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## Order on the Act on Electricity Supply<sup>1</sup>

This Order introduces Act No 375 of 2 June 1999 on the supply of electricity, cf. Consolidated Act No 767 of 28 August 2001, as amended pursuant to Section 1 of Act No 316 of 22 May 2002 and Section 1 of Act No 1091 of 17 December 2002.

### Chapter 1

#### *Introductory provisions*

**Section 1.** The objective of this Act is to ensure that the electricity supply of the country is organised and implemented with due regard for security of supply, socio-economic and environmental factors and consumer protection. Within the terms of this objective, the Act shall ensure consumers access to inexpensive electricity and continue to allow them to exercise influence over the administration of the assets of the electricity sector.

2. In accordance with the objective specified in paragraph 1, this Act shall in particular promote sustainable energy use, including energy savings and the use of CHP, renewable and environment-friendly energy sources, while also ensuring efficient use of financial resources and creating competition on markets for the production of and trade in electricity.

**Section 2.** This Act shall apply to the production, transport, trading and supply of electricity.

2. This Act shall apply on land and in territorial waters and within the exclusive economic zone.

3. This Act does not cover activities which are regulated under Act No 292 of 10 June 1981 on certain marine installations.

4. The Minister for Economic Affairs, Trade and Industry may decide that small plants or small-scale activities covered by this Act are exempt, wholly or in part, from the provisions of this Act.

**Section 3.** The Minister for Economic Affairs, Trade and Industry shall keep a committee specially appointed by the *Folketing* informed of all significant developments concerning the country's electricity supply.

**Section 4.** Municipalities may carry on grid activities and produce electricity from waste incineration. Municipalities and counties may participate in all other activities covered by Section 2, paragraph 1, if such activities are carried on by a limited-liability company.

2. Municipalities may participate in other activities connected with the activities specified in Section 2, paragraph 1. Such activities shall be exercised on commercial terms by independent limited-liability companies.

3. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the activities referred to in paragraph 2, including the activities which may be exercised pursuant to paragraph 2, and on accounting and commercial relationships.

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<sup>1</sup> This Act contains provisions implementing Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity, cf.L27, p. 20; Council Directive 90/547/EEC of 29 October 1990 on the transit of electricity through transmission grids, cf.L 73, p. 5, Council Directive 97/11/EC of 3 March 1997 amending the latter Directive as regards installations for the use of energy from water and wind in territorial waters and in the exclusive zone, cf.L 283, p. 33.

4. The provisions of this Act which apply to grid undertakings and electricity production undertakings shall apply only to those tasks of a municipality which form part of grid or electricity production activities pursuant to paragraph 1.

**Section 5.** For the purposes of this Act:

*Decentralised CHP plants* shall mean CHP plants which are not located at central power generating sites, cf. Section 10, paragraph 6.

*Direct electricity supply grid* shall mean an electricity supply grid designed for the delivery of electricity from one electricity production undertaking to another electricity production undertaking or to specific consumers, and which wholly or in part replaces the use of the collective electricity supply grid.

*Distribution grid* shall mean a collective electricity supply grid whose purpose is to deliver electricity to an unspecified group of consumers, and grids which are owned by a collective electricity supply undertaking and whose purpose is to connect a consumer directly to the transmission grid.

*Utility-owned plant* shall mean a plant owned by an undertaking which was entitled to make provisions under Section 9 of the previously valid version of the Electricity Supply Act.

*Consumption site* shall mean the point from which electricity is purchased for a single property title number or for connected buildings divided into several property title numbers with only one consumer of electricity.

*Undertaking subject to a supply obligation* shall mean a licensed undertaking which supplies electricity to consumers who either do not have, or do not make use of, the possibility to choose their own supplier.

*Collective electricity-supply undertaking* shall mean a publicly or privately owned licensed undertaking whose purpose is to carry out, on publicly regulated terms, the activities of a grid or transmission undertaking or of an undertaking which is subject to a supply obligation or an undertaking which is responsible for a system.

*Collective electricity supply grid* shall mean a transmission and distribution grid whose purpose is to transport electricity for an unspecified group of electricity suppliers and consumers on publicly regulated terms.

*MW* is a unit of measurement of electrical power.

*Grid undertaking* shall mean a licensed undertaking which operates a distribution grid.

*Coherent electricity supply system* shall mean collective electricity supply grids with associated plants within in a large area which are interlinked for the purpose of joint operation.

*Undertaking responsible for the system* shall mean a licensed undertaking which has overall responsibility for maintaining security of supply and ensuring efficient use of a coherent electricity supply system

*Transit* shall mean the transportation of electricity with a view to fulfilling agreements concerning trade in electricity, where none of the parties to the agreement purchase or produce the electricity in question in Denmark.

*Transmission grid* shall mean a collective electricity supply grid whose purpose is to transport electricity from production sites to a central point in the distribution grid or to link it to other coherent electricity supply grids.

*Transmission undertaking* shall mean a licensed undertaking which operates a transmission grid.

## Chapter 2

### *Position of electricity consumers*

**Section 6.** Every person in Denmark shall have the right to be supplied with electricity in return for payment. This entails the right to delivery of electricity by means of a supply offer from an undertaking which is subject to a supply obligation, cf. Chapter 6, and from the points in time specified in Section 7, the right to choose a supplier.

2. Consumers who have access to a choice of supplier, shall have the right to cancel and resume deliveries from the undertaking which is subject to an electricity-supply obligation, within reasonable time-limits and on reasonable terms.

3. Collective electricity supply undertakings shall make their services available to consumers on transparent, objective, equitable and uniform terms.

**Section 7.** Every consumer shall have the right to choose his/her supplier as from the following dates:

- (1) Consumers with an annual consumption of 100 GWh or more: from the date on which this Act enters into force.
- (2) Consumers with an annual consumption of 10 GWh or more: from 1 April 2000.
- (3) Consumers with an annual consumption of 1 GWh or more: from 1 January 2001.
- (4) All other consumers: from 1 January 2003.

2. Consumption shall be calculated for each consumption site on the basis of the consumption indicated by the meter reading for the most recent twelve months, before the cut-off dates specified in paragraph 1.

3. Notwithstanding the provisions of paragraph 1, electricity production undertakings shall have the right to supply electricity to their own facilities and subsidiaries.

4. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the supply of electricity referred to in paragraph 3.

5. Where warranted by technical conditions, the Minister for Economic Affairs, Trade and Industry may amend the dates specified in paragraph 1, after consulting the committee referred to in Section 3.

**Section 8.** Every electricity consumer in Denmark shall purchase a relative proportion of the electricity which the grid undertakings and the undertakings responsible for systems are required to purchase pursuant to Section 9 of this Act or rules or decisions adopted pursuant to this Act. The price paid for the electricity shall be determined in accordance with this Act or provisions laid down pursuant to this Act.

2. Consumers of electricity may, by agreement with the grid undertaking, release themselves from the purchase obligation laid down in paragraph 1 by making a payment which shall be equitable in relation to other consumers.

3. Every electricity consumer in Denmark shall obtain RES certificates in accordance with the rules set out in Chapter 9 as from the point in time specified by the Minister for Economic Affairs, Trade and Industry pursuant to Section 61.

4. Unless otherwise specified in paragraph 5, every electricity consumer in Denmark shall also pay a relative proportion of the necessary costs incurred by collective supply undertakings in fulfilling the public service obligations imposed on them pursuant to this Act or other legislation or rules or decisions adopted pursuant to this Act, cf. Section 9.

5. The costs incurred by grid undertakings and undertakings responsible for systems in connection with the price supplement of no more than DKK 0.27 per kWh specified in Section 59, paragraph 1, shall be charged to electricity consumers in accordance with the following principles:

- (1) Where annual electricity consumption is 100 GWh or less per consumption site, a relative proportion of the total costs incurred by the grid undertakings and undertakings responsible for systems in connection with the price supplement applied within a coherent electricity distribution system, including a relative proportion of the costs incurred in connection with the price supplement which cannot be covered pursuant to the provisions set out at (2).
  - (2) Where electricity consumption exceeds 100 GWh per consumption site, no amount will be charged to cover costs incurred by the grid undertakings and the undertakings responsible for systems in connection with the price supplement specified in Section 59, paragraph 1.
6. Insofar as price supplements are provided for pursuant to Sections 59a and 59b, grid undertakings and undertakings responsible for systems shall charge electricity consumers for the costs incurred in connection with them in accordance with the principles laid down in paragraph 5.
7. The settlement price which the undertakings responsible systems pay pursuant to Section 9, paragraph 1, to decentralised CHP plants owned by electricity production undertakings which have a capacity of more than 150 MW, shall be charged until 1 January 2004 in such a way that the part of the price which exceeds the market price set pursuant to Section 59d is charged to electricity consumers in accordance with the principles specified in paragraph 5. For the period until 1 July 2001, however, a market price of DKK 0.13 per kWh shall be applied.

**Section 8a.** The Minister for Economic Affairs, Trade and Industry may require undertakings responsible for systems to ensure that all electricity consumers in the two coherent electricity supply systems purchase the same proportion of the electricity referred to in Section 8, paragraph 1, in relation to their electricity consumption and defray the associated costs.

2. The Minister for Economic Affairs, Trade and Industry may take decisions or lay down rules concerning the situation referred to in paragraph 1, and may stipulate that the purchase requirement concerns only specified parts of the electricity referred to in Section 8, paragraph 1.

3. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that electricity consumers who produce some or all of the electricity they use are, under specified conditions, obliged only to purchase environment-friendly electricity as specified in Section 8, paragraph 1, and to pay price supplements specified in Sections 59a and 59b in respect of the consumption of electricity purchased via the collective electricity supply grid.

4. The Minister for Economic Affairs, Trade and Industry may also lay down rules stipulating that electricity consumers who generate CHP on the basis of natural gas or other environment-friendly fuels may, insofar as their obligation to purchase environment-friendly electricity is calculated in relation to their total electricity consumption, offset the part of their electricity production which they use themselves against the purchase obligation.

5. It may be stipulated in rules laid down pursuant to paragraph 3 that such rules apply only to specified plants or fuels or that they apply only to plants which were operational on 12 April 2000.

6. Producers whose purchase obligation for environment-friendly electricity is calculated in accordance with rules laid down pursuant to paragraph 3 may not obtain the settlement price laid down pursuant to Section 58 for electricity which producers wish to dispose of.

7. The Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, can lay down rules stipulating that an electricity producer whose plant becomes operational after a date set by the Minister and whose purchase obligation is calculated in accordance with paragraph 4, may in the case of sales obtain the settlement price laid down pursuant to Section 58 only in respect of that part of his electricity production which exceeds his total consumption of electricity.

8. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning warning periods for consumers who wish to have their obligation to purchase environment-friendly electricity calculated in accordance with paragraphs 3 and 4, and rules concerning methods of

metering and calculating electricity consumption and production. The cost of metering shall be met by electricity producers.

**Section 9.** The following costs connected with public service obligations shall be met by all consumers of electricity within a coherent electricity supply system:

- (1) The necessary costs incurred by the undertaking responsible for the system in performing the tasks it is required to carry out pursuant to Section 27a, paragraph 1(2), Section 28, paragraph 2(4), Section 29, Section 30, Section 56, Section 57, paragraph 1, Section 58, paragraph 3.
- (2) The necessary costs incurred by the grid undertaking in performing the tasks it is required to carry out pursuant to Section 22, paragraph 1(3) and (4) and paragraph 5, Section 57, paragraph 1, Section 67 and Section 68.
- (3) As specified by the Minister for Economic Affairs, Trade and Industry, costs incurred in connection with establishing offshore electricity production plants, cf. Section 17, paragraph 6.
- (4) The necessary costs incurred by the transmission undertakings in performing the tasks they are required to carry out in accordance with Section 68.

2. Other costs incurred by collective electricity supply undertakings shall be met by users who receive the services provided by the undertaking and shall be charged for via the tariffs of the individual undertaking.

3. The costs incurred by undertakings responsible for systems in providing services pursuant to Sections 59a and 59b are charged to all Danish electricity consumers at the same rate in proportion to their total electricity consumption, subject to the provisions of Section 8, paragraph 6, and Section 8a, paragraph 3.

## Chapter 3

### *Electricity production*

**Section 10.** Electricity production at plants with a capacity exceeding 25 MW may be carried out only by undertakings which have obtained a licence from the Minister for Economic Affairs, Trade and Industry.

2. Licences provided for under paragraph 1 shall be awarded for a period of at least twenty years.

3. Licences may be awarded only to applicants who can prove that they possess the necessary technical and financial capacity.

4. A licence provided for under paragraph 1 may be awarded to an electricity production undertaking which holds a licence on the date on which this Act enters into force, provided that the undertaking in question fulfils the requirements concerning environment-friendly electricity production plants imposed on the undertaking pursuant to Section 13 of the previously valid version of the Electricity Supply Act.

5. The Minister for Economic Affairs, Trade and Industry may grant dispensations from the licence conditions specified in paragraph 4, if such action is considered necessary to ensure that the electricity production undertaking can continue to operate in a financially sound manner.

6. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the designation of power-generating sites as central power-generating sites, cf. Section 5.

**Section 11.** New electricity production plants may be established and significant alterations to existing plants may be made only after obtaining prior permission from the Minister for Economic Affairs, Trade and Industry.

2. Permission is conditional upon the applicant providing evidence that specific published conditions concerning the energy efficiency, fuel use and environmental performance of the plant concerned have been met.

3. The Minister for Economic Affairs, Trade and Industry shall lay down rules concerning conditions and procedures for granting permission and stipulate that in specified cases permission may be granted for limited periods.

4. Nuclear production plants shall not be established pursuant to this Act.

**Section 12.** The granting of permission pursuant to Section 11 or the award of licences pursuant to Section 10 may be made conditional upon the owner

- (1) committing himself to modifying the volume of production as decided by the undertaking responsible for the system, if the latter considers this necessary to maintain efficient use of the grid, security of supply or quality in the coherent supply grid,
- (2) providing security for the dismantling of plants,
- (3) in the case of CHP plants, assuming a supply obligation for district heating within a specified supply area, and
- (4) committing himself to notifying the undertaking responsible for the system in the supply area at least one year in advance if a decision is taken to shut down a plant or take it out of operation so that it is not available for a lengthy period.

#### *Offshore RES electricity production plants*

**Section 13.** The Danish State alone shall be entitled to access to the exploitation of energy from water and wind in Danish territorial waters and in the exclusive economic zone.

2. Preliminary surveys may be carried out and the forms of energy specified in paragraph 1 may be exploited only after obtaining the prior permission of the Minister for Economic Affairs, Trade and Industry.

3. Permission shall be granted in respect of a specified area and may be granted separately for preliminary surveys and the exploitation of energy.

4. The Minister for Economic Affairs, Trade and Industry may make permission subject to conditions concerning reporting on the progress and findings of preliminary surveys and the observance of safety requirements, etc.

5. The Minister for Economic Affairs, Trade and Industry may lay down rules or take decisions on the granting of permission in this context, including on payment for processing applications and on time limits for permits.

**Section 14.** Permission under Section 13 shall be granted pursuant to a decision of the Minister for Economic Affairs, Trade and Industry either following a public call for applications made in connection with an invitation to tender organised pursuant to rules laid down by the Minister for Economic Affairs, Trade and Industry, or following publication of an application which has been received where other interested parties are invited to submit applications.

**Section 15.** In connection with invitations to tender pursuant to Section 14, the Minister for Economic Affairs, Trade and Industry may specify particular conditions or terms to which he/she will attach importance when considering the tenders received.

2. The terms referred to in paragraph 1 may concern the production plant or the infrastructure which is to connect the plant to the coherent electricity system or a requirement that consumers or others should be able to participate, together with the applicant, as parties to the project.

**Section 16.** The establishment of electricity production plants which exploit water power and wind power, together with associated internal cable installations in territorial waters and in the exclusive economic zone, and significant alterations to existing plants, may only be undertaken

with the prior permission of the Minister for Economic Affairs, Trade and Industry. Permission shall be granted to applicants who are deemed to possess the necessary technical and financial capacity.

2. The Minister for Economic Affairs, Trade and Industry may stipulate terms for the approval of such plants, including requirements as to their design, equipment, installations, construction, operation and dismantling and the provision of guarantees for the dismantling of plants, as well as technical and safety requirements in connection with their establishment and operation. The Minister may lay down detailed rules concerning these matters.

**Section 17.** Permission for the establishment of plants pursuant to Section 16 which may be assumed to have a significant effect on the environment may be granted only on the basis of an assessment of the environmental impact and after the general public and the authorities and organisations concerned have had an opportunity to express an opinion.

2. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules defining the plants referred to in paragraph 1.

3. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the information and any surveys which may be needed in order to carry out an assessment of the environmental impact. The Minister for Economic Affairs, Trade and Industry may decide that the environmental impact of a plant covered by Section 16 must be assessed during and after its establishment. The Minister for Economic Affairs, Trade and Industry may decide that the environmental impact of plants covered by Section 16 must be assessed by independent experts.

4. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the provision of information to, and consultation of, the authorities and organisation concerned in connection with:

- (1) The assessments referred to in paragraph 1.
- (2) The definition of plants referred to in paragraph 2 and the associated decisions, and
- (3) applications for permission pursuant to Section 16.

5. Costs incurred in connection with the activities referred to in paragraphs 1-4 shall be met by persons applying for permission to establish an electricity production plant, cf. Section 16.

6. The Minister for Economic Affairs, Trade and Industry may decide that the costs referred to in paragraph 5, to be met in respect of activities which may be significant for future projects, shall be covered as specified in Section 9, paragraph 1.

**Section 18.** Plants established in accordance with requirements laid down pursuant to Section 13 in the hitherto valid version of the Electricity Supply Act, and plants which have provisionally or definitively been granted permission pursuant to the hitherto valid version of the Electricity Supply Act, are exempt from the provisions concerning invitations to tender laid down in Sections 14 and 15.

## Chapter 4

### *Electricity supply grid*

#### *The collective electricity supply grid - transmission and grid licences*

**Section 19.** Transmission activity and grid activity may be carried out only under licences which may be granted to undertakings that fulfil the requirements of Chapters 7 and 8 and Section 97, paragraph 2.

2. The licence, which shall be awarded for a period of at least 20 years, shall be issued by the Minister for Economic Affairs, Trade and Industry in respect of a specified area.

**Section 20.** Holders of licences issued pursuant to Section 19, paragraph 1, shall ensure adequate and efficient transport of electricity, as well as associated services, and shall

- 1) maintain, convert and develop the supply grid in the supply area to the extent necessary,
- 2) connect suppliers and purchasers of electricity to the collective electricity supply grid,
- 3) make the requisite transport capacity available, and
- 4) meter the supply and purchase of electricity in the grid.

2. If a transmission or grid undertaking does not fulfil the obligations specified in paragraph 1, the Minister for Economic Affairs, Trade and Industry may order the undertaking responsible for the system to attend to such matters, and in so doing to carry out the necessary installation works with regard to the collective electricity supply grid.

3. The undertaking responsible for the system may, where duly warranted for the purpose of carrying out the necessary installation work specified in paragraph 2, gain access to the premises of a transmission or grid undertaking.

4. The police shall provide assistance in the exercise of powers pursuant to paragraph 3.

**Section 21.** New transmission grids designed for voltages of over 100 kV may be established and significant alterations may be made to similar, existing grids only after obtaining the prior consent of the Minister for Economic Affairs, Trade and Industry. Consent may be granted only if the applicant is able to document that there is sufficient need for such expansion. Consent may be made conditional upon compliance with terms concerning specific details of the establishment and operation of the grid, including the provision of a guarantee concerning the dismantling of installations.

2. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the conditions for establishing new transmission grids and significant alterations to existing similar grids, and may in so doing stipulate that transmission undertakings which expand or restructure transmission grids designed for voltages of 400 kV may be required to cover the additional costs which other transmission and grid undertakings incur if they have to lay cables in connection with the establishment of a 400 kV grid.

3. The Minister for Economic Affairs, Trade and Industry may require the holder of a licence issued pursuant to Section 19, paragraph 1 to cable the electricity supply grid in connection with the establishment of new transmission grids designed for voltages of 400 kV or significant alterations to existing similar grids. If such an order is issued, the additional costs incurred by the licence holder on the laying of cables would be covered in accordance with the rules laid down pursuant to paragraph 2.

4. The licence holder shall, for a reasonable consideration, make the transmission grid available to the undertaking responsible for the system insofar as the latter considers this to be necessary for performing the tasks which have been entrusted to it.

5. The license holder shall, however, make the transmission grid available free of charge to the undertaking responsible for the system where this is necessary to enable it to comply with an order issued pursuant to Section 20, paragraph 2..

**Section 22.** A grid undertaking shall:

- 1) maintain the technical quality of the grid,
- 2) meter the electricity transported through the undertaking's grid.
- 3) charge users in respect of the payment obligations laid down in this Act,
- 4) provide and settle payment for electricity supplied in accordance with a purchase obligation laid down in this Act,
- 5) provide information in order to create the greatest possible transparency concerning market conditions for all consumer groups,

- 6) map energy consumption and plan and ensure implementation of energy savings within the supply area.
  - 7) provide advise on energy to consumers in the supply area, and
  - 8) provide safety advice and information to consumers, installation engineers and other specialists working in the electricity sector and assist the Electricity Council [*Elektricitetsrådet*] in the monitoring and inspection of high-voltage plants.
2. The grid undertaking shall cooperate with the undertaking responsible for the system in performing the tasks specified in paragraph 1.
  3. The grid undertaking shall provide users of the grid with the necessary information on the metering of the electricity transported through its grid.
  4. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the implementation of the provisions of paragraph 1-3, including rules on the demarcation of tasks and on the invoicing and collection of amounts due. The Minister for Economic Affairs, Trade and Industry may also lay down that specified conditions are to be attached to the planning referred to in paragraph 1(6) and to the advisory activities referred to in paragraph 1(7).
  5. The Minister for Economic Affairs, Trade and Industry may decide that grid undertakings shall jointly initiate research and development with a view to making energy use more efficient. The Minister for Economic Affairs, Trade and Industry may lay down rules or adopt provisions concerning the drawing-up of activity plans and their approval.
  6. In cooperation with transmission undertakings, grid undertakings shall draw up annual surveys and forecasts for the use of current and potential market players and to illustrate whether public service obligations are being met.

#### *Electricity supply grid in Danish territorial waters etc*

**Section 22a.** New electricity supply grids may be established and significant alterations may be made to existing grids in Danish territorial waters and in the exclusive economic zone only after obtaining the prior permission of the Minister for Economic Affairs, Trade and Industry.

2. Permission may be made conditional upon compliance with various conditions. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning such matters.

#### *Direct electricity supply grids*

**Section 23.** Direct electricity supply grids shall be constructed only after obtaining the permission of the Minister for Economic Affairs, Trade and Industry.

2. Permission may be granted only if the applicant has previously had a request to transport electricity through the collective electricity supply grid rejected and it has not been possible to find a solution to the problem by submitting it to the Energy Supervisory Board.

3. Permission may be made conditional upon compliance with conditions as specified in Section 21, paragraph 1. Section 21, paragraph 4, shall apply *mutatis mutandis*.

#### *Access to the collective electricity supply grid*

**Section 24.** Every person shall have the right, in return for payment, to make use of the collective electricity supply grid for the transport of electricity, subject, however, to the provisions of Section 25, paragraph 5.

2. However, transport of electricity to consumers in Denmark may take place only with a view to supplying customers who are entitled to have electricity supplied in accordance with the provisions

of Section 7, paragraphs 1 and 3, or with regard to supply by undertakings subject to a supply obligation to consumers in their supply areas.

3. With a view to ensuring that the capacity of the collective electricity supply grid is fully utilised, the Minister for Economic Affairs, Trade and Industry may lay down rules concerning the right to conclude agreements concerning the reservation of grid capacity. The Minister for Economic Affairs, Trade and Industry may also lay down rules stipulating that existing agreements concerning the reservation of grid capacity must be administered in such a way as to ensure that the collective electricity supply grid is fully utilised.

**Section 25.** The transport of electricity pursuant to Section 24 shall be effected at the prices and on the conditions laid down by the undertaking responsible for the system and the grid and transmission undertakings respectively, cf. Chapter 10.

2. Requests for transport shall be addressed to the grid undertaking to which the final recipient of the electricity is connected.

3. The conditions to which transit is subject shall be laid down by means of negotiation. Requests to this effect shall be addressed to the undertaking responsible for the system.

4. The grid undertaking and the undertaking responsible for the system shall grant applicants who fulfil the relevant conditions access to transporting electricity without undue delay. Negotiations with applicants on transit access shall be initiated without undue delay.

5. The grid undertaking and the undertaking responsible for the system may refuse a request for transport or transit on grounds of insufficient transport capacity.

**Section 26.** In order to be connected to the collective electricity supply grid, plants and installations shall fulfil the technical requirements and standards which have been laid down.

2. In order to have access to connection to, and use of, the collective electricity supply grid, consumers must fulfil the relevant requirements laid down in paragraph 3.

3. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the matters referred to in paragraphs 1 and 2 and may stipulate that certain technical standards and requirements concerning access to and use of the collective electricity supply grid are to be laid down by the undertaking responsible for the system.

## Chapter 5

### *Activities of undertakings responsible for systems*

**Section 27.** The activities of undertakings responsible for systems may be carried out only after obtaining a licence which may be granted only to undertakings which fulfil the requirements set out in Chapters 7 and 8 and in Section 97, paragraph 2.

2. The licence, which shall be awarded for a period of 20 years, shall be issued by the Minister for Economic Affairs, Trade and Industry in respect of a specified area.

