

Unofficial Translation

**THE ENERGY CONSERVATION  
PROMOTION ACT  
B.E. 2535**

Unofficial Translation



Department of Alternative  
Energy Development and Efficiency  
**MINISTRY OF ENERGY**

Certified Correct Translation

  
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# THE ENERGY CONSERVATION PROMOTION ACT,

B.E. 2535

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**BHUMIBOL ADULYADEJ REX.**

**Given on the 2<sup>nd</sup> day of April proclaim B.E. 2535**

**Being the 47<sup>th</sup> year of the Present Reign**

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His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that Whereas it is deemed appropriate to enact an Energy Conservation Promotion law, His Majesty the King, by and with the advice and consent of the National Assembly in the capacity as Parliament, is graciously pleased to enact an Act as follows:

**Section 1 :** This Act is called “ **Energy Conservation Promotion Act, B.E.2535**”.

**Section 2<sup>1</sup> :** This Act shall come into force on the day following the date of its publication in the Government Gazette.

**Section 3 :** In this Act,

“**Energy**” means ability to ability to perform work that is inherent in the sources that may provide work, consisting of renewable energy and non renewable energy, and includes sources that may provide work such as fuels, heat, and electricity

“**Renewable Energy**” includes energy obtained from sources such as: wood, firewood, paddy husk, bagasse. biomass, hydro power, solar power, geothermal power, wind power,waves and tides.

“**Non-Renewable Energy**” includes energy from sources such as: coal, oil shale, tar sands, crude oil, oil, natural gas, and nuclear power.

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<sup>1</sup> Government Gazette Volume 109 / Part 33 A / Page 1/2 April 1992

“**Fuels**” includes: coal, oil shale, tar sands, oil, natural gas, fuel gas, synfuels, wood, firewood, paddy husk, bagasse, garbage, and other materials designated in the Government Gazette by the National Energy Policy Council.

“**Petroleum**” means gas, gasoline, fuel for aircraft, kerosene, diesel oil, fuel oil, and other oils similar to the above-mentioned and other petroleum products designated in the Government Gazette by the National Energy Policy Council.

“**Gas**” means liquefied petroleum gas used for cooking, or liquefied hydrocarbon gases, i.e. propane, propylene, normal butane, iso-butane and butylenes, each of, or a combination of these gases.

“**Refinery**” means a petroleum refinery, a place where petroleum products are produced and sold. The term also includes a gas separation plant, and petro-chemical and solvent plants

“**The National Energy Policy Council**” means the National Energy Policy Council under the National Energy Policy Council Act.

“**Energy conservation**” means to produce and use energy efficiently and economically.

“**Inspect**” means survey, audit and collect data.

“**Factory**” means a factory under the laws governing factories.

“**Factory Owner**” includes those who are responsible for the management of the factory.

“**Building**” means a building under the Building Code.

“**Fund**” means fund for promotion of energy conservation.

“**Fund Committee**” means the Committee of the Fund for promotion of energy conservation.

“**Competent officer**” means an officer appointed by the Minister for the execution of work under this Act.

“**Director General**” means the Director General of the Department of Alternative Energy Development and Efficiency or a person assigned by the Director General of the Department of Alternative Energy Development and Efficiency.

“**Minister**” means the Minister of Ministry of Energy.

**Section 4 :** For the benefit of promotion of energy conservation under this Act, the National Energy Policy Council shall have the following authority and duties.

- (1) To propose to the Cabinet policies, targets, or measures with respect to energy conservation.
- (2) To propose to the Cabinet the making of decrees under Section 8 and Section 18.
- (3)<sup>2</sup> To provide advice in issuing Ministerial Regulations according to Section 9, Section 19, Section 21 and Section 23.
- (4) To prescribe guidelines, criteria, and priorities for the use of the Fund under Section 28 (1)
- (5) To prescribe the types of petroleum that are not required to send contributions to the Fund under Section 28 (5).
- (6) To prescribe the rates of the contribution to be sent to the Fund for petroleum under Section 35, Section 36 and Section 37.
- (7) To approve a surcharge under Section 43.
- (8) To prescribe guidelines, criteria, and conditions in providing promotion and assistance for factories, buildings, producers or distributors of machinery or equipment which has high efficiency, and to manufacturers or distributors of materials used for energy conservation under Section 40.
- (9) To carry out other duties as stipulated under this Act.

Prescriptions under (5) and (6) shall be made in the Government Gazette.

