

## Energy Development and Promotion Act B.E. 2535 (1992)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 3rd day of February B.E. 2535 (1992)

Being the 47th year of the present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is deemed appropriate to revise the law governing national energy,

His majesty the King, by and with the advice and consent of the National Assembly in the capacity as Parliament, is graciously pleased to enact an Act as follows:

### Section 1

This Act is called "Energy Development and Promotion Act B.E. 2535 (1992)".

### Section 2

This Act shall come into force on the day following the date of its publication in the Royal Gazette.

### Section 3

The following Acts shall be annulled:

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

Provisions of all other laws, regulations and rules stipulated herein, or are contrary to, or inconsistent with the provisions hereof, shall be replaced hereby.

### Section 4

For any provisions of laws, regulations, rules, announcements, orders, or resolutions of the Cabinet, which refer to the National Energy Administration and the Secretary General of the National Energy Administration, it shall be considered that such provisions of those laws, regulations, rules, announcements, orders, or resolutions of the Cabinet refer to the Department of Energy Development and Promotion and the Director-General of the Department of Energy Development and Promotion respectively.

### Section 5

"Energy" means ability to perform work that is inherent in the sources that may provide work, be it renewable energy or non-renewable energy or sources that may provide ability to perform work such as fuels, heat, and electricity.

"Renewable energy" includes energy obtained from sources such as: wood, firewood, paddy husk, bagasse, biomass, hydro power, solar power, geothermal power, wind power, waves and tides.

"Non-Renewable Energy" includes energy from sources such as coal, oil shales, tar sands, crude oil, oil, natural gas and nuclear power.

"Fuels" include coal, oil shales, tar sands, oil, natural gas, fuel gas, synfuels, wood, firewood, paddy husk, bagasse, garbage, and other materials designated in the Royal Gazette by the National Energy Policy Council.

"Regulated Energy" means energy that is designated to have control measures under this Act, except for petroleum, under the laws governing petroleum.

"Competent Officers" mean officers of the Department of Energy Development and Promotion, and also include officers of ministries, agencies, departments, government provincial offices, and state enterprises designated by this Act as competent officers.

“Director-General” means the Director-General of the Department of Energy Development and Promotion.

“Minister” means the Minister who shall have the care and charge of this Act.

### **Section 6**

The Department of Energy Development and Promotion shall have the following authority and duties:

- (1) To conduct surveys, collect data, analyze, test and examine energy activities regarding sources of energy, production, transformation, transportation and utilization.
- (2) To study, plan and formulate projects concerning energy and related activities.
- (3) To research and develop, demonstrate as well as initiate pilot projects on production, transformation, transportation, utilization and conservation of energy sources.
- (4) To design, construct and maintain production and transformation of energy sources, transmission and utilization of energy systems such as the utilization of new and renewable energy to generate electricity, biomass to produce fuels and electric pumping service.
- (5) To determine regulations and standards on the production, transportation, transformation, utilization and conservation of energy sources as well as to regulate and supervise the enforcement of such regulations and standards.
- (6) To determine remuneration rates for the utilization of energy operated by the Department of Energy Development and Promotion.
- (7) To make available, regulate, construct, buy, sell, rent, lease out, transfer or accept transfers of production and transformation of energy sources, and transportation and distribution of energy systems, as well as to issue licenses for production or expansion of energy capacity.
- (8) To transfer technology, promote, train, disseminate information on production, transformation, utilization and conservation of energy sources as well as to act as a center for cooperation on related activities.

### **Section 7**

The Director-General shall have the care and charge of the duties of the Department of Energy Development and Promotion.

### **Section 8**

In the execution of its duties, the Department of Energy Development and Promotion may assign ministries, government bureaus, departments, government provincial offices or state enterprises to carry out particular tasks on its behalf.

### **Section 9**

In the event that the Department of Energy Development and Promotion assigns other ministries, government bureaus, departments, government provincial offices, or state enterprises to carry out particular tasks on its behalf, such agencies shall undertake such assignments accordingly; and for the sake of execution of duties under this Act, the officers of such ministries, government bureaus, departments, government provincial offices, or state enterprises, who perform the assigned duties, shall become competent officers and shall have the same authority and duties as those of competent officers of the Department of Energy Development and Promotion, as stipulated under this Act.

