

Energy Efficiency Act

LAW ON ENERGY EFFICIENCY

Promulgated in the State Gazette N 18/5 March, 2004, amended SG. 74/8 September 2006; amended SG 55/6 June 2007

Chapter One

GENERAL PROVISIONS

Art. 1. This law shall regulate the public relations with regard to the implementation of the government policy for energy efficiency raising and providing energy efficient services.

Art. 2. The objective of the law is to encourage the energy efficiency through a system of measures and activities on national, industry, regional and municipal level as a major factor for enhancing the competitiveness of the economy, electric power supplies security and the protection of the environment.

Chapter Two

PUBLIC GOVERNANCE

Section I

Governing Bodies

Art. 3. (1) (amended - SG 74/06, in effect from 08.09.2006) The state policy on energy efficiency enhancement shall be implemented by the Minister of Economy and Energy and shall be an integral part of the energy policy of the country.

(2) The measures and the activities for energy efficiency raising shall be implemented by the Executive Director of the Agency for Energy Efficiency, hereinafter referred to as "the Agency", jointly with the central and regional bodies of the executive branch and the other government authorities.

Art. 4. (1) (amended - SG 74/06, in effect from 08.09.2006) The Minister of Economy and Energy shall:

1. (amended - SG 55/07, in effect from 06.07.2007) present for adoption by the Council of Ministers, upon proposal of the Executive Director of the Agency, the national long-term and short-term programmes for energy efficiency, as well as the summarized annual targeted programme referred to in Art. 11, and shall control their implementation;

2. issue secondary legislation on energy efficiency, envisaged in this law;

3. interact with the other government authorities regarding the implementation of the state policy on energy efficiency raising;

4. (amended - SG 55/07, in effect from 06.07.2007) organise elaboration of measures for approximation of Bulgarian legislation in the area of energy efficiency with the acquis communautaire;

5. implement international cooperation of the Republic of Bulgaria in the area of energy efficiency;
6. (new - SG 55/07, in effect from 06.07.2007) provide the competent institutions of the European Communities with the information, specified in *acquis communautaire*;
7. (new - SG 55/07, in effect from 06.07.2007) address, in accordance with its competences, to the competent institutions of the European Communities requests and notifications for granting temporary derogations of *acquis communautaire* and of transitional periods in the area of energy efficiency in the cases specified in *acquis communautaire*;
8. (new - SG 55/07, in effect from 06.07.2007) develop and submit for adoption by the Council of Ministers national indicative targets for energy savings, including an intermediate indicative target, and action plans regarding energy efficiency;
9. (new - SG 55/07, in effect from 06.07.2007) approve methodology for calculation of the general national indicative target for energy savings;
10. (prev. text of item 06 - SG 55/07, in effect from 06.07.2007) implement other legal capacities in the area of energy efficiency assigned to him by other regulatory acts.

(2) (amended - SG 74/06, in effect from 08.09.2006) The Minister of Economy and Energy may assign the execution of the programmes and measures under art. 4, para 2, item 9 of the Law on Energy, including setting up, maintenance of information system and promotion of the measures for the use of renewable energy sources, to the Executive Director of the Agency.

(3) (new - SG 55/07, in effect from 06.07.2007) The contents, structure, conditions and procedures for providing information under Item 6 shall be determined in the Ordinance referred to in Art. 9, Para 4 of the Law on Energy.

Art. 5. (1) (amended - SG 74/06, in effect from 08.09.2006) The Executive Director of the Agency shall be appointed by the Minister of Economy and Energy in coordination with the Prime Minister.

(2) The Executive Director shall:

1. run, manage and represent the Agency;

2. (amended - SG 74/06, in effect from 08.09.2006; amended - SG 55/07, in effect from 06.07.2007) elaborate and present for approval by the Minister of Economy and Energy, supervise and coordinate the national long-term programme and short-term programmes under art. 10, as well as the targeted programmes under art. 11;

3. (amended - SG 74/06, in effect from 08.09.2006; amended - SG 55/07, in effect from 06.07.2007) present annually to the Minister of Economy and Energy a report on the execution of the national long-term programme, as well as a report on the execution of the short-term programme and the targeted programmes referred to in Art. 11, Para 1;

4. (amended - SG 55/07, in effect from 06.07.2007) organise the implementation of projects and measures related to the national long-term programme and short-term programmes of energy efficiency;

5. (amended - SG 55/07, in effect from 06.07.2007) submit to the Minister of Economy and Energy for approval the implementation of projects for development of energy efficiency;

6. exercise control in the cases stipulated by the law;
7. organise and participate in the drafting of secondary legislation in the area of energy efficiency;
8. make proposals on the development and improvement of standards in the area of energy efficiency for the purpose of their approximation with the EU standards and encouragement of energy users to raise energy efficiency;
9. (amended - SG 55/07, in effect from 06.07.2007) interact with the central and regional bodies of the executive branch and the other government authorities, with associations of employers, with industry organisations, associations of users and with non-for-profit entities in implementing the measures and activities for increasing energy efficiency;
10. (suppl. - SG 55/07, in effect from 06.07.2007) organise the introduction and maintenance of a national information system for the status of energy efficiency, including information on the measures for achieving national indicative targets for energy savings;
11. draft instructions for the introduction and maintenance of information systems for the status of energy efficiency in the central and regional bodies of the executive branch;
12. organise the establishment and updating of the public registers under art. 16 and art. 18, as well as the issuance of certificates to the persons meeting the requirements of art. 16, para 4 and art. 18, para 1;
13. organise expert assistance to the central and regional bodies of the executive branch and the other government authorities in implementation of their functions under this law;
14. organise promotion of the measures for energy efficiency;
15. organise the elaboration and maintenance of a list of the sites to be brought in compliance with the requirements for energy efficiency;
16. further the development of energy efficiency training;
17. execute other legal powers assigned to him by other regulatory acts.

Art. 6. (1) In the implementation of his functions the Executive Director shall be assisted by the Agency.