**Section 5 :** The Competent officer shall deliver a written notice or instruction addressed to any person for the purpose of the execution of this Act between sunrise and sunset or during working hours of the said person, or he shall send the same by certified mail.

In the event that for any reason, delivery cannot be made in the manner prescribed in Clause one hereof, the notice or instruction shall be delivered by posting them at a conspicuous spot at the place of residence, office, or at the house where the addressee is latest registered in the House Registration Certificate, under the laws that govern the census records; or a short announcement may be made in a local newspaper of such area.

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<sup>2</sup> Section 4 (3) amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

After delivery in the manner prescribed in Clause two hereof has been made and seven days have passed, such notice or instruction shall be deemed as received.

**Section 6<sup>3</sup>** : The Prime Minister, the Minister of Ministry of Energy, the Industry Minister, the Finance Minister, and the Interior Minister shall have the care and charge of the Act, On the parts that are relevant to their authority and duties.

The Minister of Ministry of Energy has power to appoint competent official and issue Ministerial Regulation or Notification and has power to prescribe other activities to comply with this Act.

Such Ministerial Regulation and Notification, when they have been published in the Government Gazette, shall be enforceable.

## **DIVISION 1**

### **ENERGY CONSERVATION IN FACTORIES**

**Section 7** : Energy conservation in factories means one of the following measures.

- (1) Improvement in combustion efficiency of fuels.
- (2) Prevention of energy loss.
- (3) Recycling of energy wastes.
- (4) Substitution of one type of energy by another type.
- (5) More efficient use of electricity through improvements in power factors, reduction of maximum power demand during the period of the electricity system's peak demand, use of appropriate equipments, and through other approaches.
- (6) The use of energy-efficient machinery or equipment as well as the use of operation control systems and materials that contribute to energy conservation.
- (7) Other means of energy conservation as stipulated in the Ministerial Regulations.

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<sup>3</sup> Section 6 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

**Section 8 :** Designation of factories, by types, quantities of energy use, or methods of energy utilization, as being “designated factories”, shall be made into decrees. The decrees under Clause one hereof, shall come into effect one hundred and twenty days after its publication in the Government Gazette.

Should the owner of any designated factory which is using energy at a level lower than the quantity prescribed in the decrees under Clause one hereof, and will continue to use energy at the said level for a minimum of six consecutive months, the said owner of the such designated factory may submit details together with reasons and file an appeal to the Director General for leniency with respect to having to comply with this Act at all times. In the event that the said appeal has been filed, the Director General shall decide whether such leniency may or may not be granted, and shall notify the owner of the designated factory of the decision in writing promptly.

**Section 9<sup>4</sup> :** For purpose of conserving energy in a controlled factory, the Minister, by advice of the National Energy Policy Committee, shall have power to issue Ministerial Regulations in the following matters:

(1) To establish standard, criteria and procedures in managing energy that must be followed by owner of the controlled factory.

(2) To stipulate that owner of the controlled factory must provide a person, who will be the permanent responsible person for energy in each controlled factory as well as to prescribe qualifications and duties of the person, who will be permanently responsible for the energy.

The Ministerial Regulation according to paragraph one shall prescribe which type, kind or size of controlled factory can be exempted from complying with any matter and such Ministerial Regulation and such Ministerial Regulation can also prescribe technical, academic details or other matters, which are the matters that can be changed rapidly according to economic and social condition, to comply with criteria, which the Minister prescribes by publishing in the Government Gazette.

**Section 10 :** In the event that there are reasonable causes, the Director General may give an instruction to the owner of any designated factory, to furnish factual information on energy utilization for the purpose of inspection, to assure that energy conservation measures are in accordance with the standard, criteria and procedures provided under the Ministerial Regulations issued under Section 9, and the said owner of designated factory must comply within thirty days starting from the date of receipt of such instruction.

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<sup>4</sup> Section 9 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

**Section 11**<sup>5</sup>

**Section 12**<sup>6</sup>

**Section 13**<sup>7</sup>

**Section 14**<sup>8</sup>

**Section 15**<sup>9</sup>

**Section 16**<sup>10</sup>

## **DIVISION 2**

### **ENERGY CONSERVATION IN BUILDINGS**

**Section 17** : Energy conservation inside the buildings means one of the following measures :

- (1) Reduction of heat from the sunlight that enters the building.
- (2) Efficient air-conditioning, including maintaining room temperature at an appropriate level.
- (3) Use of energy-efficient construction materials and demonstration of qualities of such materials.
- (4) Efficient use of light in the building.
- (5) Use and installation of machinery, equipment, and materials that contribute to energy conservation in the building.
- (6) Use of operation control systems for machinery and equipment.
- (7) Other measures for energy conservation as prescribed in the Ministerial Regulations.

