

**Energy Conservation Promotion Act, B.E. 2535 (1992)**

As amended by Energy Conservation Promotion Act (No.2), B.E. 2550 (2007)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 23<sup>rd</sup> day of March, B.E. 2535;

Being the 47<sup>th</sup> 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 promotion of energy conservation;

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 "Promotion of Energy Conservation Act, B.E. 2535".

**Section 2**

This Act shall come into force as from the day following the date of its publication in the Government Gazette.<sup>(1)</sup>

**Section 3**

In this Act:

"Energy" means the quality of being capable to perform work embedded in thing that may produce work such as renewable energy and nonrenewable energy, including thing that may produce work itself, e.g. flammable material, heat, electricity etc;

"Renewable energy" includes energy generated from wood, firewood, rice husk, bagasse, biomass, water, sunlight, geothermal, wind, wave etc;

"Non-renewable energy" includes energy generated from coal, oil shale, tar sand, crude oil, fuel, natural gas, nuclear etc;

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

"Fuel" means gas, gasoline, aviation fuel, kerosene, diesel, fuel oil and other kinds of oil having similar properties as the aforesaid oil and other petroleum products as notified by the National Energy Policy Council by publishing in the Government Gazette;

"Gas" means each of, or any compound that its major components consist of, liquefied petroleum gas for cooking or liquefied hydrocarbon gas, i.e. Propane, Propylene, Normal Butane, Isobutene or Butylenes;

"Refinery" means a fuel refinery, place for production and distribution of fuel as well as gas refinery and petrochemical and solvent industrial plants;

"National Energy Policy Council" means the National Energy Policy Council under the law on national energy policy council;

"Energy conservation" means efficient and economic generation and consumption of energy;

"Inspect" means survey, enumeration and collection of data;

"Factory" means a factory under the law on factory;

"Owner of factory" includes any person responsible for the administration of factory;

"Building" means a building under the law on building control;

"Owner of building" includes any person having building in his possession;

"Fund" means the Promotion of Energy Conservation Fund;

"Board" means the Board of the Promotion of Energy Conservation Fund;

"Competent official" means a person appointed by the Minister for the execution of this Act;

"Director-General" means the Director-General of the Department of Alternative Energy Development and Efficiency or a person appointed by the Director-General of the 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 powers and duties as follows:

- (1) to propose policy, target or measure on energy conservation to the Council of Ministers;
- (2) to propose the Council of Ministers for the issuance of the Royal Decrees under Section 8 and Section 18;
- (3)<sup>(2)</sup> to give recommendations for the issuance of the Ministerial Regulations under Section 9, Section 19, Section 21 and Section 23;
- (4) to lay down guideline, rule, condition and priority for spending of the Fund under Section 28 (1);
- (5) to determine the kind of fuel exempted from remitting levy to the Fund under Section 28 (5);
- (6) to determine the rate of levy to be remitted to the Fund for fuel under Section 35, Section 36 and Section 37;
- (7) to give approval to surcharge rate under Section 43;
- (8) to lay down guideline, rule and condition providing promotion and assistance to factory, building, manufacturer or distributor of highly efficient machine or equipment and manufacturer or distributor of material used for energy conservation under Section 40;
- (9) to perform any duties as prescribed by this Act.

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

#### **Section 5**

The letter or order requiring any person to act in compliance with this Act shall be sent by the competent official between sunrise and sunset or during working hours of that person or by registered mail.

If it is unable to make sending by the methods under paragraph one by whatever reason, that letter or order shall be sent by posting at the conspicuous position at the residence, office or dwelling in which such person is lastly registered as inhabitant thereto under the law on registration of inhabitant or by publishing the summary thereof in a local normally newspapers circulated within that locality.

It shall be deemed that the letter or order sent by the methods under paragraph two has been received by such person at the expiration of seven days as from the sending date.

## **Section 6**<sup>(3)</sup>

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 of the execution of this Act in relation to their respective powers and duties.

The Minister of Energy shall have the power to appoint the competent official and issue the Ministerial Regulation or Notification and to determine other acts for the execution of this Act.

