

ENERGY CONSERVATION PROMOTION ACT,
B.E. 2535 (1992)**

BHUMIBOL ADULYADEJ, REX.
Given on the 23rd Day of March B.E. 2535;
Being the 47th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to have a law on energy conservation promotion;
Be it, therefore, enacted by the King by and with the advice and consent of
the National Legislative Assembly acting as the National Assembly, as follows:

Section 1. This Act is called the “Energy Conservation Promotion Act, B.E. 2535 (1992)”.

Section 2.¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“energy” means the capacity to do work embedded in the things that may produce work, i.e. renewable energy and non-renewable energy, and shall include the things that may produce work themselves such as combustible materials, heat and electricity;

“renewable energy” includes energy generated from wood, firewood, rice husk, bagasse, biomass, water, sunlight, geothermal, wind and waves etc.;

* Translated by Ms. Arriya Phasee under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

** As amended up to the Energy Conservation Promotion Act (No.2), B.E. 2550.

¹ Published in the Government Gazette Vol. 109, Part 33, Page 1, dated 2nd April 2535 (1992).

“non-renewable energy” includes energy generated from coal, oil shale, tar sand, crude oil, fuel, natural gas and nuclear etc.;

“combustible material” includes coal, oil shale, tar sand, fuel, natural gas, fuel gas, synthetic fuel, firewood, wood, rice husk, bagasse, garbage and other things as prescribed by the National Energy Policy Council by publishing in the Government Gazette;

“fuel” means gas, gasoline, aviation fuel, kerosene, diesel fuel, fuel oil, other kinds of oil similar to the aforesaid oil and other petroleum products as prescribed by the National Energy Policy Council by publishing in the Government Gazette;

“gas” means liquefied petroleum gas for cooking or liquefied hydrocarbon gas, i.e. propane, propylene, normal butane, isobutene or butylenes or a combination thereof as major components;

“refinery” means a fuel refinery or a place that produces and distributes fuel, and shall include a gas separation plant and a petrochemical and solvent plant;

“National Energy Policy Council” means the National Energy Policy Council under the law on National Energy Policy Council;

“energy conservation” means the production and use of energy in an efficient and economical manner;

“inspection” means exploration, measurement and data collection;

“factory” means a factory under the law on factory;

“owner of a factory” includes any person responsible for the administration of the factory;

“building” means a building under the law on building control;

“owner of a building” includes any other person having the building in his or her possession;

“Fund” means the Energy Conservation Fund;

“Fund Committee” means the Energy Conservation Fund Committee;

“competent official” means a person appointed by the Minister to execute this Act;

“Director-General” means the Director-General of Department of Alternative Energy Development and Efficiency or a person entrusted by the Director-General of Department of Alternative Energy Development and Efficiency;

“Minister” means the Minister of Energy.

Section 4. For the purpose of promotion of energy conservation under this Act, the National Energy Policy Council shall have the power and duties as follows:

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(1) to propose to the Council of Ministers policies, targets or measures on energy conservation;

(2) to propose to the Council of Ministers the issuance of Royal Decrees under section 8 and section 18;

(3)² to provide recommendation on the issuance of Ministerial Regulations under section 9, section 19, section 21 and section 23;

(4) to establish guidelines, criteria, conditions and priority for spending the Fund's money under section 28 (1);

(5) to determine the kind of fuel exempted from the contribution to the Fund under section 28 (5);

(6) to determine the rate of contributions to the Fund levied on fuel under section 35, section 36 and section 37;

(7) to approve the rate of special fees under section 43;

(8) to establish guidelines, criteria and conditions of the provision of promotion and assistance to factories, buildings, manufacturers or distributors of highly-efficient machinery or equipment and manufacturers or distributors of energy conservation materials under section 40;

(9) to perform any other acts stipulated in this Act.

The determination under (5) and (6) shall be published in the Government Gazette.

Section 5. Letters or orders addressed to any person for the execution of this Act shall be delivered by an official during the period from sunrise to sunset or during office hours of such person, or by registered post.

If delivery cannot be made in the manner prescribed under paragraph one for any reason, such letters or orders may be delivered by posting them at a noticeable place at the residence, office or house of which such person has been most recently listed in the household register under the law on civil registration, or by advertising their summary in newspapers normally circulated within that locality.