In assigning authority to the ministries, government bureaus, departments, government provincial offices, or state enterprises to carry out the work, the Department of Energy Development and Promotion may transfer funds to the said ministries, government bureaus, departments, government provincial offices, or state enterprises, to cover expenses of items approved under the budget of the Department of Energy Development and Promotion.

## **Section 10**

In the execution of its duties in Section 6, the Department of Energy Development and Promotion may ask any ministry, government bureau, department, government provincial office, state enterprise, to furnish technical, financial and statistical or other information on matters as necessary.

## **Section 11**

In execution of work of the Department of Energy Development and Promotion, the competent officers are authorized to enter any place during the period between sunrise and sunset or during working hours of such a place for the purpose of enquiring facts or inspecting documents or other articles related to energy activities, from individuals who are at such places as deemed necessary. In such an event, occupant(s) of such places shall accord them the necessary facilitation.

In the event that a competent officer wishes to enter a place stated under preceding paragraph, when it is not a case of emergency, the occupant(s) of such a place shall be informed in writing at least three days in advance.

## **Section 12**

In the execution of his/her duties, a competent officer shall present his/her I.D. card to all persons concerned.

The I.D. card of the competent officer shall be as prescribed by the Minister in the Ministerial Regulations.

## **Section 13**

The competent officers under this Act shall be officers designated under the Criminal Code.

## **Section 14**

The competent officer shall have the authority to use or occupy real property under occupancy of any person, which is not a place of residence, on a temporary basis under the conditions stated hereafter:

- (1) Such use or occupancy is essential for exploration of production sources, transmission systems, energy distribution systems, and safety precaution against danger or damage which may be caused to production, transmission, and distribution of energy, and
- (2) The owner or the occupant of such property has been informed at least fifteen days in advance.

In the event that any damage occurs to the owner or the occupant of, or the person who holds other rights over such real property, as a result of the execution of work by the aforementioned competent officer in paragraph one, the person in question shall claim compensation from the Department of Energy Development and Promotion. If an agreement on the amount of compensation cannot be reached, Section 22 and Section 23 shall be applied.

## **Section 15**

In the event that it is essential to take possession of such immovable property for the purpose of production, transmission, and distribution of energy, and in the event that no other agreement on the transfer of ownership has been made, expropriation of such property shall be effected under the laws governing Expropriation of real property.

## **Section 16**

When necessity arises, the Department of Energy Development and Promotion shall, for the benefit of the community, have the authority to establish energy stations, to install energy lines or pipelines under, above, along or across the land of any person, or to install poles or equipment into or on the land of any person, which is not the site of a building.

In the event that any part of land is needed for the purpose stated in preceding paragraph, the Department of Energy Development and Promotion shall pay compensation for such use of land to the owner or the occupant of such land in an amount that is fair, unless the

owner or the occupant of such land also gains worthwhile benefits from the actions described here above.

#### **Section 17**

For the benefit of the community, the Department of Energy Development and Promotion shall have the authority to install energy lines or pipelines by fixing them to the building of any person which is above or next to a public thoroughfare.

#### **Section 18**

Before the Department of Energy Development and Promotion shall take actions as described in Section 16 and Section 17, the Department shall notify the owner or the occupant of such property in writing. The owner or the occupant of such property may file a petition to the Minister within fifteen days of the date of receipt of such written notice, explaining the reasons for objections to such actions, In the event as such, the Department of Energy Development and Promotion shall suspend the actions until the person who has filed the petition has been informed of the decision of the Minister.

The decision of the Minister shall be considered as final.

#### **Section 19**

For the sake of safety in energy transmission, the Department of Energy Development and Promotion shall have the authority to cut down trunk(s), branch(es), or root(s), of tree(s), that are close to energy lines or pipelines or equipment, provided that the owner or the person who hold the right over such property is informed in advance and within a reasonable amount of time.