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<sup>5</sup> Section 11 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>6</sup> Section 12 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>7</sup> Section 13 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>8</sup> Section 14 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>9</sup> Section 15 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>10</sup> Section 16 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

**Section 18 :** Designation of any building as a designated building, by types, quantities of energy use and methods of energy utilization in such building, shall be made into decrees.

Provisions of Clause two and Clause three of Section 8 shall apply mutatis mutandis.

**Section 19<sup>11</sup> :** For purpose of conserving energy in a building, which is being constructed or being modified, the Minister by advice of the National Energy Policy Committee, shall have power to issue Ministerial Regulation in the following matters:

(1) To prescribe type and size of building, which will be constructed and modified. This must be designed for energy conservation.

(2) Standard, criteria and procedures in designing the building according to (1) for energy conservation.

Ministerial Regulation according to paragraph one shall prescribe technical, academic details or other matters, which are the matters that can be changed rapidly according to economic and social condition, to comply with criteria, which the Minister prescribes by publishing in the Government Gazette.

**Section 20 :** In issuing the Ministerial Regulation under Section 19, if the Building Control Committee under the laws governing control of buildings deems it appropriate to impose such regulations on control of buildings, under the laws governing control of building; such Ministerial Regulations shall be treated as having the same effects as the Ministerial Regulations issued under Section 8 of the Building Code, B.E. 2522. In this event the authorized persons under the laws governing control buildings, shall have the authority and duties to oversee that construction or modification of such building is in accordance with the said Ministerial Regulations.

In this case, even though the building that may be classified as a designated building, is in the location where there are still no decrees to enforce the laws governing control of buildings, such building shall still be considered as being under the laws governing the control of buildings. This however, is applicable only to the extent that it is related to and for the benefit of the execution of this Act.

**Section 21<sup>12</sup> :** For purpose of conserving energy in controlled buildings, the Minister, by advice of the National Energy Policy Committee, shall have power to issue Ministerial Regulation in the following matters:

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<sup>11</sup> Section 19 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>12</sup> Section 21 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

(1) To prescribe standard, criteria and procedures for managing energy that must be followed by owner of the controlled building.

(2) To stipulate that owners of controlled building must provide a person, who will be the permanent responsible person in each controlled building as well as to prescribe qualifications and duties of the person, who will be permanently responsible for energy.

Section 9 paragraph two and Section 10 shall be enforced with compromise.

**Section 22**<sup>13</sup>

### **DIVISION 3**

#### **ENERGY CONSERVATION IN MACHINE OR EQUIPMENT AND PROMOTION OF USE OF MATERIAL OR EQUIPMENT FOR ENERGY CONSERVATION**<sup>14</sup>

**Section 23**<sup>15</sup> : For purpose of conserving energy in machine or equipment including promotion of use of material or equipment for energy conservation, the Minister, by advice of the National Energy Policy Committee, shall have power to issue Ministerial Regulation in the following matters:

- (1) To prescribe efficiency standard of use of energy in machine or equipment.
- (2) To prescribe machine or equipment according to the type, size, volume of energy consumption, rate of change of energy and efficiency of use of energy and whether it is a highly efficient machine or equipment.
- (3) To prescribe material or equipment for energy conservation according to which type, quality and standard, and whether it is the material or equipment for energy conservation.
- (4) To prescribe producer and seller of machine or equipment that efficiency rate of use of energy must be shown.

Producer and seller of machine or equipment or material or equipment for energy conservation, which has high efficiency according to paragraph one (2) or (3) has right to apply for promotion and assistance according to Section 40.

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<sup>13</sup> Section 22 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>14</sup> Division 3 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>15</sup> Section 23 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

Ministerial Regulation according to paragraph one shall prescribe technical and academic details or other matters, which can be changed rapidly according to economic and social condition, to comply with criteria, which the Minister prescribes by publishing in the Government Gazette. If Industrial Standard Committee according to the law concerning industrial standard sees that it is suitable to prescribe standard of industrial product or that which industrial product must comply with the standard concerning efficiency of use of energy prescribed in the Ministerial Regulation issued according to this section, the Industrial Standard Office shall process according to the law concerning standard of industrial products.

