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Promotion of Renewable Energy Act¹

Act no. 1392 of 27 December 2008

We Margrethe the Second, by the grace of God Queen of Denmark hereby witness:

Folketinget (the Danish Parliament) has adopted and We with Our consent hereby enact the following Act:

Part 1

Purpose, scope and definitions

1.-(1) The purpose of this Act is to promote the production of energy through the use of renewable energy sources in accordance with climate, environment and macroeconomic considerations in order to reduce dependence on fossil fuels, ensure security of supply and reduce emissions of CO₂ and other greenhouse gases.

(2) This Act shall in particular contribute to ensuring fulfilment of national and international objectives on increasing the proportion of energy produced through the use of renewable energy sources.

(3) In 2010 and 2011 all municipalities shall collectively prepare and adopt a supplement to their municipal plans, with areas reserved for a total wind-turbine capacity of 75 MW in each of the years.

2.-(1) Within the purpose mentioned in section 1, this Act shall apply in particular to

- 1) price supplements for wind turbines and other electricity production plants which use renewable energy sources,
- 2) measures to promote the expansion of wind turbines,
- 3) access to exploiting energy from water and wind offshore,
- 4) connection of and safety requirements for wind turbines, and
- 5) regulation of electricity production from offshore wind turbines subject to a tendering procedure.

(2) "Renewable energy sources" shall mean, amongst other things: wind power, hydropower, biogas, biomass, solar energy, wave and tidal energy, as well as geothermal heating.

(3) The Minister for Climate and Energy may lay down more detailed regulations on which types of energy may be described as renewable energy sources.

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(4) The Minister for Climate and Energy may decide that small plants or less-extensive activities which are subject to this Act shall be wholly or partly exempt from the provisions of this Act.

(5) Electricity production plants using renewable energy sources shall also be subject to the Electricity Supply Act.

3.-(1) This Act shall apply on Danish land, in territorial waters and in the Exclusive Economic Zone.

(2) The Minister for Climate and Energy shall lay down more detailed regulations or make decisions to implement or apply international conventions and EU rules on conditions covered by this Act, including regulations, directives and decisions on nature protection in territorial waters and in the Exclusive Economic Zone.

4.- (1) In connection with the energy policy report pursuant to the Energy Policy Measures Act (lov om energipolitiske foranstaltninger), the Minister for Climate and Energy shall inform the Danish Parliament (Folketinget) about the status of the expansion of renewable energy.

(2) The Minister for the Environment shall submit a report to the Danish Parliament (Folketinget) on the status of municipal planning of areas reserved for wind turbines mentioned in section 1(3).

5.-(1) For the purposes of this Act

- 1) "biomass" shall mean: material defined as biomass waste according to the Environmental Protection Act;
- 2) "Plant financed by a power company" shall mean: electricity production plants using renewable energy which have been erected or converted due to an order pursuant to section 13 of Act no. 54 of 25 February 1976 on electricity supply, as stated in Act no. 486 of 12 June 1996, or subject to a special agreement with the Minister for Climate and Energy, except for plants which are used entirely or partly for burning waste;
- 3) "date of grid connection" shall mean: the date of the first time an electricity production plant using renewable energy supplies electricity to the collective electricity supply grid;
- 4) "production in peak-load hours" shall mean: electricity production corresponding to one hour of production at the wind turbines' installed output.
- 5) "renewable electricity" shall mean: electricity production using renewable energy sources.

(2) Furthermore, the same definitions shall apply as stated in the Electricity Supply Act.

Part 2

Measures to promote the expansion of wind energy

Loss of value to real property due to the erection of wind turbines

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6.-(1) Any person who, upon erecting one or more wind turbines, causes the loss of value to real property, shall bear the costs of this, cf. however subsections (2) and (3). If the owner of the real property has contributed to the loss, the amount to be paid may be reduced or not be payable at all.

(2) Subsection (1) shall not include wind turbines of less than 25m in height or offshore wind turbines established following a tendering procedure, cf. section 23.

(3) Claims for payment pursuant to subsection (1) shall lapse if the loss of value constitutes one per cent or less of the total value of the property.

7.-(1) The valuation authority shall decide on the size of the loss of value on the basis of an individual assessment. The erector of the wind turbine and the owner of the real property may, however, instead choose to enter into an agreement about the size of the amount to be paid, cf. section 9(6).

(2) The valuation authority shall consist of a chairman who satisfies the conditions to be appointed a judge, and an expert in assessing the value of real property. In cases of disagreement, the chairman's vote shall be decisive. The Danish Minister for Climate and Energy shall appoint a number of valuation chairmen and experts

(3) The valuation authority shall, in addition to the parties, notify Energinet.dk about decisions made pursuant to subsection (1).

(4) The Minister for Climate and Energy may lay down more detailed regulations on the activities and remuneration of the valuation authority.

8.-(1) Energinet.dk shall provide assistance to the valuation authority pursuant to decisions by the Minister for Climate and Energy.

(2) Energinet.dk shall provide advice and guidance to the wind turbine erector, owners of real property, and others, about the loss-of-value scheme, including the procedure for informing owners and conditions for obtaining payment for loss of value, cf. sections 9 and 10.

9.-(1) Any person wishing to erect wind turbines that require EIA approval under the Planning Act shall, within the consultation period and no later than four weeks before the closing date of consultation for the published proposed supplement to the municipal plan and the EIA report, hold a public meeting to explain the consequences for surrounding real properties. For wind turbines that do not require EIA approval, the public meeting shall be held no later than four weeks after the municipality has published the decision that EIA approval is not required.

(2) Reasonable notice of the meeting shall be given by advertising in local newspapers, and the notice shall include the information stated in subsections (3)-(5). Energinet.dk shall approve the form and content of the advertisement as well as the deadline for giving notice, before the advertisement is made public. Energinet.dk shall also approve the information material to be used at the meeting and may order the erector of the wind turbine to prepare additional material, including visualisations etc, where this is deemed necessary. The

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information material shall state which properties are located within a distance of up to six-times the height of the planned turbine, cf. subsection (4).

(3) Owners deeming that the erection of a wind turbine will inflict a loss of value to their property shall submit a claim for payment to Energinet.dk no later than four weeks after the meeting, cf. subsection (1).

(4) Owners shall not pay for the costs for processing claims pursuant to subsection (3) for loss of value to properties which are located in full or in part within a distance of up to six-times the height of the planned wind turbine. If several turbines are erected in a group, the distance shall be calculated from the nearest turbine. Others shall, at the same time as submitting a claim pursuant to subsection (3), pay a fee of DKK 4,000 per property. The fee, which shall be paid to Energinet.dk, shall be returned if payment for loss of value is granted or agreed, cf. subsection (6).

(5) If the deadline in subsection (3) is exceeded, or if the fee pursuant to subsection (4) is not paid, the erector shall be liable to pay for the loss of value pursuant to this Act, unless special circumstances dictate otherwise, cf. subsection (10).

(6) If the erector and the owner enter into an agreement about the size of the loss of value, issues concerning this cannot be brought before the valuation authority. If Energinet.dk has not received notification about an agreement within four weeks after the claim has been submitted, Energinet.dk shall request that the valuation authority make a decision regarding the loss of value as soon as possible.