**Section 27a.** The undertaking responsible for the system shall be answerable for security of supply and, in order to meet this obligation, shall:

- 1) maintain technical quality and balance within the coherent electricity supply system, and
- 2) ensure that there is sufficient production capacity in the coherent electricity supply system.

2. The undertaking responsible for the system may, for the purposes of meeting its obligations as laid down in paragraph 1, obtain necessary information from the users of the grid.

**Section 27b.** Transmission installations made available to the undertaking responsible for the system and electricity production plants with a capacity of more than 25 MW may not be taken out

of operation for long periods without the approval of the undertaking responsible for the system. With a view to maintaining security of supply, the undertaking responsible for the system may, in return for payment of a reasonable amount, require that stoppages be postponed or brought forward.

2. With regard to ensuring security of supply, cf. Section 27a, paragraph 1, production undertakings shall, as instructed by the undertaking responsible for the system, give details of the plants with a capacity of over 25 MW which they expect to keep in an operational state during the 24-hour operational periods of a period of up to four weeks. Production undertakings shall, not later than the day before the operational 24-hour period, inform the undertaking responsible for the system which production plants with a capacity greater than 25 MW it expects to put into operation during the operational 24-hour period.

**Section 27c.** The undertaking responsible for the system shall publish in respect of the following 24-hour operational period information on the transmission capacity of the transmission grid made available to it.

2. Users of the collective electricity supply grid shall, in accordance with rules laid down by the undertaking responsible for the system and on the basis of the published information referred to in paragraph 1, notify the electricity production, electricity consumption and electricity trading plans for the following 24-hour operational period to the undertaking responsible for the system.

Electricity production which is subject to a purchase obligation pursuant to Section 57, paragraph 1(1), is exempt from the notification requirement.

3. The undertaking responsible for the system shall, at the start of the following 24-hour operational period, approve plans for expected electricity production, electricity consumption and electricity trade notified to it pursuant to paragraph 2. Approval may be made conditional upon changes being made to the plans insofar as this is necessary to ensure security of supply.

4. The undertaking responsible for the system may, following approval of the plans order electricity production undertakings to alter the amount produced or start up production, insofar as this is necessary to ensure security of supply.

5. Electricity produced at decentralised industrial CHP plants and electricity production plants which produce RES electricity or use waste as fuel shall have priority access to the electricity supply grid. In the case of the changes referred to in paragraphs 3 and 4, the undertaking responsible for the system may reduce or cut off priority electricity production only if a reduction of electricity production from other plants is insufficient to maintain the technical quality and balance of the coherent electricity supply system.

6. Insofar as the undertaking responsible for the system requires changes as specified in paragraphs 3-5, it shall make payment in respect thereof. The undertaking responsible for the system shall, however, not make a payment if it requires changes to be made to the notified electricity production, electricity consumption and electricity trading plans specified in paragraph 3 before the plans have been approved and the changes are necessary.

- 1) so as not to exceed the published transfer capacity referred to in paragraph 1 or
- 2) to bring individual users' planned electricity production, electricity consumption or electricity trading into balance.

7. When there is an imminent risk of grid collapse, and during a grid collapse and the subsequent restoration, the undertaking responsible for the system may, without making any payment, require that the necessary changes be made to electricity production, trading and consumption.

8. If a user's actual electricity production, electricity consumption or electricity trading in a 24-hour operational period does not correspond to that approved in accordance with paragraph 3, the undertaking responsible for the system may require payment of a reasonable amount in respect of the imbalances inflicted on the system.

9. The changes referred to in paragraphs 3-5 shall be made in accordance with objective criteria laid down by the undertaking responsible for the system on the basis of socio-economic and environmental considerations. The undertaking responsible for the system shall also lay down objective criteria for the calculation of payments due in respect of reduction or suspension pursuant to paragraph 5.

10. The rules and criteria which the undertaking responsible for the system lays down pursuant to paragraphs 2 and 9 shall be accessible to users and potential users of the collective electricity supply grid. The rules shall be notified to the Minister for Economic Affairs, Trade and Industry.

11. Complaints concerning the rules and criteria laid down by the undertaking responsible for the system pursuant to paragraphs 2 and 9 may be submitted to the Minister for Economic Affairs, Trade and Industry. The Minister may order that the rules be amended.

**Section 27d.** The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the matters referred to in Sections 27a, 27b and 27c.

**Section 27e.** The costs incurred by undertakings responsible for systems in connection with maintaining the production capacity referred to in Section 27a, paragraph 1(2), during the period from 1 January 2002 to 31 December 2003 shall be incorporated in the undertakings' prices at the same annual amount for a ten-year period from 1 January 2000 to 31 December 2010.

**Section 28.** The undertaking responsible for the system shall, in cooperation with the other collective electricity supply undertakings, ensure that the public service obligations referred to in Section 9 are fulfilled.

2. The undertaking responsible for the system shall carry out the following tasks:

- 1) ensure that the research and development activities necessary to ensure environment-friendly and energy-efficient electricity transmission and distribution in the future are carried out;
- 2) prepare annual surveys and forecasts for the use of the current and potential market players and to illustrate whether the public service obligations have been fulfilled;
- 3) cooperate with other undertakings responsible for systems in Denmark and other countries on the establishment of mutual, equivalent principles for electricity supply and on grid tariffs, grid access and transit, market issues, etc. and coordination of transmission connections, including dealing with balance and capacity problems, and enter into necessary joint system operation agreements which ensure that the benefits yielded by interconnected systems are exploited;
- 4) ensure that production which is subject to a purchase obligation pursuant to Section 57 is bought and that this is distributed proportionately to the consumers;
- 5) cooperate with the grid undertakings to ensure grid access and access to transit;
- 6) ensure that the users have equal access to information concerning access to the purchase and sale of electricity;
- 7) draw up a plan for future demand for transmission capacity in the coherent electricity supply system and transmission links to other grids;
- 8) cooperate with the transmission undertakings to ensure necessary conversion and new construction of transmission grids in accordance with transmission grid plans, cf. (7);
- 9) submit an annual environmental report to the Minister for Economic Affairs, Trade and Industry which gives an account of the main environmental factors as regards electricity and CHP production within the overall electricity supply system;
- 10) draw up rules on metering to be carried out by grid undertakings;
- 11) calculate and implement the necessary settlement of accounts and collect payments due in respect of the fulfilment of public service obligations, cf. Section 9;

3. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the content and performance of the tasks incumbent on an undertaking responsible for a system.

**Section 29.** The undertaking responsible for the system shall ensure that the research and development projects necessary for using environment-friendly electricity production technologies are carried out.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the projects referred to in Section 9, paragraph 1(1), including rules stipulating that the relevant plan must be approved before the expenditure may be charged to the consumers, cf. Section 9, paragraph 1.

**Section 30.** The Minister for Economic Affairs, Trade and Industry may lay down rules requiring the undertaking responsible for the system to ensure that stores of fuel for electricity and CHP production are maintained with regard to security of supply, including rules requiring electricity production undertakings to assist in the purchasing and siting, etc. of such stores.

2. The Minister for Economic Affairs, Trade and Industry may order undertaking responsible for systems to build and operate transmission installations between Funen and Zealand.

**Section 31.** The undertaking responsible for the system shall, when performing its tasks, help to ensure that the best possible conditions are created for competition on markets for the production and trading of electricity, cf. Section 1, paragraph 2.

2. In order to discharge the task referred to in paragraph 1, the undertaking responsible for the system may enter into agreements concerning upward and downward adjustments with a view to countering the effect of capacity restrictions in the collective electricity supply grid.

3. The undertaking responsible for the system may, after obtaining approval from the Minister for Economic Affairs, Trade and Industry, become a member of the Nordic Electricity Exchange, Nord Pool, and its subsidiaries, as coproprietor.

4. The Minister for Economic Affairs, Trade and Industry may give its approval for the undertaking responsible for the system to own and operate, wholly or partly, undertakings for the registration of and trading in RES electricity certificates. The Minister may make approval subject to conditions, for instance that the activities concerned be carried out by independent. limited liability companies.

5. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the agreements into which the undertaking responsible for the system may enter pursuant to the provisions set out in paragraph 2.

**Section 32.** The Minister for Economic Affairs, Trade and Industry shall appoint two non-voting members to the board of management of undertaking responsible for the system.

2. The members appointed by the Minister shall be appointed for a period of four years and shall be independent of commercial electricity- and heat-supply interests and of any other business interests.

## Chapter 6

### *Activities subject to supply obligations*

**Section 33.** Activities which are subject to a supply obligation may be carried out only after obtaining a licence which may be granted to undertakings which fulfil the requirements set out in Chapters 7 and 8 and in Section 97, paragraph 2.

2. The licence, which shall be valid for a period of five years, shall be issued by the Minister for Economic Affairs, Trade and Industry in respect of a specified area.

**Section 34.** An undertaking which is subject to a supply obligation shall offer to consumers in its supply area.

- 1) 1) delivery of sufficient electricity, as specified in Section 6;
- 2) 2) fulfilment of the purchase obligation for RES electricity certificates pursuant to the rules set out in Chapter 9, and
- 3) 3) energy-saving services.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the substance of the licence holder's obligations, including rules with respect to cooperation between several undertakings that are subject to supply obligations with regard to the fulfilment of such obligations.

## Chapter 7

### *Transfer, consumer influence, unbundling of activities, etc.*

**Section 35.** Before a transmission grid of 200 kV or more or a grid connection to another country which is owned by a licence holder, or equity in undertakings which own such grids, can be surrendered to others, the State shall be offered the opportunity to purchase the transmission grid, the grid connection or the equity. The purchase option shall be exercised by the Minister for Economic Affairs, Trade and Industry on behalf of the State.

2. Paragraph 1 shall also apply when equity in an undertaking responsible for a system is being surrendered.

3. The purchase option shall lapse if the Minister does not, within three months following the date on which the offer is made, state that it will exercise the option. The price shall be set on ordinary market terms. In the event of disagreement, the price and the terms of payment shall be laid down by the Valuation Board pursuant to the rules in Chapter 4 of the Act on Procedure in Expropriation of Real Property.

4. An agreement which is entered into in breach of (1) and (2) shall be void.

**Section 36.** A grid company may neither wholly or in part surrender equity in an electricity production undertaking to

- 1) 1) an undertaking in which the grid undertaking directly or indirectly owns equity;
- 2) 2) a company which directly or indirectly owns equity in the grid undertaking;
- 3) 3) a company which directly or indirectly is owned wholly or in part by a company that directly or indirectly owns equity in the grid undertaking.

2. The Minister for Economic Affairs, Trade and Industry may grant dispensation from the provision set out in paragraph 1.

**Section 37.** In connection with the sale of an electricity supply undertaking, or participations or shares etc. in an electricity supply undertaking, a municipality or county shall draw up a statement of the amount of its investment capital in the electricity supply undertaking and the net revenue from the sale.

2. Any form of whole or partial, direct or indirect, transfer or the like of the following shall be treated as a sale, cf. (1):

- 1) 1) electricity supply activity
- 2) 2) direct or indirect availability of, or other rights over, electricity supply activity;
- 3) 3) direct or indirect equity participations in the electricity supply undertaking.

3. The statement shall be submitted to the Energy Supervisory Board in accordance with rules laid down by the latter.

4. The provisions of paragraphs 1-3 shall also apply if the vendor or transferor is an undertaking or a company etc. in which the municipality or county has an equity participation, or if the municipality or county makes a profit by selling or transferring etc. an undertaking or a company that has owns equity in an electricity supply undertaking. The provisions of paragraphs 1-3 shall furthermore apply if the municipality or county should in any other way derives a profit from a sale or transfer etc. as specified in paragraph 1.

5. The Energy Supervisory Board shall decide whether or not the statement can be approved. Should the Energy Supervisory Board not be able to give its approval, it shall determine the level of the municipality's or county's direct or indirect share of the investment capital in the electricity supply undertaking and the net revenue from the sale, cf. paragraphs 1, 2 and 4.

6. Not later than 1 June of each year, the Energy Supervisory Board shall inform the Ministry of Internal Affairs of the level of the amount a municipality or county has derived, directly or indirectly, in the form of net revenue from sales, cf. paragraph 5. 5.

7. The Ministry of Internal Affairs shall correspondingly reduce the state subsidy payable to the municipality or county pursuant to the provisions of Sections 10 and 17 of the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties by the sum referred to in paragraph 6, including interest payments as specified in paragraph 8.

8. The Ministry of Internal Affairs shall calculate interest payment covering the period from the date on which the municipality or county has the revenue from the sale or transfer at its disposal up to the year in which the reduction of the state subsidy to the municipality or county is effected. The interest shall be calculated on the basis of the net revenue, cf. paragraph 6, minus the annual reduction in state subsidy, as mentioned in paragraph 7. The interest shall be fixed at the official discount rate of the National Bank of Denmark on 1 January for the year or years for which interest payments are to be calculated.

9. For the purposes of this provision, electricity supply undertaking means any form of undertaking covered by Section 2.