## **DIVISION 4**

### **FUND FOR PROMOTION ENERGY CONSERVATION**

**Section 24<sup>16</sup>** : A fund called “Energy Conservation Promotion Fund” shall be established in the Ministry of Energy, to be used as working capital and as grants or subsidy in carrying out energy conservation work. The Fund shall consist of capital and property as follows:

- (1) The money transferred from the oil Fund under the laws governing correction and prevention of oil shortages, by the amount prescribed by the Prime Minister.
- (2) The contributions delivered under Section 35, Section 36, and Section 37.
- (3) Surcharges collected under Section 42.
- (4) Subsidy from the government, at times as appropriate.
- (5) Money or property received from the private sector locally and from overseas, and from foreign governments or international organizations.
- (6) Interest and other benefits incurred from this Fund.

The Ministry of Energy shall keep money and property of the fund and to execute withdrawal and payments of money of the fund according to this Act.

**Section 24/1<sup>17</sup>** : All activities, property, right, liability and money shall be transferred from Energy Conservation Promotion Fund in the Ministry of Finance to the Energy Conservation Promotion Fund according to this Act.

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<sup>16</sup> Section 24 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>17</sup> Section 24/1 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

**Section 25 :** The fund shall be used as follows:

(1) As working capital, grants, or subsidies for investment in and operations of energy conservation programs, or for solving environmental problems resulting from energy conservation programs of the government agencies or state enterprises.

(2) As working capital, grants or subsidies for the private sector for investment in and operations of energy conservation programs or for correction of environmental problems resulting from energy conservation.

(3) As grants or subsidies to government agencies, state enterprises, educational institutions or private organizations, to be used on the following matters:

(a) Energy conservation programs or programs related to environment protection and correction of the problems of the environment resulting from energy conservation.

(b) Study or research projects on energy development, promotion and conservation, environment protection, and correction of environmental problems resulting from energy conservation, and energy policy and planning.

(c) Demonstration projects or pilot projects on energy conservation or environment protection and correction of environmental problems resulting from energy conservation.

(d) Education, training and conferences with respect to energy.

(e) Advertisements, information dissemination, and public relations work, with regard to energy development, promotion, and conservation, and environment protection and correction of environmental problems arising from energy conservation.

(4) Administrative cost of energy conservation promotion work in accordance with this Act.

**Section 26 :** A private organization entitled to grant or subsidy under Section 25 (3) shall be a juristic person under Thai or foreign laws, whose business is directly related to energy conservation or environment protection and correction of environmental problems arising from energy conservation, and which does not have political or profit oriented objectives.

**Section 27<sup>18</sup>** : There shall be a Fund Committee consisting of one Deputy Prime Minister, who is assigned by the Prime Minister as Chairman, Minister of Energy, Permanent Secretary of the Ministry of Finance, Permanent Secretary of the Ministry of Energy, Secretary General of the National Economic and Social Development Committee, Secretary General of Industrial Standard Institute, Director General of the Comptroller-General's Department, Director General of the Department of Alternative Energy Development and Efficiency, Director General of Department of Public Works and Town & Country Planning, Director General of the Department of Industrial Works, President of the Federation of Thai Industries, Chairman of Engineer Council, Chairman of Architect Council and not more than seven qualified persons as members of the Committee and Director of the Energy Policy and Planning Office as member and secretary.

In appointing qualified person as committee members in Clause one hereof, consideration shall be given to the person who have the knowledge, expertise, achievements, and experience in economics, finance, energy technology, and promotion and protection of the quality of the environment.

**Section 28** : The Fund Committee shall have the following authority and duties:

- (1) Propose to the National Energy Policy Council guidelines, criteria, conditions and priorities for disbursement of fund in accordance with the objectives prescribed under Section 25.
- (2) Allocated appropriations from the Fund to be used in accordance with the objectives prescribed in Section 25, provided that they conform to the guidelines, criteria, conditions and priorities prescribed by the National Energy Policy Council under Section 4 (4)
- (3) Prescribe rules with respect to the criteria and procedures in making requests to allot, and requests for grants and subsidies from the Fund.
- (4) Propose the rates of contributions for petroleum to be sent to this Fund to the National Energy Policy Council.
- (5) Propose the types of petroleum that shall be exempted from sending contribution to the Fund to the National Energy Policy Council.
- (6) Prescribe the surcharges under the approval of the National Energy Policy Council.
- (7) Prescribe the exception of surcharges.