When such delivery has been made in the manner prescribed under paragraph two and a seven-day period has expired, it shall be deemed that such person has received such letters or orders.

² Section 4 (3) has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 6.³ The Prime Minister, the Minister of Energy, the Minister of Industry, the Minister of Finance and the Minister of Interior shall have charge and control over the execution of this Act on the parts related to their respective powers and duties.

The Minister of Energy shall have the power to appoint competent officials and issue Ministerial Regulations or Notifications, and shall have the power to prescribe other acts for the execution of this Act.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I ENERGY CONSERVATION IN FACTORIES

Section 7. Energy conservation in factories includes any of the following activities:

- (1) improvement in combustion efficiency of combustible materials;
- (2) prevention of energy loss;
- (3) recycling of energy left from consumption;
- (4) substitution of one type of energy by another type;
- (5) more efficient use of electricity through improvement in power factors, reduction of maximum power demand during the peak period capacity of the system, use of appropriate electrical equipment and other measures;
- (6) use of highly-efficient machinery or equipment including operational control systems and materials that contribute to energy conservation;
- (7) other means of energy conservation as prescribed in the Ministerial Regulations.

Section 8. The designation of any factory as a designated factory by type, size, amount of energy consumption or energy utilisation method shall be prescribed in Royal Decrees.

³ Section 6 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

The Royal Decrees under paragraph one shall come into force after the expiration of one hundred and twenty days from the date of their publication in the Government Gazette.

The owner of any designated factory consuming energy less than the capacity or amount prescribed in the Royal Decrees under paragraph one, who intends to continue that energy consumption level for not less than six consecutive months may submit the details together with reasons and file a request to the Director-General for exemption from compliance with this Act throughout such period. In the case that the request has been filed, the Director-General shall consider whether to grant or not grant the exemption and notify the result in writing to the owner of the designated factory at prompt.

Section 9.⁴ For the purpose of energy conservation in designated factories, the Minister by and with the advice of the National Energy Policy Council shall have the power to issue Ministerial Regulations on the following matters:

(1) establishment of the standards, criteria and procedures on energy management to be observed by owners of designated factories;

(2) requirements for owners of designated factories to arrange to have a person responsible for energy, stationed at each designated factory, as well as determination of qualifications and duties of the person responsible for energy.

The Ministerial Regulations under paragraph one may determine the type, category or size of any designated factory which is exempted from the compliance with any requirement, and the Ministerial Regulations may require technical or academic details or any other matters that rapidly change in accordance with the economic and social conditions to be subject to the criteria prescribed by the Minister by publishing in the Government Gazette.

Section 10. Where there are reasonable grounds, the Director-General may issue an order requiring any owner of a designated factory to furnish factual information concerning the energy consumption for inspection to assure that energy conservation measures are in compliance with the standards, criteria and procedures prescribed in the Ministerial Regulations issued under section 9, and such owner of the designated factory shall comply with such order within thirty days from the date of receipt of the order.

⁴ Section 9 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 11.⁵ (Repealed)

Section 12.⁶ (Repealed)

Section 13.⁷ (Repealed)

Section 14.⁸ (Repealed)

Section 15.⁹ (Repealed)

Section 16.¹⁰ (Repealed)

CHAPTER II ENERGY CONSERVATION IN BUILDINGS

Section 17. Energy conservation in buildings includes any of the following activities:

- (1) reduction of heat from the sunlight that enters the building;
- (2) efficient air-conditioning, including maintaining temperature in the building at an appropriate level;
- (3) use of construction materials that contribute to energy conservation and demonstration of qualities of such materials;
- (4) efficient use of light in the building;

⁵ Section 11 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

⁶ Section 12 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

⁷ Section 13 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

⁸ Section 14 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

⁹ Section 15 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

¹⁰ Section 16 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

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- (5) use and installation of machinery, equipment and materials that contribute to energy conservation in the building;
- (6) use of operational control systems for machinery and equipment;
- (7) other means of energy conservation as prescribed in the Ministerial Regulations.

Section 18. The designation of any building as a designated building by type, size, amount of energy consumption and energy utilisation method shall be prescribed in Royal Decrees.