10.-(1) Owners, who have not submitted a claim before the deadline stated in section 9(3), may, if special circumstances so favour and no later than six weeks after the turbine has been connected to the collective electricity supply grid, request approval from the valuation authority to submit a claim for payment for loss of value. If approval is granted, the claim shall be processed as stated in section 9(6), 2nd clause. Application for this shall be submitted to Energinet.dk.

(2) The claim for payment for loss of value shall be submitted to Energinet.dk no later than 14 days after the owner has received approval pursuant to subsection (1). If the owner shall pay a fee for submitting the claim, cf. section 9(4), this fee shall be paid at the same time as the claim is submitted, with the approval document enclosed. If the approval document or the required fee is not submitted/paid in time, the erector shall not be liable to pay for the loss of value pursuant to this Act.

11.-(1) In cases where the valuation authority awards payment for loss of value, the legal costs shall be paid by the erector.

(2) In cases where payment for loss of value is not awarded, the fees pursuant to section 9(4) shall be used to cover the legal costs incurred by the valuation authority. The remaining legal costs shall be paid by Energinet.dk

12.-(1) Decisions by the valuation authority and decisions by Energinet.dk pursuant to section 9(2) may not be brought before an administrative authority.

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(2) Decisions by the valuation authority may be brought before the courts by the owner or the erector as civil proceedings between the owner and the erector. If the erector has paid for the loss of value in compliance with the valuation authority's decision, the case may only be brought before the courts within three months of the date of payment.

(3) Cases regarding payment for loss of value may only be brought before the courts after the decision by the valuation authority has been made.

Local citizens' option to purchase wind turbine shares

13.-(1) Any person who erects one or more wind turbines of at least 25m in height onshore, or offshore wind turbines established without a tendering procedure, cf. section 23(4), shall, prior to commencement of erection, offer for sale at least 20 per cent of the ownership shares to the persons entitled to make an offer pursuant to section 15.

(2) The duty to offer ownership shares for sale under subsection (1) shall not apply to wind turbines which are connected to their own consumption installation covered by section 41, or to turbines which, according to a decision by the Minister for Climate and Energy, must be designated as test turbines.

(3) Wind turbines subject to the duty to offer ownership shares for sale pursuant to subsection (1) shall be operated by an independent legal entity. If the wind turbine is operated by a company with personal liability, the extent to which the company may incur debt must be stated in the company's articles of association.

(4) Energinet.dk shall certify that sales material has been prepared and that ownership shares have been offered for sale in accordance with sections 14 and 15. A decision by Energinet.dk may not be brought before an administrative authority.

14.-(1) The wind turbine erector shall prepare sales material. The sales material shall describe the project, be accompanied by an audit report, cf. subsection (4), and contain information about

- 1) the company's articles of association,
- 2) a detailed construction and operating budget,
- 3) financing,
- 4) the extent of liability per share,
- 5) the number and the price of the ownership shares offered for sale, and
- 6) time limits and conditions for submitting purchase offers.

(2) The sales material mentioned in subsection (1) shall highlight in particular, the information mentioned in subsection (1) nos. (4)-(6). If the wind turbine is operated by a company with personal liability, the extent to which the articles of association provide for incurring debt shall also be highlighted.

(3) The proceeds of the sale shall cover a proportional share of the erector's project costs, so that the erector and the buyers pay the same amount per share. The ownership shares shall be offered at a price calculated on the basis of a production of 1,000 kWh per share, cf.

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however subsection (5). The erector may not lay down requirements for a purchase obligation or the scope hereof.

(4) The sales material shall be accompanied by a report by a state-authorised public accountant declaring that the project fulfils the conditions in section 13(3); that the extent of the liability per share has been specified, cf. subsection (1); that the price of the ownership shares has been determined as stated in subsection (3) or as stated in the model pursuant to subsection (5); and that the information concerning financial matters is otherwise true and fair.

(5) The Minister for Climate and Energy may permit ownership shares to be offered for sale according to another model than the one mentioned in subsection (3), 2nd clause.

(6) The Minister for Climate and Energy may lay down more detailed regulations concerning the requirements for sales material and for the procedure to be used in connection with offering for sale, including publication requirements etc.

15.-(1) Any person over 18 years who, at the time of the offer for sale, according to the National Register of Persons, has his or her permanent residence at a distance of no more than 4.5 km from the site of installation, shall be entitled to make a purchase offer. If several turbines are erected in a group, the distance shall be calculated from the nearest turbine.

(2) Furthermore, any person over 18 years, who at the time of the offer for sale, according to the National Register of Persons, has his or her permanent residence in the municipality in which the wind turbine is to be installed shall be entitled to make a purchase offer. Where offshore wind turbines are installed without a tendering procedure, the municipality mentioned in the 1st clause shall be the municipality with a coastline closest to the turbine.

(3) The group of people in subsection (1) shall have preferential right to purchase shares. The group of people in subsection (2) may only purchase shares providing not all of the shares have been sold to the group of people covered in subsection (1).

(4) The offer for sale of ownership shares to persons entitled to make a purchase offer shall as a minimum take place by conspicuous advertising in local newspapers covering the areas of the persons entitled to make a purchase offer. Advertising the offer for sale may take place in connection with the notice of the meeting about loss of value mentioned in section 9(1) and (2) The advertisement offering ownership shares for sale shall contain information about

- 1) the number and price of the ownership shares offered for sale,
- 2) the type of company and the extent of the liability per share,
- 3) time limits and conditions for submitting purchase offers, and
- 4) from where persons entitled to make a purchase offer may request the sales material.

(5) The time limit for making an offer shall be at least four weeks from the date the sale is advertised.

16.-(1) If, at the time limit for bids, the number of incoming bids exceeds the number of ownership shares offered for sale, at first all bids for at least one whole ownership share will

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receive one ownership share. Then, all bids for at least two ownership shares will receive an additional ownership share, and so forth, until it is no longer possible to provide additional ownership shares to all bids for a specific number of shares. Any shares that cannot subsequently be allotted according to this principle shall be allotted by a draw to be carried out by Energinet.dk.

(2) The principle of allotment in subsection (1) shall apply to purchase offers made pursuant to section 15(1) and (2).

(3) The wind turbine erector may freely dispose of any ownership shares not sold through the offer for sale.

17. Shares sold through the offer for sale, cf. section 13, may not rank lower than other shares in the company and may not be subject to compulsory redemption.

Green scheme to enhance local scenic and recreational values

18.-(1) The Minister for Climate and Energy shall establish a green scheme which may grant subsidies to initiatives undertaken to promote local acceptance of the installation of new onshore wind turbines connected to a grid on 21 February 2008 or later, except for wind turbines connected to installations for consumption by the owners covered by section 41. Subsidies shall be granted at an amount corresponding to DKK 0.004 per kWh for 22,000 peak-load hours for each wind turbine mentioned in the 1st clause. Subsidies shall only be paid if the wind turbine in question has been connected to the grid.

(2) A municipal council may apply to Energinet.dk for a commitment for a subsidy from the green scheme. The application for a subsidy may be submitted in connection with the application for approval to install a wind turbine pursuant to the Planning Act, or at a later stage.

(3) On the basis of the application, Energinet.dk may give a commitment for a subsidy for expenses paid by the municipal council for

- 1) construction work to enhance scenic or recreational values in the municipality, and
- 2) cultural and information activities in local associations etc, in order to promote acceptance of the use of renewable energy sources in the municipality.