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<sup>18</sup> Section 27 paragraph one amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

(8) Review and approve requests for promotion and assistance under Section 40(2) in accordance with the guidelines, criteria and conditions prescribed by the National Energy Policy Council under Section 4 (8)

(9) Prescribe rules with respect to the criteria and procedures in making requests for promotion and assistance under Section 41.

(10) Carry out other duties as prescribed under this Act.

Prescriptions under (3), (7) and (9) shall be made in the Government Gazette.

**Section 29 :** Qualified members shall hold office for a term of three years. A member who has left office may be reappointed.

**Section 30 :** Apart of leaving office upon completion of the term under Section 29, a qualified member shall retire from his office upon.

- (1) death;
- (2) resignation;
- (3) being dismissed by the Cabinet on the grounds of negligence, dishonesty, or incompetence;
- (4) being adjudged as bankrupt;
- (5) being adjudged incompetent or quasi-incompetent;
- (6) being convicted and sentenced by a final judgement to imprisonment, except for offenses committed by negligence or petty offenses.

**Section 31 :** In the event of appointment of qualified member during the term of appointed members, whether it be an additional appointment or an appointment to fill the vacancy, the newly appointed member shall hold office for the remainder of the term the appointed members.

**Section 32 :** In the event that the appointed member has completed the term and a new member has not yet been appointed, the retired member shall continue to perform his duties until a new member is appointed.

**Section 33 :** At any meeting of the committee, attendance of not less than half of the total membership shall be required to constitute a quorum. In the event that the Chairman is absent from the meeting, the members present shall elect one among themselves to be the Chairman of that meeting.

Any decision of the meeting shall be taken by a majority of votes. In the event of a tie, the Chairman shall cast an extra vote to reach a decision.

**Section 34<sup>19</sup> :** Fund Committee shall have power to appoint Sub-committee to consider or act as assigned by the Fund Committee as well as to invite a person to come and give statement on the fact, explanation, advice or opinion for benefit in performing duties as necessary.

In appointment of Sub-committee to consider or act according to Section 28 (2), the Fund Committee may empower the Sub-committee in approving request for change of fund appropriation for activity, plan or project to the extent that it does not exceed the limit appropriated by the Fund Committee and must comply with the rules prescribed by the Fund Committee.

The Sub-committee appointed by the Fund Committee according to paragraph one shall invite a person to come and give statement on fact, explanation, advice or opinion for benefit in acting according to authority and duty as necessary and Section 33 shall be enforced for the meeting of Sub-committee by compromise.

**Section 34/1<sup>20</sup> :** Receiving money, paying money, keeping money, selling of properties of the fund and accounting shall be in accordance with the rules prescribed by the Committee and approved by the Ministry of Finance.

**Section 34/2<sup>21</sup> :** The Fund Committee shall make financial statement to submit to the Office of the Auditor General of Thailand or third-party person, who is appointed by the Fund Committee with approval of the Office of the Auditor General of Thailand as auditor of the Fund and shall make audit and certification of all types of account and finance of the Fund within ninety days from the ending day of every fiscal year.

The Office of the Auditor General of Thailand or auditor according to paragraph one shall make report of result of audit and certify account and finance of the Fund and propose to the Fund Committee within one hundred fifty days from the ending day of fiscal year to propose to the National Energy Policy Committee and the Cabinet for information.

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<sup>19</sup> Section 34 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>20</sup> Section 34/1 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>21</sup> Section 34/2 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

Report of result of audit of account and finance according to paragraph two, the Minister shall propose to the Prime Minister to propose to the Parliament for acknowledgement and to arrange for publication in the Government Gazette.

**Section 35 :** The person who produces petroleum at a refinery and sells it for consumption in Thailand must send contributions to the Fund in proportion with the quantities of petroleum produced and sold for consumption in Thailand , at the rates prescribed by the National Energy Policy Council.

Contributions to be given to the Fund under Clause one hereof shall be sent to the Excise Department together with payment for excise taxes for petroleum, if any, in accordance with the rules prescribed the Excise Department.

**Section 36 :** Importers of petroleum for consumption in Thailand shall send contributions in proportion to the quantities of imported petroleum for consumption in Thailand at the rates prescribed by the National Energy Policy Council.

Contributions to be made under clause one hereof shall be sent the Customs Department together with payment of duties for such petroleum, if any, under the rules prescribed by the Customs Department.