Section 8, paragraph two and paragraph three shall apply, *mutatis mutandis*.

Section 19.¹¹ For the purpose of energy conservation in the buildings that will be constructed or modified, the Minister by and with the advice of the National Energy Policy Council shall have the power to issue Ministerial Regulations on the following matters:

- (1) determination of the type or size of the buildings to be constructed or modified that must be designed for energy conservation;
- (2) establishment of the standards, criteria and procedures for energy conservation design of the buildings under (1).

The Ministerial Regulations under paragraph one may require technical or academic details or any other matters that rapidly change in accordance with the economic and social conditions to be subject to the criteria prescribed by the Minister by publishing in the Government Gazette.

Section 20. In the issuance of the Ministerial Regulations under section 19, if the Building Control Committee under the law on building control has considered and approved to apply such Ministerial Regulations on the control of buildings under the law on building control, such Ministerial Regulations shall be deemed to have the same effect as the Ministerial Regulations issued under section 8 of the Building Control Act, B.E. 2522 (1979). In this regard, all persons having the power and duties under the law on building control shall have the power and duties to control and supervise to ensure compliance of building constructions or modifications with such Ministerial Regulations. In this case, even though the building that is classified as a designated building is in the locality where there is

¹¹ Section 19 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

no Royal Decree promulgating the law on building control, such building shall be deemed to be subject to the law on building control, but only to the relevant extent for the purpose of the execution of this Act.

Section 21.¹² For the purpose of energy conservation in designated buildings, the Minister by and with the advice of the National Energy Policy Council shall have the power to issue Ministerial Regulations on the following matters:

(1) establishment of the standards, criteria and procedures on energy management to be observed by owners of designated buildings;

(2) requirements for owners of designated buildings to arrange to have a person responsible for energy, stationed at each designated building, as well as determination of qualifications and duties of the person responsible for energy.

Section 9, paragraph two and section 10 shall apply, *mutatis mutandis*.

Section 22.¹³ (Repealed)

CHAPTER III

ENERGY CONSERVATION IN MACHINERY OR EQUIPMENT AND PROMOTION OF THE USE OF ENERGY CONSERVATION MATERIALS OR EQUIPMENT¹⁴

Section 23.¹⁵ For the purpose of energy conservation in machinery or equipment and promotion of the use of energy conservation materials or equipment, the Minister by and with the advice of the National Energy Policy Council shall have the power to issue Ministerial Regulations on the following matters:

¹² Section 21 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

¹³ Section 22 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

¹⁴ The title of Chapter III *Energy Conservation in Machinery, Equipment and Promotion of the Use of Energy Conservation Materials* has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

¹⁵ Section 23 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

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(1) establishment of the standards on energy utilisation efficiency of machinery or equipment;

(2) designation of any machinery or equipment as highly-efficient machinery or equipment by type, size, amount of energy consumption, energy conversion rate and level of energy utilisation efficiency;

(3) designation of any materials or equipment for energy conservation as energy conservation materials or equipment by type, quality and standard;

(4) requirements for manufacturers and distributors of machinery or equipment to demonstrate the energy efficiency indicators.

The manufacturer and distributor of highly-efficient machinery or equipment or of energy conservation materials or equipment under paragraph one (2) or (3) shall be entitled to receive promotion and assistance under section 40.

The Ministerial Regulations under paragraph one may require technical or academic details or any other matters that rapidly change in accordance with the economic and social conditions to be subject to the criteria prescribed by the Minister by publishing in the Government Gazette.

If the Industrial Product Standards Council under the law on industrial product standards deems it appropriate to require any industrial product standards or industrial products to comply with the standards on energy utilisation efficiency as provided in the Ministerial Regulations issued under this section, the Thai Industrial Standards Institute shall take action in accordance with the law on industrial product standards.

