

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

BHUMIBOL ADULYADEJ, REX.
Given on the 3rd Day of February 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 revise the law on National Energy Authority;
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 Development and 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. The following shall be repealed:

- (1) National Energy Authority Act, B.E. 2496 (1953);
- (2) National Energy Authority Act (No. 2), B.E. 2507 (1964);
- (3) National Energy Authority Act (No. 3), B.E. 2522 (1979);
- (4) National Energy Authority Act (No. 4), B.E. 2530 (1987).

All other laws, rules and by-laws insofar as they have already been provided herein, or are in conflict or inconsistent with the provisions of this Act, shall be replaced by this Act.

* 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.

¹ Published in the Government Gazette Vol. 109, Part 9, Page 9, dated 12th February 2535 (1992).

Section 4. Any provision of laws, regulations, by-laws, rules, notifications, orders or Council of Ministers' resolutions making reference to the National Energy Administration and the Secretary-General of National Energy Administration shall be deemed as making reference to the Department of Alternative Energy Development and Efficiency and the Director-General of Department of Alternative Energy Development and Efficiency, respectively.

Section 5. 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.;

“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, wood, firewood, rice husk, bagasse, garbage and other things as prescribed by the National Energy Policy Council by publishing in the Government Gazette;

“regulated energy” means energy which is designated to be under the control in accordance with the provisions of this Act, except petroleum under the law on petroleum;

“competent official” means an official of the Department of Alternative Energy Development and Efficiency, and shall include an official of Ministries, *Ta-buang*s, Departments, local official agencies and State enterprises designated by this Act as the competent official;

“Director-General” means the Director-General of Department of Alternative Energy Development and Efficiency;

“Minister” means the Minister having charge and control over the execution of this Act.

Section 6. The Department of Alternative Energy Development and Efficiency shall have the power and duties as follows:

(1) to conduct exploration, data collection, analysis, testing and inspection of energy in terms of its sources, production, transformation, transmission and utilisation;

(2) to study, plan and launch energy-related projects and related activities;

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(3) to research and develop, demonstrate and cause to establish pilot projects related to energy production, transformation, transmission, utilisation and resource conservation;

(4) to design, build and maintain production sources, transformation sources, transmission systems and utilisation systems of energy such as electricity generation from renewable energy and new energy sources, production of combustible materials from biomass and water pumping by electricity;

(5) to establish rules and standards in relation to energy production, transformation, transmission, utilisation and resource conservation and control and supervise to ensure compliance with such rules and standards;

(6) to determine the rate of remuneration for energy consumption under the operation of the Department of Alternative Energy Development and Efficiency;

(7) to provide, control, build, purchase, sell, rent, rent out, transfer or accept transfer of production sources, transformation sources, transmission systems and distribution systems of energy, and to issue licenses for energy production or expansion of energy production;

(8) to conduct a technology transfer, provide promotion and training and disseminate information in relation to energy production, transformation, transmission, utilisation and resource conservation, as well as to act as the centre for coordination in related activities.

Section 7. The Director-General shall have the duties to control and exercise general supervision over the official services of the Department of Alternative Energy Development and Efficiency and to command government officials and employees of the Department of Alternative Energy Development and Efficiency.

Section 8. In the execution of its power and duties, the Department of Alternative Energy Development and Efficiency may assign Ministries, *Ta-buang*s, Departments, local official agencies or State enterprises to perform specific work on its behalf.

Section 9. In the case where the Department of Alternative Energy Development and Efficiency has assigned Ministries, *Ta-buang*s, Departments, local official agencies or State enterprises to perform specific work on its behalf, such agencies shall perform such work accordingly, and for the purpose of the execution of duties under this

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Act, the official of such Ministries, *Ta-buang*s, Departments, local official agencies or State enterprises, who performs the assigned work shall be a competent official and shall have the same power and duties as those of a competent official of the Department of Alternative Energy Development and Efficiency as stipulated in this Act.