(4) The municipal council may choose to apply for a commitment for a subsidy for the amounts mentioned in subsection (1) for one or more wind turbines. If approval to install a wind turbine as mentioned in subsection (2) is not granted, or if it is subsequently assessed that the wind turbine will not be installed, the subsidy amount for the wind turbine shall be deducted from the commitment.

19.-(1) Energinet.dk shall approve the payment of subsidies from the green scheme on the basis of applications from the municipal council.

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(2) Subsidies shall be paid within a payment framework for each municipality calculated by Energinet.dk. The payment framework shall consist of the amounts mentioned in section 18(1) for wind turbines that have been connected to a grid, after deduction of subsidies already paid.

(3) If the amount due to the municipality according to an approved application for payment exceeds the amount available in the payment framework, the difference shall be paid when the payment framework is increased when wind turbines are connected to the grid.

20.-(1) Energinet.dk's decisions regarding the granting of commitments for subsidies as mentioned in section 18(3) may not be brought before an administrative authority.

(2) The Minister for Climate and Energy may lay down more detailed regulations on

- 1) applications for commitments and accompanying documentation and terms and conditions for commitments,
- 2) activities entitled to support,
- 3) processing of applications for commitments and payments, and
- 4) lapses of commitments, in part or in full, and repayment of subsidies.

Guarantee fund to support financing of preliminary investigations etc, by local wind turbine owners' associations

21.-(1) Energinet.dk may decide to provide a guarantee to local wind turbine owners' associations or other local initiative groups for loans taken out to finance preliminary investigations, including to investigate locations and technical and financial considerations, and to prepare applications for the authorities, with a view to installing one or more wind turbines, except for turbines that are connected to their own consumption installation as mentioned in section 41, or offshore wind turbines established following a tendering procedure, cf. section 23.

(2) A guarantee shall be provided on the condition that the requirements listed below are met at the date of application and at the date of providing the guarantee:

- 1) The wind turbine owners' association or initiative group has at least ten members.
- 2) The majority of the members of the wind turbine owners' association or initiative group, according to the National Register of Persons, have their permanent residence in the municipality where installation of the wind turbine(s) is planned, or outside the municipality at a distance of no more than 4.5 km from the site where installation of the turbine(s) is planned. Where offshore wind turbines are installed without a tendering procedure, the municipality mentioned in the 1st clause shall be the municipality with a coastline closest to the turbine. If several turbines are erected in a group, the distance shall be calculated from the nearest turbine.
- 3) The members mentioned in no. 2 have controlling influence in the association or the initiative group.
- 4) Completion of the wind-turbine project by the association or initiative group is deemed realistic.

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(3) The guarantee shall cover the principal amount of a loan taken out on market terms for the purposes mentioned in subsection (1). The guarantee shall lapse when the turbine is connected to the grid, however no later than three months after the blades have been installed on the turbine.

(4) If a wind-turbine project is not completed, any amounts paid under guarantees shall not be demanded repaid unless the wind-turbine project is transferred in part or in full to others.

(5) Within a framework of DKK 10 mill., Energinet.dk shall decide whether a guarantee should be granted following an application from the wind turbine owners' association or the initiative group. Guarantees shall be granted within the amount available at any time. A maximum guarantee of DKK 500,000 may be granted per project.

Part 3

Access to exploiting energy from water and wind offshore

22.-(1) Access to exploiting energy from water and wind in Danish territorial waters and in the Exclusive Economic Zone shall only be available to the Danish State. Preliminary investigations and subsequent exploitation of energy may only take place with approval from the Minister for Climate and Energy.

(2) Approval for preliminary investigations shall be granted either after an invitation for applications in a tendering procedure or after receipt of an application.

(3) Approval for preliminary investigations shall be granted for areas in which the Minister for Climate and Energy considers energy exploitation may be relevant. Approval shall be granted as an exclusive right for a specified area and time period.

(4) The Minister for Climate and Energy may stipulate terms for the approval, including on the conditions to be investigated, on reporting, on the performance and results of the preliminary investigation, on the access of the Minister to utilise the results of the preliminary investigation, cf. section 24(4), and on compliance with environmental and safety requirements and similar.

(5) The Minister for Climate and Energy may make decisions regarding approval pursuant to subsections (2)-(4).

(6) The Minister for Climate and Energy may lay down more detailed regulations on conditions covered by subsection (4).

23.-(1) In a tendering procedure, approval pursuant to section 22 shall be granted to the winner of the tendering procedure. The Minister for Climate and Energy may stipulate special conditions or terms which will be afforded priority in decisions regarding the tenders received.

(2) Terms pursuant to subsection (1) may relate to financial matters, including support for the production, design and technical matters regarding the production plant or the infrastructure which is to connect the plant with the general electricity supply system. There may be

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requirements that consumers or others, together with the applicant, shall be in a position to participate as parties in the project, and that a fine is to be paid if the winner of the tendering procedure fails to comply with the conditions of the tender or other conditions agreed, including time limits.

(3) The Minister for Climate and Energy may decide that, within a specified scope, Energinet.dk shall carry out the preliminary investigations and make the results available for the participants in the tendering procedure. The winner of the tendering procedure shall pay the costs of the preliminary investigations incurred by Energinet.dk.

(4) For applications outside a tendering procedure, approval for preliminary investigations pursuant to section 22 shall be granted to applicants which are deemed to have the necessary technical and financial capacity to complete the preliminary investigations, cf. however, section 22(3). In the event that several parties apply for approval for the same area, approval shall be granted to the applicant which first submits an application documenting fulfilment of the licensing terms.

(5) The Minister for Climate and Energy may lay down more detailed regulations on conditions covered by subsections (2) and (3).

24.-(1) When the preliminary investigations have been completed, a preliminary-investigation report shall be submitted to the Minister for Climate and Energy, who shall decide whether the preliminary-investigation report can be approved. If the report is approved, the applicant shall be entitled to use the approved preliminary-investigation report pursuant to the provisions of subsections (2)-(4).

(2) Within three months of the date of approval of the preliminary-investigation report, the applicant shall notify whether it wants to construct a production plant at the site. With the approval of the Minister for Climate and Energy, the right to exploit preliminary investigation approval may be transferred to another within the same time limit.

(3) If the Minister for Climate and Energy receives a notification as stated in subsection (2), a time limit shall be stipulated for receipt of an application for construction approval pursuant to section 25. A requirement regarding provision of security for completion of the project may also be stipulated.

(4) If the Minister for Climate and Energy does not receive a notification covered by subsection (2) in good time, or if a time limit pursuant to subsection (3) is not complied with, the Minister may, without cost to the applicant, make the preliminary-investigation report available to others.

25.-(1) Establishment of an electricity production plant which exploits wind and water, with associated internal cables in Danish territorial waters and in the Exclusive Economic Zone, as well as significant changes in existing plant, may only be carried out with prior approval from the Minister for Climate and Energy.

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(2) Approval shall be granted to applicants entitled to use approval of preliminary investigation pursuant to section 24(1), (2) or (4) and which are deemed to have the necessary technical and financial capacity.

(3) The Minister for Climate and Energy may set conditions for approval of these plants, including requirements regarding construction, design, installation, erection, operation, dismantling of the plant, provision of security for dismantling of the plant, as well as financial, technical, safety and environmental conditions in connection with establishment and operation, including temporary visits and permanent residence.

