

Energy Efficiency Act

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Text in Bulgarian: Закон за енергийната ефективност

Chapter One GENERAL DISPOSITIONS

Article 1. (1) This Act regulates the social relations associated with the implementation of the state policy for promotion of energy end-use efficiency and the provision of energy services.

(2) The Act shall apply to the energy end use by the armed forces, to the extent to which it does not conflict with the Defence and Armed Forces of the Republic of Bulgaria Act or another special law.

(3) The Act shall not apply to the end use of energy by:

1. the installations for the categories of industrial activities referred to in Article 131c of the Environmental Protection Act;
2. the means of transport in the air and water transport.

Article 2. The purpose of this Act is to promote energy efficiency as a major factor of improving the competitiveness of the economy, the security of energy supply and environmental protection by:

1. using a system of energy end-use efficiency improvement activities and measures;
2. developing the market for energy services and energy end-use efficiency improvement measures by retail energy sales companies.

Chapter Two STATE FUNCTIONS FOR ENERGY EFFICIENCY PROMOTION

Section I Governing Bodies

Article 3. (1) The State shall exercise its functions for energy efficiency improvement through the National Assembly and the Council of Ministers.

(2) The National Assembly shall adopt a National Energy Efficiency Strategy of the Republic of Bulgaria, which shall set the national indicative energy savings target, the stages, the means and the measures for achieving this indicative target. The National Strategy shall be updated once every five years.

(3) The Council of Ministers shall formulate the state policy for promotion of energy end-use efficiency and provision of energy services, which shall be a component of the policy for sustainable development of the country.

(4) In carrying out its functions under Paragraph (3), the Council of Ministers:

1. shall put lay the National Strategy referred to in Paragraph (2) before the National Assembly for adoption on a motion

by the Minister of Economy, Energy and Tourism;

2. shall adopt national energy efficiency action plans;

3. shall approve annual reports on the implementation of the plans referred to in Item 2;

4. shall adopt the ordinances provided for in this Act;

5. shall adopt other acts as well related to energy efficiency improvement, on a motion by the Minister of Economy, Energy and Tourism.

Article 4. (1) The state policy for promotion energy end-use efficiency and provision of energy services shall be implemented by the Minister of Economy, Energy and Tourism.

(2) The Minister of Economy, Energy and Tourism:

1. shall develop and propose to the Council of Ministers the National Strategy referred to in Article 3 (2);

2. shall develop and lay national energy efficiency action plans before the Council of Ministers for adoption;

3. shall present annually a report on the implementation of the national plans referred to in Item 2 for adoption by the Council of Ministers;

4. shall develop draft ordinances in the cases provided for in this Act and shall lay them before the Council of Ministers for adoption;

5. shall develop draft programmes for energy end-use efficiency improvement and provision of energy services and shall lay them before the Council of Ministers for adoption;

6. shall issue, independently or jointly with the respective ministers, the statutory instruments of secondary legislation related to energy efficiency within their competences under this Act;

7. shall interact with the other state authorities and with not-for-profit legal entities in regard to the implementation of the state policy for promotion of energy efficiency ;

8. shall organise the preparation of statutory instruments for harmonisation of Bulgarian legislation in the sphere of energy efficiency with Community law;

9. shall implement the international co-operation of the Republic of Bulgaria in the sphere of energy efficiency;

10. shall provide the competent institutions of the European Communities with the information provided for in Community law;

11. in accordance with his or her powers, shall approach the competent institutions of the European Communities with requests and notices on temporary derogation from the application of provisions of Community law and of transitional periods in the sphere of energy efficiency in the cases provided for in Community law;

12. shall exercise other powers in the sphere of energy efficiency as well, conferred thereon by other statutory instruments.

(3) The content, structure, terms and procedure for provision of the information referred to in Item 10 of Paragraph (2) shall be established by the ordinance referred to in Article 9 (4) of the Energy Act.

Article 5. (1) (Amended, SG No. 35/2011, effective 3.05.2011) The activities for implementation of the state policy for promotion energy end-use efficiency and provision of energy services shall be implemented by the Executive Director of the Agency for Sustainable Energy Development, hereinafter referred to as "the Agency".

(2) The Executive Director of the Agency shall be appointed and removed by the Minister of Economy, Energy and Tourism in consultation with the Prime Minister.

(3) The Executive Director:

1. shall direct, manage and represent the Agency;

2. shall exercise control in the cases provided for by the law;

3. shall participate in the development of national energy efficiency action plans;

4. shall organise the implementation of activities and measures included in the national energy efficiency action plans;

5. shall submit annually to the Minister of Economy, Energy and Tourism a report on the implementation of the national energy efficiency action plans;

6. shall confirm the amount of energy savings achieved as a result of the energy services rendered, by issuing energy savings certificates and by other energy efficiency improvement measures;

7. shall participate in the elaboration of drafts of statutory instruments in the sphere of energy efficiency;

8. shall organise the drawing up of model contracts for provision of energy services, intended to use various financial instruments by the purchasers of energy services and to implement other energy efficiency improvement activities and measures;

9. shall organise the elaboration of projects and shall conclude voluntary agreements;

10. shall perform monitoring of the voluntary agreements;

11. shall interact with the bodies of state power and with the local self-government authorities, with employer associations, with branch organisations, with consumer associations and with not-for-profit legal entities for the implementation of the energy efficiency improvement activities and measures;

12. shall organise the creation and maintenance of a national information system on the state of energy efficiency;

13. shall organise the creation and maintenance of the public registers referred to in Article 23 (4) and Article 34 (4);

14. shall provide assistance to the bodies of state power and to the local self-government authorities, as well as to the participants in the market for energy services, in the fulfilment of their obligations under this Act;

15. shall organise the promotion of energy efficiency improvement activities and measures;

16. shall facilitate the development of training in energy efficiency;

17. shall organise the creation and maintenance of a list of buildings, industrial systems, boilers and air-conditioning systems which must be brought into conformity with energy efficiency requirements;

18. shall exercise other powers as well, conferred thereon by other statutory instruments.

(4) (New, SG No. 35/2011, effective 3.05.2011) Powers of the Executive Director of the Agency for Sustainable Energy Development with regard to the implementation of the state policy for promotion of production and consumption of electricity, heating, and cooling from renewable sources, production and consumption of gas from renewable sources, as well as the production and consumption of biofuels and energy from renewable sources in transport shall be determined by the Energy from Renewable Sources Act.

Article 6. (1) (Amended, SG No. 35/2011, effective 3.05.2011) The Agency for Sustainable Energy is a legal person on budget support - secondary officer, based in Sofia and has the status an executive agency of the Ministry of Economy and Energy

(2) For the implementation of its activities, the Agency shall set up territorial units in the regions referred to in Article 4 (3) of the Regional Development Act. The headquarters of the territorial units shall be determined by the Rules of Organisation referred to in Paragraph (3).

(3) The activities, structure and work organisation of the Agency shall be determined by Rules of Organisation adopted by the Council of Ministers.

(4) (Amended, SG No. 35/2011, effective 3.05.2011) The Agency for Sustainable Energy Development administers the proceeds from:

1. executive budget subsidies;
2. own activities;
3. proceeds from fines and pecuniary penalties imposed by penalty decrees issued in the course of implementation of control according to the procedure established by this Act;
4. international programmes and agreements;
5. other sources determined by a statutory instrument of the Council of Ministers.

(5) The proceeds from fines and pecuniary penalties referred to in Item 3 of Paragraph (4) shall be allocated as follows:

1. fifty per cent: to the state budget;
2. fifty per cent: to the budget of the Agency.

(6) (Repealed, SG No. 38/2012, effective 1.07.2012)

(7) (Repealed, SG No. 38/2012, effective 1.07.2012)

Section II

National Energy Efficiency Strategy and Energy Efficiency Action Plans

Article 7. The National Energy Efficiency Strategy shall define:

1. the state policy priorities and the long-term energy savings targets for achieving competitiveness of the national economy;
2. the national indicative targets and the means for the achievement thereof;
3. the guidelines for achievement of the national indicative targets, as well as the mechanisms, incentives and institutional, financial and legal frameworks to remove existing market barriers and imperfections that impede the efficient end use of energy ;
4. the guidelines for creation of favourable conditions for the development and promotion of the market for energy services and for the delivery of other energy efficiency improvement measures to final consumers.

Article 8. (1) The national energy efficiency action plans shall be developed on the basis of the National Strategy referred to in Article 7 and shall contain:

1. an analysis and evaluation of the implementation of the preceding national action plan;

2. the intermediate indicative energy savings targets and the individual energy savings targets;
3. the energy efficiency improvement activities and measures planned for implementation;
4. the obligations of the bodies of state power and the local self-government authorities in connection with the implementation of the measures planned;
5. the obligations of the persons referred to in Article 10 (1) for achievement of the individual energy savings targets;
6. the deadlines for implementation;
7. the sources of financing;
8. the indicators for reporting the results achieved, as well as other necessary data.