In assigning the power and duties to Ministries, *Ta-buang*s, Departments, local official agencies or State enterprises to perform work, the Department of Alternative Energy Development and Efficiency may transfer funds to such Ministries, *Ta-buang*s, Departments, local official agencies or State enterprises for spending on items approved under the budget of the Department of Alternative Energy Development and Efficiency.

Section 10. In executing the power and duties under section 6, the Department of Alternative Energy Development and Efficiency may request Ministries, *Ta-buang*s, Departments, local official agencies, State enterprises or any persons to submit technical, financial or statistical details and details on other necessary matters.

Section 11. In executing the official services of the Department of Alternative Energy Development and Efficiency, the competent official shall have the power to enter any place during the period from sunrise to sunset or during office hours of such place to inquire into facts from persons who are in such place or inspect any documents or things related to energy business, as necessary. In this regard, the occupants of such place shall render appropriate facilities to the competent official.

In the case where the competent official intends to enter the place under paragraph one, if it is not a case of emergency, the occupants of such place shall be informed in writing at least three days in advance.

Section 12. 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 by the Minister in the Ministerial Regulations.

Section 13. A competent official under this Act shall be an officer under the Criminal Code.

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Section 14. A competent official shall have the power to use or possess, on a temporary basis, immovable properties under possession of any person, which are not places of residence, subject to the following conditions:

(1) such use or possession is necessary for the survey of production sources, transmission systems or distribution systems of energy, or for the prevention from dangers or damages which may occur to energy production, transmission or distribution; and

(2) The owners or occupants of such immovable properties have been informed not less than fifteen days in advance.

In the case of any damage to the owners or occupants of the immovable properties or other right-holders as a result of the action of the competent official under paragraph one, such persons may demand compensation from the Department of Alternative Energy Development and Efficiency, and if the amount of compensation cannot be agreed on, section 22 and section 23 shall apply, *mutatis mutandis*.

Section 15. When it is necessary to acquire immovable property for use in energy production, transmission or distribution, if no agreement is made on the transfer to be otherwise, an expropriation shall be carried out in accordance with the law on expropriation of immovable property.

Section 16. When it is necessary for the benefit of the community, the Department of Alternative Energy Development and Efficiency shall have the power to establish energy stations, install energy lines or pipelines under, above, along or across the ground of any person or insert or install poles or equipment in or on the ground of any person, which is not a housing location.

In the case where any part of land is required to be used for the action under paragraph one, the Department of Alternative Energy Development and Efficiency shall pay compensation for the use of such land to the owners or occupants in a fair amount of money, unless the owners or occupants also gain worthwhile benefits from such action.

Section 17. For the benefit of the community, the Department of Alternative Energy Development and Efficiency shall have the power to install energy lines or pipelines attached to the structures of any person that are above or adjacent to public thoroughfares.

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Section 18. Before the Department of Alternative Energy Development and Efficiency will carry out the action under section 16 or section 17, the Department of Alternative Energy Development and Efficiency shall notify the relevant owners or occupants of the property in writing. The owners or occupants of the property may, within fifteen days from the date of receipt of the notice, file a petition against such action on the grounds of unjustifiable cause with the Minister for consideration and decision. In this case, the Department of Alternative Energy Development and Efficiency shall suspend the action until the petitioner has been informed of the decision of the Minister.

The decision of the Minister shall be final.

Section 19. For the purpose of safety in energy transmission, the Department of Alternative Energy Development and Efficiency shall have the power to cut trunks, branches or roots of trees that are close to energy lines or pipelines or equipment, provided that notice is given to the owners or persons in possession of the trees in advance within a reasonable time.

If the trees exist before the establishment of the energy station or the installation of the energy lines or pipelines or the installation of the poles or equipment, the Department of Alternative Energy Development and Efficiency shall pay compensation to those who have an interest in such trees for the damage caused by such action.

