

Act on Special Measures Concerning the Promotion of New Energy Usage

(Act No. 37 of April 18, 1997)

Chapter I General Provisions (Article 1 and Article 2)

Chapter II Basic Policy (Article 3 to Article 7)

Chapter III New Energy Usage Promoted by Service Providers (Article 8 to Article 13)

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Supplementary Provisions

Chapter I General Provisions

(Purpose)

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

(Definitions)

Article 2 The term "new energy usage, etc." as used in this Act means, from among production, generation, and utilization of the alternative energy to petroleum provided for in Article 2 of the Act on the Promotion of Development and Introduction of Alternative Energy (Act No. 71 of 1980; hereinafter referred to as "Alternative Energy to Petroleum Act") (hereinafter referred to as "Alternative Energy to Petroleum Act" in this Article) and the usage of power obtained from the conversion of electricity (limited to those which particularly contribute to the reduction of dependency on petroleum), which are not yet widespread due to the restrictions on use from the standpoint of economic efficiency, which are provided for by Cabinet Order which are particularly necessary for the introduction of petroleum alternative energy.

Chapter II Basic Policy

(Basic Policy)

Article 3 (1) The Minister of Economy, Trade and Industry must prescribe and publicize the basic policy (hereinafter referred to as "basic policy") in regard to

promoting new energy usage, etc.

- (2) The basic policy is to be prescribed in regard to the following matters, while taking into consideration the circumstances, such as the long-term outlook for energy supply and demand, the specific characteristics of the new energy usage, etc., and the technical levels with respect to new energy usage, etc., and giving due consideration to the preservation of the environment.
 - (i) basic matters concerning measures to be taken by energy users (hereinafter referred to as "energy users") with respect to new energy usage, etc.
 - (ii) basic matters for promoting new energy usage, etc. concerning measures to be taken by service providers that supply energy (referred to as "energy providers" in paragraph (2) of the following Article) or those who manufacture or import the machinery and equipment in order to use new energy, etc. (referred to as "manufacturers, etc." in that paragraph)
 - (iii) basic matters concerning measures for promoting new energy usage, etc.
 - (iv) other matters concerning new energy usage, etc.
- (3) In order to prescribe the basic policy, the Minister of Economy, Trade and Industry must seek approval at cabinet meetings.
- (4) The Minister of Economy, Trade and Industry must consult with the heads of relevant administrative organs in advance, when the minister intends to prescribe the basic policy.
- (5) The Minister of Economy, Trade and Industry is to revise the basic policy when necessary due to a change in the circumstances set forth in paragraph (2).
- (6) The provisions of paragraphs (1) through (4) apply mutatis mutandis to any revisions of the basic policy under the provisions of the preceding paragraph.

(Efforts of Energy Users)

- Article 4 (1) Energy users must endeavor to use new energy, etc., while giving due consideration to the provisions of the basic policy.
- (2) Energy providers and manufacturers, etc. must endeavor to promote new energy usage, etc., while giving due consideration to the provisions of the basic policy.

(Guidelines to Use New Energy)

- Article 5 (1) In order to promote new energy usage, etc. by energy users for whom new energy usage, etc. is deemed to be appropriate based on the circumstances, such as the characteristics of new energy usage, etc., the technical level related to new energy usage, etc., the Minister of Economy, Trade and Industry, taking these matters into consideration and giving due consideration to the preservation of the environment, is to prescribe and publicize the guidelines to use new energy, etc. for energy users (hereinafter referred to as "guidelines to use new energy"), relating to the types and

methods of new energy usage, etc. to be promoted.

- (2) The Minister of Economy, Trade and Industry is to revise the guidelines to use new energy when necessary due to a change in the circumstances set forth in the preceding paragraph.
- (3) The Minister of Economy, Trade and Industry must consult in advance with the heads of relevant administrative organs, when the minister intends to prescribe or revise the guidelines to use new energy.