**Section 38.** Electricity production and electricity trading undertakings and their subsidiaries may together not

- 1) own more than 15% of the total capital of a collective electricity supply undertaking, or
- 2) have a controlling interest, by virtue of special voting rights, in the executive bodies of a collective electricity supply undertaking.

2. Undertakings subject to supply obligations may together not

- 1) own more than 15% of the total capital of a grid undertaking, a transmission undertaking or an undertaking which is responsible for a system, or
- 2) have a controlling interest, by virtue of special voting rights, in the executive bodies of a grid undertaking, a transmission undertaking or an undertaking which is responsible for a system.

3. Agreements concerning transfers of equity participations and agreements or provisions in articles of association concerning the distribution of voting rights which run counter to the provisions of paragraphs 1 and 2 shall be void.

**Section 39.** Collective electricity supply undertakings shall inform the Energy Supervisory Board in writing of any complete or partial surrender of their equity in electricity production undertakings or other collective electricity supply undertakings. Furthermore, collective electricity supply undertakings shall inform the Energy Supervisory Board of the undertakings which, as far as they are aware, own equity in them.

## *Consumer influence*

**Section 40.** The majority of members of a grid undertaking's management board shall be elected by consumers in the grid undertaking's supply area or by one or more municipal or county boards in the undertaking's supply area by exercising their powers as owners at the grid undertaking's annual general meeting or in some other manner. The majority may also be elected jointly by consumers and one or more municipal or county boards.

2. The requirement concerning consumer influence in paragraph 1 shall be considered to have been met if the management board of a grid undertaking which is operated as a cooperative is appointed by a panel of representatives which has been elected by cooperative members in the supply area. The same shall apply to a grid undertaking which is operated as a non-profit institution or in the form of an association, if the management board is appointed by representatives who have been elected by one or more municipal councils in the supply area, by a majority of the consumers in the grid undertaking's supply area or by such municipal councils and consumers jointly. The same shall apply to municipal grid activities, cf. Section 4, paragraph 1, 1. (1)

3. In a grid undertaking owned by a legal person, the requirement set out in paragraph 1 shall be considered to have been met if the majority of the members of the legal person's management board have been elected or appointed in the manner specified in paragraph 1 and the management board elects the board of the grid undertaking.

4. The Minister for Economic Affairs, Trade and Industry may, where special circumstances so warrant, grant dispensation from the consumer influence requirement set out in paragraph 1.

**Section 41.** Should the consumers or municipal councils or county boards, singly or jointly, not have the influence in the grid undertaking specified in Section 40, a committee of consumer representatives shall be established. The committee of consumer representatives shall consist of 11 members elected by the consumers in the grid undertaking's supply area, and they shall elect the majority of the members of the grid undertaking's management board.

2. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the conditions governing consumers' voting rights and their eligibility to stand for election, as well as the term for which the members of the committee of consumer representatives are to serve.

3. The committee of consumer representatives may elect management board members only from amongst candidates proposed by the members of the committee of consumer representatives. Members of the management board shall be elected for a period corresponding to the period which applies to other management board members as laid down in the statutes.

4. If the grid undertaking is operated in the form of a limited company, Section 49, paragraph 6, Section 59, paragraph 1 and paragraph 2, 2. 2(2) of the Limited Companies Act shall not apply.

**Section 42.** A committee of consumer representatives set up pursuant to Section 41, paragraph 1 shall be elected for the first time no later than two months after the grid undertaking fails to satisfy the consumer influence requirement specified in Section 40. The committee of consumer representatives shall elect the majority of the members of the grid undertaking's management board within a time-limit of four weeks.

2. The grid undertaking shall ensure that a committee of consumer representatives is established pursuant to Section 41.

**Section 43.** At least one-third of the members of the board of an undertaking which is subject to a supply-obligation shall be elected by a majority of the consumers in the undertaking's supply area or by one or more municipal councils in the supply area.

2. Sections 40-42 shall *mutatis mutandis*.

3. The Minister for Economic Affairs, Trade and Industry may, where special circumstances so warrant, grant dispensation from the consumer influence requirement set out in paragraph 1.

**Section 44.** The statutes of undertakings subject to grid and supply obligations shall contain detailed provisions to ensure implementation of Sections 40-43.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that the statutes of the undertakings referred to in paragraph 1 must, in order to be approved, cf. Section 53, paragraph 2, be drawn up on the basis of model statutes laid down by the Minister.

3. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that the articles of association of a legal person who owns a grid undertaking or an undertaking which is subject to a supply obligation must be drawn up within the framework of standard articles of association laid down by the Minister where Section 40, paragraph 3, cf. Section 40, paragraph 1, applies. Such rules may contain provisions concerning the notification and approval of articles of association and amendments thereto.

4. The issue of a licence to grid undertakings and undertakings which are subject to a supply obligation that are owned by a legal person to whom the rules laid down pursuant to paragraph 3 apply, shall be conditional upon the legal person's articles of association having been drawn up on the basis of standard articles of association.

#### *Qualification requirements*

**Section 45.** Members of the board of an undertaking responsible for a system shall not be a board members or directors of an electricity production or electricity trading undertaking.

2. Directors, deputy directors, assistant directors and senior staff of an undertaking responsible for a system shall not participate in the operation or management of an electricity production or electricity trading undertaking.

#### *Granting of loans, provision of security etc.*

**Section 46.** A collective electricity supply undertaking may not grant loans to or provide security for other undertakings, including other collective electricity supply undertakings.

2. The provisions of paragraph 1 shall not apply insofar as only the capital specified in Section 74, paragraph 3, is at disposal when loans are given or security provided.

3. The provisions of paragraph 1 shall also not apply insofar as a grid undertaking provides security only for an electricity production undertaking which it owns wholly or in part, if the provision of security relates only to debt obligations which the electricity production undertaking assumes in connection with the residual financing of construction work commenced before 29 April 1999.

4. Agreements which collective electricity supply undertakings enter into with other undertakings, including undertakings belonging to the same group, shall be made on conditions which are determined by the market.

#### *Unbundling of activities*

**Section 47.** Licences for the activity of an undertakings subject to a supply obligation, the activity of an undertaking which is responsible for a system, grid activity and transmission activity shall, except where specified in paragraph 2, not be issued to the same undertaking, and the licence holder may carry out only the activities covered by the licence.

2. A licence for grid activity and a licence for transmission activity may, however, be granted to the same undertaking if the Minister for Economic Affairs, Trade and Industry deems that it can be granted without constituting an obstacle to the proper conduct of the activities to be carried out under the terms of the licence. Under similar conditions, a licence for transmission activity and a licence for the activity of an undertaking responsible for a system may be granted to the same company.

3. In the cases specified in paragraph 2, the undertaking shall keep separate accounts for the activities to be carried out under the terms of the licence.

4. Other activities which are outside the scope of the licence, including production of, or trade in electricity, must be carried out by autonomous limited liability companies.

5. Paragraph 4 shall not apply to municipalities that carry out activity pursuant to Section 4, 1, 1. paragraph 1(1).

**Section 48.** Undertakings which produce electricity by burning waste may not within the same undertaking carry out other electricity production activity or electricity trading activity.

**Section 49.** Funds collected by the licence holder for others pursuant to the provisions of this Act shall be kept separate from the licence holder's own assets.

## Chapter 8

### *General provisions concerning licences*

**Section 50.** In addition to terms which may be laid down pursuant to Chapters 3-6, licences may in special cases with a view to fulfilling the objectives of this Act, contain such conditions as may be warranted by specific conditions prevailing in the undertaking concerned. Moreover, terms may be laid down which are necessary with a view to complying with EU rules or EU recommendations in this field.

2. The Minister for Economic Affairs, Trade and Industry may include in the licence a condition that, with one year's notice, he may decide that electricity production undertakings must, with a view to ensuring security of supply, maintain a specified minimum production capacity.

3. The Minister may include in the licence a condition that, with one year's notice, he may decide that electricity transmission companies must, with a view to ensuring security of supply, maintain a specified transmission capacity.

**Section 51.** The Minister for Economic Affairs, Trade and Industry shall monitor compliance with the terms of licences.

2. Licence holders shall pay the costs associated with monitoring in accordance with rules laid down by the Minister for Economic Affairs, Trade and Industry.

3. Pursuant to rules laid down by the Minister for Economic Affairs, Trade and Industry, collective electricity supply undertakings shall meet the costs of consideration and assessment by the Minister of the planning, development and research tasks of collective electricity supply undertakings, including the activities specified in Section 22, paragraph 1 (6), Section 22, paragraph (6), Section 28, paragraph 2 (2) and (7), and Section 29.

4. Holders of licences for grid, transmission and production activities shall own the plants which are used for the activities to be carried out under the terms of their licence.

5. In special cases, the Minister for Economic Affairs, Trade and Industry may grant dispensation from the provisions of paragraph 4.

**Section 52.** After five years and with one year's notice, new terms may be included in a licence.

**Section 53.** Licences granted pursuant to this Act are exempt from legal proceedings and cannot directly or indirectly be transferred to others unless the Minister for Economic Affairs, Trade and Industry permits the transfer and approves the terms thereof.

2. The statutes of collective electricity supply undertakings and any amendments thereto shall be approved by the Minister for Economic Affairs, Trade and Industry.

**Section 54.** A licence can be withdrawn if

- 1) provisions or terms laid down or orders issued in accordance with this Act or rules issued pursuant to this Act are repeatedly breached,
- 2) incorrect or misleading information was provided in the application for a licence or permission connected therewith,
- 3) the holder of the licence or permit makes a declaration that he is suspending payments, has filed for bankruptcy proceedings or is declared bankrupt.

2. If an infringement referred to in paragraph 1 can be remedied, the Minister for Economic Affairs, Trade and Industry may inform the holder that within a fixed time-limit he must comply with the obligations laid down in his licence or permit.

3. Decisions pursuant to paragraph 1 (1) and (2) shall be taken by a court and decisions pursuant to paragraph 1 (3) shall be taken by the Minister for Economic Affairs, Trade and Industry.

4. If an infringement of provisions, terms or orders issued in accordance with this Act or of rules issued pursuant to this Act involves disregard for significant aspects of security of supply, the Minister for Economic Affairs, Trade and Industry may temporarily withdraw the licence. The Minister for Economic Affairs, Trade and Industry shall in connection with the decision provide guidance to the party concerned regarding the right of legal review, cf. paragraph 5.

5. A person whose licence has been temporarily withdrawn pursuant to paragraph 4 may request that the withdrawal be reviewed by a court.

## Chapter 9

### *Environment-friendly electricity production*

**Section 55.** RES electricity shall mean electricity produced from wind energy, biogas, biomass, solar energy and wave energy and electricity produced at hydropower plants with a capacity of under 10MW.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the definition of the energy sources specified in paragraph 1 and change the limit applicable to hydropower plants specified in paragraph 1. The Minister for Economic Affairs, Trade and Industry may also lay down rules or take decisions stipulating that energy sources and technologies other than those specified in paragraph 1 are to be included in the term RES electricity.

**Section 56.** Undertakings which are responsible for systems shall offer balancing services to CHP producers in relation to heat-bound electricity production and to electricity production plants which produce RES electricity, pursuant to rules laid down by the Minister for Economic Affairs, Trade and Industry.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the plants which are to be offered balancing services pursuant to paragraph 1 and the associated conditions.

### *Electricity production subject to a purchase obligation*

**Section 57.** In order to promote environment-friendly energy production, grid undertakings and undertakings responsible for systems shall be obliged to purchase electricity from:

- 1) decentralised, including industrial, CHP production plants and from electricity production plants which produce RES electricity or use waste as fuel, for which settlement prices or price supplements are laid down in Sections 58 and 59, and
- 2) other CHP plants designed to supply district heating, insofar as the electricity cannot be sold at prices that cover the necessary costs of the electricity production in question, and
- 3) electricity production plants which use natural gas purchased on the basis of contracts which include a minimum purchase obligation (take-or-pay terms), insofar as the electricity cannot be sold at prices that cover the necessary costs of the electricity production in question.

2. The Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, lay down detailed rules or take a decision concerning the substance and scale of the obligation to purchase electricity specified in paragraph 1, including the duration of the purchase obligation and the calculation of the settlement price pursuant to paragraph 1(2) and (3).

3. Following consultation of the committee specified in Section 3, the Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that electricity production from utility-owned plants or plants constructed by such undertakings shall not be covered by the purchase obligation laid down in paragraph 1.

*Settlement rules for electricity which is subject to a purchase obligation*

**Section 58.** Electricity from a plant specified in Section 57, paragraph 1(1), shall be purchased at a price corresponding to the costs of producing and transporting the electricity, including fuel and operating costs etc. and long-term capital costs. The objectives specified in Section 1 shall be taken into consideration when determining the long-term capital costs. Payment for RES electricity, including RES electricity produced by CHP plants, shall be settled in accordance with rules laid down pursuant to Section 59, subject to the provisions of paragraph 3.

2. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the plants which are to be covered by the provisions of paragraph 1 and the calculation of the settlement price in accordance with paragraph 1.