CHAPTER IV ENERGY CONSERVATION FUND

Section 24.¹⁶ There shall be established in the Ministry of Energy a fund called the “Energy Conservation Fund” to be expended as working capital and for providing assistance or subsidies for the implementation of energy conservation, consisting of the following money and properties:

(1) money transferred from the Oil Fund under the law on remedy and prevention of shortage of fuel in the amount prescribed by the Prime Minister;

¹⁶ Section 24 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

- (2) money contributed under section 35, section 36 and section 37;
- (3) special fees collected under section 42;
- (4) occasional subsidies from the government;
- (5) other money or properties obtained from the private sector, both domestic and abroad, foreign governments or international organisations;
- (6) money arising from any fruit and benefits incurred from this Fund.

The Ministry of Energy shall keep and maintain money and properties of the Fund and proceed with the disbursement of the Fund's money under this Act.

Section 24/1.¹⁷ All businesses, properties, rights, liabilities and money of the Energy Conservation Fund under the Ministry of Finance shall be transferred to the Energy Conservation Fund under this Act.

Section 25. The money of the Fund shall be spent for the following objectives:

- (1) to be used as working capital, aid money or subsidies for investing in and implementing energy conservation, or for solving environmental problems resulting from energy conservation conducted by official agencies or State enterprises;
- (2) to be used as working capital, aid money or subsidies to the private sector for investing in and implementing energy conservation, or for solving environmental problems resulting from energy conservation;
- (3) to be used as aid money or subsidies to official agencies, State enterprises, educational institutes or private organisations for the following matters:
 - (a) energy conservation programmes or programmes related to prevention and solution of environmental problems resulting from energy conservation;
 - (b) investigations, researches and studies of the development, promotion and conservation of energy, the prevention and solution of environmental problems resulting from energy conservation and the establishment of energy policies and plans;
 - (c) demonstration or pilot projects in relation to energy conservation or prevention and solution of environmental problems resulting from energy conservation;
 - (d) studies, trainings and meetings with respect to energy;

¹⁷ Section 24/1 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

(e) advertisements, information disseminations and public relations in relation to the development, promotion and conservation of energy and the prevention and solution of environmental problems resulting from energy conservation;

(4) to fund administrative costs of energy conservation promotion work to ensure compliance with this Act.

Section 26. A private organisation entitled to receive aid money or subsidies under section 25 (3) shall be a juristic person under Thai or foreign law, whose business is directly related to energy conservation or prevention and solution of environmental problems resulting from energy conservation and which does not have political objectives nor seek profits from carrying out such business.

Section 27.¹⁸ There shall be a Fund Committee, consisting of one Deputy Prime Minister assigned by the Prime Minister as Chairperson, the Minister of Energy, the Permanent Secretary of Ministry of Finance, the Permanent Secretary of Ministry of Energy, the Secretary-General of National Economic and Social Development Board, the Secretary-General of Thai Industrial Standards Institute, the Director-General of Comptroller General's Department, the Director-General of Department of Alternative Energy Development and Efficiency, the Director-General of Department of Public Works and Town & Country Planning, the Director-General of Department of Industrial Works, the President of Federation of Thai Industries, the President of Council of Engineers, the President of Architect Council of Thailand and not more than seven qualified persons appointed by the Council of Ministers as members, and the Director of Energy Policy and Planning Office as a member and secretary.

In appointing qualified members under paragraph one, consideration shall be given to the persons having the knowledge, expertise, past performance records and experience in relation to economics, finance, energy science and promotion and protection of environmental quality.

Section 28. The Fund Committee shall have the power and duties as follows:

¹⁸ Section 27, paragraph one has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

(1) to propose to the National Energy Policy Council guidelines, criteria, conditions and priority for spending the Fund's money according to the objectives stipulated in section 25;

(2) to consider allocating the Fund's money to be used in accordance with the objectives stipulated in section 25, provided that the allocation shall be in accordance with the guidelines, criteria, conditions and priority prescribed by the National Energy Policy Council under section 4 (4);

(3) to determine rules in relation to the criteria and procedures on application for allocation, aid money or subsidies from the Fund;

(4) to propose to the National Energy Policy Council the rate of contributions to the Fund levied on fuel;

(5) to propose to the National Energy Policy Council the kind of fuel exempted from the contribution to the Fund;

(6) to determine, with the approval of the National Energy Policy Council, the rate of special fees;

(7) to exempt special fees;

(8) to consider approving the applications 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) to determine rules in relation to the criteria and procedures on application for promotion and assistance under section 41;

(10) to perform any other acts stipulated in this Act.