Such Ministerial Regulation and Notification shall come into force upon their publication in the Government Gazette.

## **CHAPTER I**

### **Energy Conservation for Factory**

## **Section 7**

Energy conservation for factory means:

- (1) to enhance fuel combustion efficiency;
- (2) to prevent energy loss;
- (3) to reuse energy left from consumption;
- (4) to switch to use other kinds of energy;
- (5) to improve electrical energy consumption by adjusting power factor, reducing maximum electrical energy demand at the peak time of system, using electrical utilities appropriately or by other measures;
- (6) to use highly efficient machine or equipment, control system and energy conservation material;
- (7) other energy conservation measures as prescribed by Ministerial Regulation.

## **Section 8**

The determination of factory of any category, amount or quantity of energy consumption or energy consumption measure to be controlled factory shall be made by Royal Decree.

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

The owner of any controlled factory which consumes energy less than the amount or quantity as prescribed by the Royal Decree under paragraph one and intends to continue that energy consumption level for at least six months may request the Director-General, together with detailed information and reasons thereof, for exemption from the execution of this Act through the aforesaid period. In this case, the Director-General shall notify the result of his consideration in writing to the owner of such controlled factory without delay.

## **Section 9**<sup>(4)</sup>

For the purpose of energy conservation of controlled factory, the Minister shall, with the advice of the National Energy Policy Council, have the power to issue the Ministerial Regulations:

- (1) establishing standard, rule and procedure on energy management to be complied with by the owner of the controlled factory;
- (2) requiring the owner of the controlled factory to nominate energy officer of each controlled factory and determining qualification and duty of energy officer.

The Ministerial Regulation under paragraph one may prescribe category, kind or size of any controlled factory to be exempted from the execution on any matter and may prescribe technical and academic details or other matters which their natures have changed

responsively to economic and social conditions to be in accordance with the rule as notified by the Minister by publishing in the Government Gazette.

#### **Section 10**

The Director-General shall, upon a reasonable ground, have the power to make an order requiring the owner of any controlled factory to give statement in concerning with energy consumption for examination so as to make energy conservation to be in accordance with the standard, rule and procedure as prescribed by the Ministerial Regulation under Section 9. In this case, such person shall act in compliant therewith within thirty days as from the date he receives such order.

#### **Section 11**<sup>(5)</sup>

*(Repealed)*

#### **Section 12**<sup>(6)</sup>

*(Repealed)*

#### **Section 13**<sup>(7)</sup>

*(Repealed)*

#### **Section 14**<sup>(8)</sup>

*(Repealed)*

#### **Section 15**<sup>(9)</sup>

*(Repealed)*

#### **Section 16**<sup>(10)</sup>

*(Repealed)*

## **CHAPTER II**

### **Energy Conservation for Building**

#### **Section 17**

Energy conservation for buildings means:

- (1) to reduce heat from sun glare into building;
- (2) to enhance efficient air-conditioning and to maintain appropriate temperature within building;
- (3) to use construction material which enable energy conservation and to demonstrate quality of that material;
- (4) to enhance efficient illumination in the building;
- (5) to use and equip machine, equipment and material which enable energy conservation for building;
- (6) to equip operating control system for machine and equipment;
- (7) to carry out other energy conservation measures as prescribed by Ministerial Regulation.

#### **Section 18**

The determination of building of any category, amount or quantity of energy consumption or energy consumption measure to be controlled building shall be made by Royal Decree.

The provisions of Section 8 paragraph two and paragraph three shall apply therewith *mutatis mutandis*.

### **Section 19**<sup>(11)</sup>

For the purpose of energy conservation for building to be constructed or modified, the Minister shall, with the advice of the National Energy

Policy Council, have the power to issue the Ministerial Regulations:

- (1) prescribing category or size of building to be constructed or modified to have energy conservation design;
- (2) prescribing standard, rule and procedure for energy conservation design of building under (1).

The Ministerial Regulation issued under paragraph one may prescribe technical and academic details or other matters which their natures have changed responsively to economic and social conditions to be in accordance with the rule as notified by the Minister by publishing in the Government Gazette.