(2) The Executive Director of the Agency shall submit to the Minister of Economy, Energy and Tourism the report referred to in Item 5 of Article 5 (3) by the 30th day of April of the year following the reporting year.

(3) Not later than the 31st day of May of the respective year, the Minister of Economy, Energy and Tourism shall lay the report referred to in Paragraph (2) before the Council of Ministers for adoption.

Section III

National Indicative Energy Savings Targets

Article 9. (1) The national indicative energy savings targets shall be defined as a percentage of the final energy consumption of all end energy users in accordance with the ordinance referred to in Paragraph (2).

(2) The methodologies for calculation of the national indicative targets, the procedure for allocating these targets as individual energy savings targets among the persons referred to in Article 10 (1), the permissible energy efficiency measures, the methodologies for assessment and the methods for confirmation of the energy savings shall be established by an ordinance of the Council of Ministers on a motion by the Minister of Economy, Energy and Tourism.

Article 10. (1) The national indicative targets, as adopted in the action plans referred to in Article 8, shall be allocated as individual energy savings targets among:

1. the retail energy sales companies;
2. the owners of buildings referred to in Article 19;
3. the owners of industrial systems under Article 33 (2).

(2) (Amended, SG No. 35/2011, effective 3.05.2011) In achieving the targets allocated there to, the persons referred to in Item 1 of Paragraph (1) can ensure the offer of competitively priced energy services or can contribute to the Energy Efficiency and Renewable Sources Fund or to other existing or newly created energy efficiency funds.

(3) Retail energy sales companies shall be obligated to refrain from any activities that might impede the demand for supply to, and development of energy services and other energy efficiency improvement activities and measures by their customers.

(4) In achieving the targets allocated thereto, the persons referred to in Items 2 and 3 of Paragraph (1) shall be obligated to implement energy efficiency improvement measures, as well as activities associated with the implementation of these measures.

Section IV

Energy Efficiency Plans and Programmes of the Bodies of State Power and the Local Self-government Authorities

Article 11. (1) The energy efficiency policy shall be implemented by the bodies of state power and the local self-government authorities by elaborating energy efficiency plans and programmes for their implementation for a specified programming period.

(2) The plans and programmes referred to in Paragraph (1) shall be elaborated in accordance with the National Strategy referred to in Article 7 and in conformity with the specific peculiarities of the regional development plans of the respective planning regions on the territory of the Republic of Bulgaria and their sustainable economic development prospects.

(3) The financial resources for implementation of the plans referred to in Paragraph (1) shall be provided for in the budgets of the bodies of state power and the local self-government authorities.

Article 12. (1) The bodies of state power and the local self-government authorities shall submit annually reports on the implementation of the plans to the Executive Director of the Agency.

(2) The reports referred to in Paragraph (1) shall contain a description of the activities and measures, shall indicate the amount of energy savings achieved, and shall be submitted not later than on the 31st day of March of the year following the year of implementation of the respective activities and measures.

(3) The reports shall be drawn up according to a model endorsed by the Executive Director of the Agency and shall constitute an integral part of the report on implementation of the respective national action plan.

Chapter Three

ENERGY EFFICIENCY IMPROVEMENT ACTIVITIES AND MEASURES AND PROVISION OF ENERGY SERVICES

Section I

Energy Efficiency Improvement Activities and Measures

Article 13. Energy efficiency improvement activities shall be the activities associated with:

1. issuing energy passports;
2. energy audit and certification of buildings;
3. energy audit of industrial systems;
4. inspection of the energy efficiency of boilers and air-conditioning systems in buildings; and
5. energy efficiency management.

Article 14. Energy efficiency improvement measures shall be the actions leading to verifiable, measurable or estimable energy efficiency improvement.

Section II

Energy Audit and Certification of Buildings

Article 15. (1) Every development-project design for construction of a new building, redevelopment, major renovation, overhaul or remodelling of an existing building must conform to the energy efficiency requirements provided for in this Act.

(2) The development-project designs of new buildings under Paragraph (1) with a gross floor area of over 1,000 square metres must accommodate the use of:

1. decentralised energy generation and consumption systems based on renewable energy;
2. combined heat and power generation;
3. district or block heating and cooling;
4. heat pumps.

(3) The energy consumption indicators and the energy performance of the buildings referred to in Paragraph (1) shall be specified by an ordinance of the Minister of Economy, Energy and Tourism and the Minister of Regional Development and Public Works.

Article 16. The energy efficiency audits of buildings shall seek to determine the level of energy consumption, to identify the specific opportunities for reducing the said energy consumption, to determine whether the requirements of Article 15 (2) have been complied with, and to recommend energy efficiency improvement measures.

Article 17. (1) The energy efficiency certification of buildings shall seek to certify the current state of energy consumption in the buildings, the energy performance and the conformity thereof with the energy consumption class scale from the ordinance referred to in Article 15 (3).

(2) The energy efficiency certification of buildings shall be performed after an energy efficiency audit.

Article 18. Every building can be certified, with the exception of:

1. (amended, SG No. 19/2009, effective 10.04.2009) buildings and cultural values falling within the scope of the Cultural Heritage Act and the Protected Areas Act;

2. places of worship of the legally registered religious denominations in Bulgaria;

3. temporary buildings with a planned time of use of two years or less;

4. farm buildings of agricultural producers, used for agricultural activity;

5. manufacturing buildings;

6. residential buildings which are intended to be used as such for less than four months of the year;

7. stand-alone buildings with a gross floor area of less than 50 square metres.

Article 19. (1) All buildings which are in operation and whose gross floor area exceeds 1,000 square metres shall be subject to mandatory certification according to the procedure established by this Act.

(2) In addition to the buildings referred to in Paragraph (1), all other state-owned and/or municipality-owned buildings, which are in operation and whose gross floor area exceeds 1,000 square metres, shall be subject to mandatory certification.

(3) The owners of any buildings referred to in Paragraphs (1) and (2) shall be obligated to implement the energy efficiency improvement measures prescribed by the energy efficiency audit within three years after the date of acceptance of the results of the audit.

Article 20. (1) The contracting authorities, within the meaning given by Article 161 (1) of the Spatial Development Act, shall be obligated to obtain an energy performance certificate of the building according to the procedure established by this Act not earlier than three and not later than six years after the date of commissioning of the building.

(2) Pending the issuing of the certificate referred to in Paragraph (1), the energy performance of the building shall be certified by an energy passport, which shall be part of the technical passport of the building and shall certify compliance with the requirement referred to in Item 6 of Article 169 (1) of the Spatial Development Act.

(3) Where any deviations of the indicators recorded in the energy passport as issued are found upon issuing the energy performance certificate of the building, the persons performing the certification shall notify the Executive Director of the Agency within five days after establishment of the violation, so that appropriate actions can be taken.

(4) The energy performance certificate of the building shall be updated whenever activities leading to an improvement of the overall energy performance of the building are implemented, such as:

1. redevelopment, major renovation, overhaul or remodelling of the building;
2. routine repair of net-bound systems of the building;
3. other activities.

(5) The energy performance certificate for parts of the building shall be issued on the basis of a common certificate of the whole building in the cases of blocks with a common heating system.

Article 21. (1) Upon sale of a building or parts thereof, the seller shall provide to the buyer the original of the energy performance certificate of the building in the cases referred to in Article 20 (1) or, respectively, the original of the energy passport in the cases referred to in Article 20 (2).

(2) Upon renting of the building or part thereof by a contract subject to recording according to the appropriate procedure, the landlord shall provide to the tenant a copy of the energy performance certificate of the building in the cases referred to in Article 20 (1) or, respectively, a copy of the energy passport in the cases referred to in Article 20 (2).

Article 22. The persons who perform the certification shall issue an energy performance certificate of the building, which shall be accompanied by a declaration on the non-existence of the circumstances referred to in Article 23 (2).

Article 23. (1) The energy efficiency audit and certification of buildings shall be performed by natural or legal persons who or which:

1. are merchants within the meaning given by the Commerce Act or under the legislation of a Member State of the European Union or of another Contracting Party to the Agreement on the European Economic Area;

2. possess the necessary technical devices specified by the ordinance referred to in Paragraph (11);

3. have the necessary personnel - natural persons, designated by the ordinance referred to in Paragraph (11) who:

(a) have higher technical education and not less than three years of relevant experience, or who have graduated from a secondary technical school and have not less than six years of relevant experience;

(b) (supplemented, SG No. 15/2010, effective 23.02.2010) have successfully passed an examination for acquiring the necessary qualification to perform an energy efficiency audit and certification of buildings at higher technical schools accredited according to the procedure established by the Higher Education Act or as per the procedure laid down by the relevant legislation of a Member State of the European Union or of a State party to the Agreement on the European Economic Area.