The determination under (3), (7) and (9) shall be published in the Government Gazette.

Section 29. A qualified member shall hold office for a term of three years.

A qualified member who vacates office may be reappointed.

Section 30. In addition to vacating office on the expiration of term under section 29, a qualified member vacates office upon:

(1) death;

(2) resignation;

(3) being dismissed by the Council of Ministers on the grounds of negligence or dishonesty in the performance of duty or incapability;

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- (4) being bankrupt;
- (5) being incompetent or quasi-incompetent;
- (6) being subject to an imprisonment penalty by a final judgment to imprisonment, except for an offence committed through negligence or a petty offence.

Section 31. Where there is an appointment of a qualified member while the appointed qualified members are still in office, irrespective of being an additional appointment or an appointment to fill a vacancy, the appointee shall be in office for the remaining term of office of the qualified members already appointed.

Section 32. At the expiration of the term of office of a qualified member, if a new qualified member has not yet been appointed, the qualified member whose term of office has expired shall provisionally perform his or her duties until a new qualified member has been appointed.

Section 33. At a meeting of the Committee, the presence of not less than one-half of all members is required to constitute a quorum. If the Chairperson is not present at the meeting, the members present shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

Section 34.¹⁹ The Fund Committee shall have the power to appoint a sub-committee to consider or carry out the activities assigned by the Fund Committee, and to invite any person to come to give statements of fact, explanations, advice or opinions for the execution of its power and duties as necessary.

In appointing a sub-committee to consider or carry out the activity under section 28 (2), the Fund Committee may authorise the sub-committee to approve requests for change in the allocation of the Fund's money to businesses, work plans or projects to the extent not exceeding the financial limit allocated by the Fund Committee, in accordance with the rules prescribed by the Fund Committee.

¹⁹ Section 34 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

The sub-committee appointed by the Fund Committee under paragraph one may invite any person to come to give statements of fact, explanations, advice or opinions for the execution of its power and duties as necessary, and section 33 shall apply, *mutatis mutandis* to the meetings of the sub-committee.

Section 34/1.²⁰ Receipt, payment and custody of the Fund's money, disposal of the Fund's properties and the Fund's accounting shall be in accordance with the rules prescribed by the Fund Committee with the approval of the Ministry of Finance.

Section 34/2.²¹ The Fund Committee shall prepare and submit the financial statements to the Office of the Auditor-General of Thailand or the external party appointed by the Fund Committee with the approval of the Office of the Auditor-General of Thailand to be an auditor of the Fund, and shall audit and certify every category of accounts and finance of the Fund within ninety days from the last day of each fiscal year.

The Office of the Auditor-General of Thailand or the auditor under paragraph one shall prepare and submit a report on the audit and certification of the accounts and finance of the Fund to the Fund Committee within one hundred and fifty days from the last day of the fiscal year for further proposing to the National Energy Policy Council and the Council of Ministers for acknowledgement.

The Minister shall submit the report on the audit of the accounts and finance under paragraph two to the Prime Minister for further proposing to the National Assembly for acknowledgement and publication in the Government Gazette.

Section 35. A person who produces fuel at a refinery and distributes it for use in the Kingdom shall remit money to the Fund according to the amount of fuel produced and distributed for use in the Kingdom at the rate prescribed by the National Energy Policy Council.

The contribution to be given to the Fund under paragraph one shall be submitted to the Excise Department together with payment of excise taxes for such fuel, if any, in accordance with the rules prescribed by the Excise Department.

²⁰ Section 34/1 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

²¹ Section 34/2 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 36. A person who imports fuel for use in the Kingdom shall remit money to the Fund according to the amount of fuel imported for use in the Kingdom at the rate prescribed by the National Energy Policy Council.

The contribution to be given to the Fund under paragraph one shall be submitted to the Customs Department together with payment of taxes and duties for such fuel, if any, in accordance with the rules prescribed by the Customs Department.

Section 37. A person who purchases or acquires gas from the concessionaire under the law on petroleum who produces the gas from the separation of natural gas, shall remit money to the Fund at the rate prescribed by the National Energy Policy Council.