Section 20. If an owner or occupant of the property involved wishes to build anything or conduct any activity on the land where energy lines or pipelines or equipment causes an obstruction, such owner or occupant may request the Department of Alternative Energy Development and Efficiency to move, remove, modify or alter such obstruction. When it is deemed appropriate, the Department of Alternative Energy Development and Efficiency shall proceed with the execution of the request at the sole expense of the owner or occupant of the property.

Section 21. In the case of necessity and urgency, a competent official may enter the premises of any person at any time to inspect, repair or fix energy lines or pipelines or equipment, provided that the owners or occupants must be notified beforehand.

Section 22. In the case where the owners or occupants of the property or other right-holders do not agree with the amount of compensation paid by the Department

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of Alternative Energy Development and Efficiency under section 16 or section 19 or the owners or occupants of the property or other right-holders could not be found, the Department of Alternative Energy Development and Efficiency shall place such amount of compensation with the court or the Deposit of Property Office or deposit it with the Government Savings Bank in the name of the owners or occupants of the property or other right-holders, separately in each individual account. Any interest or fruit incurred from such deposit shall vest in the owners or occupants of the property or such other right-holders.

When the Department of Alternative Energy Development and Efficiency has placed the compensation with the court or the Deposit of Property Office or deposited it with the Government Savings Bank under paragraph one, the Department of Alternative Energy Development and Efficiency shall notify the owners or occupants of the property or other right-holders in writing by mail with return receipt requested. In the case where the owners or occupants of the property or other right-holders could not be found, a notice shall be published on at least two consecutive days in a daily newspaper circulating in the locality in order to allow the owners or occupants of the property or other right-holders to know.

Criteria and procedures in placing the compensation with the court or the Deposit of Property Office or depositing the compensation with the Government Savings Bank and procedures in receiving such compensation shall be in accordance with the rules prescribed by the Minister.

Section 23. In the case where the owners or occupants of the property or other right-holders are not satisfied with the amount of compensation paid by the Department of Alternative Energy Development and Efficiency, regardless of whether or not such persons have received or rejected the compensation placed or deposited by the Department of Alternative Energy Development and Efficiency, such persons shall have the right to file a lawsuit with the court within one year from the date on which the Department of Alternative Energy Development and Efficiency has carried out the action under section 22, paragraph two.

The filing of a lawsuit with the court under paragraph one shall not be cause to interrupt the possession or use of immovable properties or any actions of a competent official under section 16 or section 19.

In the case where the court has decided to increase the payment of compensation, the owners or occupants of the property shall be entitled to interest at the maximum rate of interest for fixed deposits of the Government Savings Bank for such

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increment, calculated from the date on which the compensation is required to be paid, placed or deposited.

In the case where the owners or occupants of the property or other right-holders have agreed and received the compensation or did not file a lawsuit to claim compensation with the court within the period of time under paragraph one or have notified in writing to waive the right to receive such compensation, any person may no longer claim such compensation.

Section 24. The designation of any energy as regulated energy by type, capacity and production or utilisation method shall be prescribed in Royal Decrees.

Section 25. No person may produce or expand the production of regulated energy, unless a license has been obtained from the Department of Alternative Energy Development and Efficiency.

The application for a license and the issuance of a license shall be in accordance with the criteria and procedures prescribed in the Ministerial Regulations.

For the production of any regulated energy for which a license or concession under other laws is required, the license or concession under such other laws shall also be obtained.

Section 26. In prescribing the criteria in the Ministerial Regulations under section 25, the following matters shall be taken into account:

- (1) effects on the environment, economy and security of the nation;
- (2) dangers which may arise from production or expansion of production of energy;
- (3) technical use of raw materials or natural objects.

Section 27. The Department of Alternative Energy Development and Efficiency shall complete the consideration of the application for a license under section 25 within one hundred and twenty days from the date on which the Department of Alternative Energy Development and Efficiency has received the application with correct and complete details as prescribed in the Ministerial Regulations.