(4) An electricity production plant mentioned in subsection (1), which is permanently secured to the same site in Danish territorial waters etc. shall be considered as real property with respect to land registration. Registration in the Land Register of rights in such plant shall be in accordance with the regulations of section 19(1), 2nd clause of the Land Registration Act.

26.-(1) Approval pursuant to section 25 to establish plants which may be deemed to have a significant impact on the environment may only be granted on the basis of an assessment of the environmental impacts and after the public and the relevant authorities and organisations have had opportunity to make statements.

(2) The Minister for Climate and Energy may lay down more detailed regulations which limit the plants which are subject to subsection (1).

(3) The Minister for Climate and Energy may lay down more detailed regulations for the information and any investigations or surveys required to carry out an assessment of the environmental impacts. The Minister for Climate and Energy may decide that assessments of the environmental impacts of a plant subject to section 25 shall be carried out during and after establishment. The Minister for Climate and Energy may decide that assessments of the environmental impacts of a plant subject to section 25 shall be reviewed by independent experts.

(4) The Minister for Climate and Energy may lay down more detailed regulations on notification and consultation of the public and the relevant authorities and organisations in connection with

- 1) the assessments mentioned in subsection (1),
- 2) the limitation and decisions in connection herewith mentioned in subsection (2), and
- 3) applications for approval pursuant to section 25.

(5) The costs of the activities dealt with in subsections (1)-(4) shall be paid by the applicant for approval to establish an electricity production plant, cf. section 25.

(6) The Minister for Climate and Energy may, however, decide that the costs mentioned in subsection (5), which relate to activities which may be of significance for future projects, shall be covered as stated in section 8(3), no. 3 of the Electricity Supply Act.

27.-(1) In order to avoid damage to the integrity of designated international conservation areas, construction projects under section 25 which, either individually or in combination with

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other projects or plans, may have a significant effect on such areas, shall be subject to assessment of their implications for the site in view of the site's conservation objectives.

(2) Approval for the projects mentioned in subsection (1) may only be granted after consultation with the relevant parties and provided

- 1) such projects do not damage the integrity of international conservation areas, or
- 2) reasons of overriding public interest, including those of a social or economic nature, make completion of the project imperative because there is no alternative solution, cf. however, subsection (4).

(3) When approval is notified pursuant to subsection (2), no. 2, the Minister for Climate and Energy shall take appropriate compensatory measures to abate the negative impacts for the site. The costs of such measures shall be paid by the project applicant. The Minister for Climate and Energy shall notify the European Commission of the compensatory measures taken.

(4) In the event that an international conservation area has a priority natural habitat types or a priority species, approval pursuant to section 25 may only be granted for projects covered by subsection (2), no. 2, provided

- 1) this is necessary with regard to human health, public safety, or in order to achieve beneficial consequences of primary importance for the environment, or
- 2) other reasons of overriding public interest make completion of the project imperative.

(5) Approval pursuant to subsection (4), no. 2 may only be granted after a statement has been obtained from the European Commission.

(6) The Minister may lay down more detailed regulations for the assessment of projects in accordance with subsection (1) and in accordance with section 22b of the Electricity Supply Act and may, in approval pursuant to this provision and in accordance with section 22b of the Electricity Supply Act, stipulate conditions, including on compensatory measures to protect conservation areas.

28. The Minister for Climate and Energy shall take appropriate steps, including establishment of conditions or notification of orders or bans, to avoid, in the international areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of Council Directive 92/43/EEC of 21 May 1992 on conservation of certain types of habitat, wildlife and plant (the Habitats Directive).

29.-(1) Plants subject to section 25(1) may not be put into operation for energy exploitation until approval of this has been granted by the Minister for Climate and Energy. Approval shall be granted for 25 years and may be extended on request.

(2) Approval may be granted when the applicant documents that the conditions stipulated in sections 22-28, as well as in any tender contract, have been met.

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(3) Approval may stipulate conditions, including conditions on technical and financial aspects regarding operation of the plant, on the duty to ensure future compliance with the conditions stipulated in approvals pursuant to sections 22-28, on inspection obligations in relation to the entire plant and conditions stipulated, as well as on the duty to report the aspects mentioned.

(4) Approval granted pursuant to the provisions of sections 22-25 and 29 may be transferred to others with the approval of the Minister for Climate and Energy.

Part 4

Connection of and safety requirements for wind turbines etc.

30.-(1) The Minister for Climate and Energy may lay down more detailed regulations on the connection of wind turbines to the electricity supply grid , including regulations on:

- 1) which categories of plant and installation, including connection to the grid onshore from offshore wind farms, are to be completed by the owner of the wind turbine and the collective electricity supply companies, respectively,
- 2) access of the owner of the wind turbine to use connection to the grid onshore which has been established by the electricity supply company responsible for leading onshore, as well as payment for this,
- 3) how the costs of establishing grid connection and costs of being connected to the grid are to be allocated between the owner of the wind turbine and the collective electricity supply companies, and
- 4) how the costs incurred by the collective electricity supply companies are to be included in the electricity prices, cf. section 8(2)-(5) of the Electricity Supply Act.

(2) The Minister for Climate and Energy may lay down more detailed regulations on payment to cover costs incurred by the distribution or transmission company in processing applications for grid connection.

31.-(1) If the electricity producer fails to establish an offshore wind farm, notwithstanding that the electricity producer has undertaken to do so in accordance with terms of a tendering procedure pursuant to section 23, the electricity producer shall be subject to objective liability for damages for any consequential loss suffered by Energinet.dk.

(2) If Energinet.dk does not comply with the time limits and conditions for grid connection of the offshore wind farm according to the terms of the tendering procedure, Energinet.dk shall have objective liability for damages for any consequential loss suffered by the electricity producer.

(3) Payment of compensation pursuant to subsections (1) and (2) shall be in accordance with the conditions and framework mentioned in the terms of the tendering procedure. Disagreements regarding access to compensation pursuant to subsections (1) and (2) and disagreements regarding the size of compensation shall be determined by a court of law.

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(4) If a duty to pay compensation is imposed upon the State because the agreed site of the offshore wind farm leads to operating losses for the owners of adjoining, existing offshore wind turbines, the compensation sum imposed shall be paid by Energinet.dk.

(5) The revenues and costs mentioned below shall be included in price setting by Energinet.dk in accordance with section 71 of the Electricity Supply Act, cf. also section 32(4):

- 1) Compensation paid by the electricity producer pursuant to subsection (1).
- 2) Compensation paid by Energinet.dk pursuant to subsections (2) and (4).
- 3) Necessary costs to comply with the terms of the tendering procedure on grid connection of the offshore wind farm in circumstances where the offshore wind farm is not established and where the costs according to the terms of the tendering procedure are not covered by the electricity producer.

32.-(1) If, according to authorisation issued pursuant to section 19 of the Electricity Supply Act, a transmission company is obliged to complete parts of a connection to the grid onshore from an offshore wind farm which has been subject to a tendering procedure, the transmission company shall, to the extent necessary, assist Energinet.dk in complying with the responsibilities of this company regarding establishing the connection to the grid onshore, cf. section 4(6) of the Energinet.dk Act. A "connection to the grid onshore" shall mean a transmission connection from an offshore wind farm to an agreed connection point in the transmission grid.