### **Section 20**

Upon the issuance of the Ministerial Regulation under Section 19, if the Building Control Committee under the law on building control gives its approval for the enforcement of such Ministerial Regulation as the building control measure under the law on building control, such Ministerial Regulation is deemed to be the Ministerial Regulation issued under Section 8 of the Building Control Act, B.E. 2522. In this regard, all officials having the powers and duties under the law on building control shall have the powers and duties to control and supervise building's construction or modification to be in compliance with such Ministerial Regulation. In this case, the building under the definition of controlled building, despite it is located in the locality that having no Royal Decree promulgating the law on building control, is deemed to be subjected to the law on building control particularly to any act which shall be done for the compliance with this Act.

### **Section 21**<sup>(12)</sup>

For the purpose of energy conservation for controlled building, the Minister shall, with the advice of the National Energy Policy Council, have the power to issue the Ministerial Regulations:

- (1) prescribing standard, rule and procedure on energy management to be complied with by the owner of controlled building;
- (2) requiring the owner of the controlled building to nominate energy officer of each controlled building and determining qualification and duty of energy officer.

The provisions of Section 9 paragraph two and Section 10 shall apply *mutatis mutandis*.

### **Section 22**<sup>(13)</sup>

*(Repealed)*

## **CHAPTER III**<sup>(14)</sup>

### **Energy Conservation for Machine or Equipment and Enhancing the Use of Energy Conservation Material or Equipment**

### **Section 23**

For the benefit of energy conservation for machine or equipment and enhancing the use of energy conservation material or equipment, the Minister shall, with the advice of the National Energy Policy Council, have the power to issue the Ministerial Regulations:

- (1) prescribing efficient energy consumption standard for machine or equipment;
- (2) classifying machine or equipment as highly efficient machine or equipment with due regard to its category, amount and quantity of energy consumption, energy conversion rate and energy efficiency;

- (3) determining material or equipment for energy conservation of any category, quality and standard as material or equipment for energy conservation;
- (4) requiring a manufacturer and distributor of machine or equipment to demonstrate the energy enhancement factor thereof.

The manufacturer and distributor of highly efficient machine or equipment or material or equipment under paragraph one (2) or (3) may apply for promotion and assistance under Section 40.

The Ministerial Regulation under paragraph one may prescribe technical and academic details or other matters which their natures have changed responsively to economic and social conditions to be in accordance with the rule as notified by the Minister by publishing in the Government Gazette.

If the Industrial Product Standards Council under the law on industrial product standard deems it is appropriate to make any industrial product standard or any industrial product in compliant with the efficient energy consumption standard as prescribed by the Ministerial Regulation issued under this Section, Thai Industrial Standards Institute shall proceed further in accordance with the law on industrial product standard.

## **CHAPTER IV**

### **Promotion of Energy Conservation Fund**

#### **Section 24**<sup>(15)</sup>

There shall be established the "Promotion of Energy Conservation Fund" as revolving fund in the Ministry of Energy for supporting or subsidizing any undertaking in relation to energy conservation. The Fund consists of the following money and properties:

- (1) money transferred from the Fuel Fund under the law on remedy for and prevention of fuel shortage in the amount as determined by the Prime Minister;
- (2) levy remitted under Section 35, Section 36 and Section 37;
- (3) surcharge under Section 42;
- (4) government subsidy occasionally;
- (5) money or property obtained from private sector, domestic and abroad, foreign government or international organization;
- (6) money arising from fruits and benefit of the Fund.

The Ministry of Energy shall maintain money and properties of the Fund and shall disburse money from the Fund under this Act.

#### **Section 24/1**<sup>(16)</sup>

All affairs, properties, rights, obligations and money of the Promotion of Energy Conservation Fund of the Ministry of Finance shall be transferred to the Promotion of Energy Conservation Fund under this Act.