3. Following consultation of the committee specified in Section 3, the Minister for Economic Affairs, Trade and Industry may lay down special settlement rules for electricity, including RES electricity, produced at utility-owned plants or plants constructed by such undertakings.

**Section 59.** Following consultation of the committee specified in Section 3, the Minister for Economic Affairs, Trade and Industry shall lay down rules on settlement in respect of RES electricity, including that settlement prices may vary according to the technology used, plant size and fuel. The Minister for Economic Affairs, Trade and Industry shall also lay down rules stipulating that, in addition to the settlement price, a supplement of no more than DEK 0.27 per kWh shall be paid in respect of RES electricity if RES electricity certificates are not issued in respect of this electricity pursuant to Section 60. The Minister for Economic Affairs, Trade and Industry shall lay down rules concerning the production plants in respect of which the surcharge is to be paid and rules concerning the duration of the settlement rules and the period for which the surcharge will be applied.

2. Following consultation of the committee specified in Section 3, the Minister for Economic Affairs, Trade and Industry may lay down special settlement rules for RES electricity produced at plants constructed as a consequence of orders issued pursuant to Section 13 of the hitherto valid version of the Electricity Supply Act.

3. The Minister for Economic Affairs, Trade and Industry may decide that specified plants for the production of RES electricity shall be built following invitations to tender.

4. The Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, lay down detailed conditions for the invitations to tender referred to in paragraph 3, including special settlement rules.

*Electricity production not subject to a purchase obligation*

**Section 59a.** This provision shall apply to RES electricity produced at plants specified in paragraphs 3-6 which are built or converted as a result of an order issued pursuant to Section 13 of the previously applicable version of the Electricity Supply Act by special agreement with the Minister for Economic Affairs, Trade and Industry. This provision shall not apply to:

- 1) plants which are wholly or partly used for the incineration of waste, and
- 2) wind turbines located in Danish territorial waters etc., cf. Section 16, which were connected to the electricity supply grid after 1 January 2000 and which were financed by making provisions under the previously applicable version of the Electricity Supply Act.

2. In the case of plants specified in paragraphs 3-6, producers are entitled only to receive the surcharge and RES electricity certificates provided for under this provision and are not entitled to receive subsidies under the Electricity Production Subsidies Act.

3. In the case of electricity produced by a land-based or offshore wind turbine which was connected to the grid before 1 January 2000, a surcharge shall be paid to the owner or to the person authorised by the owner to produce electricity from the wind turbine. The supplement shall be set so that, when added to the market price set in accordance with Section 59d, the total amount is 0.60 DKK per kWh. However, the supplement may not exceed 0.48 DKK per kWh on average over the year.

4. In the case of electricity produced by a land-based wind turbine which was connected to the grid after 1 January 2000, a supplement shall be paid which shall be set so that, when added to the market price set in accordance with Section 59d, the total amount is 0.33 DKK per kWh. The supplement shall be paid for a period of ten years following connection of the wind turbine to the electricity supply grid. In addition, an RES electricity certificate shall be issued.

5. In the case of electricity produced by an offshore wind turbine which was connected to the grid after 1 January 2000, a supplement shall be paid which shall be set so that, when added to the market price set in accordance with Section 59d, the total amount is 0.353 DKK per kWh. If the producer is required to pay a feed-in tariff when transferring electricity to the main electricity supply grid, a supplement of up to 0.07 DKK per kWh shall be paid, calculated as a 24-hour average. The specified supplements shall be paid in respect of electricity production corresponding to 42 hours' production at the wind turbine's installed capacity (full-load hours). In addition, an RES electricity certificate shall be issued.

6. In the case of electricity produced at plants used for the burning of biomass, a supplement shall be paid which shall be set so that, when added to the market price set in accordance with Section 59d, the total amount is 0.30 DKK per kWh. An RES certificate shall also be issued.

7. In addition to the supplement specified in paragraph 6 and RES electricity certificates, the Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, decide that a supplement of up to DKK 100 shall be paid per tonne of biomass burnt. When setting the level of the supplement, account may be taken of the costs incurred by owners of individual plants in connection with the burning process. The supplements referred to above may for all plants combined not exceed DKK 30 million per annum.

8. Until RES electricity certificates are issued, cf. paragraphs 4-6, a supplement of DKK 0.10 per kWh shall be issued instead.

9. The Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, lay down rules stipulating that the supplements specified above shall be discontinued or be replaced by RES electricity certificates.

**Section 59b.** RES electricity certificates shall be issued to producers of the forms of electricity specified in points 1-4 below:

- 1) electricity produced by wind turbines connected to the grid no later than 31 December 2002 and which are no longer entitled to payment of the settlement price and supplement pursuant to rules laid down pursuant to Section 59, paragraph 1.
- 2) electricity produced by wind turbines connected to the grid no later than 1 January 2000 and which are no longer entitled to payment of supplements pursuant to Section 59a, paragraphs 4 and 5.
- 3) electricity produced by offshore wind turbines financed by provisions made under the previously applicable version of the Electricity Supply Act, as specified in Section 59a, paragraph 1(2). 2.
- 4) electricity produced by other wind turbines connected to the grid after 31 December 2002.

2. With effect from 1 January 2003 and until RES electricity certificates are issued, a supplement of DKK 0.10 per kWh shall be granted instead.

3. In addition to RES electricity certificates and supplements, cf. paragraph 2, an extra supplement of DKK 0.10 per kWh shall be granted in respect of electricity as specified in paragraph 1 (1) if a wind turbine has a capacity not exceeding 200 kW and was connected to the grid no later than 31 December 1992, cf. however paragraph 8. The extra supplement is conditional upon the electricity producer having submitted an application for it by no later than 31 December 2003 and the wind turbine's direct production costs per kWh having averaged more than DKK 0.26 per kWh over the past five financial years. The supplement shall be granted in respect of electricity production corresponding to 35 000 full-load hours following connection of the wind turbine to the electricity supply grid after deduction of the electricity production in respect of which the settlement price or supplement has been paid in accordance with rules laid down pursuant to Section 59, paragraph 1. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the statement, calculation and documentation of direct production costs and requirements concerning applications.

4. The supplement and the extra supplement shall be calculated and paid so that they, together with the market price set in accordance with Section 59d, do not exceed a total amount of DKK 0.36 per kWh.

5. RES electricity certificates shall be issued and supplements shall be granted in accordance with paragraphs 2 and 3 within a 20-year period from the date on which the wind turbine is connected to the electricity supply grid.

6. An allowance of DKK 0.023 per kWh shall be granted in respect of balancing costs for electricity as specified in paragraph 1 (1) and (4), cf. however paragraph 8. The Minister for Economic Affairs, Trade and Industry may, after consulting the committee specified in Section 3, lay down rules stipulating that the supplement must be reduced or terminated.

7. A supplement of DKK 0.17 per kWh shall be granted in respect of electricity from wind turbines as specified in paragraph 1 (4), which were connected to the grid during the period from 1 January 2003 to 1 January 2004, provided that the owner of the wind turbine concerned uses scrapping certificates in respect of the wind turbine in accordance with rules laid down pursuant to Section 59, paragraph 1. The supplement is granted in respect of electricity production at the wind turbine in respect of 12 000 full-load hours.

8. The supplementary supplement provided for in paragraph 3 and the allowance provided for in paragraph 6 in respect of electricity as specified in paragraph 1 (1) comprise State aid and shall be granted insofar as the relevant conditions are met to:

- 1) producers who are entitled to receive de *minimis* aid, and
- 2) producers who do not satisfy the criteria in (1) to the extent which, and from the date on which, the European Commission has approved the supplements, cf. paragraph 9.

9. In the case of producers specified in paragraph 8 (2), the Minister for Economic Affairs, Trade and Industry may lay down rules concerning the date from which the application for the supplement specified in paragraph 3 may be submitted, and may extend the application deadline by up to six months from the date on which the European Commission approves the supplement.

10. De *minimis* aid shall mean aid which does not exceed the ceilings set by the European Commission at any time

**Section 59c.** Producers of electricity at production plants specified in Sections 59a and 59b shall not be entitled to the balancing payments provided for in Section 56, and their electricity production shall not be covered by the purchase obligation referred to in Section 57, paragraph 1.

2. Producers of electricity from wind turbines specified in Section 59b, paragraph 1 (1), shall inform the undertaking responsible for the system that they have entered into an agreement concerning sales and the balancing of electricity production. Such notification shall be given with at least one month's notice, on the first day of the month in which the purchase obligation ends. If the purchase obligation ends no later than 31 January 2003, notification shall be provided as soon as possible and no later than one week before the purchase obligation ends.

3. The undertaking responsible for the system shall ensure the balancing of electricity production at a wind turbine as specified in paragraph 2 and sell the electricity on the Nordic Electricity Exchange (Nordpool) if the electricity producer so requests or if the electricity producer has not provided the notification referred to in paragraph 2. Balancing and sale are conditional upon the electricity producer concerned paying the necessary costs which the undertaking responsible for the system incurs in this connection.

4. Accounts showing revenue from and expenditure on the task referred to in paragraph 3 shall be separate from those kept for the other tasks of the undertaking responsible for the system.

5. The undertaking responsible for the system shall lay down guidelines concerning time-limits and conditions for the balancing and sale, as specified in paragraph 3.

**Section 59d.** The grid undertakings shall report on an hourly basis to the undertaking responsible for the system the amounts of electricity which have been produced at plants specified in Section 59a, paragraphs 3-6, and Section 59b, paragraph 1. The undertaking responsible for the system shall lay down guidelines for the calculation and reporting of electricity production.

2. The undertaking responsible for the system shall lay down, on an hourly basis, the market price for electricity produced at plants specified in Section 59a, paragraphs 3-6, and Section 59b, paragraph 1 (1)-(3) as the spot price obtained for electricity in the area concerned. The undertaking shall set, on an annual basis, the market price for plants specified in Section 59b, paragraph 1 (4) as a weighted average of the market value of the electricity production and the spot prices referred to above.

3. The spot price for electricity shall mean the hourly price per kWh for the area on the spot market, indicated by the Nordic Electricity Exchange (Nordpool).

4. If the market price set exceeds the total amount of supplements and the market price laid down in Section 59a, paragraphs 3-6, or Section 59b, paragraph 4, the undertaking responsible for the system shall calculate a negative supplement which shall not exceed the amount of supplement paid in the last year before the statement is drawn up. Negative supplements in respect of electricity, as

specified in Section 59b, paragraph 1, shall not exceed the amount of the supplements specified in Section 59b, paragraphs 2 and 3, during the statement period. Negative supplements shall be offset against the supplements paid.

#### *RES electricity certificates*

**Section 60.** Producers of RES electricity shall receive certificates for the amount of RES electricity they have produced. The certificates shall be called “RES electricity certificates” and shall be tradable.

2. The Minister for Economic Affairs, Trade and Industry shall lay down rules stipulating which producers are to be covered, as from a date to be set by the Minister, by the provisions of paragraph 1 and on the issue, allocation and trading of RES electricity certificates.

**Section 61.** From a date set by the Minister for Economic Affairs, Trade and Industry, every consumer of electricity in Denmark shall be obliged to obtain RES electricity certificates. Following consultation of the committee specified in Section 3, the Minister for Economic Affairs, Trade and Industry shall determine annually the minimum number of RES electricity certificates which every consumer of electricity is to acquire. The purchase obligation shall be uniformly fixed for all consumers of electricity as an obligation to acquire a certain proportion of RES electricity certificates in relation to their electricity consumption.

2. The Minister for Economic Affairs, Trade and Industry may reduce the purchase obligation in accordance with paragraph 1 in cases where it proves impossible to fulfil them.

**Section 62.** Undertakings responsible for a system are responsible for ensuring compliance with the purchase obligation pursuant to Section 61 on behalf of their customers.

2. Consumers who have a supplier other than the undertaking responsible for the system may themselves ensure compliance with their purchase obligation or request the undertaking responsible for the system in the supply area in question to purchase RES electricity certificates on their behalf.

3. The Minister for Economic Affairs, Trade and Industry shall lay down rules stipulating when and how fulfilment of the purchase obligation is to be documented.

**Section 63.** In case of failure to fulfil the purchase obligation pursuant to Section 61, DKK 0.27 shall be paid for each kWh for which the party subject to the obligation pursuant to Section 62, should have purchased RES electricity certificates. The sum shall be paid to the Danish Treasury.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the payment and recovery of the amount referred to in paragraph 1, and may stipulate that the amount shall be paid by the collective electricity supply undertakings. A right of distraint may be exercised in respect of the sum.

#### *Guarantees of origin etc.*

**Section 63a.** The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the issue of guarantees of origin which may stipulate

- 1) the information which a guarantee of origin must contain,
- 2) conditions governing the issue of guarantees of origin, and
- 3) documentation in support of the information provided and attesting to the monitoring and verification of the accuracy of the information.