(2) The persons referred to in Paragraph (1) shall not have the right to perform certification of buildings if they or the personnel hired by them have participated in the design, construction and operation of the building concerned or in the implementation of energy efficiency improvement measures.

(3) The persons referred to in Item 3 of Paragraph (1) may participate in the teams of not more than two persons referred to in Item 1 of Paragraph (1) and in Item 1 of Article 34 (1).

(4) The Agency for Sustainable Energy Development shall enter into a public register the persons referred to in Paragraph (1) at their written request, and the circumstances referred to in Items 1 and 3 of Paragraph (1) shall be established by an appropriate document, whereas the circumstances referred to in Item 2 of Paragraph (1) and Paragraph (2) shall be established by a declaration by the natural person representing the merchant and the circumstances referred to in Paragraph (3) shall be established by a statement of the natural person who is a member of the personnel of the merchant.

(5) The Agency for Sustainable Energy Development shall issue certificates to the persons who have been entered in the register in consideration of a fee fixed by a rate schedule adopted by the Council of Ministers.

(6) The Agency for Sustainable Energy Development shall refuse to enter into the register any persons who do not meet the requirements covered under Paragraph (1).

(7) The certificate of entry into the register or the reasoned written refusal of entry shall be issued by the Executive Director of the Agency under the terms and within the time limits provided for in the Administrative Procedure Code.

(8) The term of validity of the certificate referred to in Paragraph (7) shall be five years.

(9) The refusal of entry into the register shall be subject to appeal according to the procedure established by the Administrative Procedure Code.

(10) The Agency for Sustainable Energy Development shall expunge in the register any persons who have received certificates entitling them to perform an energy efficiency audit in case of:

1. occurrence of non-compliance with any of the conditions covered under Paragraph (1);
2. submission of declarations making false statements under Item 2 of Paragraph (1), Paragraph (2) and/or Paragraph (3);
3. an effective penalty decree for a committed violation of this Act;
4. initiation of bankruptcy or liquidation proceedings against the merchant.

(11) The circumstances subject to entry under Paragraphs (1) to (3), the procedure for entry into the register and for obtaining information, as well as the terms and procedure for acquiring qualification under Item 3 (b) of Paragraph (1), shall be specified by an ordinance of the Minister of Economy, Energy and Tourism.

Article 24. (1) The validity of an energy performance certificate of a building shall not exceed ten years.

(2) The term of validity referred to in Paragraph (1) shall start to run from the certificate's issuing date, but in the cases referred to in Items 18 and 19 of Article 24 of the Local Taxes and Fees Act it shall start to run from the beginning of the year following the certificate's issuing year.

Article 25. The terms and procedure for performing an energy efficiency audit and certification of buildings, as well as the terms and procedure for the issuing of energy performance certificates and the categories of certificates, shall be specified by an ordinance of the Minister of Economy, Energy and Tourism and the Minister of Regional Development and Public Works.

Section III

Energy Efficiency Inspection of Boilers and Air-Conditioning Systems in Buildings

Article 26. The inspection of the energy efficiency of boilers and air-conditioning systems in buildings seeks to determine the level of efficiency in their operation and to identify efficiency improvement measures.

Article 27. (1) The following existing and newly-commissioned boilers shall be subject to an audit according to the procedure established by this Act:

1. boilers fired by liquid or solid fuel of an effective rated output of 20 kW to 100 kW;
2. boilers fired by liquid or solid fuel of an effective rated output of more than 100 kW;

3. boilers fired by natural gas of an effective rated output of more than 100 kW.

(2) Boilers shall be subject to a mandatory energy efficiency inspection on a regular basis once every:

1. three years: applicable to boilers referred to in Item 1 of Paragraph (1);
2. two years: applicable to boilers referred to in Item 2 of Paragraph (1);
3. four years: applicable to boilers referred to in Item 3 of Paragraph (1).

Article 28. (1) Air-conditioning systems of an effective rated output of more than 12 kW shall likewise be subject to an inspection according to the procedure established by this Act.

(2) Air-conditioning installations shall be subject to a mandatory energy efficiency inspection on a regular basis once every four years.

Article 29. (1) The Agency for Sustainable Energy Development shall create and maintain a database on the condition of:

1. the boilers referred to in Article 27 (1);
2. the air-conditioning systems referred to in Article 28 (1).

(2) (Effective 15.11.2009 - SG No. 98/2008) Within six months after the date of commissioning of the facilities referred to in Paragraph (1), their owners shall submit to the territorial units referred to in Article 6 (2) a declaration completed in a standard form endorsed by the Executive Director of the Agency.

(3) The information referred to in Paragraph (2) shall be used for the creation and maintenance of the database referred to in Paragraph (1).

Article 30. (1) For boilers which are older than fifteen years, the energy efficiency inspection shall include also assessment of the whole heating installation and shall conclude with recommendations to the owner for replacement of the boilers, other modifications to the heating system and/or other alternative solutions.

(2) The assessment of the heating installation referred to in Paragraph (1) shall be one-off.

Article 31. (1) The energy efficiency inspection of the boilers referred to in Article 27 (1) and of the air-conditioning systems referred to in Article 28 (1) shall be performed by the persons referred to in Article 23 (1) and/or Article 34 (1).

(2) The inspection referred to in Paragraph (1) shall conclude with a report, which shall be drawn up under the terms and according to procedure established by the ordinance referred to in Article 32.

Article 32. The terms and procedure for performing the energy efficiency inspection of the boilers referred to in Article 27 (1) and of the air-conditioning systems referred to in Article 28 (1), as well as the terms and procedure for the creation, maintenance and use of the database referred to in Article 29, shall be specified by an ordinance of the Minister of Economy, Energy and Tourism.

Section IV

Energy Efficiency Audit of Industrial Systems

Article 33. (1) The energy efficiency audit of industrial systems shall seek to identify the specific opportunities for reduction of the energy consumption in the industrial systems and to recommend energy efficiency improvement measures.

(2) Each industrial system whose annual energy consumption exceeds 3,000 MWh shall be subject to a mandatory energy efficiency audit. The audit shall be performed at least once every three years.

(3) The owners of any industrial systems referred to in Paragraph (2) shall be obligated to start implementing the measures prescribed by the energy efficiency audit within two years after the date of acceptance of the results of the audit.

(4) The energy consumption indicators, the energy performance of industrial systems, as well as the terms and procedure for performing an energy efficiency audit of industrial systems, shall be specified by an ordinance of the Minister of Economy, Energy and Tourism.

Article 34. (1) The audits referred to in Article 33 shall be performed by natural or legal persons who or which:

1. are merchants within the meaning given by the Commerce Act or under the legislation of a Member State of the European Union or of another Contracting Party to the Agreement on the European Economic Area;

2. possess the necessary technical devices specified by the ordinance referred to in Article 23 (11);

3. have the necessary personnel - natural persons who:

(a) have higher technical education and not less than three years of relevant experience, or who have graduated from a secondary technical school and have not less than six years of relevant experience;

(b) (supplemented, SG No. 15/2009) have successfully passed an examination for acquiring the necessary qualification to perform an energy efficiency audit of industrial systems at higher technical schools accredited according to the procedure established by the Higher Education Act or as per the procedure laid down by the relevant legislation of a Member State of the European Union or of a State party to the Agreement on the European Economic Area.

(2) The persons referred to in Paragraph (1) shall not have the right to perform an audit of industrial systems if they or the personnel hired by them have participated in the design, construction and operation of the industrial system concerned or in the implementation of energy efficiency improvement measures.

(3) The persons referred to in Item 3 of Paragraph (1) may participate in the teams of not more than two persons referred to in Item 1 of Paragraph (1) and in Item 1 of Article 23 (1).

(4) The Agency for Sustainable Energy Development shall enter into a public register the persons referred to in Paragraph 1 at their written request, and the circumstances referred to in Items 1 and 3 of Paragraph (1) shall be established by an appropriate document, whereas the circumstances referred to in Item 2 of Paragraph (1) and in Paragraphs (2) and (3) shall be established by a declaration.

(5) The Agency for Sustainable Energy Development shall issue a certificate to the persons who have been entered in the register under Paragraph (4) in consideration of a fee fixed by the rate schedule referred to in Article 23 (5).

(6) The Agency for Sustainable Energy Development shall refuse to enter into the register any persons who do not meet the requirements of Paragraph (1).

(7) The certificate of entry into the register or the reasoned written refusal of entry shall be issued by the Executive Director of the Agency under the terms and within the time limits provided for in the Administrative Procedure Code.