#### **Section 25**

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

- (1) being revolving fund, aid or subsidy for the investment in, and the carrying out of, energy conservation or for the revision of environmental problem arising from energy conservation of government agency or State enterprise;
- (2) being revolving fund, aid or subsidy for the investment in, and the carrying out of, energy conservation or for the revision of environmental problem arising from energy conservation of private entity;

- (3) being aid or subsidy for government agency, State enterprise, education institution or non-governmental organization in carrying out the following matters:
  - (a) any project in relation to energy conservation or prevention and revision of environmental problem arising from energy conservation;
  - (b) any exploration, research and study for the development, promotion and energy conservation, for the prevention and revision of environmental problem arising from energy conservation and for the determination of energy policy and planning;
  - (c) any demonstration or initiative project in relation to energy conservation or prevention and revision of environmental problem arising from energy conservation;
  - (d) any study, training and meeting in relation to energy;
  - (e) any advertisement, dissemination of information and public relation in concerning with the development and energy conservation and the prevention and revision of environmental problem arising from energy conservation;
- (4) being an expense for management of the promotion of energy conservation to be in accordance with this Act.

### **Section 26**

A non-governmental organization entitling to aid or subsidy under Section 25 (3) shall be juristic person under Thai or foreign law which its activity related directly to energy conservation or prevention and revision of environmental problem arising from energy conservation and the carrying out of such activity is not aiming at politics or commercial benefit.

### **Section 27<sup>(17)</sup>**

There shall be a Board of the Promotion of Energy Conservation Fund consisting of the Deputy Prime Minister entrusted by the Prime Minister as Chairperson, 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 Board, Secretary-General of Thai Industrial Standards Institute, Comptroller General, Director-General of the Department of Alternative Energy Development and Efficiency, Director-General of Department of Public Works and Town and Country Planning, Director-General of the Department of Industrial Works, Chairperson of the Federation of Thai Industries, President of the Council of Engineers, President of the Architect Council of Thailand and not more than seven qualified members appointed by the Council of Ministers as members and the Director of the Energy Policy and Planning Office shall be member and secretary.

In appointing the qualified members under paragraph one, regard shall be had to the persons having knowledge, skill, past work and experience in monetary economics, energy technology and promotion and conservation of environmental quality.

### **Section 28**

The Board shall have the powers and duties as follows:

- (1) to propose guideline, rule, condition and priority for spending money of the Fund in accordance with the objectives under Section 25 to the National Energy Policy Council;
- (2) to allocate money of the Fund to be spent in accordance with the objectives under Section 25 and the guideline, rule, condition and priority determined by the National Energy Policy Council under Section 4 (4);
- (3) to determine regulation relating to rule and procedure on application for allocation, aid or subsidy from the Fund;

- (4) to propose the National Energy Policy Council the rate of fuel levy to be remitted to the Fund;
- (5) to propose the National Energy Policy Council the category of fuel to be exempted from remitting levy to the Fund;
- (6) to determine, with approval of the National Energy Policy Council, surcharge rate;
- (7) to exempt surcharge;
- (8) to consider and approve the application for promotion and assistance under Section 40 (2) in accordance with the guideline, rule and condition determined by the National Energy Policy Council under Section 4 (8);
- (9) to determine regulation in concerning with the rule and procedure on application for promotion and assistance under Section 41;
- (10) to carry out any other duties as prescribed by this Act.

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

### **Section 29**

A qualified member holds office for a term of three years.

A qualified member who vacates office may be reappointed.

### **Section 30**

Apart of vacating office at the end of term under Section 29, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligent or dishonest in the discharge of duty, disgrace behavior or incapability;
- (4) being bankrupt;
- (5) being an incompetent or quasi-incompetent;
- (6) having been sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

### **Section 31**

If there is an appointment of a qualified member while the appointed qualified members remain in office, irrespective of whether it is an appointment for the additional member or for the fulfillment of the vacancy, the appointee shall hold office for the remaining term of the appointed qualified members.

### **Section 32**

At the expiration of the term of office, if the newly qualified members have not been appointed, the qualified members who vacate office shall remain in office to continue their duties until the newly qualified members have been appointed.