(2) (amended - SG 74/06, in effect from 08.09.2006) The Agency is a legal entity at budget support - secondary spender of budget credits, with a seat in Sofia, with the status of an executive agency under the Minister of Economy and Energy.

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

(4) The Agency shall be the administrator of the revenues from:

1. subsidies from the national budget;
2. own-source revenues;
3. donations, aid and other borrowed funds from local and foreign individuals and legal entities;

4. international programmes and agreements;

5. other revenues determined by a regulatory act.

Art. 7. The ministers shall develop and implement programmes for energy efficiency in the respective industry.

Art. 8. The regional governors shall organise the development and the implementation of regional programmes for energy efficiency and shall interact with the bodies of the local self-government and local administration.

Art. 9. (1) The municipal councils shall adopt programmes for energy efficiency under art. 10, para 4 and 5, as well as for:

1. (amended - SG 55/07, in effect from 06.07.2007) renovation of the building stock, administrative and business buildings on the territory of the municipality for the purpose of implementing energy efficiency measures;

2. introduction of energy saving outfits for outdoor lighting of settlements and in public buildings;

3. other measures for energy efficiency raising.

(2) The mayors shall organise and implement the measures stipulated by the municipal programmes for energy efficiency, providing targeted resources in their budgets for their realisation.

Section II

Energy Efficiency Programmes

Art. 10. (1) (amended - SG 55/07, in effect from 06.07.2007) The government policy on energy efficiency raising shall be implemented on the grounds of national long-term programme and short-term programmes adopted by the Council of Ministers.

(2) The programmes shall contain the objectives, measures for energy efficiency, activities of the executive branch, funding sources, terms of implementation, indicators of achievement of results, as well as other necessary data.

(3) (amended - SG 55/07, in effect from 06.07.2007) The national long-term programme shall represent a general concept of energy efficiency development, setting the long-term objectives and resources for their achievement.

(4) The national short-term programmes shall be elaborated by the Agency on the grounds of the national long-term programme and the programmes drafted on industry, regional and municipal level.

(5) The industry, regional and municipal programmes shall be developed and implemented by the central and regional bodies of the executive branch and shall be submitted to the Agency.

(6) (new - SG 55/07, in effect from 06.07.2007) The reports on the execution of individual activities of the programmes under Para 5 shall be submitted to the Agency annually, by April in the year following the year of execution of the specified activities.

(7) (amended - SG 74/06, in effect from 08.09.2006; prev. text of para 06, amended - SG 55/07, in effect from 06.07.2007) The national long-term programme and short-term programmes shall be

presented for adoption by the Council of Ministers by the Minister of Economy and Energy upon proposal of the Executive Director of the Agency every three years for the short-term programmes and every 10 years for the long-term programme.

(8) (prev. text of para 07, amended - SG 55/07, in effect from 06.07.2007) The programmes under para 5 shall be submitted to the Agency every three years for summarizing and development of the short-term programmes referred to in Para 4.

(9) (prev. text of para 08, amended - SG 55/07, in effect from 06.07.2007) The Agency shall announce publicly the results of the implementation of the measures and the activities for energy efficiency raising in a bulletin published by it.

(10) (prev. text of para 09 - SG 55/07, in effect from 06.07.2007) The bulletin shall be published annually and shall also be published on the web site of the Agency.

Art. 11. (1) (suppl. - SG 55/07, in effect from 06.07.2007) The central bodies of the executive branch, the regional governors and the other government authorities shall draw up every year by April targeted annual programmes for implementing measures for energy efficiency for the following year, and shall submit them for summing up by the Executive Director of the Agency.

(2) The resources for implementation of the programmes under para 1 shall be provided by the national budget.

Section III

National Indicative Targets for Energy Savings (new - SG 55/07, in effect from 06.07.2007)

Art. 11a. (new - SG 55/07, in effect from 06.07.2007) The government policy on raising the end use efficiency of fuel and energy shall be implemented through development of the market of energy efficient services and creating conditions for applying energy saving measures.

Art. 11b. (new - SG 55/07, in effect from 06.07.2007) The national indicative target for raising the end use efficiency of fuels and energy shall be defined according to an instruction of the Minister of Economy and Energy and shall be formed as a percentage of the total end use of fuels and energy in the country, except for the use by the persons referred to in Art. 131a, Para 2 of the Law on Environmental Protection, on the basis of data for the previous 5-year period and shall be expressed in an absolute value GWh or a relevant equivalent.

Art. 11c. (new - SG 55/07, in effect from 06.07.2007) (1) For the purposes of accomplishing the national indicative target the Minister of the Economy and Energy shall submit for adoption by the Council of Ministers action plans regarding the energy efficiency. The action plans shall contain measures for achieving the national indicative target, terms for implementation, assigned responsibilities and financial support.

(2) The plans referred to in Para 1 shall contain detailed analysis and assessment of the preceding action plan, data of the final results in implementation of the indicative targets, information of the expected impact from the implementation of additional measures, if such have been specified for actual or potential failure to fulfil the indicative targets.

Chapter Three

ENERGY EFFICIENCY MEASURES

Section I

Management of Energy Efficiency

Art. 12. Energy users subject to investigation under the provisions of art. 17 shall be obliged to manage energy efficiency by:

1. conducting periodically, at least once a year, analyses of the general and specific consumption of fuel and energy;
2. elaboration of programmes for optimisation energy consumption efficiency;
3. implement all measures for energy savings stipulated by the programmes under item 2.

Section II

Assessment, Certification, Investigation, Energy Efficiency Services

Art. 13. The energy efficiency activity shall be carried out through energy efficiency services.

Art. 14. Assessments and investigations for energy efficiency shall be carried out for establishing energy consumption levels and compliance with the requirements for energy efficiency of investment projects for construction, reconstruction and rehabilitation of sites, as well as of commissioned sites.

