).



the subject building is not over 300m², or the subject building is a residential building, the building owner will bear the standard conformity obligation.

This amendment on the scope of application of the standard conformity obligation will take effect in 2025. Such amendment will apply to all buildings newly constructed, or extended or rebuilt, on or after the effective date thereof. However, it would not obligate the building owner to ensure conformity to the standards for buildings newly constructed, or extended or rebuilt prior thereto.

The provisions on the standard conformity order (the Amended Act, art. 13) and the penal provisions for any violation thereof (the Amended Act, art. 70) were not amended.

3. Renewable Energy Regulation for Buildings in Japan

In 2020, the Tokyo Metropolitan Government modified the Ordinance (environment securing ordinance) to require the installation of photovoltaic panels on buildings of a certain size or larger (the Amended Ordinance, art. 20-3). As noted earlier, the Amended Ordinance will take effect in stages from 2024 to 2025, and the obligation to install photovoltaic panels will take effect in 2025.

Specifically, if a building of a certain size or larger is newly constructed, or extended or rebuilt, the building owner must ensure that such building conforms to the “Standards for Installation of Facilities that Use

Renewable Energy.” The reference to “a certain size or larger” therein means, in principle, that the total floor area of the subject building (in case of a new construction) or the total floor area of the extended or rebuilt portion (in case of an extension or rebuilding), as applicable, is 2,000m² or more (the Regulation for Enforcement of the Ordinance on the Environment for Securing the Health and Safety of Citizens of Tokyo (“**Regulation for Enforcement of the Amended Ordinance**”),⁵ art. 9(1)). In addition, the details of the “Standards for Installation of Facilities that Use Renewable Energy” are stipulated in article 9-3(2) of the Regulation for Enforcement of the Amended Ordinance, which require the installation of photovoltaic panels with a certain level of performance.

The Governor of Tokyo may give guidance and advice to the building owner if it is determined necessary for the observance of the above obligation (the Amended Ordinance, art. 24(3)). In addition, if the building owner does not observe such guidance and advice without any justifiable reason, and the subject building is determined to be significantly insufficient in terms of the standards required for it, the Governor may make the necessary recommendations to the building owner concerning the necessary measures that it must take (the Amended Ordinance, art. 25(4)). Unlike the Act, however, there is no criminal penalty for failing to comply with such recommendations.

As Japan strives to reach its sustainability goals, building owners may have to comply with new standards in addition to the foregoing new building requirements.

5. Regulation No. 34.