(2) Energinet.dk shall be responsible towards the electricity producer for construction of the connection to the grid onshore.

(3) Energinet.dk and the transmission company shall lay down by negotiation the scope of the activities incumbent upon the transmission company. If the connection to the grid onshore is not completed and put into operation, necessary costs incurred by the transmission company of activities carried out in order to comply with the terms of the tendering procedure shall be paid by Energinet.dk on the basis of a statement of the costs incurred.

(4) Costs paid by Energinet.dk as mentioned in subsection (3) shall be included in any claim for compensation against the electricity producer pursuant to section 31(1), within the framework of the terms of the tendering procedure and they shall also be included in claims by Energinet.dk for the amounts mentioned in section 31(5), no. 3.

(5) Disagreements regarding access to reimbursement of costs as mentioned in subsection (3) and disagreements regarding the size of these shall be determined by a court of law.

Technical and safety requirements for wind turbines

33.-(1) The Minister for Climate and Energy may lay down more detailed regulations on the construction, manufacture, erection, operation, maintenance and service of wind turbines as well as requirements for certification, approval and testing.

(2) The Minister for Climate and Energy may lay down more detailed regulations that the owner of a wind turbine, following an order from the Minister for Climate and Energy, shall

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stop the wind turbine, if it has been erected illegally or has not been maintained and serviced, as well as regulations that the owner of a wind turbine shall have third-party insurance.

(3) The Minister for Climate and Energy may authorise an enterprise or an expert institution or organisation to perform specified functions regarding technical approval of wind turbines and to inspect and supervise compliance with regulations laid down pursuant to subsections (1) and (2).

(4) The Minister for Climate and Energy may lay down more detailed regulations on payment to cover costs of processing applications for certification and approval.

Part 5

Regulation of electricity production from offshore wind turbines subject to a tendering procedure

34.-(1) This provision deals with regulation of electricity production from offshore wind farms which have been established after a tendering procedure has been held as mentioned in section 23.

(2) The electricity producer shall notify the plan for electricity production for the following 24-hour period of operation to Energinet.dk.

(3) Energinet.dk may order reduction or shut-down of electricity production, if this is necessary because of

- 1) faults or maintenance work on the transmission plant for leading electricity production onshore, or in the rest of the transmission grid, or
- 2) capacity limitations otherwise in the overall transmission grid which may be remediated by reduction.

(4) Orders pursuant to subsection (3) shall be conditional upon the fact that the reduction is necessary for the sake of security of supply or for economically optimal utilisation of the general electricity supply system, including ensuring an efficient, competitive market.

(5) If the actual electricity production by the electricity producer in a 24-hour period of operation does not correspond to that notified with later ordered reductions, Energinet.dk may demand reasonable payment of the total imbalances imposed on the system by the electricity producer.

(6) Energinet.dk may lay down instructions for notifications pursuant to subsection (2) and instructions containing general criteria for reduction pursuant to subsection (3).

(7) The instructions shall be available for users and potential users of the collective electricity supply system. After consultation with the relevant parties, Energinet.dk shall notify the instructions laid down to the Energy Agency. The Energy Agency may order amendments to the instructions.

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35.-(1) Energinet.dk shall pay the electricity producer for losses incurred as a result of reduction, cf. section 34, which is carried out within 25 years of granting of approval to exploit energy on Danish territorial waters or in the Exclusive Economic Zone, cf. section 29.

(2) When setting payment, the loss of revenues shall be calculated on the basis of the sales of electricity production under the current conditions as

- 1) a price corresponding to the total value of the market price and price supplement mentioned in section 37(2) for the period in which the price supplement is paid, and
- 2) a price corresponding to the market price per kWh set pursuant to section 51(2), no. 1 after the time at which the price supplement has ceased pursuant to section 37(4) and (5) or was deselected pursuant to section 53(2).

(3) Payment shall not be made if the reduction is the result of a force majeure.

(4) Disagreements regarding access to payment and regarding the size of payment shall be determined by a court of law.

(5) Energinet.dk shall prepare instructions containing methods for calculation of the size of the electricity production lost as a result of reduction, and calculation of the size of the revenues lost in order to cover the loss of the electricity producer. Section 34(7) shall apply correspondingly for the instructions mentioned in the 1st clause.

Part 6

Price supplement etc.

Price supplement etc. for wind turbines

36.-(1) This provision deals with electricity produced by wind turbines connected to a grid on 21 February 2008 or later, except for wind turbines which are connected to their own consumption installation, cf. section 41, and offshore wind turbines, cf. section 37.

(2) A price supplement shall be granted to wind turbines covered by subsection (1) of DKK 0.25 per kWh for electricity production corresponding to production for the first 22,000 hours at the installed output (peak-load hours) of the wind turbine after connection of the wind turbine to the grid.

(3) A refund shall be granted of DKK 0.023 per kWh for balancing costs for electricity from wind turbines covered by subsection (1).

37.-(1) This provision deals with price supplements for electricity produced at offshore wind farms which are subject to a tendering procedure pursuant to the provisions of section 23.

(2) The price supplement under subsection (1) shall be granted as follows:

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- 1) For electricity produced at the offshore wind farm Horns Rev 2, subject to the tendering procedure of 7 July 2004, a price supplement shall be granted which is determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.518 per kWh.
- 2) For electricity produced at the offshore wind farm Rødsand 2, subject to the tendering procedure of 7 February 2008, a price supplement shall be granted which is determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.629 per kWh.

(3) If the electricity producer is to pay a feeding fee in connection with transferring electricity to the overall electricity supply grid, a price supplement shall also be granted corresponding to the payment according to the feeding fee set.

(4) The price supplement pursuant to subsections (2) and (3) shall be paid for electricity production of 10 TWh which has been produced in accordance with the terms of the tendering procedure. The price supplement shall, however, be paid for no more than 20 years after the date the offshore wind farm was connected to the grid.

(5) If payment is granted as mentioned in section 35 for reduction of electricity production in the period in which a price supplement is granted pursuant to subsections (2) and (3), electricity production shall be included corresponding to the compensating production loss in the total electricity production to which a price supplement is granted.

38.-(1) This provision deals with electricity produced by wind turbines connected to a grid no later than 20 February 2008, except for wind turbines which receive price supplements pursuant to sections 39-41. A price supplement shall not be granted pursuant to this provision to wind turbines financed by power companies and connected to a grid no later than 31 December 1999.

(2) For electricity from a wind turbine covered by subsection (1), a price supplement of DKK 0.10 per kWh shall be granted for 20 years from the date of connection to the grid.

(3) The price supplement under subsection (2) for electricity from wind turbines connected to a grid prior to 1 January 2005 shall be granted so that this and the market price determined under section 51(2), nos. 2 or 3, do not together exceed DKK 0.36 pr. kWh.

(4) Furthermore, a refund shall be granted of DKK 0.23 pr. kWh for balancing costs for electricity from wind turbines covered by subsection (1), except for wind turbines financed by power companies.

39.-(1) This provision deals with electricity produced by wind turbines connected to a grid no later than 31 December 2002 which fulfils the conditions below. This provision shall not apply to electricity from wind turbines connected to a grid in their own consumption installation covered by section 41, and wind turbines financed by power companies.

(2) If the wind turbine fulfils the definition of an existing wind turbine, cf. subsection (8), the price supplement shall be granted for the electricity in accordance with subsections (3)-(5).