**Section 37 :** Whoever buys or obtains gas from a concessionaire under the laws that govern petroleum, who produces such gas from separation of natural gas, shall send contributions to the Fund at the rate prescribed by the National Energy Policy Council.

Contributions to be sent to the Fund under Clause one hereof shall be sent to the Department of Mineral Fuels together with payment of royalty for such gas, if any under the rules prescribed by the Department of Mineral Fuels.

**Section 38<sup>22</sup> :** In case person who has duty to surrender money to the Fund according to Section 35, Section 36 or Section 37 does not surrender money to the Fund or surrenders incomplete amount of money, which he must surrender in specified time period, to the Excise Department for person, who produces fuels at refinery and sells for use in the Kingdom or to the Customs Department for fuels importer or to the Department of Mineral Fuels for person, who buys or acquires gas from person, who has concession according to the law concerning petroleum, the Excise Department or the Customs Department or the

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<sup>22</sup> Section 38 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

Department of Mineral Fuels, depending on the case, shall process case according to Section 58 quickly, except in the following cases:

(1) In case such person sees by himself that he has such case, such person shall surrender payable amount or omitted amount of money together with three percents per month of surcharge of that amount from the due date of payment to the Fund until completion of the amount to the Department of Excise, the Department of Customs or the Department of Mineral Fuels, depending on the case.

(2) In case that the Department of Excise, the Department of Customs or the Department of Mineral Fuels, depending on the case, checks and finds that there is such case, the Department shall, in writing, notify the person, who has duty to surrender money to the Fund, to surrender money to the Fund within given time and such person has surrendered the amount of money, which he must surrender or omitted amount together with six percents per month of such amount from the due date for surrendering to the Fund, until completion, to the Department of Excise, the Department of Customs or the Department of Mineral Fuels, depending on the case, within given time period.

When the person who has duty to surrender money to the Fund, has executed as specified in (1) or (2), such person is not guilty.

The surcharge shall be deemed as money, which must be surrendered to the Fund. In calculating time period for calculation of surcharge according to (1) or (2), if there is fraction of month, it shall be counted as one month.

**Section 39 :** Contributions to the Fund under Section 35, Section 36, and Section 37 shall be regarded as expenses under the Code of Revenue.

## **DIVISION 5**

### **MEASURES FOR PROMOTION AND ASSISTANCE**

**Section 40 :** The designated factory of designated building which is required to have an energy conservation program together with machinery, equipment, tools, articles and materials essential for such a program, or a producer or distributor of machinery or equipment which has high efficiency, or materials to be used in the energy conservation programs, shall have the right to request for promotion and assistance as follows:

- (1) exemption from paying surcharges under this Act.
- (2) grant or subsidy from the Fund under Section 25.

Owners of factories, buildings, or government agencies and state enterprises which are not required to have energy conservation programs under Clause one hereof, but desire to make provisions for machinery, equipment, tools, articles, or operation control systems of their own for the purpose of energy conservation, shall have the right to request for promotion and assistance under Clause one hereof.

**Section 41 :** Requests for promotion and assistance under Section 40 shall be submitted to the Fund Committee in Accordance with the rules prescribed by the Committee. In considering the requests under Clause one, the Fund Committee may employ any person or organization who is an expert or has expertise on the matter to study and report or give opinion in addition to its own consideration.

The Fund Committee shall review and approve the requests for promotion and assistance according to the guidelines, criteria, and conditions prescribed by the National Energy Policy Council under Section 4 (8), and shall inform the government agencies concerned to act upon the resolution of the Fund Committee with respect to providing promotion or assistance to the persons whose requests have been approved

The Energy Development and Promotion Department shall have the duty to follow-up and assure that the persons who are granted promotion and assistance, shall execute their operations as stated in Clause three hereof, and to report to the Fund Committee.

## **DIVISION 6**

### **SURCHARGES**

**Section 42<sup>23</sup> :** When three years have elapsed from the effective date of the Ministerial Regulation issued according to Section 9 (1) or Section 21 (1), in case it has been controlled factory or controlled building before or on effective date of such Ministerial Regulation or from the date of being controlled factory or controlled building in case of being controlled factory or controlled building after the effective date of such Ministerial Regulation, if owner of the controlled factory or owner of the controlled building does not comply with such Ministerial Regulation, the owner must pay special premium for using electricity according to this Chapter.