(8) The term of validity of the certificate referred to in Paragraph (5) shall be three years.

(9) The refusal of entry into the register shall be subject to appeal according to the procedure established by the Administrative Procedure Code.

(10) The Agency for Sustainable Energy Development shall expunge in the register any persons who have received certificates entitling them to perform an energy efficiency audit of industrial systems, in case of:

1. occurrence of non-compliance with any of the conditions covered under Paragraph (1);

2. submission of declarations making false statements under Item 2 of Paragraph (1), Paragraph (2) and/or Paragraph

(3);

3. an effective penalty decree for a committed violation of this Act;
4. initiation of bankruptcy or liquidation proceedings against the merchant.

(11) The circumstances subject to entry under Paragraphs (1) to (3), the procedure for entry into the register and for obtaining information, as well as the terms and procedure for acquisition and recognition of qualification under Item 3 (b) of Paragraph (1) and the necessary technical devices for performing the audit and certification activities, shall be specified by the ordinance referred to in Article 23 (11).

Article 35. The survey shall be concluded by a report, which shall be drawn up under the terms and according to the procedure established by the ordinance referred to in Article 33 (4) and which shall be accompanied by a declaration on the non-existence of the circumstances referred to in Article 34 (2).

Section V

Energy Efficiency Management in Buildings and Industrial Systems

Article 36. (1) (Supplemented, SG No. 6/2009, effective 1.05.2009) The owners of buildings referred to in Article 19 (2) and industrial systems referred to in Article 33 (2) shall be obligated to perform energy efficiency management.

(2) Energy efficiency management shall be performed by:

1. elaborating, on an annual basis, energy efficiency improvement plans and programmes in accordance with the reports referred to in Article 35;
2. implementing the measures envisaged in the plans and programmes referred to in Item 1;
3. submitting to the Agency information on the effect of the measures implemented and on the effect expected from the implementation of the measures envisaged in the plans and programmes referred to in Item 1;
4. designating at least one employee whose job description includes the task of compliance with the obligations referred to in Items 1 to 3.

(3) (Supplemented, SG No. 6/2009, effective 1.05.2009) The owners of buildings referred to in Article 19 (2) shall keep a logbook on the monthly consumption by type of energy, including dates, prices and supplied amounts, as well as identification numbers of the documents certifying the quality of the fuels supplied.

(4) The owners of industrial systems referred to in Article 33 (2) shall prepare, on a regular basis and at least once a year, analyses of the total and specific energy consumption.

(5) The persons referred to in Paragraphs (3) and (4) shall submit to the Agency annual reports on energy efficiency management.

(6) The reports referred to in Paragraph (5) shall contain a description of the activities and measures, shall indicate the amount of the energy savings achieved, and shall be submitted with a copy of the plans and programmes referred to in Item 1 of Paragraph (2) not later than on the 31st day of March of the year following the year of implementation of the respective activities and measures.

Section VI

Provision of Energy Services

Article 37. Energy services shall seek to combine energy delivery with energy efficient technology and/or with action which includes the operation, maintenance and control necessary to deliver the service and leads to verifiable, measurable or estimable energy efficiency improvement and/or primary energy savings.

Article 38. (1) Energy services shall be rendered on the basis of written contracts concluded with the final consumers of energy.

(2) Energy services shall include implementation of one or more energy efficiency improvement activities and measures as specified in the ordinance referred to in Article 9 (2).

(3) (Effective 15.05.2009) In order to ensure traceability of energy costs and of the energy savings levels achieved as a result of the rendering of energy services, the persons referred to in Article 39 (2) shall provide to final customers the following information with the invoices:

1. the current actual prices and the energy actually consumed;
2. the energy consumption for the current period, compared to the energy consumption for the same period in the previous year;
3. contact information for consumers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures.

(4) (Effective 15.05.2009) In order to ensure traceability and correction of energy consumption, the information referred to in Paragraph (3) shall be prepared on the basis of the actual consumption of energy for the respective period and shall be provided to the final customer on the respective day of the month following the month in which the meter readings were taken.

Article 39. (1) Energy services may be rendered by natural or legal persons who or which are merchants within the meaning given by the Commerce Act or within the meaning given by the legislation of a Member State of the European Union or of another Contracting Party to the Agreement on the European Economic Area.

(2) (Amended, SG No. 35/2011, effective 3.05.2011) Retail energy sales companies shall provide energy services or shall contribute to the Energy Efficiency and Renewable Sources Fund or to other existing or newly created energy efficiency funds for the provision of such services ensuring the achievement of the individual indicative targets allocated thereto.

(3) When the implementation of activities under Articles 16 and 33 is included in the scope of energy services referred to in Article 38 (2), the persons referred to in Paragraphs (1) and (2):

1. shall implement the activities on their own, in case they meet the requirements of Article 23 (1) and Article 34 (1);
2. shall assign the implementation of the activities to persons who meet the requirements of Article 23 (1) and Article 34 (1).

(4) For the purpose of ensuring traceability of energy costs by final customers, the retail energy sales companies may provide, as a competitively priced energy service, replacement of the existing devices (commercial metering devices) by intelligent metering and control systems which provide visual information on:

1. the current energy consumption;
2. carry-over current account;
3. momentary energy load;
4. deviations in the quality of the energy delivered;
5. other necessary information.

(5) The achieved energy efficiency improvement and the degree of compliance with other requirements envisaged in the contract for provision of the energy service shall be taken into account when determining the value of the energy services provided.

Chapter Four

AVAILABILITY AND ACCESSIBILITY OF INFORMATION

Article 40. (1) For the purpose of ensuring accessibility and availability of the information collected under the terms and according to the procedure established by this Act, a national information system on the condition of energy efficiency in the Republic of Bulgaria shall be created and maintained at the Agency.

(2) For the purpose of ensuring accessibility through the system referred to in Paragraph (1), information shall be provided on:

1. the national indicative targets;
2. the implementation of activities and measures envisaged in the national energy efficiency action plans;
3. the annual energy savings achieved;
4. the condition of energy efficiency: at a national level and by sector;
5. the energy efficiency plans and programmes referred to in Article 11 (1);
6. the report on the implementation of the plans referred to in Article 12 (1) and the resources for their implementation envisaged under Article 11 (3);
7. the plans and programmes referred to in Item 1 of Article 36 (2);
8. the reports referred to in Article 36 (5);
9. the good practices in the sphere of energy efficiency;
10. the persons entered in the registers under Article 23 (4) and Article 34 (4).

(3) For the purpose of ensuring availability through the system referred to in Paragraph (1), information shall be collected on:

1. the achievement of the individual indicative targets;
2. the energy sales made to final customers during the previous calendar year;
3. the quantities of finished output and/or services rendered and value added during the previous calendar year and the energy used for this;
4. the implemented energy efficiency activities and measures;
5. the buildings subject to mandatory certification under Article 19;
6. the industrial systems subject to mandatory audit under Article 33 (2);
7. boilers and air-conditioning systems under Article 27 (1) and Article 28 (1);
8. (supplemented, SG No. 35/2011, effective 3.05.2011) implemented projects for the achievement of individual indicative targets financed by the Energy Efficiency and Renewable Sources Fund;
9. other activities associated with implementation of the law.

Article 41. (1) The information referred to in Article 40 (2) and (3) shall be provided by:

1. the retail energy sales companies;
2. the owners of buildings and industrial systems;
3. the owners of boilers and air-conditioning systems referred to in Article 27 (1) and Article 28 (1), respectively;
4. (supplemented, SG No. 35/2011, effective 3.05.2011) the Executive Director of the Energy Efficiency and Renewable Sources Fund;
5. other persons who provide energy services.

(2) The information referred to in Paragraph (1) shall be provided to the Agency not later than the 31st day of March of the year following the year of implementation of the respective activities and measures.

Article 42. The content, structure, terms and procedure for collecting and providing the information referred to in Article 40 (2) and (3) shall be specified by an ordinance of the Minister of Economy, Energy and Tourism.

Chapter Five

FUNDING MECHANISMS FOR ENERGY EFFICIENCY IMPROVEMENT AND ENERGY SAVINGS CERTIFICATES

Section I

Types of Funding Mechanisms

Article 43. The following funding mechanisms can be applied for energy efficiency improvement:

1. voluntary agreements;
2. guarantee of energy savings contracts;
3. (supplemented, SG No. 35/2011, effective 3.05.2011) financing from the Energy Efficiency and Renewable Sources Fund.

Section II

Voluntary Agreements

Article 44. The voluntary agreements shall seek to encourage reductions in energy consumption by:

1. provision of energy services and/or implementation of energy efficiency activities and measures by the retail energy sales companies;
2. energy efficiency audit and/or implementation of appropriate measures by the final consumers of energy.