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The price supplement shall cease to apply on 31 December 2012, regardless of the duration of the price supplement pursuant to subsections (3)-(5).

(3) The price supplement shall be granted so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.60 per kWh. The price supplement shall be granted for ten years from the initial connection of the wind turbine to the electricity supply grid, to the extent that the supply of electricity corresponds to an initial electricity production at the peak-load hours mentioned in nos. 1-3:

- 1) For wind turbines with an installed output of 200 kW or less, the price supplement shall be granted for 25,000 peak-load hours,
- 2) For wind turbines with an installed output from 201 kW up to and including 599 kW, the price supplement shall be granted for 15,000 peak-load hours,
- 3) For wind turbines with an installed output of 600 kW and more, the price supplement shall be granted for 12,000 peak-load hours.

(4) If the amount of electricity mentioned in subsection (3) is supplied within a ten-year period from the date of grid connection, the price supplement shall be granted for continued electricity production for ten years from the date of grid connection. The price supplement shall be granted so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.43 per kWh.

(5) If the entire amount of electricity, as mentioned in subsection (3), nos. 1-3, is not supplied within ten years from the grid connection of the wind turbine, a price supplement shall be granted for the remaining part of electricity production mentioned. The price supplement shall total DKK 0.27 per kWh and shall be determined so that this and the market price determined under section 51(2), no. 1 together do not exceed DKK 0.60 per kWh.

(6) If the wind turbine does not comply with the definition of an existing wind turbine, cf. subsection (8), a price supplement shall be granted under the conditions laid down in nos. 1 and 2. The price supplement shall be determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.33 per kWh.

- 1) For an onshore wind turbine, the price supplement shall be granted for an initial electricity production corresponding to the production during 22,000 peak-load hours,
- 2) For a wind turbine in territorial waters etc., cf. section 25(1), which is not installed at a selected main area for wind turbine development, the price supplement shall be granted for electricity production for ten years from the date of grid connection of the wind turbine.

(7) For electricity production covered by subsection (6), a price supplement of DKK 0.10 per kWh shall be granted.

(8) The Danish Minister for Climate and Energy may laid down more detailed regulations for the conditions that a wind turbine must satisfy in order to be considered as existing and thus covered by subsection (2), and on limitation of wind turbines in territorial waters etc. covered by subsection (6), no. 2.

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40.-(1) This provision covers electricity produced by wind turbines financed by power companies connected to a grid from 1 January 2000, with the exception of electricity from wind turbines in territorial waters etc., cf. section 25(1), which is financed by reserves in accordance with the Electricity Supply Act hitherto in force.

(2) For electricity produced by an onshore wind turbine, the price supplement shall be granted so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.33 per kWh. The price supplement shall be granted for ten years from the connection of the wind turbine to the electricity supply grid.

(3) For electricity produced by an offshore wind turbine in territorial waters etc., a price supplement shall be granted so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.353 per kWh. In the event that the producer shall pay a feeding fee in connection with transferring electricity to the overall electricity supply grid, the price supplement shall also be granted for up to DKK 0.07 per kWh on average per 24 hours. The price supplement mentioned shall be granted for electricity production corresponding to production during 42,000 peak-load hours.

(4) For electricity from wind turbines covered by subsections (2) and (3), a price supplement of DKK 0.10 per kWh shall also be granted.

41. The price supplement shall be granted for electricity supplied to the electricity supply grid from a wind turbine with an installed output of 25 kW or less which is connected to an installation for consumption by the owner. The price supplement shall be granted regardless of the date of connection and shall be determined so that the supplement and the market price determined under section 51(2), no. 1 together amount to DKK 0.60 per kWh.

Additional price supplement for scrapping certificates

42.-(1) This provision deals with an additional price supplement for electricity produced by a brand new wind turbine utilising scrapping certificates issued for the dismantling of wind turbines.

(2) A price supplement for electricity produced by a wind turbine connected to a grid from 1 April 2001 until 1 January 2004 shall be granted provided that the wind turbine owner utilises scrapping certificates issued for the dismantling of a wind turbine with an output of 150 kW or less for the period from 3 March 1999 until 31 December 2003. The price supplement shall amount to DKK 0.17 per kWh and shall be granted for electricity production corresponding to 12,000 peak-load hours for the part of the electricity produced that is covered by the scrapping certificate.

(3) If the price supplement is granted in accordance with subsection (2) and section 39(6), the sum of the price supplements shall be determined so that these and the market price determined under section 51(2), no. 1 together do not exceed DKK 0.60 per kWh.

(4) The price supplement shall be granted for electricity produced by a wind turbine connected to a grid from 1 January 2005 until 31 December 2010 provided that the wind turbine owner utilises scrapping certificates issued for the dismantling of a wind turbine with an output of 450

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kW or less from 15 December 2004 until 15 December 2010. However, the scrapping certificate may not be utilised for wind turbines in territorial waters etc., cf. section 25(1), or wind turbines connected to their own consumption installation covered by section 41. Scrapping certificates may only be issued within a pool corresponding to a total output for dismantled wind turbines of 175 MW.

(5) The price supplement under subsection (4) shall be granted, cf. however subsection (6), as follows:

- 1) For wind turbines connected to a grid no later than 20 February 2008, the price supplement shall total DKK 0.12 per kWh for electricity production corresponding to 12,000 peak-load hours for double the installed output of the dismantled wind turbine. The price supplement shall be determined so that the supplement and the sum of the determined market price under 51(2), no. 2 and the price supplement under section 38(2) do not exceed DKK 0.48 per kWh.
- 2) For wind turbines connected to a grid on 21 February 2008 or later, the price supplement shall total DKK 0.8 per kWh for electricity production corresponding to 12,000 peak-load hours for double the amount of the installed output of the dismantled wind turbine.

(6) The owner of a wind turbine connected to a grid from 21 February 2008 until and including 31 December 2010 may choose to receive the price supplement as mentioned in subsection (5), no. 1 for scrapping certificates utilised for the wind turbine. The price supplement shall be set so that the price supplement and the sum of the market price determined under section 51(2), no. 2 do not exceed DKK 0.38 per kWh. The choice to receive the price supplement as mentioned in the 1st clause shall be binding for the duration of the support period. The choice shall be conditional upon the owner of the wind turbine notifying Energinet.dk about this no later than at the date of grid connection.

(7) A wind turbine for which a scrapping certificate has been issued, cannot be reconnected to the electricity supply grid or a consumption installation from where the electricity may be supplied to the electricity supply grid.

(8) The Danish Minister for Climate and Energy may lay down more detailed regulations on issuance, trading and utilisation of scrapping certificates and on documentation of compliance with the conditions for the price supplement. Furthermore, the Minister may lay down more detailed regulations on calculation of the pool mentioned in subsection (4), 3rd clause.

43.-(1) This provision includes joint regulations for price supplements and other services under sections 36-42.

(2) The Danish Minister for Climate and Energy may lay down more detailed regulations on access to receiving price supplements and other benefits under sections 36-42, about the calculation of the installed output of wind turbines and production, and about other conditions of importance to fixing price supplements and other benefits.