The contribution to be given to the Fund under paragraph one shall be submitted to the Department of Mineral Fuels* together with payment of royalty for such gas, if any, in accordance with the rules prescribed by the Department of Mineral Fuels*.

Section 38.²² In the case where a person having the duty to remit money to the Fund under section 35, section 36 or section 37 fails to remit money to the Fund or remits money to the Fund in an incomplete amount within the specified period of time via the Excise Department in the case of a person producing fuel at a refinery and distributing the same for use in the Kingdom or via the Customs Department in the case of a person importing fuel or via the Department of Mineral Fuels in the case of a person purchasing or acquiring gas from the concessionaire under the law on petroleum, the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be, shall proceed with the prosecution under section 58 at prompt, except for in the following cases:

(1) that person realises by himself or herself that such a case occurs, in which case, such person shall remit money equal to the amount required to be remitted or the deficit amount together with a surcharge at the rate of three percent per month of such amount calculated from the date on which the contribution to the Fund is due until the payment has been made in full to the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be;

(2) the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be, discovers that such a case occurs and has notified in writing to the person having the duty to remit money to the Fund to remit money to the

²² Section 38 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Fund within a specified period of time and such person has remitted money equal to the amount required to be remitted or the deficit amount together with a surcharge at the rate of six percent per month of such amount calculated from the date on which the contribution to the Fund is due until the payment has been made in full to the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be, within the specified period of time.

When the person having the duty to remit money to the Fund has taken action as specified in (1) or (2), such person shall not be guilty.

The surcharge shall be regarded as contributions to be made to the Fund, and in computing the period of time for the surcharge calculation under (1) or (2), any fraction of a month shall be deemed a full month.

Section 39. The money remitted to the Fund under section 35, section 36 and section 37 shall be regarded as expenses under the Revenue Code.

CHAPTER V MEASURES FOR PROMOTION AND ASSISTANCE

Section 40. A designated factory or a designated building which is required to arrange to have energy conservation measures together with machinery, equipment, tools, appliances and materials necessary for such purpose, or a manufacturer or distributor of highly-efficient machinery or equipment or of energy conservation materials, shall be entitled to apply for promotion and assistance as follows:

- (1) exemption from special fees under this Act;
- (2) aid money or subsidies from the Fund under section 25.

An owner of a factory or building, government official or State enterprise which does not have the duty to arrange to have energy conservation measures under paragraph one, but wishes to arrange to have machinery, equipment, tools, appliances or operational control systems for energy conservation purposes, shall be entitled to apply for promotion and assistance under paragraph one.

Section 41. An application for promotion and assistance under section 40 shall be filed with the Fund Committee in accordance with the rules prescribed by the Fund Committee.

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In considering granting approval for the application under paragraph one, the Fund Committee may employ any person or institute that is an expert or specialist to conduct a study and report or give opinions in support of consideration.

The Fund Committee shall consider approving the application for promotion and assistance in accordance with the guidelines, criteria and conditions prescribed by the National Energy Policy Council under section 4 (8) and notify the relevant governmental agencies to comply with the resolution of the Fund Committee with respect to the provision of promotion or assistance to the entitled person.

The Department of Energy Development and Promotion shall have a duty to monitor and assure that the person entitled to the promotion and assistance will receive promotion and assistance in accordance with paragraph three and report to the Fund Committee for acknowledgement.

CHAPTER VI SPECIAL FEES

Section 42.²³ After the expiration of three years from the effective date of the Ministerial Regulation issued under section 9 (1) or section 21 (1) in the case where any factory or building becomes a designated factory or designated building prior to or on the effective date of such Ministerial Regulation, or as from the date of becoming a designated factory or a designated building in the case of becoming a designated factory or a designated building after the effective date of such Ministerial Regulation, if any owner of a designated factory or owner of a designated building fails to comply with such Ministerial Regulation, he or she shall pay special fees for electricity consumption under this chapter.

The special fees for electricity consumption under paragraph one shall be collected from designated factories or designated buildings according to the amount of electricity purchased or acquired from the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority. The collection of such special fees shall be deemed to have the same effect as the collection of electricity charges under the law on the Electricity Generating Authority of Thailand, the law on the

²³ Section 42, paragraph one has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Metropolitan Electricity Authority or the law on the Provincial Electricity Authority, as the case may be.

