

Act on the Promotion of New Energy Usage

(Act No. 37 of April 18, 1997)

Chapter I General Provisions (Article 1 and Article 2)

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Chapter I General Provisions

(Purpose)

Article 1 In order to contribute to the assurance of stable and suitable supplies of energy according to the domestic and international economic and social environment, the purpose of this Act is to promote national efforts with regard to new energy utilization, etc., as well as to take measures necessary to facilitate the utilization, etc. of new energy, thereby contributing to the sound development of the national economy and stabilization of lives of the citizenry.

(Definitions)

Article 2 In this Act, the term "New Energy Utilization, etc." shall mean, from among production, generation, and utilization of the types of petroleum alternative energy provided for in Article 2 of the Act on the Promotion of Development and Introduction of Alternative Energy (Act No. 71 of 1980; hereinafter referred to as "Petroleum Alternative Energy Act") (hereinafter in this Article referred to as "Petroleum Alternative Energy") and the utilization of power obtained from the conversion of electricity (limited to those activities which particularly contribute to the reduction of dependency on petroleum), those activities the acceptance of which is not yet widespread due to constraints from the standpoint of economic efficiency and which are provided for by Cabinet Order to be activities the promotion of which is particularly necessary for furthering the introduction of Petroleum Alternative Energy.

Chapter II Basic Policy, etc.

(Basic Policy)

Article 3 (1) The Minister of Economy, Trade and Industry shall prescribe and publicize the Basic Policy (hereinafter referred to as "Basic Policy") in regard

to promoting New Energy Utilization, etc.

- (2) The Basic Policy shall be prescribed in regard to the following matters, while taking into consideration the circumstances, such as the long-term outlook for energy supply and demand, the specific characteristics of the New Energy Utilization, etc., and the technical levels with respect to New Energy Utilization, etc., and giving due consideration to the preservation of the environment.
 - (i) Basic matters concerning measures to be taken by energy users (hereinafter referred to as "Energy Users") with respect to New Energy Utilization, etc.
 - (ii) Basic matters for promoting New Energy Utilization, etc. concerning measures to be taken by business operators who supply energy (in the next Article, paragraph (2), referred to as "Energy Supply Business Operators") or those who manufacture or import the machinery and fixtures for carrying out New Energy Utilization, etc. (in the same paragraph, referred to as "Manufacturing Business Operators, etc.")
 - (iii) Basic Matters Concerning Measures for Promoting New Energy Utilization, etc.
 - (iv) Other Matters Concerning New Energy Utilization, etc.
- (3) In prescribing the Basic Policy, the Minister of Economy, Trade and Industry shall obtain cabinet decisions.
- (4) The Minister of Economy, Trade and Industry shall consult with the heads of relevant administrative organs in advance, when he/she intends to prescribe the Basic Policy.
- (5) The Minister of Economy, Trade and Industry shall revise the Basic Policy when necessary due to a change in the circumstances set forth in paragraph (2).
- (6) The provisions of paragraph (1) through paragraph (4) shall apply mutatis mutandis to any revisions of the Basic Policy pursuant to the provisions of the preceding paragraph.

(Efforts of Energy Users, etc.)

- Article 4 (1) Energy Users shall endeavor to achieve New Energy Utilization, etc., while giving due consideration to the provisions of the Basic Policy.
- (2) Energy Supply Business Operators and Manufacturing Business Operators, etc. shall endeavor to promote New Energy Utilization, etc., while giving due consideration to the provisions of the Basic Policy.

(New Energy Utilization Guidelines)

- Article 5 (1) In order to promote New Energy Utilization, etc. by Energy Users for whom New Energy Utilization, etc. is deemed to be appropriate based on the circumstances, such as the characteristics of New Energy Utilization, etc., the technical level related to New Energy Utilization, etc., the Minister of

Economy, Trade and Industry, taking these matters into consideration and giving due consideration to the preservation of the environment, shall prescribe and publicize New Energy Utilization, etc. guidelines for Energy Users (hereinafter referred to as "New Energy Utilization Guidelines"), relating to the types and methods of New Energy Utilization, etc. to be promoted.

- (2) The Minister of Economy, Trade and Industry shall revise the New Energy Utilization Guidelines when necessary due to a change in the circumstances set forth in the preceding paragraph.
- (3) The Minister of Economy, Trade and Industry shall consult in advance with the heads of relevant administrative organs, when he/she intends to prescribe or revise the New Energy Utilization Guidelines.

(Guidance and Advice)

Article 6 When the competent minister finds it to be necessary to promote New Energy Utilization, etc., he/she shall provide guidance and advice to Energy Users with regard to the matters provided for in the New Energy Utilization Guidelines.