(Guidance and Advice)

Article 6 When the competent minister finds it necessary to promote new energy usage, etc., the minister is to provide guidance and advice to energy users with regard to the matters provided for in the guidelines to use new energy.

(Considerations Concerning Local Government Policies)

Article 7 In establishing and enforcing policies that contribute to promoting new energy usage, etc. in local areas, local government is to take into consideration the basic policy as much as possible.

Chapter III New Energy Usage Promoted by Business Operators

(Approval of Energy Use Plans)

- Article 8 (1) A person who intends to use new energy, etc. in their business activities (including those who intend to establish a juridical person that use the new energy, etc.) may prepare a plan concerning the new energy usage, etc. (hereinafter referred to as a "energy use plan") and submit the plan to the competent minister and may receive an approval of the energy use plan that is suitable.
- (2) An energy use plan must include the particulars set forth below.
 - (i) goals for new energy usage, etc.
 - (ii) details of new energy usage, etc. and its implementation period
 - (iii) the amount of funds necessary for the new energy usage, etc. and the procurement method thereof
 - (3) In case a request for approval set forth in paragraph (1) is filed, when the competent minister finds that the energy use plan meets the requirements set forth in the following items, the minister is to approve the request.
 - (i) the particulars set forth in item (i) and item (ii) of the preceding paragraph are appropriate in light of the basic policy, and also are particularly effective in disseminating the usage of new energy, etc. in our country.
 - (ii) the particulars set forth in item (ii) and item (iii) of the preceding paragraph are appropriate to make sure that new energy is used.

(Revisions of Energy Use Plans)

- Article 9 (1) When a person who has received the approval set forth in paragraph (1) of the preceding Article (including a juridical person referred to in that paragraph established by the person set forth in that paragraph), intends to revise the energy use plan pertaining to the approval, the person must obtain approval from the competent minister.
- (2) When the competent minister finds that a person who uses new energy, etc. pertaining to energy plan that has received the approval set forth in paragraph (1) of the preceding Article (when a revision has been approved pursuant to the provisions of the preceding paragraph, the revised plan; hereinafter referred to as "certified energy use plan") (hereinafter referred to as "certified energy provider") fails to use new energy, etc. in accordance with the certified use plan, the minister may revoke the approval.
- (3) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the approval set forth in paragraph (1).

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

- Article 10 The New Energy and Industrial Technology Development Organization is to carry out the following activities in order to promote new energy usage, etc.
- (i) to guarantee debts pertaining to the funds required for new energy usage, etc. which is carried out by a certified energy provider in accordance with a certified energy use plan.
- (ii) to carry out business activities incidental to the business set forth in the preceding item.

Article 11 Deletion

Article 12 Deletion

(Special Provisions of the Small and Medium-sized Business Investment & Consultation Companies Act)

- Article 13 (1) In addition to the businesses specified in each item of Article 5, paragraph (1) of the Small and Medium-sized Enterprises Investment & Consultation Companies Act (Act No. 101 of 1963), Small and Medium Enterprises Investment & Consultation Companies may engage in the following businesses.
- (i) subscription of shares, and holding of the subscribed shares, issued when a small or medium-sized enterprise or an individual who is not engaged in a business establishes a stock company with the amount of stated capital

exceeding 300,000,000 yen in order to use new energy, etc. in accordance with a certified energy use plan