Section 43. The Fund Committee, with the approval of the National Energy Policy Council, shall determine the rate of special fees for electricity consumption.

In determining the rate of special fees for electricity consumption under paragraph one, the difference between the rate of electricity charges paid by designated factories or designated buildings to the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority and the total cost for producing and distributing electricity at the same amount to the designated factories or designated buildings shall be taken into account.

The total cost under paragraph two means the investment cost in electricity generation and distribution systems, procurement cost for combustible materials for electricity generation, maintenance cost, administrative cost, loss in power systems and other expenses in the operation of electricity business, and shall include any impacts on the environment or the public arising from such electricity generation and distribution which are not a direct burden of the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority.

Section 44. In the case where special fees for electricity consumption are to be collected under section 42, the Director-General shall notify the owner of a designated factory or the owner of a designated building who must pay special fees for electricity consumption in writing, and the obligation to make the payment of special fees for electricity consumption shall commence from the first day of the month following the date of receipt of the notice from the Director-General.

The Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority shall collect special fees for electricity consumption from designated factories or designated buildings purchasing or acquiring electricity from them together with monthly payment of electricity charges, and shall remit the special fees to the Fund within thirty days from the date of receipt of the special fees for electricity consumption.

Section 45. During the period when a designated factory or a designated building is required to pay special fees for electricity consumption under this chapter, the Fund Committee may consider suspending the right to apply for promotion and assistance

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of such designated factory or designated building on a temporary basis or suspending or reducing the provision of promotion or assistance on a temporary basis in the case where such designated factory or designated building has already received the promotion and assistance, as deemed appropriate.

Section 46.²⁴ When the designated factory or the designated building which is required to pay special fees for electricity consumption has complied with the Ministerial Regulation issued under section 9 (1) or section 21 (1), the Director-General shall be informed accordingly.

The Director-General shall complete the inspection within thirty days from the date of being informed of whether or not the designated factory or the designated building has complied with the Ministerial Regulation issued under section 9 (1) or section 21 (1). In the case where such Ministerial Regulation has been complied with, the Director-General shall issue an order terminating the collection of special fees for electricity consumption and inform the designated factory or the designated building in writing.

The order terminating the collection of special fees for electricity consumption under paragraph two shall take effect as from the first day of the following month.

CHAPTER VII COMPETENT OFFICIALS

Section 47. In the execution of this Act, a competent official shall have the power as follows:

- (1) to issue a written summons requiring an owner of a designated factory or a designated building to come to give statements, facts or written explanations, or furnish any documents or evidence for examination or in support of consideration;
- (2) to enter a designated factory or a designated building during the period from sunrise to sunset or during office hours of such place for the purpose of inspection or execution of this Act. In this regard, the competent official shall have the power to inquire into facts or inspect the records on conditions of the factory, building, machinery and

²⁴ Section 46 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

equipment and other things related to energy conservation in the factory and building, including the execution of work of any person in such place, and shall have the power to inspect machinery and equipment or to take the samples of materials at reasonable quantities as practicable for inspection;

(3)²⁵ to inspect and certify energy management, energy consumption of machinery or equipment and quality of energy conservation materials or equipment to ensure compliance with this Act.

Section 48. In the execution of the duties of the competent official under section 47 (2), the owner of the designated factory or the owner of the designated building as well as the persons concerned or in such place shall render appropriate facilities.

Section 48/1.²⁶ In the case where it is required to inspect and certify energy management, energy consumption of machinery or equipment and quality of energy conservation materials or equipment under section 47 (3), the Director-General may grant a license to a person or a juristic person to perform such tasks on behalf of the competent official.

The determination of qualifications, the application for a license, the permission and the renewal of a license of a person or a juristic person under paragraph one shall be in accordance with the criteria, procedures and conditions prescribed in the Ministerial Regulations.

Section 48/2.²⁷ If any licensee under section 48/1 reports the result of the inspection and certification under section 47 (3) falsely or incorrectly and the court has rendered a final judgment imposing the penalty under section 56 of this Act, the Director-General shall order to revoke the license.