Article 45. The voluntary agreements may be concluded between the Executive Director of the Agency and:

1. the owners of buildings under Article 19 (1), with the exception of state-owned and/or municipality-owned buildings;
2. the owners of industrial systems under Article 33 (2);
3. the retail energy sales companies.

Article 46. (1) The voluntary agreements referred to in Article 45 shall state:

1. the specific obligations of the persons referred to in Article 45 for achievement of the targets referred to in Article 44;
2. the specific obligations of the Agency;
3. the mechanisms for monitoring and control of compliance;
4. the methodology for assessment of the energy savings achieved;
5. the procedures for modification and/or supplementation of the measures envisaged, where the targets have not been achieved or where there exist obstacles to their achievement;
6. other clauses.

(2) The drafts of the voluntary agreements shall be published in an appropriate manner ensuring their discussion by the stakeholders.

Article 47. The Agency can participate in the voluntary agreements referred to in Article 45 by:

1. providing methodological assistance in connection with the opportunities for funding and implementation of an energy efficiency audit and/or measures prescribed by an audit as implemented;
2. organising training of the persons referred to in Item 4 of Article 36 (2).

Section III

Guarantee of Energy Savings Contracts

Article 48. (1) Guarantee of energy savings contracts shall seek to implement energy efficiency improvement activities and measures in buildings and/or industrial systems, leading to end-use energy savings, with the investments made and the payment of the remuneration owed to the contractor being recouped by the energy savings achieved.

(2) Final consumers of energy may be clients, and the energy service companies may be contractors under the contracts referred to in Paragraph (1). The contractors shall be natural or legal persons who or which are merchants within the meaning given by the Commerce Act or within the meaning given by the legislation of a Member State of the European Union, or of another Contracting Party to the Agreement on the European Economic Area, with objects including performance of services under guarantee of energy savings contracts: ESCO services.

(3) The contractors referred to in Paragraph (2) must meet the requirements of Articles 23 and 34, when they implement any activities under Articles 16 and 17 and Article 33 (1).

Article 49. (1) The services under guarantee of energy savings contracts shall be rendered given a guaranteed energy saving for the building or the industrial system for which the service is implemented.

(2) The services under guarantee of energy savings contracts shall be rendered on the basis of written contracts which shall contain:

1. the normalised energy consumption;
2. the guaranteed energy savings and the procedure for their measurement and verification;
3. the method of funding;
4. the method of payment of the remuneration;
5. other clauses.

(3) The contractors referred to in Article 48 (2) shall ensure the rendering of the service in whole or in part on their own

financial resources and/or shall undertake to procure the financing thereof from a third party.

(4) The contractors referred to in Article 48 (2) shall incur the financial risk, as well as the technical and commercial risk associated with the implementation of the activities and measures envisaged in the contract for energy efficiency improvement and for attainment of the result guaranteed by the contract.

(5) For state-owned and/or municipality-owned buildings which are the subject matter of a contract under Article 48 (1), the ESCO services shall include all activities and measures guaranteeing the certification of these buildings.

(6) For state-owned and/or municipality-owned buildings which are the subject matter of a contract under Article 48 (1), financial resources which, for the period of implementation of the contract, correspond to the normalised energy costs of these buildings, shall be planned and allocated in the budgets of the ministries, central-government departments and municipalities.

(7) The terms and procedure for determining the amount of the financial resources planned under Paragraph (6), as well as the terms and procedure for their payment, shall be specified by an ordinance of the Minister of Economy, Energy and Tourism and the Minister of Finance.

Section IV

Energy Savings Certificates

Article 50. The energy savings certificates shall seek to prove the contribution of the certificate holder to the implementation of energy efficiency improvement measures.

Article 51. (1) The certificates of energy savings achieved under Article 50 shall be issued by the Executive Director of the Agency to the persons referred to in Article 39 (2) and to the owners of buildings referred to in Article 19 and of industrial systems referred to in Article 33 (2) in consideration of a fee fixed according to a rate schedule adopted by the Council of Ministers.

(2) The certificates issued to the persons referred to in Article 39 (2) and to the owners of buildings referred to in Article 19 and of industrial systems referred to in Article 33 (2) shall be used to confirm the achievement of the individual indicative energy savings targets as allocated.

Article 52. (1) The energy savings achieved shall be proved by the persons referred to in Article 23 (1) and Article 34 (1).

(2) The methodologies used for assessing the effect of the various types of energy efficiency improvement measures as implemented shall be verified by the Agency.

(3) The actions referred to in Paragraphs (1) and 2, as well as the format, terms and procedure for the issuing of the certificates referred to in Article 50, shall be specified by the ordinance referred to in Article 9 (2).

Article 53. The rules for introduction of a market mechanism for energy efficiency improvement through the implementation of energy efficient activities and measures shall be laid down by a separate law.

Section V

Energy Efficiency and Renewable Sources Fund **(Title supplemented, SG No. 35/2011, effective 3.05.2011)**

Article 54. (1) (Amended, SG No. 35/2011, effective 3.05.2011) The Energy Efficiency and Renewable Sources Fund" shall fund the implementation of the activities and measures for increasing of the energy efficiency and promotion of the activities related to production and consumption of energy from renewable sources with the exception of the ones funded by the Government Budget.

(2) (Supplemented, SG No. 35/2011, effective 3.05.2011) The Energy Efficiency and Renewable Sources Fund, hereinafter referred to as Ythe Fund,Φ shall be a legal person with a head office in Sofia.

Article 55. (1) (Supplemented, SG No. 35/2011, effective 3.05.2011) The Fund shall manage financial resources, provided for development-project designs for energy efficiency improvement and for projects for production of energy from renewable sources, in accordance with the priorities set in the National Strategy and in the national action plans as adopted by the Council of Ministers.

(2) The Fund shall implement its activity in accordance with this Act and the agreements with donors and shall not be part of the consolidated state budget.

Article 56. In pursuit of its objectives, the Fund shall base its activity on the following principles:

1. transparency in the management of financial resources;
2. non-discrimination of all applicants for financing from the Fund;
3. (supplemented, SG No. 35/2011, effective 3.05.2011) partnership and co-operation with natural and legal persons who or which are merchants within the meaning given by the Commerce Act or within the meaning given by the legislation of a Member State of the European Union or of another Contracting Party to the Agreement on the European Economic Area, as well as with not-for-profit legal entities, for joint financing of energy efficiency projects and projects for production of energy from renewable sources.

Article 57. (1) The revenues of the Fund shall be raised from:

1. donations from international financial institutions, international funds, Bulgarian and foreign natural or legal persons;
2. interest on current accounts or bank deposits of the Fund;
3. loans or other financial instruments of a credit nature, contracted from international organisations and banks, as well as from natural and/or legal persons, registered as merchants, received exclusively for attainment of the objectives of the Fund;
4. contributions by the persons referred to in Article 39 (2);
5. (new, SG No. 35/2011, effective 3.05.2011) proceeds from sales of greenhouse gas emission allowances;
6. (renumbered from Item 5, SG No. 35/2011, effective 3.05.2011) other revenues compatible with the nature and activity of the Fund.

(2) The initially raised financial resources shall be deposited with a custodian commercial bank-depository licensed to operate within the national territory and selected through a competitive procedure.

Article 58. (Supplemented, SG No. 6/2009, amended, SG No. 35/2011, effective 3.05.2011) (1) Resources of the Fund shall be expended for:

1. funding against consideration of projects for development of energy efficiency;
2. funding against consideration of activities and projects for production of energy from renewable sources;
3. guarantee activities under loans from financial and credit institutions, granted under projects as per items 1 and 2;
4. priority funding of projects for:
 - a) implementation of measures for increasing energy efficiency of ultimate consumption of energy;
 - b) use of energy from renewable sources in ultimate consumption of energy;
5. support of the Fund in accordance with the annual revenue and expense budget approved by the management board.

(2) Users of electricity, heating, and natural gas in condominium buildings, incorporated as legal persons - partnerships of owners, in pursuance with the Condominium Management Act may apply for funding of projects for increasing energy efficiency and projects for setting up of installations using renewable sources from the Energy Efficiency and Renewable Sources Fund.