- (ii) subscription for shares, a share option (except for those attached to bonds with a right to subscribe for new shares), or bonds with share option, etc. (meaning bonds with share option etc. as provided for in Article 5, paragraph (1), item (ii) of the Small and Medium-sized Enterprise Investment & Consultation Companies Act; hereinafter the same applies in this paragraph and the following paragraph), which have been issued by a corporation among small and medium-sized enterprise with the amount of stated capital exceeding 300,000,000 yen in order to raise the funds required to use new energy, etc. in accordance with a certified energy use plan, and the holding of the shares, the share option (including the shares issued or transferred by exercising the share option), the bonds with share option, etc. (including the shares issued or transferred by exercising the share option attached to the bonds with share option, etc.) obtained through the subscription,
- (2) With respect to the application of the Small and Medium-sized Enterprise Investment & Consultation Companies Act to the subscription for shares and the holding of the shares obtained through the subscription pursuant to the provisions of item (i) of the preceding paragraph and, the subscription for shares, a share option (except for those attached to bonds with share option) or bonds with a share option, etc., and the holding of the shares, the share option (including those issued or transferred by exercising the share option), the bonds with share option, etc. (including the shares issued or transferred by exercising the share option attached to the bonds with a share option, etc.) obtained through the subscription pursuant to the provisions of item (ii) of that paragraph, the businesses are respectively deemed to be the businesses referred to in item (i) and item (ii) of Article 5, paragraph (1) of that Act.
- (3) The "small and medium-sized enterprise" set forth in paragraph (1), means a person who falls under any of the following items.
 - (i) any corporation whose amount of stated capital or the total amount of capital contribution is 300,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 300 or less, which mainly engages in the business classified under manufacturing industry, construction, transportation or other business categories (excluding the business categories specified in the following item (ii) through item (ii)-3 and those specified by Cabinet Order set forth in item (iii))
 - (ii) any corporation whose amount of stated capital or the total amount of capital contribution is 100,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 100 or less, which mainly engages in the business classified under wholesale business (excluding the categories of business specified by the Cabinet Order set forth

- in item (iii))
- (ii)-2 any corporation whose amount of stated capital or the total amount of capital contribution is 50,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 100 or less, which mainly engages in business classified under service industry (excluding the categories of business specified by Cabinet Order set forth in item (iii))
 - (ii)-3 any corporation whose amount of stated capital or the total amount of capital contribution is 50,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 50 or less, which mainly engages in business classified under retail business (excluding the categories of business specified by Cabinet Order set forth in the following item)
 - (iii) any corporation whose amount of stated capital or the total amount of capital contribution is not more than the amount specified by Cabinet Order for each of its business types and any corporation or individual whose number of regularly hired employees is not more than that specified by Cabinet Order for each business type, which mainly engages in business classified under the categories of business specified by that Cabinet Order
 - (iv) joint-enterprise cooperatives
 - (v) cooperative partnerships
 - (vi) business cooperatives, small business cooperatives, commercial and industrial partnerships, federation of cooperatives, and other partnerships and federations thereof established by special law, which are specified by Cabinet Orders

Chapter IV Miscellaneous Provisions

(Collection of Reports)

Article 14 The competent minister may request a certified energy provider to submit reports concerning the implementation status of the certified energy use plan.

(Competent Ministers)

Article 15 The competent ministers referred to in this Act are specified as follows.

- (i) For matters pertaining to guidance and advice provided in Article 6, the Minister of Economy, Trade and Industry and the minister who has the jurisdiction over the businesses conducted by the energy user are the competent ministers.
- (ii) The Minister of Economy, Trade and Industry and the minister who has jurisdiction over the businesses conducted by the person using new energy,

etc. are the competent ministers in regard to the approval provided in paragraph (1) of Article 8, the approval of revisions provided in paragraph (1) of Article 9, the revocation of approval provided in paragraph (2) of that Article, and particulars pertaining to the collection of reports provided in the preceding Article.

(Penal Provisions)

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

(2) When a representative of a juridical person or an agent, employee, or other worker of a juridical person or of an individual, commits a violation of the preceding paragraph concerning the business of the juridical person or of the individual, the offender is punished and the juridical person or the individual is also subject to punishment set forth in that paragraph.

Supplementary Provisions [Extract]

(Effective Date)

(1) This Act comes into effect on the date specified by Cabinet Order within a period not exceeding six months from the day of its promulgation.

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

(Effective Date)

Article 1 This Act comes into effect on the day of its promulgation.

(Transitional Measures Concerning Penal Provisions)

Article 14 Prior laws continue to govern the applicability of penal provisions to conduct in which a person engages prior to the enforcement of this Act (for provisions provided in the proviso to Article 1 of the Supplementary Provisions, these provisions; hereinafter the same applies in this Article) and conduct in which a person engages after the enforcement of this Act.