### **Section 33**

At a meeting, the presence of not less than one-half of the total number of members shall constitute a quorum. If the Chairperson is unable to present at a meeting, the members who present at the meeting shall select one among themselves to preside over at the meeting.

A decision shall be made by majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person who presides over at a meeting shall cast an additional vote as a casting vote.

### **Section 34**<sup>(18)</sup>

The Board shall have the powers to appoint a Subcommittee to consider or perform any duty as entrusted by it and to invite any person to give statement, explanation, recommendation or opinion for the performance its duties as necessary.

In an appointment of a Sub-committee to consider or perform any duty under Section 28 (2), the Board may delegate its power to give approval to re-allocate the Fund to any activity, work plan or project in an amount of not exceeding the amount allocated by the Board in accordance with the regulation as prescribed by the Board.

The Sub-committee appointed by the Board under paragraph one may invite any person to give statement, explanation, recommendation or opinion for the performance its duties as necessary and Section 33 shall apply to the meeting of Subcommittee *mutatis mutandis*.

### **Section 34/1**<sup>(19)</sup>

The reception, spending and maintenance of money, the disposition of properties and accounting of the Fund shall be in accordance with the regulation as prescribed by the Board with approval of the Ministry of Finance.

### **Section 34/2**<sup>(20)</sup>

The Board shall prepare and submit the financial statement of the Fund to the Office of the State Audit Commission or the third person appointed by the Board with approval of the Office of the State Audit Commission to be auditor of the Fund. All accounts and finances of the Fund shall be audited and certified within ninety days as from the ending date of each fiscal year.

The Office of the State Audit Commission or the auditor under paragraph one shall prepare and submit the report on audit and certification of account and finance of the Fund to the Board within one hundred and fifty days as from the ending date of fiscal year for further submission to the National Energy Policy Council and the Council of Ministers for information.

The Minister shall submit the report on audit and certification of account and finance under paragraph two to the Prime Minister for his further submission to the National Assembly for information and shall cause that report to be published in the Government Gazette.

### **Section 35**

A person who produces fuel at the refinery and distributes such fuel for consumption within the Kingdom shall remit levy to the Fund upon quantity of fuel which is produced and distributed within the Kingdom at the rate as determined by the National Energy Policy Council.

The remittance of levy to the Fund under paragraph one shall be made to the Excise Department together with the payment of excise tax for fuel in accordance with the regulation as prescribed by the Excise Department.

### **Section 36**

The importer of fuel for consumption within the Kingdom shall remit levy to the Fund upon quantity of fuel which is imported for consumption within the Kingdom at the rate as determined by the National Energy Policy Council.

The remittance of levy to the Fund under paragraph one shall be made to the Customs Department together with the payment of custom for fuel in accordance with the regulation as prescribed by the Customs Department.

### **Section 37**

A person purchasing or acquiring gas from a concessionaire under the law on petroleum who refines gas from natural gas shall remit levy to the Fund at the rate as determined by the National Energy Policy Council.

The remittance of levy to the Fund under paragraph one shall be made to the Department of Mineral Fuels together with the payment of royalty for gas, if any, in accordance with the regulation as prescribed by the Department of Mineral Fuels.

### **Section 38**<sup>(21)</sup>

In the case where the person having the duty to remit levy to the Fund under Section 35, Section 36 or Section 37 fails to remit levy to the Fund, or remits an incomplete amount, within specified period to the Excise Department for the person who produces fuel at the refinery and distributes such fuel for consumption within the Kingdom or to the Customs Department for the importer of fuel or to the Department of Mineral Fuels for the person purchasing or acquiring gas from a concessionaire under the law on petroleum, the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be, shall implied such person without delay, provided that:

- (1) such person found himself being in that situation and he remits levy in full amount or remits the deficit together with surcharge at the rate of three per cent per month of such amount as from the due date of remittance until the date he remits levy in full amount 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, finds that fact and informs the person having duty to remit levy so as to remit levy to the Fund within specified period and such person remits levy in full amount or remits the deficit together with surcharge at the rate of six per cent per month of such amount as from the due date of remittance until the date he remits levy in full amount to the Excise Department, the Customs Department or the Department of Mineral Fuels, as the case may be, within specified period.