Article 59. (1) (Amended, SG No. 35/2011, effective 3.05.2011) The Fund shall be managed by a Governing Board, consisting of 9 members, as follows:

1. a representative of the Ministry of Economy, Energy and Tourism, designated by the Minister of Economy, Energy and Tourism;

2. a representative of the Ministry of Environment and Water, designated by the Minister of Environment and Water;

2a. (new, SG No. 35/2011, effective 3.05.2011) a representative of the Ministry of Regional Development and Public Works, designated by the Minister of Regional Development and Public Works;

3. the Executive Director of the Agency;

4. (amended, SG No. 35/2011, effective 3.05.2011) five representatives elected by the General Meeting of Donors of the Energy Efficiency and Renewable Sources Fund, as follows:

a) a representative of non-government organisations, the activities of which are focused on reducing the risk of global climate changes;

b) two experts with higher economic education with experience in funding of projects in the area of power generation;

c) an expert in the field of energy efficiency with higher engineering education;

d) an expert in the field of renewable sources with higher engineering education.

(2) The term of office of the members of the Governing Board shall be two years.

(3) The Chairperson of the Governing Board shall be elected from amongst the members of the Governing Board for a term of one year.

(4) Each member of the Governing Board, who held the position of Chairperson, shall complete the term of office thereof as member of the Board after vacating the position of Chairperson.

(5) (Repealed, SG No. 35/2011, effective 3.05.2011).

(6) (Amended, SG No. 35/2011, effective 3.05.2011) The meeting referred to in Paragraph (1), item 4 shall be convened once every two years, and the Minister of Economy, Energy and Tourism or a person empowered thereby shall participate therein. The meeting shall adopt the rules referred to in Item 1 of Article 60 (2).

(7) (Repealed, SG No. 35/2011, effective 3.05.2011).

(8) Eligibility for membership of the Governing Board shall be limited to natural persons, as well as to representatives of legal persons, who:

1. has not been convicted of a premeditated indictable offence;

2. is not a spouse or a lineal or collateral relative up to the fourth degree of consanguinity to any other member of the Governing Board of the Fund, or an affine up to the third degree of affinity to any such member;

3. does not work under a civil-service relationship or under an employment contract in the administration, with the exception of the persons referred to in Items 1 to 3 of Paragraph (1).

Article 60. (1) The Governing Board shall manage the overall activity of the Fund.

(2) The Governing Board shall perform the following functions:

1. elaborate and propose for adoption by the meeting referred to in Article 59 (5) the rules of organisation of the work and operation of the Fund;
2. approve the financing and guarantee-furnishing policy of the Fund;
3. adopt a strategy for the activity of the Fund;
4. (amended, SG No. 35/2011, effective 3.05.2011) adopt the criteria for evaluation and selection of projects applying for financing from the Fund;
5. (amended, SG No. 35/2011, effective 3.05.2011) shall approve the financing of projects;
6. approve the contracts associated with the guarantee-furnishing activity of the Fund;
7. adopt the annual report on implemented projects for achievement of individual indicative targets of the persons referred to in Article 39 (2), financed through the Fund;
8. approve the budget revenues and expenditures and the annual activity report of the Fund, as prepared by the Executive Director;
9. elect and remove the Executive Director;
10. appoint an independent financial auditor and adopt the annual financial statement;
11. approve the staffing schedule of the Fund and fix the remuneration of the employees of the Fund;
12. adopt other measures as well, determined to be necessary for attainment of the objectives of the Fund.

Article 61. (1) The Fund shall be represented by an Executive Director, selected by the Governing Board through a competitive procedure.

(2) The relations with the Executive Director shall be regulated by a contract.

(3) The contract with the Executive Director shall be concluded for a term of validity of five years.

(4) The Executive Director of the Fund shall perform the following functions:

1. represent the Fund;
2. prepare a draft strategy for the activity of the Fund;
3. prepare the requisite documentation for financing and furnishing of guarantees of projects in accordance with the law and the agreements concluded with donors;
4. prepare a draft of the revenue and expenditure budget and ensure the implementation of the budget as approved by the Governing Board;
5. prepare an annual report on implemented projects for achievement of individual indicative targets of the persons referred to in Article 39 (2), financed through the Fund, submit the said annual report for approval by the Governing Board of the Fund, and submit the said annual report to the Agency not later than on the 31st day of March of the year following the reporting year;
6. prepare reports and other materials for review and approval by the Governing Board in accordance with the internal

rules of the Fund;

7. make arrangements for the meetings of the Governing Board;

8. sign the contracts for financing and furnishing of guarantees of projects as approved by the Governing Board and as concluded with the Fund;

9. periodically brief the Governing Board on the level of implementation of the projects financed;

10. appoint and dismiss staff in accordance with the effective legislation;

11. be responsible for preservation of the property of the Fund;

12. perform other activities as well, assigned thereto by a decision of the Governing Board.

Article 62. (1) The contract with the Executive Director shall be terminated before expiry of the term of validity thereof:

1. by mutual consent;

2. at the request of the Executive Director by a prior notice of not less than three months;

3. upon entry into effect of a sentence for a premeditated offence;

4. upon systematic non-fulfilment of the obligations thereof;

5. upon injuring the interests of the Fund;

6. (new, SG No. 42/2009, amended, SG No. 97/2010, effective 10.12.2010) upon entry into force of an act which ascertains any conflict of interest under the Conflict of Interest Prevention and Ascertainment Act.

7. (renumbered from Item 6, SG No. 42/2009) in case of an objective inability to fulfil the obligations thereof for a period of more than six months;

8. (renumbered from Item 7, SG No. 42/2009) in case of death.

(2) The circumstances referred to in Paragraph (1) shall be established and the term of office shall be terminated by a decision of the Governing Board.

Chapter Six

ENERGY EFFICIENCY CONTROL

Article 63. The Executive Director of the Agency shall exercise control over the activity of:

1. the final consumers of energy in the cases where the implementation of energy efficiency improvement activities and measures according to this Act or other statutory instruments is mandatory;

2. the persons referred to in Article 23 (1) and Article 34 (1);

3. the persons referred to in Article 10 (1) in the achievement of the individual energy savings targets allocated thereto;

4. the contracting authorities referred to in Article 161 (1) of the Spatial Development Act as to compliance with their obligation under Article 20 (1).

Article 64. In exercising the control powers thereof, the Executive Director of the Agency:

1. shall conduct checks through employees empowered thereby;
2. shall perform verification audits by systematic or random sampling of the audited buildings and/or industrial systems through employees empowered thereby;
3. shall impose administrative sanctions provided for by this Act.

Article 65. (1) The persons referred to in Article 64, who conduct checks and draw up written statements of ascertainment of administrative violations, shall be designated by an order of the Executive Director.

(2) The persons referred to in Paragraph (1) shall identify themselves by the order referred to in Paragraph (1) and by an identification card certifying the position occupied by them.

Article 66. (1) The persons referred to in Article 64 shall have the right:

1. to unimpeded access to the sites to be checked;
2. to demand from the persons checked to produce the documents required for the exercise of the control ;
3. to perform verification audits.

(2) In respect of the buildings and industrial systems owned by the Ministry of Defence and the Ministry of Interior, the actions referred to in Paragraph (1) shall be implemented under terms and according to a procedure established in the respective special laws.

(3) The persons referred to in Article 64 shall be obligated to respect the confidentiality of any official and commercial secrets which have come to the knowledge thereof in the course of, or in connection with, the performance of the control activity.

Article 67. The person checked shall be obligated to ensure all conditions required for the normal conduct of the check and to co-operate with the persons referred to in Article 64 and, to this end:

1. provide a place for conduct of the check;
2. designate a representative thereof to liaise with and provide assistance to the officials who conduct the check;
3. provide access to office premises;
4. produce all documents required for exercise of the control.

Article 68. (1) The persons referred to in Article 64 shall draw up a memorandum of ascertainment on the results of the checks, attaching thereto the collected data, documents and explanations.

(2) The memorandum shall be provided the person checked, who shall have the right to give explanations and lodge objections within fourteen days after the date of service.

Article 69. (1) On the basis of the results of the check, the persons referred to in Article 64 may:

1. issue mandatory prescriptions to the persons checked to eliminate the violations ascertained and establish a time limit for their implementation;
2. draw up written statements of ascertainment of administrative violations.

(2) The prescriptions, issued by the persons referred to in Article 64 in exercise of the powers vested therein under this Act, shall be mandatory.

(3) The persons who have been issued mandatory prescriptions shall notify the persons referred to in Article 64 of the

compliance with the said prescriptions within the time limit set thereto.

Article 70. All state bodies, legal and natural persons shall be obligated to co-operate with the persons referred to in Article 64 in carrying out their functions.

Chapter Seven

ADMINISTRATIVE PENALTY PROVISIONS

Article 71. Any contracting authority of a building, who or which fails to fulfil the obligation thereof under Article 20 (1), shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000 or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

Article 72. Any person, who or which obstructs or tolerates the obstruction of the conduct of a check by the persons referred to in Article 64, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000 or to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 3,000.

Article 73. Any person referred to in Article 64, who violates the provision of Article 66 (3), shall be liable to a fine of BGN 10,000.