Art. 15. (amended - SG 55/07, in effect from 06.07.2007) (1) Every investment project for construction, reconstruction and rehabilitation, on the basis of which a building permit is granted, shall be assessed for its compliance with the energy efficiency requirements.

(2) Assessment of the projects under para 1 shall be made under the provisions of the Law on the Spatial Planning in compliance with the technical rules for energy consumption of the different types of sites, determined by an ordinance on the energy characteristics of the sites issued by the Minister of Economy and Energy and the Minister of Regional Development and Public Works, as well as with the requirements of the effective regulatory acts and technical specifications for engineering, construction and acceptance of construction sites.

Art. 15a. (new - SG 55/07, in effect from 06.07.2007) (1) Upon completion of a new construction project, as well as in case of reconstruction, thorough renovation or overhaul of an existing construction project, an energy passport shall be drawn up, which shall be a part of the technical passport of the construction project.

(2) The energy passport of an existing construction project shall be drawn up upon investigation and establishment of the energy characteristics of the construction related to the requirements of Art. 169, Para 1, Item 6 of the Law on the Spatial Planning, which shall be carried out under the provisions of the ordinance referred to in Art. 17, Para 2.

(3) The energy passport of an existing construction project shall correspond to the contents of the certificate defined in the ordinance referred to in Art. 16, Para 1.

Art. 16. (in effect from 01.01.2005) (1) (amended - SG 74/06, in effect from 08.09.2006; suppl. - SG 55/07, in effect from 06.07.2007) Every building may be certified under the provisions of an ordinance for certification of buildings issued by the Minister of Economy and Energy and the Minister of Regional Development and Public Works upon an investigation under the ordinance referred to in Art. 17, Para 2.

(2) (amended - SG 55/07, in effect from 06.07.2007) Every commissioned project, state or municipal-owned property, of total floorage over 1000 sq m shall be subject to certification. The certificate shall be issued in accordance with the Ordinance on Certification of Buildings and shall be exhibited in a visible place.

(3) The requirements under art. 15, para 2 may not apply for the following categories of buildings:

1. monuments of culture which are not used for economic purpose;
2. places of worship of legally registered religions in the country;
3. temporary buildings with planned term of use of up to two years;
4. farm buildings of the agricultural producers used for agricultural activity;
5. housing buildings used up to 4 months annually;
6. (amended - SG 55/07, in effect from 06.07.2007) single buildings with a total floorage of up to 50 sq m.

(4) The certification under para 1 shall be carried out by individuals or legal entities who:

1. (suppl. - SG 55/07, in effect from 06.07.2007) are registered under the Commercial Law or under the legislation of a Member State of the European Union or another country, party to the Agreement on the European Economic Area;
2. (revoked - SG 55/07, in effect from 06.07.2007)
3. (suppl. - SG 55/07, in effect from 06.07.2007) have available the necessary technical means, determined in the ordinance referred to in Para 13;
4. have available the necessary personnel - individuals having:
 - a) graduated higher technical education and not less than three years of practice in the speciality or graduated high technical education and not less than 6 years of practice in the speciality;
 - b) (amended - SG 55/07, in effect from 06.07.2007) successfully passed examination for acquiring legal capacity for performing investigation for energy efficiency and for certification of buildings in universities accredited under the order of the Law on the Higher Education.
5. not participated, including the hired personnel, in the designing, construction and use of the buildings subject to certification.

(5) (amended - SG 55/07, in effect from 06.07.2007) The Agency shall enter in a public register the persons under para 4 upon their written request, and the circumstances under items 1 and 4 shall be certified by the respective documents, and the circumstances under item 3 and 5 - by declaration.

(6) The Agency shall issue certificates to the persons entered in the register against payment of a fee determined by a tariff adopted by the Council of Ministers.

(7) The Agency shall refuse to enter in the register persons who do not meet some of the requirements under para 4.

(8) The certificate for entry in the register or the motivated written refusal shall be issued by the Executive Director of the Agency within 14 days from the date of filing the application.

(9) The certificate under para 8 shall be valid for three years.

(10) The refusals of entry into the register shall be individual administrative acts.

(11) The refusal, as well as the implicit denial under para 7 shall be subject to appeal before the Supreme Administrative Court within 14 days from their notification or from expiration of the term under para 8.

(12) The Agency shall delete from the register the persons who have obtained certificates with a right to carry out certification of buildings upon:

1. dropping out of some of the requirements under para 4;
2. filing of untruthful declaration under para 4, item 3 and 5 and/or
3. violation of the obligations under this law.

(13) (amended - SG 74/06, in effect from 08.09.2006; suppl. - SG 55/07, in effect from 06.07.2007) The circumstances subject to entry under para 1 - 12, the order of entry in the register and of obtaining information, as well as the provisions for acquiring and acknowledgement of legal competence under Para 4, Item 4, Letter "b" shall be determined by an ordinance of the Minister of Economy and Energy.

Art. 17. (in effect from 01.01.2005) (1) (amended - SG 55/07, in effect from 06.07.2007) Subject to investigation for energy efficiency shall be the sites referred to in Art. 16, Para 2, as well as every energy user whose annual energy consumption exceeds the limits determined by the ordinance under para 2.

(2) (amended - SG 74/06, in effect from 08.09.2006) The investigation for energy efficiency shall be carried out under the terms and by the provisions set by an ordinance on investigation for energy efficiency of the Minister of Economy and Energy and the Minister of Regional Development and Public Works.

(3) The investigation for energy efficiency shall aim at identifying specific possibilities of reducing the energy consumption.

(4) The investigation of energy efficiency shall establish:

1. (amended - SG 55/07, in effect from 06.07.2007) the consumption of energy;
2. (amended - SG 55/07, in effect from 06.07.2007) the level of energy efficiency of the technologies and the management of the energy consumption;
3. (amended - SG 55/07, in effect from 06.07.2007) the savings of energy of the site;
4. the compliance with the standards for energy efficiency and the requirements of the ordinances under para 2 and art. 15, para 2.