A person having duty to remit levy to the Fund who complies with (1) or (2) shall not be guilty.

The surcharge is deemed to be levy to be remitted to the Fund. In calculation of surcharge under (1) or (2), any fraction of month shall be counted as one month.

### **Section 39**

Levy remitted to the Fund under Section 35, Section 36 and Section 37 is deemed to be an expense under the Revenue Code.

## **CHAPTER V Promotion and Assistance**

### **Section 40**

A controlled factory or building having duty to conduct energy conservation and to be equipped with machine, equipment, tool, appliance and material necessary for such purpose or a manufacturer and distributor of highly efficient machine or equipment for the energy conservation shall be entitled to the following promotions and assistances:

- (1) exemption from surcharge under this Act;
- (2) financial assistance or subsidy from the Fund under Section 25.

An owner of factory or building and a government agency and State enterprise having no duty to conduct energy conservation under paragraph one but desiring to be equipped with machine, equipment, tool, appliance or automatic control system for energy conservation shall be entitled to the promotions and assistances under paragraph one.

### **Section 41**

An application for the promotions and assistances under Section 40 shall be submitted to the Board in accordance with the regulation as prescribed by the Board.

The Board may, in considering the application under paragraph one, contracts any person or institution that is an expert or skillful on such matter to make a study and report or to give opinion for consideration.

The Board shall consider the application for promotions and assistances in accordance with the guideline, rule and condition laid down by the National Energy Policy Council under Section 4 (8) and shall then inform related government agency to act in compliance with resolution of the Board in providing promotions or assistances to the entitled person.

The Energy Development and Promotion Department shall have the duty to monitor the performance of the entitled person to be in accordance with paragraph three and shall report the Board for information.

## **CHAPTER VI**

### **Surcharge**

#### **Section 42<sup>(22)</sup>**

At the expiration of three years after the Ministerial Regulation issued under Section 9 (1) or Section 21 (1) comes into force in the case where any factory or building becomes the controlled factory or building on or before the date such Ministerial Regulation comes into force, or as from the date of becoming the controlled factory or building after the date such Ministerial Regulation comes into force, if the owner of such controlled factory or building who fails to comply with such Ministerial Regulation, he shall be liable to surcharge on electricity consumption under this Chapter.

The surcharge on electricity consumption under paragraph one shall be collected from the controlled factory or building upon the amount of electricity bought or obtained from the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority and it shall be deemed to have the same status as the collection of electricity fee under the law on electricity generating authority of Thailand, the law on metropolitan electricity authority or the law on provincial electricity authority, as the case may be.

#### **Section 43**

The Board shall, with approval of the National Energy Policy Council, determine rate of surcharge on electricity consumption.

In determining the rate of surcharge on electricity consumption under paragraph one, regard shall be had to the difference between the rate of electricity fee in which the controlled factory or building paid to the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority and the total cost for generation and distribution of electricity of the same amount for the controlled factory or building.

The total cost under paragraph two means the investment cost in electricity generation and distribution systems, procurement cost for flammable materials to be used for electricity generation, maintenance cost, administration cost, loss in electricity system and other expenses in electricity business including any impact against environment or the public arising from electricity generation and distribution which is not direct charge of the Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority.

#### **Section 44**

The Director-General shall, if there is a reason to collect surcharge on electricity consumption under Section 42, have a written notice to the owner of the controlled factory or building who is liable to such surcharge. In this regard, the liability to surcharge on electricity consumption shall begin on the first day of the following month as from the date such owner receives the notice from the Director-General.

The Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority or the Provincial Electricity Authority shall be responsible for the collection of surcharge on electricity consumption from the controlled factory or building which buys or obtains electricity therefrom. Such collection shall be made together with the collection of monthly electric fee and the collected surcharge shall be remitted to the Fund within thirty days as from the date of receiving thereof.