(Provisions Governed by Cabinet Order)

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

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

(Effective Date)

Article 1 This Act (excluding Article 2 and Article 3) comes into effect on January 6, 2001.

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

(Effective Date)

Article 1 This Act comes into effect on the day specified by Cabinet Order within a period not exceeding two months from the day of its promulgation; provided, however, that the provisions set forth in each of the following item come into effect on the day specified in the respective items.

(iii) amendment to the provisions of Article 9 of the Act on Temporary Measures for the Promotion of Creative Business Activities of Small and Medium-sized Enterprises in the provisions of Article 4 and Article 7 and the provisions of Article 4 through Article 6 of the Supplementary Provisions; amendment to the provisions of Article 13 of the Act on Special Financial Support to Deal with Designated Disasters of Extreme Severity (Act No. 150 of 1962) in Article 15 of the Supplementary Provisions; amendment to the provisions of Article 5-2 of the Small and Medium-sized Retail Business Promotion Act (Act No. 101 of 1973) in Article 18 of the Supplementary Provisions Article 16 Supplementary Provisions; amendment to the provisions Article 11 of the Act on the Promotion of Improvement of Employment Management in Small and Medium-sized Enterprises for Securing Manpower and Creating Quality Jobs (Act No. 57 of 1991) in Article 20 of the Supplementary Provisions; amendment to the provisions of Article 8 of the Act on the Promotion of Efficient Distribution Systems in Small and Medium-sized Enterprises (Act No. 65 of 1992) in Article 23 of the Supplementary Provisions; amendment to the provisions of Article 22 of the Act on Temporary Measures to Promote Business Activities for the Rational Use of Energy and the Utilization of Recycled Resources (Act No. 18 of 1993) in Article 25 of the Supplementary Provisions; the provisions of Articles 26, 27 and 29 of the Supplementary Provisions; amendment to the provisions of Article 25 of the Act on the Improvement and Vitalization of City Centers (Act No. 92 of 1998) in Article 30 of the Supplementary Provisions Article 26; amendment to the provisions of Article 21 of Act on Facilitating the Creation of New Business in Article 31 of the Supplementary Provisions (Act No. 152 of 1998); provisions of Article 7, Article 12 of the Act on Supporting Business Innovation of Small and Medium-sized Enterprises and amendment to the provisions of Article 3 of the Supplementary Provisions (Act No. 18 of 1999) in Article 32 of the Supplementary Provisions; amendment to the provisions of Article 25 and Article 27 of the Act on Special Measures for Industrial Revitalization (Act No. 131 of 1999) in Supplementary Provisions Article 34;

amendment to the provisions of Article 902 of the Act for Enforcement of the Act on Central Government Reform in Article 35 of the Supplementary Provisions; and the provisions of Article 36 of the Supplementary Provisions: April 1, 2000

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

(Effective Date)

(1) This Act comes into effect on April 1, 2002.

(Transitional Measures Concerning Application of Penal Provisions)

(2) Prior laws continue to govern the applicability of penal provisions to conduct in which a person engages prior to the enforcement this Act and conduct in which a person engages after the enforcement of this Act.

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

(Effective Date)

Article 1 This Act comes into effect on the day of its promulgation; provided, however, that the provisions of Articles 15 through 19, Article 26 and Article 27 and of this Act and Articles 6 through 34 of the Supplementary Provisions come into effect on October 1, 2003.

(Transitional Measures of Penal Provisions)

Article 34 Prior laws continue to govern the applicability of penal provisions to conduct in which a person engages prior to the enforcement of this Act (for provisions provided in the proviso to Article 1 of the Supplementary Provisions, those provisions; hereinafter the same applies in this Article) and conduct in which a person engages after the enforcement of this Act.

(Provisions Governed by Cabinet Order)

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

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

This Act comes into effect on the date on which the Companies Act comes into effect.