2. The Minister for Economic Affairs, Trade and Industry may authorise an undertaking or a specialised institution or organisation to perform specified functions concerning the monitoring and verification referred to in paragraph 1(3)..

3. The Minister for Economic Affairs, Trade and Industry may require the issuer to correct the information contained in a guarantee of origin if it is proved that the information provided under the rules laid down pursuant to paragraph 1(1) is incorrect or misleading.

4. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning conditions and deadlines for electricity producers to opt out of the arrangements for settlement prices and supplements laid down in accordance with Sections 58-59b or rules issued pursuant thereto.

5. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that electricity producers must pay the necessary costs incurred in connection with the issue of guarantees of origin and in connection with the monitoring and verification referred to in paragraphs 1 and 2 and the necessary costs incurred when implementing the provisions concerning opting-out from arrangements for settlement prices and supplements pursuant to paragraph 4.

**Section 64.** (repealed)

**Section 65.** (repealed)

#### *Taking over of wind turbines*

**Section 66.** The Minister for Economic Affairs, Trade and Industry shall, at the request of a wind turbine owner, take over the latter's wind turbine and obligation to pay the amounts outstanding on loans taken out to finance the wind turbine concerned if:

- 1) the owner of the wind turbine can provide documentary evidence showing that he will not be able to pay the amounts outstanding on a debt taken out to finance the wind turbine owing to changes in the supplements for wind turbine-generated electricity laid down pursuant to Section 59, paragraph 1, and
- 2) the loan concerned was taken out before 29 April 1999.

2. The provisions of paragraph 1 shall apply *mutatis mutandis* to loans taken out by wind turbine owners who own part of a wind turbine. The provisions of paragraph 1 shall not apply to utility owned wind turbines.

3. The undertaking responsible for the system may, upon request, take over a wind turbine which the Minister for Economic Affairs, Trade and Industry has taken over, subject to payment of the costs incurred by the State and the State's obligations with regard to the wind turbine concerned. The undertaking responsible for the system shall dismantle, operate or re-sell the wind turbine on the best possible conditions for electricity consumers.

4 The undertaking responsible for the system may include in its prices the net costs it has incurred in connection with the wind turbine taken over, cf. Section 71. The accounts of the undertaking responsible for the system relating to revenue and expenditure in connection with the wind turbine shall be separate from those kept for the other tasks of the undertaking responsible for the system.

5. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the take-over arrangements, including rules on their termination.

#### *Connection etc. of environment-friendly electricity and CHP production plants*

**Section 67.** In the case of the connection to the electricity supply grid of a plant specified in Section 57, paragraph 1(1), the owner of the plant shall pay only the cost which would have been incurred in being connected to the 10-20 kV grid, irrespective of whether, on the basis of objective

criteria, the grid undertaking selects another connection point. Other costs, including costs of grid reinforcement and grid expansion, shall be met by the grid undertaking.

2. Owners of plants specified in Section 57, paragraph 1(1), who wish to supply electricity at a voltage level higher than 10-20 kV shall themselves meet the costs of connection to a correspondingly higher voltage level. Other costs, including grid reinforcement and grid expansion costs, shall be met by the grid undertaking.

3. The provisions of paragraphs 1 and 2 shall not apply to wind turbines.

**Section 68.** The Minister for the Economic Affairs, Trade and Industry may lay down rules concerning the construction of wind turbines and their connection to the electricity grid, including rules concerning the distribution of the costs of grid connection and costs incurred by virtue of being connected to the electricity grid. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the design, installation, equipment and operation of wind turbines and rules concerning the recognition of certificates and verification in relation to such matters.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that the collective electricity supply undertakings must administer rules laid down pursuant to Sections 59a and 59b and rules laid down pursuant to paragraph 1, Section 59, paragraph 1, Section 59a, paragraph 9, Section 59b, paragraphs 3, 6 and 9, and Section 63a, and take decisions on matters covered by rules laid down pursuant to those provisions.

3. The Minister for Economic Affairs, Trade and Industry shall verify compliance with rules laid down pursuant to paragraph 1. The Minister for Economic Affairs, Trade and Industry may order that situations which are incompatible with rules laid down or decisions taken pursuant to paragraphs 1 and 2 shall be rectified immediately or by a specific deadline.

4. The Minister for Economic Affairs, Trade and Industry may lay down fees payable in respect of requests for connection to the grid in accordance with rules laid down pursuant to paragraph 1 and in respect of monitoring and of the registration of and checks on wind turbines and wind turbine owners in connection with the establishment of a nationwide register of wind turbines and wind turbine owners. A right of distraint may be exercised in respect of the fees laid down.

## Chapter 10

### *Prices and terms for electricity*

#### *The prices and terms of electricity supply undertakings*

**Section 69.** The prices of services provided by collective electricity supply undertakings shall be set with due regard to the costs incurred by the undertakings in connection with purchasing energy, paying wages, provision of services, administration and maintenance, other operating costs and depreciation and return on capital. Account shall also be taken of expenditure incurred by virtue of the fact that the undertakings are liable for meeting debt obligations pursuant to Section 46, paragraph 3, or other debts of the electricity supply undertakings which arose before this Act entered into force.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the calculation of operational depreciation and for drawing up a statement of the undertakings' capital, including any investment capital, and the rates that may be applied when including interest payment pursuant to paragraph 1. The Minister for Economic Affairs, Trade and Industry may also lay down rules concerning the keeping of separate accounts for different activities and rules concerning the keeping of accounts and budgeting of collective electricity supply undertakings, including rules stipulating that collective electricity supply undertakings must draw up, have audited and publish annual accounts in accordance with the provisions of the Danish Company Accounts Act.

**Section 70.** Prices for the services of grid and transmission undertakings shall be set in accordance with the revenue framework specified in paragraph 2. The framework shall be established with a view to covering the costs specified in Section 69 when the undertaking operates efficiently.

2. The Minister for Economic Affairs, Trade and Industry shall lay down rules concerning a general revenue framework for all undertakings concerned for a specified number of years. Within the specified framework, the Energy Supervisory Board shall each year establish a revenue framework for each undertaking concerned.

3. The Energy Supervisory Board may grant dispensation from the framework it has laid down if this is necessary to enable an undertaking to fulfil the obligations laid down in its licence, in this Act or in provisions laid down pursuant to this Act.

4. Any form of revenue accruing to the undertaking shall be used to cover the expenditure specified in Section 69, paragraph 1. This shall not, however, apply to surpluses in the form of return on investment capital and extraordinary efficiency gains in relation to the revenue framework. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating what may be regarded as extraordinary efficiency gains and laying down the level of such gains.

5. Undertakings which have included in their prices losses made by parallel activities pursuant to the provisions of Section 9, paragraph 6, of the previously valid version of the Electricity Supply Act, may not, however, apply the provision set out in paragraph 4(2) 4, 2. before the specified loss has been covered.

6. Municipalities and counties shall not grant subsidies in respect of municipal grid activity which, pursuant to the provision of Section 4, paragraph 1, are not carried out by limited liability companies.

**Section 71.** Undertakings responsible for a system may include in their prices necessary costs as specified in Section 69, paragraph 1. Necessary costs shall mean costs incurred by an undertaking on the basis of business considerations with a view to maintaining efficient operation.

2. Any revenue accruing to the undertaking shall be used to cover the expenditure specified in Section 69, paragraph 1. This shall not, however, apply to surpluses in the form of a reasonable return on investment capital.

3. The Energy Supervisory Board shall approve the prices set after notification pursuant to Section 76. Approval may be made subject to conditions. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning conditions for approval.

**Section 72.** Undertakings responsible for a system may include in their prices, as mentioned in Section 69, paragraph 1, a surplus which is reasonable in relation to the level of the turnover and the efficiency of purchasing electricity and other costs.

2. The Energy Supervisory Board shall approve the prices set after notification pursuant to Section 76. Approval may be made subject to conditions. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the substance of the conditions.

**Section 73.** Collective electricity supply undertakings shall set the prices for their services as specified in Sections 69-72, on the basis of reasonable, objective and non-discriminatory criteria in relation to the costs associated with individual categories of purchaser.

**Section 74.** The collective electricity supply undertakings shall notify to the Energy Supervisory Board the level of capital which, according to the undertaking, is to form the basis for establishing the interest payment which, pursuant to Section 69, paragraph 1, may be included in the prices. The undertakings shall draw up a separate statement concerning the level of any investment capital.

2. On the basis of the notification specified in paragraph 1, the Energy Supervisory Board shall, with due regard to the financial situation and turnover of the undertaking, calculate the level of capital which forms the basis for establishing the interest payments which may be included and the level of any investment capital.

3. Notwithstanding the provisions of Sections 69-72, collective electricity supply undertakings and their owners may use freely as they see fit capital and revenue which, pursuant to the hitherto valid version of the Electricity Supply Act, they could use freely as they saw fit.

#### *Production prices*

**Section 75.** Prices and delivery terms for electricity sold by electricity production undertakings shall be set by agreement, unless settlement takes place pursuant to the provisions of Chapter 9.

2. When setting prices and delivery terms for district heating, owners of CHP plants shall not use their position in order to distribute their costs in a way which may be regarded as unfair to district heating consumers.

3. Undertakings which produce electricity by from waste incineration shall be financially self-supporting. When setting prices and conditions for waste treatment and for delivery of district heating, owners of waste-burning plants shall not use their position in order to distribute their costs in a way which is considered unfair to users of the waste treatment plant or to district heating consumers.

4. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning the distribution of costs pursuant to paragraphs 2 and 3.

#### *Price monitoring, establishment of rules*

**Section 76.** Collective electricity supply companies shall notify the following to the Energy Supervisory Board:

- 1) prices, tariffs and terms for the provision of services covered by the licences, and the basis for setting them, including delivery agreements, as stipulated by the Energy Supervisory Board.
- 2) requests and agreements concerning transit, including negotiated prices and terms.
- 3) documentation concerning the unbundling of commercial activities.
- 4) statements showing investment capital and capital on which interest is expected to be paid.  
Section 74,
- 5) statements concerning cover for losses made by parallel activities pursuant to the provisions of Section 9, paragraph 6, of the hitherto valid version of the Electricity Supply Act and
- 6) accounts, budgets and other information, as stipulated by the Board, for the purpose of establishing and verifying the revenue framework referred to in Section 70.

2. The Energy Supervisory Board may also require owners of CHP production plants to notify the sale prices of district heating and the basis on which such prices have been set.

3. The Energy Supervisory Board may lay down rules concerning notification pursuant to paragraphs 1 and 2.

**Section 77.** If the Energy Supervisory Board considers that prices and delivery terms run counter to the provisions of this Act, the Board may order that such prices and terms be amended.

2. If unreasonable circumstances in connection with negotiations concerning grid access cannot be resolved by means of an order issued pursuant to paragraph 1, the Energy Supervisory Board may order the licence holder to enter into an agreement concerning such matters, on customary terms for such agreements.

3. If the Energy Supervisory Board considers that prices, terms or agreements result in an environmentally or socio-economically unsound use of energy, it may order that they be amended, following negotiation with the parties.

4. The Energy Supervisory Board may decide that a collective electricity supply undertaking must modify its prices to consumers if the undertaking has conducted a transaction which cannot be regarded as fair to consumers. The Energy Supervisory Board can also decide that an undertaking must use profits to modify its prices to a specified extent.

## Chapter 11

### *Energy Supervisory Board*

**Section 78.** The Minister for Economic Affairs, Trade and Industry shall appoint an Energy Supervisory Board to perform supervisory functions and handle appeals in the field of energy.

2. The Energy Supervisory Board shall be an autonomous committee which is not subordinate to the Minister for Economic Affairs, Trade and Industry.

3. The Minister for Economic Affairs, Trade and Industry shall lay down detailed rules concerning the tasks which the Energy Supervisory Board is to perform. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that the Board is to perform tasks that are delegated to the Minister. The Minister for Economic Affairs, Trade and Industry shall approve the Board's rules of procedure.

4. The chairman of the Energy Supervisory Board may, if so agreed with the Board, take decisions on its behalf.

5. The Danish Competition Authority and the Danish Energy Authority shall make secretarial assistance available to the Board and its chairman.

6. The expenditure associated with establishing and operating the Energy Supervisory Board shall be met by the undertakings supervised by the Board pursuant to this Act, cf., however, paragraph 7.

7. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules or take decisions concerning the circumstances referred to in paragraph 5 and may lay down detailed rules concerning payment pursuant to paragraph 6, and lay down that a fee must be paid in respect of appeals submitted to the Energy Supervisory Board.

8. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning time-limits for the submission of complaints to the Energy Supervisory Board.

**Section 79.** The Energy Supervisory Board shall consist of a chairman and six other members appointed by the Minister for Economic Affairs, Trade and Industry. Its members shall be independent of parties in the energy sector and shall represent legal, economic, technological, environmental, business and consumer expertise.

2. The members of the Board and two permanent substitutes shall be appointed for a term of four years. If a member or a substitute resigns before the end of their term of office, a new member or substitute shall be appointed only for the remainder of that term.