(5) The investigation for energy efficiency shall contain the data under para 4 along with recommendations for improvement of the energy efficiency.

Art. 18. (1) The investigations under art. 17 shall be carried out by individuals or legal entities who:

1. (suppl. - SG 74/06, in effect from 08.09.2006; suppl. - SG 55/07, in effect from 06.07.2007) are registered under the Commercial Law or under the legislation of a Member State of the European Union or of another country, party to the Agreement on the European Economic Area, or established by an act of the Council of Ministers for conducting energy investigations;

2. (revoked - SG 55/07, in effect from 06.07.2007)

3. (suppl. - SG 55/07, in effect from 06.07.2007) have available the necessary technical means, determined in the ordinance referred to in Art. 16, Para 13;

4. have available the necessary personnel - individuals having:

a) graduated higher technical education and not less than three years of practice in the speciality or graduated high technical education and not less than 6 years of practice in the speciality;

b) (amended - SG 55/07, in effect from 06.07.2007) successfully passed examination for acquiring legal capacity for performing investigation for energy efficiency in universities accredited under the order of the Law on Higher Education;

5. (suppl. - SG 55/07, in effect from 06.07.2007) not participated, including the hired personnel, in the designing, construction and using of the buildings subject to investigation for energy efficiency, except in the cases when the energy investigation, designing, construction and exploitation of the sites are subject to a contract, concluded under the provisions of Art. 21.

(2) (amended - SG 55/07, in effect from 06.07.2007) The Agency shall enter in a public register the persons under para 1 upon their written request, and the circumstances under items 1 and 4 shall be certified by the respective documents, and the circumstances under item 3 and 5 - by declaration.

(3) The Agency shall issue certificates to the persons entered in the register against payment of a fee determined by a tariff adopted by the Council of Ministers.

(4) The Agency shall refuse to enter in the register the persons who do not meet some of the requirements under para 1.

(5) The certificate for entry in the register or the motivated written refusal shall be issued by the Executive Director of the Agency within 14 days from the date of filing the application.

(6) The certificate under para 5 shall be valid for three years.

(7) The refusals for entry in the register shall be individual administrative acts.

(8) The refusal, as well as the implicit denial under para 4 shall be subject to appeal before the Supreme Administrative Court within 14 days from their notification or from expiration of the term under para 5.

(9) The Agency shall delete from the register the persons who have obtained certificates with a right to carry out investigation for energy efficiency upon:

1. dropping of some of the requirements under para 1;

2. filing of untruthful declaration under para 1, item 3 and 5 and/or

3. violation of the obligations under this law.

(10) (suppl. - SG 55/07, in effect from 06.07.2007) The circumstances subject to entry under para 1 - 9, the order of entry in the register and of obtaining of information, as well as the order for acquiring and acknowledgement of legal capacity under Para 1, Item 4, Letter "b" shall be determined in the ordinance under art. 16, para 13.

Art. 19. (1) (prev. text of Art. 19 - SG 55/07, in effect from 06.07.2007) Where an investigation for energy efficiency establishes violation of indices determined by secondary legislation to this law the person carrying out the investigation shall notify the Agency and shall submit the documentation establishing the results from the investigation.

(2) (new - SG 55/07, in effect from 06.07.2007) The Agency may organize and carry out control investigations of sites, investigated under Para 1, through a systematic or random selection.

Art. 20. (amended - SG 55/07, in effect from 06.07.2007) (1) The energy efficiency services related to studying, investigation of energy efficiency under the conditions of Art. 18, designing, construction, installation, rehabilitation, maintenance and/or management and monitoring shall be carried out by individuals or legal entities registered under the Commercial Law or under the legislation of a Member State of the European Union, or of another country, party to the Agreement on the European Economic Area, with a scope of business which includes rendering services under contracts with guaranteed result (ESCO services).

(2) The energy efficiency services referred to in Para 1 shall be rendered on the basis of written contracts signed with energy users.

Art. 21. (amended - SG 55/07, in effect from 06.07.2007) (1) The energy efficiency services referred to in Art. 20 shall be rendered also comprehensively with guaranteed savings of energy for the site, for which the services have been rendered.

(2) The energy efficiency services referred to in Para 1 shall be rendered on the basis of written contracts containing:

1. basic energy consumption;
2. guaranteed savings and the procedure of their establishing;
3. manner of financing;
4. method of payment of the fee.

(3) Individuals and legal entities under art. 20 providing energy efficiency services under the terms of para 1 shall provide the service in full or partially by own resources or shall undertake to provide their financing by a third party.

(4) The investments and fee for energy efficiency services rendered under the conditions of Para 1 by the natural and legal persons referred to in Art. 20 shall be refunded, respectively paid for at the expense realised savings.

(5) Individuals and legal entities under art. 20, providing energy efficiency services under the terms of para 1, shall bear the financial, technical and commercial risk for the implementation of energy efficiency projects.

(6) For buildings of state and/or municipal ownership, subject to mandatory certification under Art. 16, Para 2, which are subject of a contract under Para 2, funds shall be planned in the budgets of the ministries, departments and municipalities, which funds shall correspond to the normalized expenses for energy of the sites for the term of execution of the contract.

(7) The procedures of determining and payment of the funds referred to in Para 6 for rendered energy efficiency services under Art. 20 in sites - state and/or municipal property, shall be determined in an ordinance of the Minister of Economy and Energy and the Minister of Finance.

(8) Control on the execution of responsibilities of the ministries, departments and municipalities for refund of the investments and payment of the fee in the contracts referred to in Art. 20 shall be carried out by the Minister of Finance.

Chapter Four

ORGANISATION OF THE ACTIVITIES FOR ENERGY EFFICIENCY RAISING

Section I

Energy Efficiency Fund

Art. 22. (1) An Energy Efficiency Fund shall be established for financing the activities for energy efficiency raising, with exception of those under art. 11.

(2) The Energy Efficiency Fund, called hereinafter "the Fund" shall be a legal entity with a seat in Sofia.