Article 74. Any person, who or which fails to comply with a mandatory prescription under Item 1 of Article 69 (1), shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 5,000 or to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 30,000.

Article 75. Any owner of a building and/or industrial system, who or which obstructs a person referred to in Article 64 upon the conduct of a check or a verification audit, shall be liable to a fine of BGN 2,000 or to a pecuniary penalty of BGN 5,000.

Article 76. Any contracting authority within the meaning given by Article 161 (1) of the Spatial Development Act, who or which fails to fulfil the obligation to update the energy performance certificate of a building in the cases referred to in Article 20 (4), shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000 or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000.

Article 77. Any owner of a building and/or industrial system under Article 33 (2), who or which fails to implement the measures prescribed in the energy efficiency audit report within the time limits referred to in Article 19 (3) or Article 33 (3), respectively, shall be liable to a fine of BGN 10,000 or exceeding this amount but not exceeding BGN 30,000 or to a pecuniary penalty of BGN 50,000 or exceeding this amount but not exceeding BGN 100,000.

Article 78. Any person referred to in Article 23 (1), who or which has issued an energy performance certificate of a building, without having performed an energy efficiency audit, shall be liable to a fine of BGN 50,000 or exceeding this amount but not exceeding BGN 100,000 or to a pecuniary penalty of BGN 200,000 or exceeding this amount but not exceeding BGN 300,000.

Article 79. Any person referred to in Article 23 (1), who or which allows a deviation by more than 10 per cent from the parameters of the verification audit when performing an energy efficiency audit of a building, shall be liable to a fine of BGN 25,000 or exceeding this amount but not exceeding BGN 50,000 or to a pecuniary penalty of BGN 50,000 or exceeding this amount but not exceeding BGN 100,000.

Article 80. Any person referred to in Article 34 (1), who or which allows a deviation by more than 10 per cent from the parameters of the verification audit when performing an energy efficiency audit of industrial systems, shall be liable to a fine of BGN 100,000 or exceeding this amount but not exceeding BGN 200,000 or to a pecuniary penalty of BGN 300,000 or exceeding this amount but not exceeding BGN 500,000.

Article 81. Any person, who or which performs certification of buildings or an energy efficiency audit in violation of the provision of Article 23 (2) or Article 34 (2), shall be liable to a fine of BGN 50,000 or exceeding this amount but not exceeding BGN 100,000 or to a pecuniary penalty of BGN 100,000 or exceeding this amount but not exceeding BGN 200,000.

Article 82. (1) Any person, who or which owns a boiler fired by liquid or solid fuel with an effective rated output of 20 kW to 100 kW, and who or which fails to fulfil the obligation thereof under Article 29 (2), shall be liable to a fine of BGN 150 or exceeding this amount but not exceeding BGN 200 or to a pecuniary penalty of BGN 1,500 or exceeding this amount but not exceeding BGN 2,000.

(2) Any person, who or which owns a boiler fired by liquid or solid fuel or by natural gas of an effective rated output of more than 100 kW, or an air-conditioning system of an effective rated output of more than 12 kW, and who or which fails to fulfil the obligation thereof under Article 28 (2), shall be liable to a fine of BGN 1,500 or exceeding this amount but not exceeding BGN 2,000 or to a pecuniary penalty of BGN 15,000 or exceeding this amount but not exceeding BGN 20,000.

Article 83. (1) Any owner of a building referred to in Article 19, who or which fails to fulfil the obligation to submit reports to the Agency within the time limit referred to in Article 36 (6), shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000 or to a pecuniary penalty of BGN 3,000 or exceeding this amount but not exceeding BGN 5,000.

(2) Any owner of an industrial system referred to in Article 33 (2), who or which fails to fulfil the obligation to submit reports to the Agency within the time limit referred to in Article 36 (6), shall be liable to a fine of BGN 1,500 or exceeding this amount but not exceeding BGN 2,000 or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 8,000.

Article 84. Any person referred to in Items 1 to 4 of Article 41 (1), who or which fails to submit information within the time limit referred to in Article 41 (2), shall be liable to a fine of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000 or to a pecuniary penalty of BGN 150,000 or exceeding this amount but not exceeding BGN 200,000.

Article 85. Any retail energy sales company, owner of a building referred to in Article 19 and owner of an industrial system referred to in Article 33 (2), who or which fails to achieve the individual energy savings target allocated thereto according to the procedure established by the ordinance referred to in Article 9 (2) within the time limits provided for in the national energy efficiency action plan, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000 or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 500,000.

Article 86. Any person, who or which fails to fulfil any other obligations under this Act, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,500 or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000.

Article 87. The written statements whereby administrative violations of this Act are ascertained shall be drawn up by officials designated by the Executive Director of the Agency.

Article 88. The penalty decrees shall be issued by the Executive Director of the Agency.

Article 89. The ascertainment of violations, the issuing, appeal against and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning given by this Act:

1. "Energy" shall be all forms of commercially available energy: electricity, natural gas (including liquefied natural gas), liquefied petroleum gas, any fuel for heating and cooling (including district heating and cooling), coal and lignite, peat, biomass and transport fuels (excluding aviation and maritime bunker fuels).

2. "Energy savings" shall be an amount of saved energy determined by measuring and/or estimating the energy consumption before and after implementation of energy efficiency improvement measures.

3. "Energy service" shall be any service which includes the implementation of activities and measures resulting in energy savings, physical benefit, utility or good derived from a combination of energy delivery with energy efficient technology and/or

action, which may include the operations, maintenance and control necessary to deliver the service.

4. "Energy performance" shall be an indicator of the amount of energy actually consumed or estimated to meet the different needs associated with a standardised use of a building, including heating, hot water heating, cooling, ventilation and lighting.

5. "Energy efficiency" shall be the ratio of performance, goods, service or energy, and an input of energy.

6. "Energy service company" shall be a natural or legal person that delivers energy services and/or other energy efficiency improvement measures in buildings or industrial systems, and accepts some degree of financial risk in so doing. The payment for the services delivered is based on the achievement of energy efficiency improvements and on the meeting of the other agreed performance criteria.

7. "Indicators for reporting the results achieved" shall be indicators of the specific data related to the results achieved.

8. "Air-conditioning system" shall be a combination of all components required to provide air treatment in which temperature is controlled, possibly in combination with the control of ventilation, humidity and air cleanliness.

9. "Verification energy efficiency audit" shall be an audit for verification of the results of a previous energy efficiency audit for the purpose of protection of the public interest.

10. "Boiler" shall be a facility which constitutes a combined boiler body and burner-unit designed to transmit to water the heat released from combustion.

11. "Final customer of energy" shall be any natural or legal person that purchases energy for his or its own end use.

12. "Effective rated output" shall be the maximum calorific output specified and guaranteed by the manufacturer as being deliverable during continuous operation.

13. "Normalised energy consumption" shall be the energy consumption necessary to ensure compliance with the statutorily required parameters of the microclimate in a building in its existing condition.

14. "Total energy consumption" shall be the total amount of energy purchased by the final consumer of energy for a period of one year.

15. "Energy efficiency audit" shall be a process based on a systematic procedure for determination and valuation of the energy flows and consumption in buildings and/or industrial systems, which defines the scope of the technical and economic parameters of the energy efficiency improvement measures.

16. "Energy efficiency improvement" shall be a result of the implementation of a measure or an activity which leads to a reduction of the ratio between the input of energy and the output of performance, goods, services or energy, without any deterioration of the quality or other characteristics.

17. "Energy efficiency improvement programmes" means activities and measures addressed at the different groups of final consumers of energy which lead to verifiable, measurable or estimable energy efficiency improvement.

18. "Industrial systems" shall be a totality of manufacturing buildings, facilities, technologies and auxiliary plants involved in the production of goods and the provision of services.

19. "Building" shall be a structure having walls and a roof, in which energy is used for regulating the internal temperature.

20. "Energy performance certificate of a building" shall be an officially recognised document, which includes the energy performance of a building calculated according to the methodology specified in the ordinance referred to in Article 15 (3).

21. "Specific energy consumption" shall be the total amount of energy divided by the output of goods or services produced over a period of one year.

22. "Heat pump" shall be a device or installation that extracts heat from air, water or earth and supplies the heat to the building.

23. "Retail energy sales company" shall be a natural or legal person that is a final supplier, public supplier, trader holding a license for "trade in electric power", heat transmission enterprise, manufacturer and/or trader of liquid fuels of petroleum origin, that sells to final customers more than the equivalent of 75 GWh energy per year or employs more than ten persons for the respective year or whose annual turnover and/or annual balance sheet total for the previous year exceeds BGN 4 million.