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<sup>23</sup> Section 42 paragraph one amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

The surcharges for use of electricity under Clause one hereof shall be collected from the designated factory or designated building according to the quantities bought or acquired from EGAT, MEA, or PEA, and such surcharges shall be imposed upon in the same manner as payment for use of electricity under the laws governing EGAT, the laws governing the MEA, or the laws governing the PEA whichever is the case.

**Section 43 :** The Fund Committee, with the approval of the National Energy Policy Council, shall prescribe the rates of the surcharges for the use of electricity.

In prescribing the surcharge rates for the use of electricity under Clause one hereof, consideration shall be given to the differences between the rates payable to EGAT, MEA, or PEA by the designated factory or designated building and total inclusive cost of production and distribution in providing such quantities of electricity to the designated factory or designated building. The total inclusive cost under Clause two hereof means the cost of power production and distribution systems, the cost in procuring fuels for power generation maintenance cost, administrative cost, the cost of power loss in the system, and other miscellaneous cost in the electricity operations, as well as the cost of impacts on the environment or on the general public which arise from production and distribution of such electricity which have not been directly incurred by EGAT, MEA, or PEA.

**Section 44 :** In the event that the surcharge for the use of electricity under Section 42 must be collected, the Director General shall inform the owner of the designated factory or designated building who must pay for such surcharge in writing, and the obligation to make payments for such surcharge shall take effect on the first day of the following month counting from the date of being informed by the Director General.

EGAT, MEA, or PEA each shall collect payment for the surcharge for use of electricity from the designated factories on designated buildings that bought or acquired electricity from them, together with monthly payments for regular use of electricity, and deliver to the Fund within thirty days after the dates of receipt of the surcharges.

**Section 45 :** During the period when the designated factory and designated building must remit payment for the surcharges for use of electricity under this Division, the Fund Committee, as it deems appropriate, may consider termination of the right to request for promotion and assistance of that designated factory or designated building temporarily, or may reduce the promotion or assistance temporarily, in the case that such designated factory or designated building has already been granted promotion and assistance.

**Section 46<sup>24</sup>** : After the designated factory or designated building. With must remit payment for the surcharge for use of electricity, has already complied with the Ministerial Regulations issued under Section 9 (1) or Section 21 (1), it shall inform the Director General accordingly.

The Director-General shall examine and shall complete examination within thirty days from the date of receipt of notification that such controlled factory or controlled building whether complies with the Ministerial Regulation issued according to Section 9 (1) or Section 21 (1) or not. In case there has been compliance with such Ministerial Regulation, the Director-General shall order cessation of collection of special premium for use of electricity and notify in writing for acknowledgement of the controlled factory or controlled building.

Order for cessation of special premium collection for use of electricity according to paragraph two shall be effective on the first day of the following month.

## **DIVISION 7**

### **COMPETENT OFFICERS**

**Section 47** : In the execution of this Act, the competent officer shall have the power to:

(1) Issue a written notice to the owner of the designated factory or designated building asking him to furnish statements of facts in person, or to submit written explanation, or to furnish any document or evidence, for the competent officer to inspect or consider.

(2) To enter upon a designated factory or designated building between sunrise and sunset or during working hours of such place for the purpose of inspection or execution of this Act. In this case, he shall have the power to make enquiries about or inspect the records on conditions of the factory, building, machinery and equipment, and other matters related to energy conservation in the factory and building, including the execution of work of any person in such place. He shall also have the authority to inspect the machinery and equipment or take as samples reasonable quantities of materials for tests.

(3)<sup>25</sup> To check and certify management of energy, use of energy in machine or equipment and quality of material or equipment for conservation of energy to comply with this Act.

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<sup>24</sup> Section 46 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>25</sup> Section 47 (3) added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

**Section 48 :** The owner of the designated factory or designated building as well as other persons concerned shall accord facility to the competent officer who is executing his duties under Section 47 (2)

**Section 48/1**<sup>26</sup> : In case there must be checking and certifying of management of energy, use of energy in machine or equipment and quality of material or equipment for conservation of energy according to Section 47 (3), the Director-General may grant a person or a juristic person to be processor on behalf of the competent official.

Specification of qualifications, application for license, granting and renewal of license of a person or a juristic person shall comply with the rules, procedures and conditions prescribed in the Ministerial Regulation.

**Section 48/2**<sup>27</sup> : Any licensee according to Section 48/1 makes report of checking and certifying, which is false or which is not coincident with the fact and the court has made final judgment to punish according Section 56 of this Act, the Director-General shall revoke the license.