**Section 80.** The Energy Supervisory Board may deal with and decide on cases on its own initiative on the basis of a notification or a complaint.

**Section 81.** The Energy Supervisory Board may, without a Court order, upon presentation of appropriate proof of identity for supervisory purposes pursuant to the Act:

1) examine on the spot and take copies of any type of information, including accounts, accounting materials, books, other business papers and electronically stored data, and

2) have access to the premises of an undertaking or association.

2. The police shall provide assistance in the exercise of powers pursuant to paragraph 1.

**Section 82.** The Energy Supervisory Board shall submit an annual report of its activity to the Minister for Economic Affairs, Trade and Industry.

2. The Energy Supervisory Board shall establish a publicly accessible register of notified tariffs, terms, technical requirements and standards and shall publish a representative selection of these at least once a year. The register shall also include information on the equity held by collective electricity supply undertakings in electricity production undertakings and other collective electricity supply undertakings and on the ownership of equity in collective electricity supply undertakings.

3. Notifications shall be publicly accessible. The Energy Supervisory Board may, however, decide that a notification is not to be published where there are significant grounds for not doing so.

4. The Energy Supervisory Board shall draw up and publish periodical analyses of the revenue and cost situation of collective electricity supply undertakings and assessments of such undertakings' performance of their tasks.

5. The Energy Supervisory Board shall take the necessary steps to otherwise ensure transparency with regard to prices, tariffs, discounts and terms. The Energy Supervisory Board may lay down rules stipulating how the undertakings are to make such information public and rules concerning invoicing and specification of costs in relation to recipients of transport and energy services.

6. The Energy Supervisory Board may decide that an impartial expert is to examine an undertaking's accounts, contracts and the like with a view to preparing an expert report for the Board.

**Section 83.** The Energy Supervisory Board shall draw the attention of the Minister for Economic Affairs, Trade and Industry to matters which, in the Board's opinion, may be of significance for the performance of tasks concerning, inter alia, the issue, amendment and verifications of authorisations.

## Chapter 12

### *Obligation to provide information, monitoring, confidentiality, emergencies*

**Section 84.** The Minister for Economic Affairs, Trade and Industry, the Energy Supervisory Board and the Energy Appeals Board may, when dealing with an appeal or in connection with the supervision of undertakings which are required to hold a licence, other electricity production undertakings, electricity trading undertakings and the consumers concerned, obtain the information necessary for the performance of its tasks..

2. In order to ensure price transparency and security of supply and in pursuance of energy and environment policy objectives, including compilation of the necessary basic data, the Minister for Economic Affairs, Trade and Industry may order collective electricity supply undertakings, electricity production undertakings and electricity trading undertakings to prepare and supply specified information on their production and operational situation and on the services they have purchased and sold. The same shall also apply to information for use in compiling national and international energy statistics. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the scope and the fulfilment of the obligation to provide information.

3. Collective electricity supply undertakings and electricity producers shall, upon request, provide the undertakings responsible for a system with the information necessary for the performance of their tasks.

4. Collective electricity supply undertakings shall, upon request, provide other undertakings with sufficient information in order to ensure that grid and transmission activities can take place in a manner which is consistent with secure and efficient operation of the interconnected system.

5. Undertakings shall maintain the confidentiality of commercially sensitive information received pursuant to paragraphs 1-4. 1-4.

**Section 84a.** Collective electricity supply undertakings shall observe confidentiality with regard to commercially sensitive information which they receive when performing their activities.

2. Undertakings which are responsible for a system shall not discriminate against users of the system or categories of users, or give more favourable treatment to its own undertakings or owners.

**Section 85.** Electricity production undertakings and undertakings which trade in electricity shall draw up annual accounts pursuant to the Danish Company Accounts Act. The annual accounts shall be publicly accessible.

2. The undertakings shall keep consolidated accounts for non-electricity-related activities as they would if the activities concerned were carried out by separate companies.

3. The Minister for Economic Affairs, Trade and Industry may lay down detailed rules concerning the keeping of accounts by undertakings pursuant to paragraphs 1 and 2.

**Section 85 a.** The Minister for Economic Affairs, Trade and Industry may lay down rules concerning monitoring and verification of the purchase obligation in respect of electricity pursuant to paragraph 1 and Section 8a, and concerning the charging and payment of amounts paid by electricity consumers pursuant to the provisions of Section 8, paragraphs 4-6, and Section 9, paragraphs 1 and 3.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning monitoring and verification of the issue, allocation and trading of the RES electricity certificates provided for in Section 60. Such rules may stipulate that electricity consumers are required to supply information which is needed to check whether they have met their purchase obligations with regard to RES electricity certificates.

3. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning documentation and the keeping of accounts with regard to matters covered by paragraphs 1 and 2. Rules may also be laid down stipulating that an electricity producer who receives the settlement price or the supplement or receives RES electricity certificates must report production data and other relevant production-related information to a collective electricity supply undertaking or to a central register. Such rules may stipulate that the costs of meeting the requirements set out in these provisions are to be met by electricity producers.

4. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that the verification and monitoring provided for in paragraphs 1 and 2 shall be performed by grid undertakings or undertakings which are responsible for systems.

5. The Minister for Economic Affairs, Trade and Industry may lay down rules requiring undertakings which are responsible for systems to lay down guidelines for the performance of verification and monitoring. The guidelines shall be approved by the Minister.

**Section 85b.** Undertakings which are required to hold a licence pursuant to Sections 10, 19 or 27 shall draw up the necessary plans and make the necessary arrangements to ensure electricity supply in emergency situations and other exceptional situations.

2. Undertakings which are responsible for systems shall carry out overall coordination of planning and operational tasks concerning the emergencies referred to in paragraph 1.

3. The Minister for Economic Affairs, Trade and Industry may lay down rules concerning performance of the tasks specified in paragraphs 1 and 2.

## Chapter 13

### *Penalties*

**Section 86.** Should any party neglect to comply in good time with an order issued by the Energy Supervisory Board pursuant to Section 77, the Energy Supervisory Board may impose daily or weekly fines on the persons in question.

2. A right of distraint may be exercised in respect of the fines referred to in paragraph 1.

**Section 87.** Unless a more severe penalty is laid down in other legislation, persons who:

- 1) omit to obtain a licence for production, grid or transmission activity or for the activity of an undertaking subject to a supply obligation, pursuant to Sections 10, 19, 27 and 33;
- 2) omits to obtain permission for the establishment and operation of a grid or a plant pursuant to Sections 11, 13, 16, 21, 22a and 23;
- 3) disregards the terms to which a licence or permission is subject pursuant to the provisions referred to in points 1 and 2 above;
- 4) omits to comply with orders or prohibitions issued pursuant to this Act, including orders concerning action to rectify an unlawful situation;
- 5) omits to provide the information specified in Chapter 12;
- 6) provides the Minister for Economic Affairs, Trade and Industry, the Energy Supervisory Board or the Energy Appeals Board with incorrect or misleading information or omits to provide information when requested to do so;
- 7) infringes Section 84, paragraph 5, or Section 84 a, shall be liable to a fine.

**Section 88.** Rules issued pursuant to this Act may stipulate that a fine be imposed for infringement of the provisions of, or the terms laid down and orders issued under such rules.

2. Companies and the like (legal persons) may be held criminally liable pursuant to the provisions of Chapter 5 of the Criminal Code.

## Chapter 14

### *Complaints, Energy Appeals Board, etc.*

**Section 89.** The Energy Appeals Board shall deal with complaints concerning decisions taken by the Minister for Economic Affairs, Trade and Industry or by the Energy Supervisory Board under this Act or rules issued pursuant to this Act.

2. Decisions taken by the Minister for Economic Affairs, Trade and Industry or by the Energy Supervisory Board under this Act or rules issued pursuant to this Act cannot be submitted to administrative authorities other than the Energy Appeals Board specified in paragraph 1. Such decisions may not be submitted to courts of law before the final administrative decision has been taken.

3. Complaints shall be submitted in writing within four weeks following notification of the decision in question.

4. The chairman of the Energy Appeals Board may, where specifically agreed with the Appeals Board, take decisions on behalf of the Appeals Board on cases dealt with under this Act or rules issued pursuant to this Act.

**Section 89a.** Any person having a significant and individual interest in a decision may lodge an appeal with the Energy Appeals Board concerning the environmental aspects of the decision pursuant to Section 16, if the decision is also covered by Section 17.

2. Local and national associations and organisations whose principal objective is to protect wildlife and the environment may appeal against the decisions referred to in paragraph 1. The same shall apply to local and national associations and organisations whose objective is to look after significant recreational interests, where such interests are affected by a decision.

3. Local and national associations and organisations shall, no later than the date on which they submit an appeal, submit their statutes to the Energy Appeals Board to show that they are local or national and that their objectives meet the criteria set out in paragraph 2.

4. Appeals pursuant to paragraphs 1 and 2 shall be submitted in writing within four weeks following publication of the decision in question. If the time-limit expires on a Saturday or a holiday, it shall be extended to the following working day.

5. A permit that has been granted may not be used before the time-limit for appeal has expired.

6. Appeals against permission granted in respect of a project covered by paragraph 1 shall not have suspensory effect unless that Energy Appeals Board decides otherwise.

7. Appeals against decisions of the Energy Appeals Board may not be submitted to another administrative authority.

**Section 90.** The Minister for Economic Affairs, Trade and Industry may lay down rules concerning:

- 1) the right to appeal against decisions which, under this Act or rules issued pursuant to this Act, are taken by the Minister for Economic Affairs, Trade and Industry or by the Energy Supervisory Board, including the rule that it shall not be possible to bring certain decisions before the Energy Appeals Board, and the rule that decisions taken by an institution under the Ministry of Economic Affairs, Trade and Industry or another authority to which the Minister has delegated the powers he holds under this Act pursuant to Section 92, cannot be submitted to the Minister for Economic Affairs, Trade and Industry, and
- 2) payment of fees for the submission of a complaint to the Energy Appeals Board.

**Section 91.** In the case of decisions taken under this Act or rules issued pursuant to this Act, the representatives on the Energy Appeals Board appointed on the recommendation of the Confederation of Danish Industry [*Dansk Industri*] and the Agriculture Council of Denmark [*Landbrugsraadet*] shall be replaced by two members possessing special economic or technical expertise in the field of electricity supply, appointed by the Minister for Economic Affairs, Trade and Industry.

**Section 92.** The Minister for Economic Affairs, Trade and Industry may authorise an institution established under the Ministry or another authority to exercise the powers conferred on the Minister under this Act.

## Chapter 15

### *Entry into force, repeal and transitional provisions*

**Section 93.** The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister can lay down that parts of the Act shall enter into force before other parts of the Act<sup>2</sup>.

2. Section 8, paragraph 5 shall apply with effect from 16 August 1999.

**Section 94.** The Minister for Economic Affairs, Trade and Industry may repeal the Energy Supply Act. cf.. Consolidated Act No 632 of 1 July 1996. The Minister can lay down that parts of the Act shall be repealed before other parts of the Act.

**Section 95.** The Minister for Economic Affairs, Trade and Industry may repeal Chapter 2 of the Act concerning the use of renewable energy sources etc., cf.. Consolidation Act No 837 of 7 October 1992 as last amended by Act No 427 of 10 June 1997.

**Section 96.** The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that rules laid down pursuant to the Acts referred to in Sections 94 and 95 shall remain in force until replaced by rules laid down pursuant to this Act. Infringement of the rules shall be punished under the hitherto valid rules.

**Section 97.** An undertaking which at the time the Act enters into force lawfully performed activity and which, pursuant to this Act, is required to hold a licence, shall be entitled to a licence in respect of its activity if:

- 1) it declares its willingness to fulfil the obligations imposed on it pursuant to the provisions of this Act and of the licence,
- 2) its statutes are not incompatible with the provisions of this Act or rules issued pursuant to this Act and can be approved by the Minister for Economic Affairs, Trade and Industry, and
- 3) it fulfils the requirements of this Act with regard to the grant of a licence.

2. The granting of licences to grid undertakings is conditional upon direct or indirect equity participations in electricity production undertakings, transmission undertakings, undertakings responsible for systems and undertakings which are subject to a supply obligation which, at 29 April 1999, were owned by the grid undertaking or by undertakings which have direct or indirect equity participations in the grid undertaking, being transferred to the grid undertaking so that the latter directly owns the equity participation in question. The granting of licences to transmission undertakings, undertakings which are responsible for systems and undertakings which are subject to a supply obligation is conditional upon equity participations in such undertakings being transferred to the grid undertaking(s) concerned, in accordance with point 1.

3. The Minister for Economic Affairs, Trade and Industry may grant dispensation from the provision set out in paragraph 2 where such action is warranted by special considerations.

**Section 98.** Approvals for the establishment of and alterations to production plants, transmission grids and licences for electricity production and transmission, granted pursuant to the provisions of the hitherto valid version of the Electricity Supply Act, shall be maintained in accordance with their substance and duration.