²⁵ Section 47 (3) has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

²⁶ Section 48/1 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

²⁷ Section 48/2 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 48/3.²⁸ In the case where a licensee under section 48/1 is prosecuted in the court for an offence under section 56 of this Act, the Director-General may suspend the license pending the final judgment of the court.

The licensee whose license has been suspended may not operate the business under such license.

Section 48/4.²⁹ The licensee whose license has been suspended shall have the right to appeal to the Minister within thirty days from the date of acknowledgement of the suspension order.

The order of the Minister shall be final.

The appeal against the Minister's order under paragraph one shall not be cause to suspend the enforcement of the license suspension order.

Section 49. In the execution of the duties, the competent official shall produce his or her identification card to the persons concerned.

The identification card of a competent official shall be in accordance with the form prescribed in the Ministerial Regulations.

CHAPTER VIII

APPEALS

Section 50. Any person who receives a written notice of the result under section 8, paragraph three, who does not consent to such notice shall appeal to the Minister within thirty days from the date of receipt of the notice.

In this case, the Department of Energy Development and Promotion shall suspend any action until the Minister's decision has been issued and notified to the appellant.

²⁸ Section 48/3 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

²⁹ Section 48/4 has been added by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 51. Any person who receives a written notice under section 44, paragraph one, who does not consent to such notice shall appeal to the Minister within thirty days from the date of receipt of the notice.

The appeal shall not be cause to suspend the enforcement of law, except when the Minister finds it appropriate to suspend such enforcement of law temporarily.

Section 52. In considering the appeal under section 50 and section 51, the Minister shall act promptly.

The decision of the Minister shall be final.

CHAPTER IX PENALTY PROVISIONS

Section 53. An owner of any designated factory who notifies the details or reasons under section 8, paragraph three falsely, shall be liable to imprisonment for a term of not exceeding three months or to a fine not exceeding one hundred and fifty thousand baht or to both.

Section 54. Any owner of a designated factory who fails to comply with the order of the Director-General issued under section 10 or any owner of a designated building who fails to comply with the order of the Director-General issued under section 10, which applies, *mutatis mutandis* pursuant to section 21, shall be liable to a fine not exceeding fifty thousand baht.

Section 55.³⁰ Any owner of a designated factory, owner of a designated building or person responsible for energy who fails to comply with the Ministerial Regulations issued under section 9 or section 21 shall be liable to a fine not exceeding two hundred thousand baht.

³⁰ Section 55 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

Section 56.³¹ Any person who has been licensed to perform the inspection and certification of energy management, energy consumption of machinery or equipment and quality of energy conservation materials or equipment under section 48/1, who reports the result of the inspection and certification under section 47 (3) falsely or incorrectly, shall be liable to imprisonment for a term of not exceeding three months or to a fine not exceeding two hundred thousand baht or to both.

Section 57.³² (Repealed)

Section 58. Any person who fails to remit money to the Fund or remits money to the Fund in an incomplete amount under section 35, section 36 or section 37 shall be liable to imprisonment for a term of three months to two years, or to a fine of one hundred thousand baht to ten million baht, or to both.

Section 59. Any person who obstructs or fails to provide convenience to a competent official who performs the duty under section 47 (2) shall be liable to a fine not exceeding five thousand baht.

Section 60. In the case where the offender liable under this Act is a juristic person, the director or manager of such juristic person or any person responsible for the operation of such juristic person shall also be liable for the punishment prescribed for such offence, except where such person can prove that he or she was not involved in such offending act.

Section 61. All offences under this Act may be settled by a settlement committee appointed by the Minister, consisting of three government officials who are qualified in law. Upon payment by the offender of the settled amount of the fine within the time specified by the settlement committee, the case shall be deemed settled under the Criminal Procedure Code.

In the investigation, if an investigating officer has found any person committing the offence under this Act and such person has consented to the settlement,

³¹ Section 56 has been amended by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

³² Section 57 has been repealed by the Energy Conservation Promotion Act (No. 2), B.E. 2550 (2007).

the investigating officer shall forward the matter to the settlement committee under paragraph one within seven days from the date on which such person consents to the settlement.

Countersigned by:

Anand Panyarachun

Prime Ministe

Office of the Council of State

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