Art. 23. (1) (amended - SG 55/07, in effect from 06.07.2007) The Fund shall administer financial resources provided for investment projects for promotion of energy efficiency according to the priorities underlying the national long-term programme and short-term programmes for energy efficiency adopted by the Council of Ministers.

(2) (amended - SG 55/07, in effect from 06.07.2007) The Fund shall carry out its activity according to this law, the agreements with the donors, and shall not be a part of the consolidated state budget.

Art. 24. In implementation of its objectives the Fund shall base its activity on the following principles:

1. transparency in administering the resources;
2. equality of all applicants for financing by the Fund;
3. (suppl. - SG 55/07, in effect from 06.07.2007) partnership and cooperation with individuals and legal entities, entrepreneurs in the meaning of the Commercial Law or of the legislation of a Member State of the European Union, or of another country, party to the Agreement on the European Economic Area, for joint financing of energy efficiency projects.

Art. 25. (1) The revenues of the Fund shall be raised from:

1. donations by international financial institutions, international funds, Bulgarian and foreign individuals or legal entities;
2. financial revenues consisting of interest on current accounts or bank deposits of the Fund;

3. loans or other financial instruments of credit nature granted by international organisations and banks, as well as by individuals and/or legal entities registered as entrepreneurs, borrowed explicitly for the accomplishment of the objectives of the Fund;

4. other revenues corresponding to the nature and activity of the Fund.

(2) The initially raised resources of the Fund shall be kept in a commercial bank - custodian bank, having a licence for operations in the territory of the country, appointed through a competition.

Art. 26. The resources of the Fund shall be spent for:

1. onerous financing of projects for development of energy efficiency in Bulgaria;

2. guarantees on credits granted by financial credit institutions for energy efficiency projects;

3. subsistence of the Fund according to the annual budget of revenues and expenditures approved by the Managing Board.

Art. 27. (1) The Fund shall be managed by a Managing Board consisting of 7 members as follows:

1. (amended - SG 74/06, in effect from 08.09.2006) a representative of the Ministry of Economy and Energy appointed by the Minister of Economy and Energy;

2. a representative of the Ministry of Environment and Waters appointed by the Minister of Environment and Waters;

3. the Executive Director of the Agency;

4. (suppl. - SG 55/07, in effect from 06.07.2007) four representatives of individuals and/or legal entities - entrepreneurs in the meaning of the Commercial Law or of the legislation of a Member State of the European Union, or of another country, party to the Agreement on the European Economic Area, or of non-for-profit legal entities in the meaning of the Law on Non-for-profit Legal Entities, having the necessary professional experience.

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

(3) The chairman of the Managing Board shall be elected among the members of the Managing Board for a period of one year.

(4) Every member of the Managing Board, elected as its chairman, shall conclude his commenced term of office of two years after his release from the position of chairman.

(5) (suppl. - SG 55/07, in effect from 06.07.2007) The representatives under para 1, item 4 shall be elected by the assembly of the individuals and/or of the legal entities - entrepreneurs in the meaning of the Commercial Law or of the legislation of a Member State of the European Union, or of another country, party to the Agreement on the European Economic Area, or of the non-for-profit legal entities in the meaning of the Law on non-for-profit legal entities.

(6) The assembly of the individuals and/or of the legal entities - entrepreneurs in the meaning of the Commercial Law, or of the non-for-profit legal entities in the meaning of the Law on non-for-profit legal entities shall be convened every two years.

(7) The assembly under para 5 may attend and give proposals for election of members of the Managing Board by associations of municipalities, commercial and economic chambers, associations of commercial banks, as well as by other stakeholders.

(8) Member of the Managing Board may not be an individual, as well as a representative of a legal entity who:

1. has been sentenced for deliberate crime of general nature;
2. is a spouse or relative on the direct or collateral line up to fourth degree and by marriage - up to third degree including of another member of the Managing Board of the Fund;
3. holds a position in the administration under official or employment legal terms with exception of the persons under para 1, item 1 - 3.

Art. 28. (1) The Managing Board shall manage the overall activity of the Fund.

(2) The Managing Board shall:

1. adopt rules of procedure of the Fund;
2. approve the financing and guarantee policies of the Fund;
3. adopt a strategy of the activity of the Fund;
4. adopt the criteria for assessment and selection of projects for energy efficiency applying for financing by the Fund;
5. approve the financing of energy efficiency projects;
6. approve the contracts related to the guarantee activity of the Fund;
7. approve the revenue and expenditure budget and the annual report for the activity of the Fund worked out by the Executive Director;
8. elect and release the Executive Director;
9. appoint an independent financial audit and accept the annual financial report;
10. approve the list of personnel of the Fund and determine the remuneration of its employees;
11. adopt other measures as deemed necessary for achievement of the objectives of the Fund.

Art. 29. (1) The Fund shall be represented by an Executive Director elected by the Managing Board through a competition.

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

(3) The contract with the Executive Director shall be concluded for a period of 5 years.

(4) The Executive Director of the Fund shall:

1. represent the Fund;
2. draft the strategy for the activity of the Fund;
3. prepare the necessary documentation for financing and guaranteeing of projects in compliance with the law and the concluded agreements with the donors;
4. prepare the draft budget for revenue and expenditure and provide the implementation of the budget approved by the Managing Board;
5. draft reports and other materials for consideration and approval by the Managing Board in compliance with the internal rules of the Fund;
6. prepare the sittings of the Managing Board;
7. sign the contracts for financing and guaranteeing of projects concluded with the Fund and approved by the Managing Board;
8. inform periodically the Managing Board for the level of execution of the financed projects;
9. appoint and release the personnel in compliance with the current legislation;
10. be responsible for the protection of the property of the Fund;
11. carry out other activities assigned to him by a decision of the Managing Board.