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<sup>2</sup> Chapter 1, Sections 6, 7 and 9; Chapters 3-8 and Chapters 10-15 of the Act entered into force on 30 December 1999, cf. Order No1126 of 29 December 1999. The rest of the Act entered into force on 1 November 2000, cf. Order No

2. An undertaking which is required to hold a licence may temporarily continue its activity without a licence if it submits the necessary application for a licence within a time-limit specified by the Minister for Economic Affairs, Trade and Industry, until the Minister has taken a decision on the application, provided that the undertaking submitting the application complies with the provisions of the Act for the activity concerned.

3. The Minister for Economic Affairs, Trade and Industry shall lay down the date from which the licence requirement for grid undertakings and undertakings subject to supply obligations is to apply.

**Section 99.** The Minister for Economic Affairs, Trade and Industry may lay down transitional provisions under which the hitherto applicable legal position may be maintained for a transitional period, with the amendments necessitated by this Act with regard to undertakings covered by Section 98, paragraphs 2 and 3.

**Section 100.** Collective electricity supply undertakings shall, when this Act enters into force and in accordance with rules laid down by the Minister for Economic Affairs, Trade and Industry, draw up a statement of unused reserves provided under the hitherto valid version of the Electricity Supply Act, surpluses and shortfalls for the period prior to entry into force of this Act and other matters relating to their capital situation. The undertakings shall subsequently draw up an opening balance in accordance with guidelines laid down by the Minister for Economic Affairs, Trade and Industry which should form the basis for future price-setting pursuant to the provisions of this Act. The statement and the opening balance shall be submitted to the Energy Supervisory Board by a deadline set by the Board.

2. Collective electricity supply undertakings shall, before a deadline set by the Energy Supervisory Board, submit a report concerning the manner in which unused reserves provided for under the hitherto valid version of the Electricity Supply Act, surpluses and shortfalls for the period prior to entry into force of this Act, and other assets or liabilities included in the opening balance specified in paragraph 1 will be taken into account in the following year's prices.

3. The Energy Supervisory Board shall decide whether the statements and opening balances submitted by the undertakings pursuant to paragraph 1 can be approved. The Energy Supervisory Board shall also decide on the extent to which the reports submitted by undertakings pursuant to paragraph 2 can serve as a basis for the equalisation of reserves etc in the following year's prices.

4. If an undertaking has not fulfilled its obligations pursuant to paragraphs 1 and 2 by a deadline set by the Energy Supervisory Board, the latter shall establish the statement and opening balance.

5. The obligations of collective electricity supply undertakings pursuant to approvals granted in accordance with Section 9, paragraph 6 of the hitherto valid version of the Electricity Supply Act concerning the inclusion of losses made in connection with coordinated activity shall be maintained.

**Section 101.** Undertakings which carry out electricity production activity covered by the hitherto valid version of the Electricity Supply Act shall, when this Act enters into force and as specified by the Minister for Economic Affairs, Trade and Industry, draw up a statement of unused reserves provided for under the hitherto valid version of the Electricity Supply Act, surpluses and shortfalls for the period prior to the entry into force of this Act and other matters.

2. The statement referred to in paragraph 1 should form the basis for the undertakings' financial opening balance in the context of the transition to price-setting pursuant to Section 75.

3. Undertakings covered by paragraph 1 which, when this Act enters into force, carry out activity based on waste incineration shall, in accordance with guidelines laid down by the Minister for

Economic Affairs, Trade and Industry, draw up a separate statement of the financial status of their waste-incineration plants.

4. The statement referred to in paragraph 3 shall form the basis for the financial opening balance in the context of separating waste-incineration activity as an independent undertaking pursuant to Section 48. The statement and the opening balance shall be forwarded to the Minister for Economic Affairs, Trade and Industry by a deadline set by the Minister.

5. The Minister for Economic Affairs, Trade and Industry may allow the owner, when drawing up the financial opening balance for waste-incineration undertakings pursuant to paragraph 3 to stipulate that the waste-incineration plant is required to pay an amount corresponding to the necessary loan capital resulting from the assets being increased because reserves previously provided in respect of the price of electricity are removed from the statement for the company from which the waste-incineration plant is separated.

6. The Minister for Economic Affairs, Trade and Industry shall decide whether the statements submitted by the undertakings pursuant to paragraphs 1 and 3 can be approved. On this basis, the Minister for Economic Affairs, Trade and Industry shall decide which obligations shall be incumbent on electricity production undertakings after the transition to price-setting pursuant to Section 75.

**Section 102.** If, as result of this Act, an undertaking covered by the previously applicable version of the Electricity Supply Act has to be divided into several independent legal entities, its division shall be effected in such a way that each entity is allocated the assets and liabilities which are naturally associated with the activity to be performed by the entity in question. In relation to the liabilities of the undertaking, the division shall have no effect with regard to the undertaking's creditors.

2. The Minister for Economic Affairs, Trade and Industry may lay down rules stipulating that grid and transmission undertakings, before drawing up their opening balances in accordance with Section 100, inter alia in the context of the division of existing undertakings, may with due regard to market principles transfer assets to electricity production undertakings and undertakings which are subject to a supply obligation so as to ensure that such undertakings have sufficient capital resources for their future operation.

3. The Energy Supervisory Board or the Minister for Economic Affairs, Trade and Industry shall ensure compliance with the provisions set out in paragraph 1 and the rules laid down pursuant to paragraph 2 in the context of establishing the undertakings' opening balances pursuant to Sections 100 and 101.

**Section 103.** Cases which are examined by the Danish Energy Authority, the Electricity Price Committee or the Competition Appeals Board shall, when this Act enters into force or with effect from a later date set by the Minister for Economic Affairs, Trade and Industry, be transferred to the authority which, pursuant to this Act, should consider the case, if the case was submitted after this Act has entered into force.

**Section 104.** The following amendments shall be made to the Act on municipal equalisation and general subsidies to municipalities and counties, cf. Consolidated Act No 571 of 4 July 1997, as last amended by Act No 117 of 2 March 1999:

1. In Section 10, paragraph 6, and Section 17, paragraph 6, "Electricity Price Committee" shall be amended to "Energy Supervisory Board"

2. In Section 10, paragraph 6, and Section 17, paragraph 6, “Section 10b” shall be amended in two places to »Section 37«.

**Section 105.** Local government officers serving in a municipal undertaking covered by this Act at the time when the municipality establishes the companies required to be established pursuant to this Act to continue the activities of the undertaking, shall be obliged to serve in one or more of these companies whilst retaining their contractual status as a municipal/county employee.

2. The companies referred to in paragraph 1 shall offer the officers referred to in paragraph 1 employment with the companies concerned.

3. Officers who do not wish to transfer in accordance with paragraph 2 shall be paid wages by the municipality/county, which shall also pay their pension costs in accordance with the rules laid down on this subject.

4. A local government officer who pursuant to paragraph 3 chooses to remain in the employment of the municipality and who pursuant to paragraph 1 is obliged to serve in the company to be established under this Act shall not be entitled to a temporary unemployment allowance, availability allowance or a pension in this connection. Local government officers shall be obliged to accept the changes to their duties resulting from the establishment of the companies required to be established under this Act.

5. The companies shall, from the time at which they take over operations, refund wage payments etc paid pursuant to paragraph 3, and, by agreement with the municipality/county, shall pay the current pension contributions to the municipality/county in respect of the pensionable age the local government officer attains as from the take-over date.

6. Local government officers who are loaned out to one or more of the companies referred to in paragraph 1 shall be entitled to take part on an equal footing with the employees of the company concerned in the election of staff representatives on the company board and may also stand for election as such, provided that under the general provisions of the Public Companies and Private Companies Acts the right to elect staff representatives exists in the company concerned.

**Section 106.** The Minister for Economic Affairs, Trade and Industry may lay down transitional rules.

**Section 107.** This Act shall not apply to the Faroe Islands and Greenland.

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Act No 1110 of 29 December 1999 amending the Electricity Supply Act, concerning Section 8, paragraph 6, Section 46, paragraph 3 and 4, Section 25, paragraph 1 (1)-(3), Section 57, paragraph 2, Section 58, paragraph 3, Section 69, paragraph 1, 2. Section 70, paragraph 4, 1. Section 71, paragraph 2, 1. and Section 102, paragraphs 2 and 3, contain the following provision concerning entry into force:

**Section 2.** The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister may lay down that parts of the Act shall enter into force before other parts of the Act<sup>3</sup>.

Act No 447 of 31 May 2000, inserting Section 89a, contains the following provision concerning entry into force:

**Section 14.** This Act shall enter into force on 15 September 2000, cf. however, paragraph 2-4.

2. The rules laid down in the Act with regard to the right to appeal decisions shall apply to cases on which a decision has been taken at first instance. The rules concerning appeals against refusal of requests for access to files pursuant to Section 4, paragraph 5 of the Act on the right of access to files containing environmental information, as amended by Section 1(10) of the Act shall also apply to refusals issued after the Act has entered into force.

3. Section 2, paragraph 3 of the Act on the right of access to files containing environmental information, as formulated in Section 1(4) of the Act shall not apply to material obtained prior to the entry into force of the Act, if the person who supplied the material was not obliged or could not have been obliged to supply the material and the person concerned has not stated that he or she agrees to its release.

4. Section 2, paragraph 4 of the Act on the right of access to files containing environmental information, as formulated in Section 1(4) of the Act shall not apply to information on emissions which came into the authorities' possession before the Act enters into force.

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Act No 448 of 31 May 2000, inserting Section 8a, Section 24, paragraph 3, and Section 59, paragraphs 4 and 5, contains the following provision concerning entry into force:

### **Section 2**

The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister may lay down that parts of the Act shall enter into force before other parts of the Act<sup>4</sup>.

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Act No 1277 of 20 December 2000 concerning Section 9, paragraph 1 (1) and (3)-(4), Section 17, paragraphs 5 and 6, Section 21, paragraphs 2-5, Section 23, paragraph 3, 2. Section 26, paragraphs 2 and 3, Sections 27a-d, Section 28, paragraph 3 (1), Section 31, Section 44, paragraphs 3 and 4, Section 68, paragraph 2, Section 78, paragraph 8, and Section 89, paragraph 3 and 4, contain the following provision concerning entry into force:

### **Section 3**

The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister may lay down that parts of the Act shall enter into force before other parts of the Act<sup>5</sup>.

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Act No 478 of 7 June 2001 amending the Electricity Supply Act and the Environment Protection Act, concerning Section 8, paragraph 6 and 7, Section 8a, paragraph 3 and paragraphs 7 and 8, Section 58, paragraph 3, Section 59, paragraph 1, Section 59a, Section 68, paragraph 2, Section 84,

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<sup>4</sup>

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paragraph 2, Section 85a, and Section 93, paragraph 2 and 4 of the Electricity Supply Act, contain the following provision concerning entry into force:

### **Section 3**

The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister can decide that parts of the Act shall enter into force before other parts of the Act<sup>6</sup>.

2. The provisions of Section 8, paragraph 6 of the Electricity Supply Act, as formulated in Section 1(1) of this Act and Section 59a, paragraph 1 and 3, of the Electricity Supply Act, as formulated in Section 1(8) of this Act shall apply with effect from 1 January 2001.

3. The provisions of Section 8, paragraph 7 of the Electricity Supply Act, as formulated in Section 1(2) of this Act shall apply with effect from 1 January 2000.

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Act No 316 of 22 May 2002 amending the Electricity Supply Act and certain other energy acts, concerning Section 22, paragraph 1 (7) and (8), Section 27c, Section 27e, Section 59, paragraphs 2 and 5, Section 59 a, paragraph 2 and 4 of the Electricity Supply Act, contain the following provision concerning entry into force:

### **Section 6**

1. The date on which this Act enters into force shall be laid down by the Minister for Economic Affairs, Trade and Industry. The Minister can decide that parts of the Act shall enter into force before other parts of the Act<sup>7</sup>.

2. Section 27e , as inserted by Section 1(5) of this Act shall enter into force on the day following publication in the Danish Law Gazette [*Lovtidende*]<sup>8</sup>.

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Act No 1091 of 17 December 2002 concerning Section 8, paragraphs 6 and 7, Section 8a, paragraph 3, Section 9, paragraphs 1 and 3, Section 22 a, Section 28, paragraphs 2 and 3, Section 51, paragraph 3, Section 57, paragraph 1 (1), Sections 59a-59d, Section 63a, Section 66, Section 68, paragraph 2, Section 84a, Section 85a, paragraph 1, and 2, 6 and 7, contain the following provision concerning entry into force:

### **Section 3**

This Act shall enter into force on 1 January 2003.

*Ministry of Economic Affairs, Trade and Industry*

Bendt Bendtsen

/Knud Pedersen

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<sup>6</sup>

<sup>7</sup> Section 1(1)-(4) and (6)-(11) entered into force on 1 July 2002, cf. Order No 454 of 14 June 2002.

<sup>8</sup> This Act was promulgated on 23 May 2002.