**Section 48/3**<sup>28</sup> : In case a licensee according to Section 48/1 is sued with a court for committing an offense according to Section 56 of this Act, the Director-General shall also have power to order suspension of license pending final judgment.

The licensee, whose license is being suspended, is prohibited to operate business according to such license.

**Section 48/4**<sup>29</sup> : The licensee, whose license is being suspended, has right to appeal to the Minister within thirty days from the date of acknowledgement of the order.

The order of the Minister shall be final.

Appeal to Minister shall not be a cause for an abatement of enforcement of license suspension.

**Section 49 :** In performing duty, the competent official must show identification card to concerned persons.

The I.D. Card of the competent officer shall be in accordance with the form prescribed in the Ministerial Regulations.

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<sup>26</sup> Section 48 /1 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>27</sup> Section 48 /2 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>28</sup> Section 48 /3 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>29</sup> Section 48 /4 added by the Energy Conservation Promotion Act (No.2) B.E. 2550.

## DIVISION 8

### APPEALS

**Section 50 :** The person who has been informed in writing, of the decision under Section 8, Clause three, who does not consent to the decision, may appeal to the Minister within thirty days of the date of being informed.

In this case, Department of Alternative Energy Development and Efficiency shall suspend any action until the Minister has made a decision and the appellant has already been informed of such decision.

**Section 51 :** The person who received a notice under Section 44, Clause one, who does not consent to the decision, may appeal to the minister within thirty days of the date of having been informed.

The appeal shall not be the cause to suspend lawful enforcement, except when the Minister deems appropriate to suspend lawful enforcement temporarily.

**Section 52 :** The Minister shall take prompt actions on the proceedings of the appeal under Section 50 and Section 51.

The decision of the Minister shall be treated as final.

## DIVISION 9

### PUNISHMENT

**Section 53 :** The owner of any designated factory who furnishes false information or false reasons under Section 8, Clause Three, shall be punished with imprisonment of not exceeding three months and a fine of not exceeding one hundred and fifty thousand Baht, or both.

**Section 54 :** Any owner of a designated factory who fails to comply with the instruction of the Director General under Section 10, or any owner of the designated building who fails to comply with the instruction of the Director General under Section 10, which applies mutatis mutandis under Section 21, shall be punished with a fine of not exceeding fifty thousand Baht.

**Section 55<sup>30</sup>** : Any owner of controlled factory, owner of controlled building or a person, who is responsible for energy does not comply with the Ministerial Regulation issued according to provision in Section 9 or Section 21, shall be punished by a fine of not exceeding two hundred thousand baht.

**Section 56<sup>31</sup>** : Any licensee for checking and certifying management of energy, use of energy in machine or equipment and quality of material or equipment for energy conservation according to Section 48/1 reports result of checking and certifying according to Section 47 (3), which is false or is not coincident with the fact must be punished by not exceeding three month imprisonment or a fine of not exceeding two hundred thousand baht or both.

**Section 57<sup>32</sup>**

**Section 58** : Any person who fails to send contributions to the Fund, or sends less than the full amount of contributions to the Fund, under Section 35, Section 36, or Section 37, shall be punished with imprisonment of three months to two years, or a fine of one hundred thousand Baht to ten million Baht, or both.

**Section 59** : Whoever obstructs or fails to accord facility to the competent officer in the execution of his duties under Section 47 (2) shall be punished with a fine of not exceeding five thousand Baht.

**Section 60** : In the event that the person who has committed an offence and shall be punished under this Act is a juristic person, the director or manager of such juristic person, or a person responsible for carrying out the business of such juristic person, shall also be punished likewise, unless he can prove that he has not part in committing such an offence.

**Section 61** : For any offence under this Act, the committee appointed by the Minister to settle the case, consisting of three law experts chosen from among government officials, shall have the power to settle the case. When the offender has paid the fine for the amount to be settles, within the limit of time determined by the Committee, the case shall be considered settled under the Criminal Procedure Code.

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<sup>30</sup> Section 55 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>31</sup> Section 56 amended by the Energy Conservation Promotion Act (No.2) B.E. 2550.

<sup>32</sup> Section 57 revoked by the Energy Conservation Promotion Act (No.2) B.E. 2550.

During the inquiry, if the inquiry officials finds that any person commits an offence under this Act, and such person consents to settle the case, the inquiry official shall refer the case to the Committee under Clause one hereof, within sever days counting from the date such person has shown consent

to settle the case

**Countersigned by**

**Mr. Anand Panyarachun**

**Prime Minister**

Unofficial Translation