(3) The Danish Minister for Climate and Energy may, upon submission to a committee set up by the Danish Parliament (Folketinget), lay down more detailed regulations stipulating

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- 1) that a refund of DKK 0.23 per kWh under section 36(3), or section 38(4) shall be reduced or cease to apply, and
- 2) that the price supplement under section 40 or 41 shall cease to apply.

Price supplements etc. for other electricity production plants using renewable energy

44.-(1) This provision deals with electricity produced through the use of biogas, gasification gas produced from biomass, stirling engines and other specialised electricity production plants using biomass as an energy source.

(2) For electricity produced by plants that only utilise energy sources covered by subsection (1), the price supplement shall be determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.745 per kWh.

(3) For electricity produced from the use of energy sources covered by subsection (1) together with other fuels, a price supplement of DKK 0.405 per kWh shall be granted for the share of electricity produced through energy sources covered by subsection (1).

(4) The sum of price supplements and the market price mentioned in subsection (2), and price supplements mentioned in subsection (3), shall be index-adjusted on 1 January annually from 2009 on the basis of 60% of increases in the net price index in the previous calendar year in relation to 2007.

45.-(1) This provision deals with electricity produced by burning biomass except for electricity to which the price supplement has been granted in accordance with section 46.

(2) In relation to electricity covered by subsection (1), a price supplement of DKK 0.15 per kWh shall be granted regardless of whether the electricity is produced by plants that only use biomass, or by installations where biomass is used with other fuels.

46.-(1) This provision deals with electricity produced by burning biomass at production plants using renewable energy sources financed by power companies, and which has been covered by section 57a of the Electricity Supply Act, as inserted by Act no. 495 of 9 June 2004.

(2) Support shall be granted for electricity mentioned in subsection (1) for ten years from the date of commissioning of the installations concerned, however, as a minimum for ten years from 1 August 2001. The support shall be granted as follows:

- 1) The price supplement shall be determined so that this and the market price determined under section 51(2), no.1 together amount to DKK 0.30 per kWh.
- 2) The Danish Minister for Climate and Energy may, upon submission to a committee set up by the Danish Parliament (Folketinget), decide that a price supplement of up to DKK 100 per burned tonne of biomass shall be granted. When determining the size of the price supplement, consideration may be taken of the expenses paid by the owner of the specific installations in connection with the burning. Such price supplements may represent a maximum of DKK 45 million annually for the installations.
- 3) A price supplement of DKK 0.10 per kWh shall be granted.

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(3) Upon cessation of the support provided in subsection (2), the price supplement shall be granted pursuant to section 45.

47.-(1) This provision deals with electricity produced by plants that only use

- 1) solar energy, wave or hydropower, or
- 2) other renewable energy sources except for biogas and biomass, cf. sections 44-46.

(2) For electricity from plants connected to a grid no later than 21 April 2004, a price supplement shall be granted which is determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.60 per kWh. The price supplement shall be granted for 20 years from the date of grid connection, but no less than for 15 years counted from 1 January 2004.

(3) For electricity from plants connected to a grid on 22 April 2004 or later, the price supplement shall be granted as follows:

- 1) For electricity production from renewable energy sources or technologies of significance for the future expansion of renewable electricity, a price supplement shall be granted in accordance with decisions by the Danish Minister for Climate and Energy, and determined so that this and the market price determined under section 51(2), no. 1 together amount to DKK 0.60 per kWh for ten years after the date of grid connection and DKK 0.40 per kWh for the subsequent ten years.
- 2) For electricity production from other energy sources than those mentioned in no. 1, a price supplement of DKK 0.10 per kWh for 20 years from the date of grid connection shall be granted.

(4) The Danish Minister for Climate and Energy may lay down more detailed regulations stipulating that the price supplement shall be granted in accordance with subsection (3) for electricity production from a plant connected to a grid no later than 21 April 2004, if the electricity production capacity is significantly increased after this date due to replacement or significant modifications of the plant.

48.-(1) This provision deals with electricity from plants where the renewable energy sources mentioned under section 47(1) are to be used together with other energy sources.

(2) If the use of renewable energy sources covered by subsection (1) is commenced no later than 21 April 2004, a price supplement for the proportion of electricity from such energy sources shall be granted that amounts to DKK 0.26 per kWh for 20 years, however for no less than 15 years counted from 1 January 2004.

(3) If the use of renewable energy sources covered by subsection (1) was commenced on 22 April 2004 or later, the price supplement for the proportion of electricity from such energy sources shall be granted as follows:

- 1) For electricity production from energy sources or technologies of significance to the future expansion of renewable electricity, a price supplement shall be granted in

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accordance with decisions by the Danish Minister for Climate and Energy amounting to DKK 0.26 per kWh for ten years and DKK 0.06 per kWh for the subsequent ten years,.

- 2) For electricity production from other energy sources than those mentioned in no. 1, a price supplement of DKK 0.10 per kWh for 20 years from the date of grid connection shall be granted.

(4) The Danish Minister for Climate and Energy may lay down more detailed regulations that a price supplement under subsection (3) be granted for the renewable energy proportion of electricity production from plants where the use of renewable energy sources was commenced no later than 21 April 2004, if the renewable energy proportion is increased significantly after this date due to replacement or significant modifications of the plant.

Pool for small renewable energy technologies

49.-(1) Energinet.dk shall provide support to promote the propagation of electricity production plants with a minor electricity production capacity, including solar cells, hydropower plants and other renewable energy plants that use energy sources or technologies of importance to the future expansion of renewable electricity.

(2) Support shall be granted from a pool set up and administered by Energinet.dk. The support pool shall amount to DKK 25 million per annum for four years.

(3) Support shall be granted to promote market introduction of plants covered by subsection (1), including small-scale support for pilot projects. Support shall be conditional upon the plant being connected to a grid.

(4) Support shall be granted for the establishment of plants, the operation of plants for a specified period of time, or information about energy-related characteristics of plants and similar. Support for establishment and operation may be granted together with a price supplement under section 47(3), no. 1, or section 48(3), no. 1.

(5) The Danish Minister for Climate and Energy may lay down more detailed regulations that a plan for the use of pool funds be approved by the Minister before the costs of this can be imposed on consumers, cf. section 8(2) of the Electricity Supply Act. The Minister may furthermore lay down more detailed regulations on the allocation of support, including the scope of support, and on withdrawal in full or in part of approval and payment of support and on presentation of accounts and reporting about activities.

50.-(1) This provision includes joint regulations for price supplements and other benefits under sections 44-49.

(2) The Danish Minister for Climate and Energy may, upon submission to a committee set up by the Danish Parliament (Folketinget), lay down more detailed regulations that price supplements for specified categories of plants or energy sources as mentioned in sections 44-48 be reduced or withdrawn, and may lay down more detailed regulations or decide which categories of plants may be granted the price supplement under section 47(3), no. 1 or section 48(3), no. 1.

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(3) A price supplement pursuant to sections 45-48 for electricity produced from burning waste shall not be granted.

(4) Furthermore, a price supplement may be granted under sections 58 and 58a of the Electricity Supply Act for electricity produced mentioned in section 44(3), and sections 45 and 48. In addition, a price supplement may be granted pursuant to section 58b of the Electricity Supply Act for electricity produced from plants mentioned in section 45.

(5) The Danish Minister for Climate and Energy may lay down more detailed regulations on access to receiving price supplements and other benefits under sections 44-49. The Minister may also lay down more detailed regulations on how price supplements may be calculated for renewable-energy electricity production plants that use different types of fuels.