Art. 30. (1) The contract with the Executive Director shall be terminated ahead of term upon:

1. filed resignation;
2. enforcement of a sentence for a deliberate crime;
3. gross violation of this law or of the regulatory acts for its implementation;
4. systematic non-execution of the undertaken obligations;
5. substantial violation of the obligations established by the contract;
6. harming the interests of the Fund;
7. objective inability to fulfil his obligations for a period longer than 6 months;
8. death.

(2) The establishment of the circumstances under para 1 and the termination of the term of office shall be done by a decision of the Managing Board.

Section II

Incentives

Art. 31. The users of electric power, heating power and natural gas in condominiums, having founded legal entities - housing associations under the provisions of art. 152 of the Law on Energy, may apply for financing of projects for energy efficiency raising to the Energy Efficiency Fund.

Chapter Five

CONTROL OVER ENERGY EFFICIENCY

Art. 32. (amended - SG 55/07, in effect from 06.07.2007) The Executive Director of the Agency shall exercise control over the activity of:

1. energy users in protection of the public interest for energy efficiency raising in the cases when the implementation of measures for energy efficiency according to this law or other regulatory acts is obligatory;
2. persons referred to in Art. 16, 18 and 20.

Art. 33. In implementation of his control functions the Executive Director of the Agency shall:

1. carry out inspections through authorised officials;
2. impose administrative sanctions stipulated by this law;
3. (amended - SG 55/07, in effect from 06.07.2007) hire experts and appoint expert examinations of the investigations under Art. 16 and 17.

Art. 34. (1) Officials carrying out inspections and issuing acts for established administrative offences shall be appointed by an order of the Executive Director.

(2) Officials under para 1 shall present their credentials: the order under para 1 and an official ID card certifying their position.

Art. 35. (1) Officials under art. 34, hereinafter referred to as "the control bodies" shall have the right:

1. to free access to the inspected sites;
2. to require from the inspected persons documents required for the control;
3. to carry out expert examinations and control investigation;
4. under regime of admission, determined by the bodies of the Ministry of Defence and the Ministry of Interior, to carry out inspection of their energy sites.

(2) The inspected person shall be obliged to provide all conditions for the normal process of the inspection and render assistance to the control bodies by:

1. providing premises for carrying out the inspection;
2. appoint his representative for contact and assistance to the inspecting officials;
3. provide access to the official premises;
4. submit all documents required for the execution of the control.

(3) The control bodies shall be obliged not to make public the official and the trade secret having become known to them in the course of or on occasion of the control activity.

Art. 36. (1) The control bodies shall prepare records of findings for the results from the inspections, attached to which shall be the gathered data, documents and explanations.

(2) The records shall be presented to the inspected person who will have the right to produce explanations and objections within 14 days from their presentation.

Art. 37. (1) On the grounds of the results from the inspection the control bodies may:

1. give prescriptions to the inspected persons for remedy of the established offences and set a period for bringing in compliance with the indices for energy efficiency established by the secondary legislation to this law;

2. issue acts for established administrative offences.

(2) The prescriptions of the control bodies, given in implementation of their legal capacities under this law, shall be obligatory.

(3) The persons to whom obligatory prescription have been given shall notify within the set period the control bodies about their execution.

Art. 38. All government authorities, legal entities and individuals shall be obliged to render assistance to the control bodies in carrying out their functions.

Chapter Six

ADMINISTRATIVE PENAL PROVISIONS

Art. 39. A person who violates the provision of art. 35, para 2 shall be punished by a fine of 200 to 500 levs or by a material sanction of BGN 500 to 1000.

Art. 40. An official who violates the provision of art. 35, para 3 shall be punished by a fine of BGN 500.

Art. 41. Who does not fulfil an obligatory prescription under art. 37, para 1, item 1 shall be punished by BGN 500 to 1000 or by a material sanction of BGN 1000 to 3000.

Art. 42. Imposed to a legal entity or sole entrepreneur in the cases where he refuses to a control body, carrying out inspection under this law, control investigation, shall be a material sanction of BGN 200 to 2000.

Art. 42a. (new - SG 55/07, in effect from 06.07.2007) Any person who fails to perform his duties under this Law or allows another person to fail to perform his duties under this Law shall be fined from BGN 500 to 1500 or shall be imposed a proprietary sanction from BGN 1000 to 10 000, if not subject to a more severe penalty.

Art. 43. A person carrying out investigation, who does not notify the Agency and does not produce the necessary documentation under art. 19, shall be punished by a fine of BGN 100 to 500 or by a material sanction of BGN 500 to 1000.

Art. 44. (1) (prev. text of Art. 44 - SG 55/07, in effect from 06.07.2007) A person carrying out certification of buildings or investigation for energy efficiency, who admits violation in implementation of his obligations, shall be punished by a fine of BGN 200 to 1000 or by a material sanction of BGN 500 to 5000.

(2) (new - SG 55/07, in effect from 06.07.2007) Any persons carrying out energy efficiency investigation, who has allowed more than 10 percent deviation from the indices of the control investigation referred to in Art. 19, Para 2, shall be fined from BGN 500 to 1500 or shall be imposed a material sanction from BGN 1000 to 10 000.

Art. 45. A person carrying out certification of buildings or investigation for energy efficiency in violation of the provision of art. 16, para 4, item 5 or art. 18, para 1, item 5 shall be punished by a fine of BGN 200 to 1000 or by a material sanction of BGN 500 to 5000.

Art. 46. The acts establishing administrative offences under this law shall be issued by officials appointed by the Executive Director of the Agency.

Art. 47. The penal decrees shall be issued by the Executive Director of the Agency.

Art. 48. The establishment of offences, the issuance, the appeal and the implementation of the penal decrees shall be carried out under the provisions of the Law on Administrative Offences and Sanctions.

Additional provisions

§ 1. In the meaning of this law:

1. (amended - SG 55/07, in effect from 06.07.2007) "Basic electric power consumption" is the normalized energy consumption and the respective normalized expenses for energy, used as a basis of comparison in determining the future savings.