In granting a license, the Department of Alternative Energy Development and Efficiency may prescribe the following conditions:

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(1) maximum rate of remuneration to be charged to users of regulated energy in accordance with the criteria and conditions of the National Energy Policy Council;

(2) specific area of energy distribution and capacity of the machinery to be installed for the production process;

(3) measures that are technically accurate for such as installation of energy lines, fire protection, machinery loss prevention, hazard prevention or classification of types or application methods of raw materials or natural objects used in the production of regulated energy.

Section 28. In the occasional case where regulated energy shortage may occur or in other cases where it is necessary for the economic benefits of the nation, the Director-General shall have the power to issue a written order requiring the producers of regulated energy to perform the following:

(1) to decrease or increase the production, distribution or utilisation of regulated energy;

(2) to change the type of raw materials or natural objects used in the production of regulated energy;

(3) to change the maximum rate of remuneration to be charged to users of regulated energy.

Section 29. For the purpose of protection or prevention of harm which may occur to persons or properties, or for public hygiene or national security, the Director-General shall have the power to issue a written order requiring the producers of regulated energy to perform the following:

(1) to modify, repair or improve buildings, machinery, equipment, tools or appliances;

(2) to provide or construct anything which can eliminate or prevent harm;

(3) to refrain from producing, transmitting, using or distributing regulated energy on a temporary basis until the action under (1) or (2) has been complied with.

Section 30. In exercising the power under section 28 or section 29, the Department of Alternative Energy Development and Efficiency shall also take into account the additional expenses to be incurred or the ability to raise funds of the producers of regulated energy.

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The Department of Alternative Energy Development and Efficiency may assist in fundraising so that the producers of regulated energy are able to comply with the orders.

Section 31. If the person who has not been granted a license under section 25 or who has been granted a license with any condition under section 27 or who has been given an order under section 28 or section 29 does not consent to such non-granting, condition or order, he or she shall have the right to appeal to the Minister within thirty days from the date of acknowledgement of such non-granting or the date of receipt of the license with a condition or the order.

The Minister shall complete his or her consideration and decision on the appeal within ninety days from the date of receipt of the appeal. If the appellant does not agree to the appeal decision, he or she may bring the case to the court within forty-five days from the date of receipt of the appeal decision.

Section 32. No person may carry out any act that may be an obstacle to the production of regulated energy or cause a reduction in the production of regulated energy without valid reason.

Section 33. Any person who obstructs or fails to provide appropriate convenience to a competent official who performs the duty under section 11, section 14, section 16, section 17, section 19 or section 21, shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding one thousand baht or to both.

Section 34. Any person who violates section 25 shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding twenty thousand baht or to both.

Section 35. Any person who fails to comply with the order of the Director-General issued under section 28 or section 29 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding ten thousand baht or to both.

Section 36. Any person who violates section 32 shall be liable to imprisonment for a term of not exceeding one year or to a fine not exceeding ten thousand baht or to both.

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Section 37. In carrying out the proceedings under this Act, the public prosecutor shall have the power to file a motion with the court for an order directing the offender to comply with his or her duties under this Act.

Section 38. For any matter within the power and duties of the National Energy Committee which has been carried out under such power and duties pursuant to the National Energy Authority Act, B.E. 2496 (1953) prior to the effective date of this Act, but not completed or under a commitment to carry on, the Minister shall have the power to give instructions on behalf of the National Energy Committee.

Section 39. All Royal Decrees, Ministerial Regulations or Orders issued under the National Energy Authority Act, B.E. 2496 (1953) in effect prior to or on the effective date of this Act shall continue in force insofar as they are not in conflict or inconsistent with this Act until the Royal Decrees, Ministerial Regulations, Rules or Orders issued under this Act come into force, but for a period of not exceeding one year from the effective date of this Act.

Section 40. All permissions or licenses issued under the National Energy Authority Act, B.E. 2496 (1953) prior to or on the effective date of this Act shall continue in force until the expiry of such permissions or licenses.

Section 41. The Minister of Energy shall have charge and control over the execution of this Act and shall have the power to issue Ministerial Regulations or prescribe other acts for the execution of this Act.

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

Countersigned by:

Anand Panyarachun

Prime Minister

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