(6) Hydropower pursuant to sections 47 and 48 covers only hydropower stations of less than 10 MW. The Danish Minister for Climate and Energy may change the capacity limit in the 1st clause.

General provisions on fixing price supplements, sale of electricity production from renewable energy etc.

51.-(1) Grid companies shall report to Energinet.dk on an hourly basis about the amount of electricity produced from plants covered by sections 36-50. Energinet.dk shall lay down guidelines for calculation and reporting of electricity production.

(2) Energinet.dk shall fix the market price for electricity produced from the plants mentioned in subsection (1), as follows:

- 1) The market price for electricity produced from plants covered by sections 36, 37 and 39-41, section 44(2) and sections 46 and 47 shall be determined on an hourly basis as the spot price, cf. subsection (3), for electricity in the relevant area.
- 2) The market price for electricity from wind turbines covered by section 38, except for those mentioned in no. 3, shall be determined on a monthly basis as a weighted average of the market value from total electricity production from wind turbines in the relevant area at the spot price, cf. subsection (3).
- 3) The market price for electricity produced from wind turbines mentioned in section 38 located in territorial waters etc., cf. section 25(1), and connected to a grid after 31 December 2002, shall be determined on an annual basis as a weighted average of the market value of electricity production at the spot price, cf. subsection (3).

(3) A spot price for electricity shall mean the hourly price stated by the Nordic power exchange, Nord Pool, per kWh on the spot market for the relevant area.

(4) Payment for electricity produced from plants covered by sections 39 and 41, and section 47(2) and (3), no. 1 for one hour cannot exceed the total amounts for price supplements and market prices, as laid down in these provisions. If the market price for one hour exceeds the total amount, Energinet.dk shall set off the excess amount against the first available payments of market prices and price supplements.

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(5) If the determined market price for electricity produced from plants covered by sections 37, 40 and 46, exceeds the total amounts for price supplements and market prices determined in these provisions, Energinet.dk shall calculate a negative price supplement. The negative price supplement for electricity produced from plants covered by sections 40 and 46 may not exceed the size of price supplements paid during the last year before the date of statement. The negative price supplement shall be offset against payments of price supplements.

52.-(1) Energinet.dk shall sell electricity production from wind turbines covered by sections 39 or 41 and other electricity production plants using renewable energy covered by section 44(2), and section 47 on Nord Pool and pay the sales proceeds to the plant owner. Energinet.dk shall furthermore pay the costs for imbalances in electricity production mentioned in section 27c(8), 2nd clause of the Electricity Supply Act.

(2) Electricity producers covered by subsection (1) shall not be ordered to pay costs in connection with feeding electricity to the electricity supply grid that are not incumbent upon said producer under the provisions hitherto in force on the duty to purchase.

(3) When the price supplement for electricity mentioned in subsection (1) ceases, the electricity producer shall inform Energinet.dk that the producer has entered into an agreement on sale and balancing of electricity production. This information shall be provided at no less than one month's notice from the first day of the month in which the price supplement ceases.

(4) Energinet.dk shall manage the balancing of electricity production at a wind turbine covered by section 38, connected to a grid no later than on 31 December 2002, except for wind turbines financed by power companies, and shall sell the electricity on Nord Pool, if the electricity producer so requests, or if the electricity producer does not provide information hereon as mentioned in subsection (3). Management of the balancing and the sale shall be conditional upon the electricity producer paying the necessary costs that Energinet.dk shall pay in this connection.

(5) Income and expenses in connection with the tasks mentioned in subsections (1) and (4) shall be kept separate for accounting purposes from the other tasks of Energinet.dk, however not tasks mentioned in section 59a(1) of the Electricity Supply Act.

(6) Energinet.dk shall lay down guidelines on time limits and conditions for management of balancing and sale, as mentioned in subsection (4).

Opting out of price supplements

53.-(1) The Danish Minister for Climate and Energy may lay down more detailed regulations on conditions and time limits for electricity producers to opt out of price supplements and other benefits under sections 36-50 and section 52(1). The Danish Minister for Climate and Energy may lay down more detailed regulations that electricity producers shall pay the necessary costs in connection with opting out of the mentioned price supplements etc.

(2) Price supplements under section 37 may not be resumed after having opted out.

Payment of price supplements etc.

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54.-(1) For wind turbines covered by the loss-of-value scheme in sections 6-12 and the option to purchase scheme under sections 13-17, payment of price supplements or other benefits under this Act, may only be carried out if:

- 1) Energinet.dk has approved advertising and material for use at the public meeting about the loss-of-value scheme pursuant to section 9(2),
- 2) The erector of the wind turbine has carried out a public meeting about the loss-of-value scheme, cf. section 9(1), and
- 3) Energinet.dk has approved that sales material has been prepared and that offers of sale of ownership shares have taken place in accordance with sections 14 and 15, cf. section 13(4).

(2) Energinet.dk shall make a decision as to whether the conditions of subsection (1) for receipt of price supplements and other benefits, have been observed. Energinet.dk may decide that less important violations of the regulations shall not result in cessation of price supplements and other benefits.

55.-(1) Payment of price supplements and other benefits under the provisions laid down in sections 36-50 and regulations laid down pursuant to such provisions may be withheld if the electricity producer, notwithstanding a request, fails to provide satisfactory information within the time limit determined needed for deciding payment of the price supplement or other benefit or inspection and control of the payment.

(2) The payment may be resumed when the electricity producer has provided specified information about the conditions concerned.

(3) The Danish Minister for Climate and Energy may lay down more detailed regulations on conditions and time limits for withdrawal and resumption of price supplements and other benefits.

56.-(1) Energinet.dk shall pay amounts for rectification in the event of underpayment of price supplements and other benefits for electricity for which price supplements and other benefits are granted under the provisions of sections 36-50 and regulations laid down pursuant to such provisions, and shall charge an amount for coverage of underpaid price supplements and other benefits.

(2) Ownership of an electricity production plant to which the price supplement or other benefits as mentioned in subsection (1) shall be granted, and changes in ownership shall be reported to Energinet.dk.

(3) Energinet.dk may, in full satisfaction of all claims, pay price supplements and other benefits and amounts for rectification of underpayment of price supplements and other benefits to the person reported as owner of the electricity production plant for the period in which the payment is concerned, unless the owner has reported that payment shall be to another person.

(4) The Danish Minister for Climate and Energy may lay down more detailed regulations about reporting and payment under subsections (1)-(3).

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Official notes

⁴⁾ This Act contains provisions implementing parts of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001, (Official Journal 2001 no. L 283, page 33), parts of Council Directive 92/43/EEC of 21 May 1992, (Official Journal 1992 no. L 206, page 7), as amended most recently by Regulation (EC) no. 1882/2003 of the European Parliament and of the Council of 29 September 2003, (Official Journal 2003 no. L 284, page 1), parts of Council Directive 85/337/EEC of 27 June 1985, (Official Journal 1985 no. L 175, page 40), as amended most recently by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, (Official Journal 2003 no. L 156, page 17), and parts of Council Directive 79/409/EEC of 2 April 1979, (Official Journal 1979 no. L 103, page 1), as amended most recently by Regulation (EC) no. 807/2003 of the European Parliament and of the Council of 14 April 2003, (Official Journal 2003 no. L 122, page 36).