(Considerations Concerning Local Government Policies)

Article 7 In establishing and enforcing policies that contribute to promoting New Energy Utilization, etc. in local areas, local government shall take into consideration the Basic Policy as much as possible.

Chapter III Promoting New Energy Utilization, etc. as Carried out by Business Operators

(Accreditation of Utilization Plans)

Article 8 (1) Business operators who intend to practice New Energy Utilization, etc. in their business activities (including those who intend to establish a juridical person in order to practice said New Energy Utilization, etc.) shall prepare a plan concerning said New Energy Utilization, etc. (hereinafter referred to as "Utilization Plan") and submit said plan to the competent minister and may receive an accreditation to the effect that said Utilization Plan is suitable.

- (2) A Utilization Plan shall describe the matters listed in the following.
 - (i) Goals for New Energy Utilization, etc.
 - (ii) Content of New Energy Utilization, etc. and the implementation period thereof
 - (iii) The amount of funds necessary for New Energy Utilization, etc. and the procurement method thereof

(3) In case an accreditation set forth in paragraph (1) is applied for, when the competent minister finds that the Utilization Plan conforms to each item in the following, he/she shall provide an accreditation to that effect.

(i) The matters as listed in item (i) and item (ii) of the preceding paragraph are suitable in light of the Basic Policy, and also are particularly effective in disseminating the New Energy Utilization, etc. for our entire country.

(ii) The matters as listed in item (ii) and item (iii) of the preceding paragraph are suitable to carry out New Energy Utilization, etc. with certainty.

(Revisions, etc. of Utilization Plan)

Article 9 (1) When a person who has received the accreditation set forth in paragraph (1) of the preceding Article (including a juridical person the establishment of which by such person is set forth in the same paragraph), intends to revise the Utilization Plan to which said accreditation pertains, he/she shall obtain approval from the competent minister.

(2) When the competent minister finds that a person who [is suppose to be practicing] New Energy Utilization, etc. as set forth in a Utilization Plan that has received the accreditation set forth in paragraph (1) of the preceding Article (when a revision has been approved pursuant to the provisions of the preceding paragraph, the plan as revised; hereinafter referred to as "Certified Utilization Plan") (hereinafter referred to as "Certified Business Operator") is not practicing New Energy, Utilization, etc. in accordance with said Certified Utilization Plan, he/she may rescind said accreditation.

(3) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to the accreditation set forth in paragraph (1).

(Business of the New Energy and Industrial Technology Development Organization)

Article 10 The New Energy and Industrial Technology Development Organization shall carry out the following business activity in order to promote New Energy Utilization, etc.

(i) Guarantee debts pertaining to the funds required for New Energy Utilization, etc. which is done by a Certified Business Operator in accordance with a Certified Utilization Plan.

(ii) Carry out businesses incidental to the business listed in the preceding item.

Article 11 Deletion

Article 12 Deletion

(Special Provisions of the Small and Medium Business Investment &

Consultation Companies Act)

Article 13 (1) In addition to the businesses listed in each item of Article 5, paragraph (1) of the Small and Medium Business Investment & Consultation Companies Act (Act No. 101 of 1963), Small and Medium Business Investment & Consultation Companies may engage in the following businesses.

(i) Subscription for shares, and holding of the subscribed shares, issued when a Small or Medium Sized Enterprise Operator or an individual who is not engaged in a business sets up a business corporation with stated capital exceeding 300,000,000 yen in order to practice New Energy Utilization, etc. in accordance with a Certified Utilization Plan

(ii) Subscription for shares, a right to subscribe for new shares (except for those attached to bonds with a right to subscribe for new shares), or bonds with a right to subscribe for new shares, etc. (referring to bonds with a right to subscribe for new shares, etc. as provided for in Article 5, paragraph (1), item (ii) of the Small and Medium Business Investment & Consultation Companies Act; the same applying in the rest of this paragraph and in the following paragraph), which have been issued by a corporation among Small and Medium Sized Enterprise Operator with stated capital exceeding 300,000,000 yen in order to raise the funds required to practice New Energy Utilization, etc. in accordance with a Certified Utilization Plan, and the holding of the shares, the right to subscribe for new shares (including the shares issued or transferred through the exercise of the right to subscribe for new shares), the bonds with a right to subscribe for new shares, etc. (including the shares issued or transferred through the exercise of the right to subscribe for new shares attached to the bonds with a right to subscribe for new shares, etc.) obtained through said subscription,

(2) Concerning the application of the Small and Medium Business Investment & Consultation Companies Act to the subscription for shares and the holding of the shares obtained through said subscription pursuant to the provisions of item (i) of the preceding paragraph and, the subscription for shares, a right to subscribe for new shares (except for those attached to bonds with a right to subscribe for new shares) or bonds with a right to subscribe for new shares, etc., and the holding of the shares, the right to subscribe for new shares (including the shares issued or transferred through the exercise of the right to subscribe for new shares), the bonds with a right to subscribe for new shares, etc. (including the shares issued or transferred through the exercise of the right to subscribe for new shares attached to the bonds with a right to subscribe for new shares, etc.) obtained through said subscription pursuant to item (ii) of the same paragraph, those businesses shall be deemed to be the businesses of item (i) and item (ii) respectively of Article 5, paragraph (1) of the Act mentioned above in this paragraph.