24. "Financial instruments for energy efficiency improvement" shall be all financial instruments such as funds, subsidies, tax rebates, loans, third-party financing, energy performance contracting, guarantee of energy savings contracts, outsourcing or other related contracts that are made available to the market place by public or private bodies in order to cover partly or totally the initial project cost for implementing energy efficiency improvement measures.

§ 2. (Repealed, SG No. 35/2011, effective 3.05.2011).

§ 3. This Act transposes the requirements of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings and Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/86/EEC.

TRANSITIONAL AND FINAL PROVISIONS

§ 4. This Act supersedes the Energy Efficiency Act (promulgated, SG No. 18/2004; amended, No. 74/2006, No. 55/2007).

§ 5. (1) The owners of buildings subject to mandatory certification according to the procedure established by the Energy Efficiency Act as superseded, who or which have in their possession reports on an audit until the entry into force of this Act, shall be obligated to implement the energy efficiency improvement measures prescribed by the said audit within three years after the entry into force of this Act.

(2) The owners of industrial systems subject to a mandatory audit according to the procedure established by the Energy Efficiency Act as superseded, who or which have in their possession report on an audit performed until the entry into force of this Act, shall be obligated to start implementing the energy efficiency improvement measures prescribed by the said audit within two years after the entry into force of this Act.

§ 6. (Amended, SG No 52/2010) (1) The Executive Director of the Agency for Sustainable Energy Development, jointly with the Executive Director of the Public Procurement Agency, shall issue instructions for the application of the requirements for energy efficiency and energy savings upon awarding public procurements for the supply of equipment and means of transportation with a view to minimisation of the costs for the term of their operation.

(2) The instructions referred to in Paragraph (1) shall be issued until 4 December 2010.

§ 7. A law on the introduction of a market mechanism for energy efficiency improvement through implementation of energy efficiency activities and measures shall be adopted within five years after the entry into force of this Act.

§ 8. The energy efficiency certificates issued according to the procedure established by the Energy Efficiency Act as superseded shall remain valid.

§ 9. (1) The second and third energy efficiency action plans, developed in implementation of Article 8, shall be adopted by the 30th day of May 2011 and by the 30th day of May 2014, respectively.

(2) The action plans referred to in Paragraph (1) shall be updated in the order of their adoption: by the 30th day of November 2011 and by the 30th day of November 2014, respectively.

(3) The ratio between the amount of national energy savings and the indicative target as adopted shall start to be reported as from the 1st day of January 2008.

§ 10. The persons, who have completed a course of training and have acquired qualification for energy efficiency audits and certification of buildings according to the procedure established by the Energy Efficiency Act as superseded, shall preserve their rights to perform energy efficiency audits of buildings and industrial systems and to certify buildings.

§ 11. (1) Energy performance certificates of any buildings, for which an energy efficiency audit was performed prior to the entry into force of this Act, shall be issued by the persons who performed the audit of the respective building within a one year after the entry into force of this Act.

(2) In the cases referred to in Paragraph (1), where the person who performed the audit has been expunged in the register referred to in Article 23 (4), the energy performance certificate shall be issued by the Agency for Sustainable Energy Development on the basis of the results of the audit performed by the said person or of a verification audit performed by the Agency for Sustainable Energy Development.

§ 12. In the Energy Act (promulgated, SG No. 107 of 2003; amended, No. 18 of 2004, Nos. 18 and 95 of 2005, Nos. 30, 65 and 74 of 2006, Nos. 49, 55 and 59 of 2007, Nos. 36 and 43 of 2008), there shall be inserted an Article 7a to read as follows:

"Article 7a. (1) For protection of the interests of consumers, there shall be established a Public Council under the Minister of Economy and Energy as an advisory unit for addressing problems within the special competence of the Minister as defined in this Act.

(2) Representatives of the Ministry of Economy and Energy, consumer associations, unions of scientists, trade union organisations and not-for-profit legal entities shall be included in the composition of the Public Council referred to in Paragraph (1).

(3) The Public Council referred to in Paragraph (1) shall be established by an order of the Minister of Economy and Energy.

(4) The order referred to in Paragraph (3) shall define the types of issues to be examined by the Public Council, as well as the terms and procedure for implementation of its activities."

§ 13. (1) The statutory instruments of secondary legislation on the application of this Act shall be adopted or, respectively, issued and brought into conformity within six months after its entry into force.

(2) Pending the adoption or, respectively, issuing of the statutory instruments of secondary legislation as provided for under this Act, the statutory instruments of secondary legislation issued for application of the Energy Efficiency Act as superseded shall apply insofar as they do not conflict this Act.

§ 14. The owner of any industrial system subject to a mandatory energy efficiency audit according to the procedure established by Article 33 (2) shall be obligated to ensure an energy audit of the facilities owned thereby by the 31st day of December 2011.

§ 15. The Minister of Economy, Energy and Tourism shall establish the Public Council referred to in Article 7a of the Energy Act within six months after the entry into force of this Act.

§ 16. In Article 142 of the Spatial Development Act (promulgated, SG No. 1/2001; amended, Nos. 41 and 111/2001, No. 43/2002, Nos. 20, 65 and 107/2003, Nos. 36 and 65/2004, Nos. 28, 76, 77, 88, 94, 95, 103 and 105/2005, Nos. 29, 30, 34, 37, 65, 76, 79, 80, 82, 106 and 108/2006, Nos. 41, 53 and 61/2007, Nos. 33, 43, 54 and 69/2008), there shall be added Paragraph (9) to read as follows:

"(9) The conformity assessment under Item 6 of Article 169 (1) of development-project designs in the phases of schematic and working design shall be performed under a separate contract with the contracting authority by natural and legal persons who or which meet the requirements of the Energy Efficiency Act and who or which have been entered in the public register referred to in Article 23 (4) of that same Act."

§ 17. In the Transitional and Final Provisions of the Renewable and Alternative Energy Sources and Biofuels Act (SG No. 49/2007), § 3 (1) shall be amended to read as follows:

"(1) The mandatory purchase of electricity under Articles 16 and 17 shall be performed under purchase contracts. The term of the contracts shall be twenty-five years, applicable to electricity produced from geothermal and solar power, and fifteen years, applicable to electricity produced by hydroelectric power plants with an installed capacity of up to 10 MW, as well as to electricity produced from other types of renewable energy sources. The time limits for mandatory purchase shall start to run:

- 1. for the existing producers of electricity from renewable energy sources, with the exception of hydroelectric power plants with an installed capacity of more than 10 MW: after re-negotiation but not later than the 31st day of March 2009;
- 2. for all new producers of electricity from renewable energy sources, with the exception of hydroelectric power plants with an installed capacity of more than 10 MW: as from the start of production of electricity but not later than the 31st day of December 2015."

§ 18. The time limit referred to in Item 1 of § 3 (1) of the Transitional and Final Provisions of the Renewable and Alternative Energy Sources and Biofuels Act shall start to run as from the entry into force of this Act.

§ 19. The implementation of this Act is entrusted to the Minister of Economy, Energy and Tourism.

§ 20. This Act shall enter into force as from the day of its promulgation in the State Gazette, with the exception of the provision of Article 29 (2), which shall enter into force one year after the entry into force of the Act, and with the exception of the provisions of Article 38 Paragraphs (3) and (4), which shall enter into force six months after its entry into force.

This Act was passed by the 40th National Assembly on 30 October 2008 and the Official Seal of the National Assembly has been affixed thereto.

TRANSITIONAL AND FINAL PROVISIONS

to the Act amending and supplementing the Tourism Act

(SG No. 82/2009, effective 16.10.2009)

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§ 27. In the Energy Efficiency Act (Promulgated, SG No. 98/2008, amended, SG No. 6/2009, SG No. 19/2009 and SG No. 42/2009) everywhere the words "the Minister of Economy and Energy", "Minister of Economy and Energy" and "Ministry of Economy and Energy" shall be replaced respectively by "the Minister of Economy, Energy and Tourism", "Minister of Economy, Energy and Tourism" and "Ministry of Economy, Energy and Tourism"

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TRANSITIONAL AND FINAL PROVISIONS to the Energy from Renewable

Sources Act

(SG, No. 35/2011)

§ 15. In the Energy Efficiency Act (Promulgated SG No. 98/2008, amended No. 6, 19, 42 and 82/2009 and No.15, 52 and 97/2010.) the following amendments and supplements shall be made:

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16. Everywhere in the Act the wording "Energy Efficiency Agency" shall be replaced with "Agency for Sustainable Energy Development".

§ 16. (1) The Agency for Sustainable Energy Development is a successor of the activities, assets, liabilities, archives, as well as other rights and obligations of the Energy Efficiency Agency.

(2) Within two months from coming of the Act into force the Council of Ministers shall adopt Rules of Procedure of the Agency for Sustainable Energy Development.