#### **Section 45**

During the period the controlled factory or building has to pay surcharge on electricity consumption under this Chapter, the Board may, if it deems appropriate, suspend the right to promotion and assistance of such controlled factory or building temporarily or may, in the case where such controlled factory or building has obtained promotion and assistance, cease or lessen such promotion and assistance temporarily.

#### **Section 46<sup>(23)</sup>**

In the case where the controlled factory or building which is liable to surcharge on electricity consumption has complied with the Ministerial Regulation issued under Section 9 (1) or Section 21 (1), it shall inform the Director-General for information.

The Director-General shall conduct examination as to whether the controlled factory or building has complied with the Ministerial Regulation issued under Section 9 (1) or Section 21 (1) within thirty days as from the date of receiving of such information. If it appears that such Ministerial Regulation has been complied with, the Director-General shall have an order ceasing the collection of surcharge on electricity consumption and shall have written notification to the controlled factory or building for information.

The order ceasing the collection of surcharge on electricity consumption under paragraph two shall come into force as from the first day of the following month.

### **CHAPTER VII**

#### **Competent Official**

#### **Section 47**

For the execution of this Act, the competent official shall have the powers as follows:

- (1) to summon in writing the owner of the controlled factory or building to testify or to give oral or written statement or to submit any document or evidence for examination or consideration;
- (2) to enter into any controlled factory or building between sunrise and sunset or during working hours of such place for examination or for the execution of this Act. In this case, the competent official shall have the power to interrogate or examine document, to record conditions of the factory, building, machine and equipment and other things related to energy conservation for factory and building as well as the performance of any person in such place and shall have the power to inspect any machine and accessory or take appropriate quantity of any material as specimen for inspection;
- (3)<sup>(24)</sup> to examine and certify the energy management and energy consumption of machine or equipment as well as quality of material or equipment for energy conservation to be in accordance with this Act.

#### **Section 48**

In the performance of duties of the competent official under Section 47 (2), the owner of the controlled factory or building, all concerned persons or the person being in such place shall render appropriate facilities thereto.

### **Section 48/1**<sup>(25)</sup>

If there is a reason to examine and certify the energy management and energy consumption of machine or equipment and quality of material or equipment for energy conservation under Section 47 (3), the Director-General may grant license to any person or juristic person to do so in lieu of the competent official.

The determination of qualifications, the application for and the giving of license and the renewal of license for the person or juristic person under paragraph one shall be in accordance with the rule, procedure and condition as prescribed by Ministerial Regulation.

### **Section 48/2**<sup>(26)</sup>

If the licensee under Section 48/1 produces examination and certification report under Section 47 (3) falsely or incorrectly and he has been sentenced by a final judgment of the Court under Section 56 of this Act, the Director-General shall revoke his license.

### **Section 48/3**<sup>(27)</sup>

In the case where the licensee under Section 48/1 has been sued in the Court for the commission of an offence under Section 56 of this Act, the Director-General may suspend such license until the final judgment has been rendered.

The licensee whom suspended shall be unable to perform the activities specified in such license.

### **Section 48/4**<sup>(28)</sup>

The licensee whom suspended may appeal to the Minister within thirty days as from the date he receives such order.

The order of Minister shall be final.

An appeal against the order made by the Minister under paragraph one shall not stay the enforcement of the suspension order.

### **Section 49**

The competent official shall, in the performance of duties, produce his identification card to concerned person.

The identification card of the competent official shall be in the form as prescribed by Ministerial Regulation.

## **CHAPTER VIII**

### **Appeal**

### **Section 50**

A person who receives a written notification made under Section 8 paragraph three and disagrees therewith may appeal to the Minister within thirty days as from the date he receives such notification.

The Department of Alternative Energy Development and Efficiency shall in this case stay its execution until the decision of the Minister has been made and notified to the appellant.

### **Section 51**

A person who receives a written notice made under Section 44 paragraph one and disagrees therewith may appeal to the Minister within thirty days as from the date he receives such notification.

An appeal shall not stay the enforcement of the notice, except where the Minister deems it is appropriate to stay the enforcement thereof temporarily.

## **Section 52**

The Minister shall consider the appeal under Section 50 and Section 51 forthwith.  
The decision of the Minister shall be final.