#### **Section 20**

In the event that the owner or the occupant of the property involved has intention to build or conduct any activity on the land where energy lines or pipelines or equipment may present obstructions to such action, the said owner or occupant shall request the Department of Energy Development and Promotion to move, take out, modify or make changes to such obstructions And when it is deemed appropriate, the Department of Energy Development and Promotion shall make arrangements in compliance with such request. The owner or the occupant of such property shall pay for all expenses incurred by such arrangements.

#### **Section 21**

In case of emergency, a competent officer may enter any property of any person for the purpose of inspecting, repairing, and correcting the power lines or pipelines, or equipment, at all times, provided that the owner or the occupant of such property has been informed of such entry.

#### **Section 22**

In the event that the owner or the occupant of, or the person who holds other rights over such property does not consent to the compensation paid by the Department of Energy Development and Promotion under Section 16 or Section 19 hereof, or in the event that it shall not be possible to locate the owner or the occupant of, or the person who holds other rights over such property, the Department of Energy Development and Promotion shall place the said amount of compensation with the court or the Deposit Office, or deposit it with the Government Savings Bank into an account under the name of the owner or the occupant of, or the person who holds other rights over the property, each having a separate account. Should there be an interest or any other benefit arising from such deposit, the owner or the occupant of, or the person who holds other rights over such property shall have the right to such interest or benefit.

After the Department of Energy Development and Promotion has already placed or deposited the compensation with the Court or the Deposit Office or the Government Savings Bank under preceding paragraph, the Department shall send a written notice, by certified mail, to the owner, or the occupant of, or the person who holds other rights over the property. In the event that the owner or the occupant of, or the person who holds other rights over the property cannot be located, an announcement shall be made in a

local newspaper for at least two consecutive days, so that the owner or the occupant of, or the person who holds other rights over the property shall know about it.

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

### **Section 23**

In the event that the owner or the occupant of, or the person who holds other rights over the property does not consent to the amount of compensation paid by the Department of Energy Development and Promotion, and regardless of whether the said person shall or shall not accept the compensation placed or deposited by the Department of Energy Development and Promotion; the said person shall have right to file a case to the court within one year of the date the Department of Energy Development and Promotion has taken actions under the second paragraph.

Filing a case to the court under preceding paragraph shall not cause disruption to the occupancy or the use of real property or the execution of work of the competent officer under Section 16 or Section 19.

In the event that the court has passed a decision in favor of an increase in the amount of compensation, the owner or the occupant of, or the person who holds other rights over the property, shall be entitled to a maximum rate of interest on a fixed deposit account of the Government Savings Bank for such increment. This shall take effect as of the date that such amount of compensation is paid, placed, or deposited.

In the event that the owner or the occupant of, or the person who holds other rights over the property has consented to, and already received the amount of compensation, or has not filed a case to the court within the limit of time under the first paragraph, or has, in writing, forfeited the right to such compensation, no claim for compensation shall be made again by anyone.

### **Section 24**

Determination of a particular type, volume and process production or mode of utilization of energy as being regulated energy shall be made into decrees.

### **Section 25**

No one shall be allowed to produce, or expand the production of regulated energy unless a license is granted by the Department of Energy Development and Promotion.

Application for and granting of a license shall be in accordance with the criteria and procedures prescribed in the Ministerial Regulations.

For production of any regulated energy for which permission or concessions under other laws is required, such permission or concession must also be obtained.

### **Section 26**

In prescribing the criteria and procedures in the Ministerial Regulations under Section 25, consideration shall be given to the following factors: Effect on the environment, economy and national security. Potential danger that might be caused by production of energy or expansion of such production, knowledgeable use of raw materials or natural materials.

### **Section 27**

The Department of Energy Development and Promotion shall consider the applications for licenses under Section 25 and such consideration shall be finalized within one hundred and twenty days as of the date the Department of Energy Development and Promotion receives the application with correct and complete details as prescribed in the Ministerial Regulations.

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

- (1) The highest possible rates of compensation as may be demanded from users of regulated energy that is in line with the criteria and conditions set forth by the National Energy Policy Council.

- (2) Specific area for energy distribution and sizes of machinery to be installed for production process.
- (3) Knowledgeable and correct performance on such works such as installation of energy lines, fire protection systems, safety precaution for damage of machinery, safety precaution measures, or classifications of or procedures for use of raw materials or natural materials in production of regulated energy.