2. (suppl. - SG 55/07, in effect from 06.07.2007) "Basic values" are the values used to determine the basic energy consumption, for comparing the energy characteristics of the sites, as well as to determine the potential for reduction of energy consumption.

2a. (new - SG 55/07, in effect from 06.07.2007) "Guaranteed energy consumption" means the amount of energy ensuring energy comfort to the end user, energy safety and normal functioning of the production-technological process.

3. (amended - SG 55/07, in effect from 06.07.2007) "Energy efficiency" means the ratio between the outgoing amount of productivity, service, goods or energy and the amount of input energy.

4. "Energy prime cost" is the energy consumption expressed in monetary units.

4a. (new - SG 55/07, in effect from 06.07.2007) "Energy saving" means the realized economy, determined by measuring and/or assessment of consumption of fuels and energy before and after the application of one or more measures for energy efficiency raising.

5. "Energy characteristics of a building" is an index of the quantity of consumed or designated for consumption energy, used to meet the different needs of energy of a building according to its category, taking into account heat power supply, ventilation, air conditioning and lighting.

6. (amended - SG 55/07, in effect from 06.07.2007) "Energy user" means every industry system for transformation of energy, for end use or building.
7. "Energy efficiency measure (activity)" is an organisational, structural, technical and/or technological institutional or regulatory change for energy efficiency raising.
8. "Energy efficiency services" are the activities of investigation, consulting, studying, designing, constructing, installation, rehabilitation, maintenance, management and monitoring of machinery, facilities and buildings resulting in reduction of the energy consumption with retaining or increasing the energy comfort.
9. "Expert examination" is an assessment of the results from the energy investigations.
10. "Energy comfort" is a degree of satisfying the household energy needs of the end user.
11. "Indicators of achieving results" are the indices showing the specific data related to the achieved results.
12. "Short-term programmes" are programmes covering a period of up to three years.
13. "Long-term programmes" are programmes covering a period of up to 10 years.
- 13a. (new - SG 55/07, in effect from 06.07.2007) "Measures for energy efficiency raising" means all activities leading to provable, measured or assessed reduced consumption of fuels or energy with preservation of the comfort and quality of life.
14. "Rehabilitation of sites" means the activities of overhaul and current repair, as well as a change of the purpose of the site.
- 14a. (new - SG 55/07, in effect from 06.07.2007) "Normalized energy consumption" means the consumption of energy necessary for securing the regulatory required parameters of the microclimate in a building in the present condition of the site.
15. "Assessment of energy efficiency" is an expert analysis based on scientific and experimental methods for determining the indices for consumption of energy carriers.
16. "Investigation for energy efficiency" is a process based on a systematic method for determining and valuation of the energy flows and consumption in industrial or other system of energy user, determining the range of the technical and economic parameters of the energy efficiency measure.
17. (revoked - SG 55/07, in effect from 06.07.2007)
18. "Site" is every individual building or facility consuming energy.
19. (amended - SG 55/07, in effect from 06.07.2007) "Indices for energy consumption" are measures or calculated quantitative values for power or energy characterising a stage or a cycle of energy transformation or energy consumption.
20. "Raising of energy efficiency" is an activity resulting in reduction of the energy consumption without a change in the production capacity (or service), change of the quality or other characteristics.

21. "Certificate of energy characteristics of a building" is an officially recognised document including the energy characteristics of a building, calculated according to the methodology under the ordinance for certification of buildings.

22. "Management of energy efficiency" is an activity of observing a change in the consumption, comparison of the achieved consumption with the estimated one, analyses of consumption and development of energy saving measures on their basis.

23. (new - SG 55/07, in effect from 06.07.2007) "Contract with guaranteed result (ESCO services)" means energy efficiency services related to examination, investigation for energy efficiency, engineering, construction, installation, rehabilitation, support and/or management and monitoring, for which the energy saving result is guaranteed by the contractor.

24. (new - SG 55/07, in effect from 06.07.2007) "Actual energy consumption" means the current level of consumption of energy and the corresponding reported data for energy expenses in physical units, used to determine the normalized energy consumption.

25. (new - SG 55/07, in effect from 06.07.2007) "Control investigation" means activities for establishing and evaluation of the energy flows and expenses through a detailed or partial inspection and drawings of the sites of the energy users, measurements, precise energy calculations and analyses, depending on the established infringements of the indices, determined in the regulatory acts on the implementation of this Law, or in defence of the public interest for energy efficiency raising in the cases, where the application of the measures for energy efficiency raising is obligatory according to this Law or other regulatory acts.

§ 1a. (new - SG 55/07, in effect from 06.07.2007) The provision of Art. 19 of the Law on Municipal Debt regarding the application of the Law on Public Procurement in case of choice of a financial institution shall not apply to projects under this Law, financed by the Energy Efficiency Fund.

Transitional and Final Provisions

§ 2. Chapter Thirteen in the Law on Energy and Energy Efficiency (prom., SG 64/99; amended, SG 1/00, SG 108/01, SG 63/02, SG 9 and 107/03) is revoked.

§ 3. (1) The Agency for Energy Efficiency is a universal legal successor of the Agency for Energy Efficiency stipulated by the revoked Law on Energy and Energy Efficiency.

(2) The contract with the Executive Director of the Agency for Energy Efficiency shall be concluded within one month from the enactment of the law.

§ 4. (1) (amended - SG 74/06, in effect from 08.09.2006) The representative of the Ministry of Economy and Energy under art. 27, para 1, item 1 shall be Chairman of the Managing Board of the Fund for a period of two years from the enactment of the law.

(2) The Chairman of the Managing Board of the Fund shall announce in the State Gazette and in two central daily newspapers an initial date and a deadline for initial raising of the resources for the Fund in a raising account in a commercial bank within two months from the enactment of the law.

(3) The state budget shall grant to the Fund one-time resources amounting to BGN 3 million within the terms under para 2.