## **CHAPTER IX Penalties**

### **Section 53**

The owner of the controlled factory who gives fault information and reasons under Section 8 paragraph three, shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding one hundred and fifty thousand Baht or to both.

### **Section 54**

The owner of the controlled factory who fails to comply with the order of the Director-General made under Section 10 or the owner of the controlled building who fails to comply with the order of the Director-General made under Section 10 which is applied *mutatis mutandis* under Section 21 shall be liable to a fine of not exceeding fifty thousand Baht.

### **Section 55**<sup>(29)</sup>

The owner of the controlled factory or building or the energy officer fails to comply with the Ministerial Regulation issued under Section 9 or Section 21 shall be liable to a fine of not exceeding two hundred thousand Baht.

### **Section 56**<sup>(30)</sup>

The licensee of the license to examine and certify energy management and energy consumption of machine or equipment and quality of material or equipment for energy conservation under Section 48/1 who produces examination and certification report under Section 47 (3) falsely or incorrectly shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding two hundred thousand Baht or to both.

### **Section 57**<sup>(31)</sup>

*(Repealed)*

### **Section 58**

Whoever fails to remit levy to the Fund or remits an incomplete amount to be remitted under Section 35, Section 36 or Section 37 shall be liable to imprisonment from three months to two years or to a fine from one hundred thousand Baht to ten million Baht or to both.

### **Section 59**

Whoever obstructs or fails to render facilities to the competent official in the performance of duties under Section 47 (2) shall be liable to a fine of not exceeding five thousand Baht.

### **Section 60**

In the case where the offender who shall be liable to punishment under this Act is a juristic person, the Directors or manager of such juristic person or a person who is responsible for the administration of such juristic person shall be liable to punishment as prescribed for such offence, except where he can prove that he does not acknowledge in so doing or does not give consent to do so.

### **Section 61**

With regard to the offences under this Act, the Case Settlement Committee consisting of three members appointed by the Minister from government officials who are expertise in law shall have the power to settle the case.

If the offender pays the fine for settlement within the period as specified by the Case Settlement Committee, the case is deemed to be settled under the Criminal Procedure Code.

In an inquiry, if it appears to the inquiry official that any person commits an offence under this Act and such person agrees to settle the case, the inquiry official shall submit the matter to the Case Settlement Committee under paragraph one within seven days as from the date that such person agrees to settle the case.

Countersigned by

Mr. Anand Panyarachun

Prime Minister

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**Note:**

- (1) Published in the Government Gazette Vol. 109, Part 33 *Kor*, dated 2nd April B.E. 2535 (1992).
- (2) As amended by Section 3 of the Promotion of Energy Conservation Act (No.2), B.E. 2550 (2007).
- (3) As amended by Section 4, *Ibid*.
- (4) As amended by Section 5, *Ibid*.
- (5) As repealed by Section 6, *Ibid*.
- (6) *Ibid*.
- (7) *Ibid*.
- (8) *Ibid*.
- (9) *Ibid*.
- (10) *bid*.
- (11) As amended by Section 7, *Ibid*.
- (12) As amended by Section 8, *Ibid*.
- (13) As repealed by Section 9, *Ibid*.
- (14) As amended by Section 10, *Ibid*.
- (15) As amended by Section 11, *ibid*.
- (16) As amended by Section 12, *ibid*.
- (17) As amended by Section 13, *ibid*.
- (18) As amended by Section 14, *Ibid*.
- (19) As added by Section 15, *Ibid*.
- (20) *Ibid*.
- (21) As amended by Section 16, *Ibid*.
- (22) As amended by Section 17, *Ibid*.
- (23) As amended by Section 18, *Ibid*.
- (24) As added by Section 19, *Ibid*.
- (25) As added by Section 20, *Ibid*.
- (26) *Ibid*.
- (27) *Ibid*.
- (28) *Ibid*.
- (29) As amended by Section 21, *Ibid*.
- (30) As amended by Section 22, *Ibid*.
- (31) As repealed by Section 23, *Ibid*.