(3) The "Small and Medium Sized Enterprise Operator" set forth in paragraph (1), all items, are entities which fall under any of the following.

(i) Any corporation whose amount of stated capital or the total amount of capital contribution is 300,000,000 yen or less and any corporation or individual whose number of regular employees is 300 or less, the main business of which is classified as manufacturing, construction, transportation or other business type (excluding the business types listed in the next item (ii) through item (ii)-3 and those specified by the Cabinet Order set forth in item (iii))

(ii) Any corporation whose amount of stated capital or the total amount of capital contribution is 100,000,000 yen or less and any corporation or individual whose number of regular employees is 100 or less, the main business of which is classified as wholesale business (excluding the business types specified by the Cabinet Order set forth in item (iii))

(ii)-2 Any corporation whose amount of stated capital or the total amount of capital contribution is 50,000,000 yen or less and any corporation or individual whose number of regular employees is 100 or less, the main business of which is classified as a service business (excluding the business types specified by the Cabinet Order set forth in item (iii))

(ii)-3 Any corporation whose amount of stated capital or the total amount of capital contribution is 50,000,000 yen or less and any corporation or individual whose number of regular employees is 50 or less, the main business of which is classified as a retail business (excluding the business types specified by the Cabinet Order set forth in the following item)

(iii) Any corporation whose amount of stated capital or the total amount of capital contribution is not more than the amount stipulated by Cabinet Order for each of its business types and any corporation or individual whose number of regular employees is not more than that stipulated by Cabinet Order for each of its business types, the main business of which is classified as a business belonging to a business type specified by that Cabinet Order

(iv) Joint-Enterprise Cooperatives

(v) Cooperative Partnerships

(vi) Business cooperatives, small business cooperatives, commercial and industrial partnerships, federation of cooperatives, and other partnerships and federations thereof established by special Acts, and which are specified by Cabinet Orders

Chapter IV Miscellaneous Provisions

(Collection of Reports)

Article 14 The competent minister may request from a Certified Business

Operator reports concerning the implementation status of the Certified Utilization Plan.

(Competent Minister)

Article 15 The competent minister as mentioned in this Act shall be as follows.

- (i) For matters pertaining to guidance and advice provided in Article 6, the Minister of Economy, Trade and Industry and the minister who has the jurisdiction over the businesses to be implemented by the Energy User shall be the competent ministers.
- (ii) The Minister of Economy, Trade and Industry and the minister who has jurisdiction over the businesses implemented by the person practicing New Energy Utilization, etc. shall be the competent ministers in regard to the accreditation provided in paragraph (1) of Article 8, the accreditation of revisions provided in paragraph (1) of Article 9, the rescission of accreditation provided in paragraph (2) of the same Article, and matters pertaining to the collection of reports provided in the hereto preceding Article.

(Penal Provisions)

Article 16 (1) Business operators who fail to report pursuant to the provisions of Article 14, or who file false reports shall be punished by a fine of 200,000 yen or less.

- (2) When a representative of a juridical person or an agent, employee, or other worker of a juridical person or of an individual, commits a violation of the preceding paragraph concerning the business of the juridical person or of the individual, the actual offender shall be punished and in addition the said juridical person or the individual shall be punished by the fine set forth in the same paragraph.

Supplementary Provisions [Extract]

(Effective Date)

- (1) This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the day of promulgation.

Supplementary Provisions [Act No. 146 of December 3, 1999] [Extract]

(Effective Date)

Article 1 This Act shall come into effect as from the day of promulgation.

(Transitional Measures Concerning Penal Provisions)

Article 14 With regard to the application of penal provisions to any acts committed prior to the enforcement of this Act (for provisions provided in the Proviso of the Supplementary Provisions Article 1, those provisions; hereinafter the same shall apply in this Article) and any acts committed after the enforcement of this Act in the cases where the provisions then in force shall remain applicable or remain in force pursuant to the Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation to Cabinet Order)

Article 15 In addition to what is provided for in Article 2 to the preceding Article in the Supplementary Provisions, any necessary transitional measures for the enforcement of this Act shall be prescribed by a Cabinet Order.

Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]

(Effective Date)

Article 1 This Act (excluding Article 2 and Article 3) shall come into effect as from January 6, 2001.

Supplementary Provisions [Act No. 222 of December 22, 1999] [Extract]

(Effective date)

Article 1 This Act shall come into effect as from the day specified by Cabinet Order within a period not exceeding two months from the date of promulgation; provided, however, that the provisions listed in each of the following item shall come into effect as from the day specified in each applicable item.

(iii) Revised provisions of Article 9 of the Act on Temporary Measures for the Promotion of Creative Business Activities of Small and Medium sized Enterprises in the Provisions of Article 4 and Article 7; revised provisions of Article 13 of the Act on Special Financial Support to Deal with Designated Disasters of Extreme Severity (Act No. 150 of 1962) in Supplementary Provisions Article 4 through Article 6 and Supplementary Provisions Article 15; revised provisions of Article 5-2 of the Small and Medium sized Retail Business Promotion Act (Act No. 101 of 1973) in Supplementary Provisions Article 16 Supplementary Provisions Article 18; revised provisions Article 11 of the Act on the Promotion of Improvement of Employment Management in Small and Medium sized Enterprises for Securing Manpower and Creating Quality Jobs (Act No. 57 of 1991) in Supplementary Provisions Article 20; revised provisions of Article 8 of the Act on the Promotion of Efficient Distribution Systems in Small and Medium Enterprises (Act No. 65 of 1992) in Supplementary Provisions Article 23; revised provisions of Article 22 of

the Act on Temporary Measures to Promote Business Activities for the Rational use of Energy and the Utilization of Recycled Resources (Act No. 18 of 1993) Concerning Streamlining the Usage of Energy and the Promotion of Business Activities and the Utilization of Renewal Resources in Supplementary Provisions Article 25; revised provisions of Article 25 of the Act on the Improvement and Vitalization of City Centers (Act No. 92 of 1998) in the provisions of Supplementary Provisions Article 26, Article 27 and Article 29 and Supplementary Provisions Article 30; revised provisions of Article 21 of Act on Facilitating the Creation of New Business of Supplementary Provisions Act 31 (Act No. 152 of 1998) in Supplementary Provisions Article 31; revised provisions of Article 7, Article 12 and Supplementary Provisions Article 3 of Act on Supporting Business Innovation of Small and Medium Sized Enterprises in Supplementary Provisions Article 31 (Act No. 18 of 1999) in Supplementary Provisions Article 32; revised provisions of Article 25 and Article 27 of the Act on Special Measures for Industrial Revitalization (Act No. 131 of 1999) in Supplementary Provisions Article 34; revised provisions of Article 902 and provisions of Supplementary Provisions Article 36 of the Act for Enforcement of the Act on Central Government, etc. Innovation in Supplementary Provisions Article 35; and the provisions of Supplementary Provisions Article 36: April 1, 2000

Supplementary Provisions [Act No. 129 of November 28, 2001] [Extract]

(Effective Date)

(1) This Act shall come into effect as from April 1, 2002.

(Transitional Measures Concerning Application of Penal Provisions)

(2) With regard to the application of penal provisions to any acts committed prior to the enforcement this Act as well as any acts committed after the enforcement of this Act in the cases where the provisions then in force remain applicable or remain in force pursuant to the Supplementary Provisions, the provisions then in force shall remain applicable.

Supplementary Provisions [Act No. 145 of December 11, 2002] [Extract]

(Effective Date)

Article 1 This Act shall come into effect as from the day of promulgation; provided, however, that the provisions of Article 15 through Article 19, Article 26 and Article 27 and Supplementary Provisions Article 6 through Article 34 shall come into effect as from October 1, 2003.

(Transitional Measures of Penal Provisions)

Article 34 With regard to the application of penal provisions to any acts committed prior to the enforcement of this Act (for provisions provided in the Proviso of the Supplementary Provisions Article 1, those provisions; hereinafter the same shall apply in this Article) and any acts committed after the enforcement of this Act pertaining to the matters for which the provisions then in force shall remain applicable pursuant to the Supplementary Provisions,, the provisions then in force shall remain applicable.

(Delegation to Cabinet Order)

Article 35 In addition to what is provided for in the Supplementary Provisions, transitional measures necessary for the establishment of the organization and other transitional measures necessary for the enforcement of this Act shall be prescribed by a Cabinet Order.

Supplementary Provisions [Act No. 87 of July 26, 2005] [Extract]

This Act shall come into effect as from the day of enforcement of the Companies Act.