(4) Within 14 days from expiration of the term under para 2 the Chairman of the Managing Board shall convene the first assembly of the persons under art. 27, para 5 and 7 for election of the members of the Managing Board under art. 27, para 1, item 4.

(5) The Chairman of the Managing Board shall issue certificates to the persons participating in the raising of resources of the Fund. The certificates shall indicate the number of votes by which these persons may participate in taking the decisions of the meeting under para 7, whereas one vote shall be assigned to every BGN 1000.

(6) Within the term under para 4 the Chairman of the Managing Board shall publish in the State Gazette and in two central daily newspapers an invitation for convening the first assembly of the persons under art. 27, para 5 and para 7.

(7) At their first meeting the attending persons shall make decision under para 4 to:

1. adopt the rules of procedure of the assembly;
2. elect members of the Managing Board under art. 27, para 1, item 4.

(8) The decisions under para 7 shall be made by a majority of 2/3 of the votes of the persons attending the assembly.

(9) The rules of procedure of the Fund shall be adopted within three months from the election of its Managing Board.

§ 5. Items 18 and 19 in art. 24, para 1 are introduced in the Law on Local Taxes and Charges (prom., SG 117/97; amended and suppl., SG 71, 83, 105 and 153/98, SG 103/99, SG 34 and 102/00, SG 109/01, SG 28, 45, 56 and 119/02, SG 84 and 112/03, SG 6/04):

"18. buildings awarded the certificate of category A, issued under the provisions of the Law on Energy Efficiency and the ordinance on certifying the buildings - for a period of 10 years considered from the year following the year of issuance of the certificate;

19. buildings awarded the certificate of category B, issued under the provisions of the Law on Energy Efficiency and the ordinance for certifying the buildings - for a period of 5 years considered from the year following the year of issuance of the certificate."

§ 6. Item 1 letter "m" is introduced in art. 23, para 3 in the Law on Corporate Income Taxation (prom., SG 115/97; corr., SG 19/98; amended, SG 21 and 153/98, SG 12, 50, 51, 64, 81, 103, 110 and 111/99, SG 105 and 108/00, SG 34 and 100/01, SG 45, 61, 62 and 119/02, SG 42 and 109/03):

"m) Energy Efficiency Fund.

§ 7. The following amendments are introduced to the Law on Energy (SG 107/03):

1. In art. 83, para 1, item 5 the word "amendment" is replaced by "execution".
2. In art. 97, para 1, item 5 the word "connection" is replaced by "distribution".
3. In art. 148, para 2 the words "item 2 and 3" are replaced by "item 3 and 4".
4. In § 4, para 6 of the transitional and final provisions the words "art. 61" are replaced by "art. 63".

§ 8. The secondary legislation for the implementation of this law shall be adopted within 6 months from its enactment.

§ 9. (amended - SG 74/06, in effect from 08.09.2006) Enforcement of this law is assigned to the Minister of Economy and Energy.

§ 10. The law shall enter into effect on the day of its promulgation in the State Gazette, with exception of art. 16 which shall apply after the adoption of the ordinance for certification of buildings, art. 17 which shall apply after the adoption of the ordinance for investigation of energy efficiency and § 5 of the transitional and final provisions which shall enter into effect on January 1, 2005.

The law was passed by the 39th National Assembly on February 19, 2004 and was affixed with the official seal of the National Assembly.

Transitional and Final Provisions

TO THE LAW ON AMENDMENT OF THE LAW ON ENERGY

(PROM. - SG 74/06, IN EFFECT FROM 08.09.2006)

§ 139. The following amendments shall be introduced to the Law on Energy Efficiency (SG 18/04) shall be made:

1. Everywhere in the Law the words "the Minister of Energy and Energy Resources", "Minister of Energy and Energy Resources" and "the Ministry of Energy and Energy Resources" shall be replaced respectively by "the Minister of Economy and Energy", "Minister of Economy and Energy" and "the Ministry of Economy and Energy".

Transitional and Final Provisions

TO THE LAW ON AMENDMENT OF

THE LAW ON ENERGY EFFICIENCY

(PROM. - SG 55/07, IN EFFECT FROM 06.07.2007)

§ 24. (1) The intermediate indicative target for energy savings under Art. 4, Para 1, Item 8 shall be determined by 2010.

(2) The action plans regarding energy efficiency under Art. 11c shall be determined within the following terms:

1. the first plan - by 30 May 2007;
2. the second plan - by 30 May 2011;
3. the third plan - by 30 May 2014.

(3) The action plans referred to in Para 2 shall be updated according to the order of their adoption as follows:

- 1. the first plan - by 30 November 2007;
- 2. the second plan - by 30 November 2011;
- 3. the third plan - by 30 November 2014.

§ 25. The persons, who have completed a training course and obtained qualification for investigation for energy efficiency and certification of buildings, certified by documents for professional qualification or other valid documents for qualification, shall have the rights of the persons under Art. 16, Para 4, Item 4, Letter "b" and Art. 18, Para 1, item 4, Letter "b".

.....

§ 29. (1) The ministries, departments and municipalities shall be obliged by 31 December 2011 to ensure energy investigation of all buildings of public state, respectively public municipal ownership, which have been provided to them for management and administration.

(2) The ministries, departments and municipalities shall be obliged by 31 December 2013 to ensure energy investigation of all buildings of private state, respectively private municipal ownership, which have been provided to them for management and administration.

(3) Any legal person, subject to mandatory investigation for energy efficiency under the provisions of Art. 17, Para 1, except for the persons referred to in Para 1 and 2, shall be obliged to ensure energy investigation of the sites owned by it by 31 December 2009.

§ 30. The secondary legislation on the implementation of this Law shall be adopted and made compliant with it within 6 months from its entry into effect.

§ 31. This Law shall enter into effect on the date of its promulgation in the State Gazette, except for the provisions of § 26, Items 1, 2, 3, 4, 5 and 6, which shall enter into effect on 1 July 2007, and the provision of § 27, which shall enter into effect on 1 January 2008.