### **Section 28**

In the event of periodic shortage of regulated energy, or of other necessities that shall be of benefit to the economy of the country, the Director-General shall have the authority to give written orders to producers of regulated energy to:

- (1) Decrease or increase the production, distribution, or utilization of regulated energy.
- (2) Change the kinds of raw materials or natural materials used in producing regulated energy.
- (3) Change the highest possible rates of compensation that may be demanded from producers of regulated energy.

### **Section 29**

For the sake of elimination or prevention of possible hazards to any person, or property, or health of the public, or to national security, the Director-General shall have the authority to give orders in writing for producers of regulated energy to:

- (1) Change, repair, or renovate building(s), machinery, equipment, and tools.
- (2) Provide or construct any structure that shall eliminate or prevent hazards.
- (3) Stop production, transmission, utilization or distribution of regulated energy temporarily until proper actions under Order (1) or (2) have been taken.

### **Section 30**

In the execution of its authority under Section 28 or Section 29, the Department of Energy Development and Promotion shall take into account the additional expenses to be incurred or the ability to raise funds of the producers of regulated energy.

The Department of Energy Development and Promotion may help in seeking financial assistance to enable producers of regulated energy to comply with the orders.

### **Section 31**

In the event that a person who is not granted a license under Section 25, or who is granted a license with conditions under Section 27, or who has been given orders under Section 28 or Section 29, finds it unacceptable, having not been granted a license, or conditions, or orders as such, he/she shall have the right to appeal to the Minister within 30 days of date of acknowledgment that the license is not granted, or granted under certain conditions, or of the date of receipt of such orders.

The Minister shall pass the decision on the said appeal within 90 days of date of receipt of such appeal. If the appellant does not agree to the decision made on the said appeal, he/she should file a case to the court within forty-five days of the date of being informed of such decision.

### **Section 32**

Any action by any person which may be an obstruction to production of regulated energy, or which may diminish the production of regulated energy without justification, shall be prohibited.

### **Section 33**

Whoever obstructs or fails to facilitate the competent officer who is executing his duties under Sections 11, 14, 16, 17, 19 or 21 shall be punished with imprisonment of not exceeding one month or a fine of not exceeding one thousand Baht, or both.

### **Section 34**

Whoever violates Section 25 shall be punished with imprisonment of not exceeding two years or a fine of not exceeding twenty thousand Baht, or both.

**Section 35**

Whoever fails to comply with the orders issued by the Director-General under Section 28 or Section 29 shall be punished with imprisonment of not exceeding one year or a fine of not exceeding ten thousand Baht, or both.

**Section 36**

Whoever violates Section 32 shall be punished with imprisonment of not exceeding one year or a fine of not exceeding ten thousand Baht, or both.

**Section 37**

For the proceeding of a case under this Act, the Public Prosecutor shall have authority to ask the Court to order the offender to comply with the duties as stated in the provisions of this Act.

**Section 38**

Whatever matters that are under the authority and duties of the National Energy Committee and actions have been taken under the National Energy Act, B.E. 2496 (1953) before this Act comes into effect, but such actions are not yet completed, or in the event that there are pending commitments to carry on, the Minister shall have the authority to consider such matters and give directives on behalf of the National Energy Committee.

**Section 39**

Other Decrees, Ministerial Regulations or Orders issued under the National Energy Act, B.E. 2496 (1953), that have been enforced before or on the date that this Act shall come into effect, shall continue to be enforced in so far as they are not contrary to or inconsistent with the provisions of this Act until new Decrees, Ministerial Regulations, Regulations or Orders under this Act take effect, but not exceeding one year after the date of enforcement of this Act.

**Section 40**

Permission or license granted under the National Energy Act B.E. 2496 (1953), before or on the date this Act takes effect, shall be valid until the expiry of such permission or license.

**Section 41**

The Minister of Science, Technology and Energy shall have the care and charge of this Act, and the authority to issue Ministerial Regulations or to prescribe other activities for the purpose of execution of this Act.

The Ministerial Regulations shall take effect after its publication in the Royal Gazette.

Countersigned by

Mr. Anand Panyarachun

Prime Minister

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