

# Act amending various acts of law relating to natural resources and energy

## CHAPTER I

### Amendment of the Water Act No. 20 of 31 March 2006, as amended

#### Article 1

A new Article, Article 9(a), is inserted after Article 9 of the Act, with a heading, as follows:

*Restrictions on the permanent transfer by governmental organisations of water ownership rights*

The State, municipalities and their wholly owned undertakings are not permitted to transfer, directly or indirectly, on a permanent basis, ownership rights to water capable of generating energy in excess of 10 MW.

Notwithstanding the provisions of paragraph 1, it is permitted to transfer such rights to the State, a municipality or an undertaking which is wholly owned by the State and/or municipalities and is organised specifically to control the ownership of such rights.

The State, municipalities and companies owned by them, as provided in paragraph 2, are permitted to grant temporary rights of use of the rights under paragraph 1 for a period of up to 65 years at a time. Holders of temporary rights of use shall be entitled to negotiations on an extension of the rights when half of the agreed period of use has passed.

Decisions on to whom to grant rights of use shall be made on a non-discriminatory basis. Also, such decisions should promote efficient use of resources and investments in facilities.

The Prime Minister shall negotiate the consideration (rent) for the use of rights subject to the control of the State pursuant to paragraph 3. The arrangements and consideration for the use of rights on public land shall be subject to the applicable legislation.

## CHAPTER II

### Amendment of the Electricity Act No. 65 of 27 March 2003, as amended

#### Article 2

The third and fourth sentences in paragraph 1 of Article 7 of the Act shall be replaced by four new sentences, reading as follows: In the event that a producer operates a geothermal power plant which produces both electricity and other energy, e.g. hot water or steam, the company shall, in its internal accounts, keep its accounts for the generation of electricity separate from accounts relating to other generation. If a heating utility possessing an exclusive licence for its operations is dependent on such a geothermal power plant for its energy, the plant is required to deliver geothermal energy to the heating utility in accordance with its needs for the purpose of meeting its obligations and in accordance with the capacity of the geothermal power plant. The separation of accounts and pricing of the delivery of such geothermal energy are subject to Article 41. Any dispute regarding pricing shall be settled by Orkustofnun.

#### Article 3

A new sentence shall be added to paragraph 1 of Article 8, as follows: The transmission system operator shall always be in the majority ownership of the State, municipalities and/or wholly owned undertakings of these parties.

#### Article 4

The following amendments shall be made to Article 14 of the Act:

a.

Three new sentences are added to paragraph 1, as follows: A distribution system operator in a distribution zone of 10,000 inhabitants or more is not permitted to engage in activities other than those which are necessary to fulfil its obligations under its concession licences and applicable legislation. However, a distribution system operator is permitted to engage in other activities of a comparable status. The board of directors of a distribution system operator shall be independent of other companies engaging in the generation, transmission or sale of electricity, as further provided in the articles of association of the company.

b.

A new paragraph, paragraph 2, is added, as follows:

A distribution system operator shall always be in the majority ownership of the State, municipalities and/or wholly owned undertakings of these parties.

#### Article 5

Paragraph 2 of Article 19 shall read as follows:

Suppliers permitted to engage in concessioned activities are not permitted to subsidise their sales through their concessioned operations or operations having a comparable status. Companies shall, in their internal accounts, keep their accounts for supplying activities separate from other activities. Separation of accounts shall in other respects be subject to Article 41.

### CHAPTER III

#### **Amendment of the Act on the survey and utilisation of ground resources No. 57 of 10 June 1998, as amended**

#### Article 6

A new Article, Article 3(a), is inserted after Article 3 of the Act, as follows:

The State, municipalities and their wholly owned undertakings are not permitted to transfer, directly or indirectly, on a permanent basis, ownership rights to geothermal energy and groundwater, cf. paragraph 1 of Article 10 and Article 14.

Notwithstanding the provisions of paragraph 1, it is permitted to transfer rights to the State, a municipality or a company which is wholly owned by the State and/or municipalities and is organised specifically to control the ownership of such rights.

The State, municipalities and companies owned by them, as provided in paragraph 2, are permitted to grant temporary rights of use of the rights under paragraph 1 for a period of up to 65 years at a time. Holders of temporary rights of use shall be entitled to negotiations on an extension of the rights when half of the agreed period of use has passed.

Decisions on to whom to grant rights of use shall be made on a non-discriminatory basis. Also, such decisions should promote efficient use of resources and investments in facilities.

The Prime Minister shall negotiate the consideration (rent) for the use of rights subject to the control of the State pursuant to paragraph 3. The arrangements and consideration for the use of rights on public land shall be subject to the applicable legislation.

#### Article 7

The following is added to paragraph 1 of Article 12 of the Act: subject to the provisions of Article 3(a).

Article 8

The following is added to paragraph 1 of Article 31 of the Act: subject to the provisions of paragraph 5 of Article 3(a).

**CHAPTER IV**

**Amendment of the Energy Act No. 58 of 29 April 1967, as amended**

Article 9

Three new sentences are added to Article 30 of the Act, as follows: A heating utility distributing hot water or steam on the basis of a concession is not permitted to engage in activities other than those which are necessary to fulfil its obligations under its concession or other exclusive licences and applicable legislation, subject to paragraph 1 of Article 14 of the Electricity Act. However, a heating utility is permitted to engage in other activities of comparable status. The board of directors of a heating utility shall be independent of other undertakings engaging in the generation, transmission or sale of electricity, as further provided in the articles of association of the utility.

Article 10

A new paragraph is added to Article 31 of the Act, as follows:

A heating utility operating on the basis of a concession shall always be in the majority ownership of the State, municipalities and/or wholly owned undertakings of these parties.

**CHAPTER V**

**Amendment of the Water Act No. 15 of 20 June 1923, as amended.**

Article 11

Five new paragraphs are added to Article 2 of the Act, as follows:

The State, municipalities and their wholly owned undertakings are not permitted to transfer, directly or indirectly, and on a permanent basis the right to the control and utilisation of water capable of generating energy in excess of 10 MW.

Notwithstanding the provisions of paragraph 2, it is permitted to transfer rights to the State, a municipality or a company which is wholly owned by the State and/or municipalities and is organised specifically to control the ownership of such rights.

The State, municipalities and companies owned by them, as provided in paragraph 3, are permitted to grant temporary rights of use of the rights under paragraph 2 for a period of up to 65 years at a time. Holders of temporary rights of use shall be entitled to negotiations on an extension of the rights when half of the agreed period of use has passed.

Decisions on to whom to grant rights of use shall be made on a non-discriminatory basis. Also, such decisions should promote efficient use of the resources and investments in facilities.

The Prime Minister shall negotiate the consideration (rent) for the use of rights subject to the control of the State pursuant to paragraph 4. The arrangements and consideration for the use of rights on public land shall be subject to the applicable legislation.

Article 12

*Entry into force*

This Act shall enter into force immediately. The provisions of Article 2, subparagraph a of Article 4, Article 5 and Article 9 shall enter into force on 1 July 2009.

### Article 13

#### *Repeal of other acts of law*

On the entry into force of this Act, the following acts of law are repealed:

1. Act No. 98/1935 on the development of the river Fljótaá.
2. Act No. 92/1947 on new power plants and new energy utilities of the State Electric Power Works.
3. Act No. 34/1949 on new power plants and new energy utilities of the State Electric Power Works.
4. Act No. 12/1951 on new power plants and a new energy utility of the State Electric Power Works.
5. Act No. 65/1956 on new power plants and new energy utilities of the State Electric Power Works.
6. Act No. 111/1970 on the development of Lagarfoss.
7. Act No. 60/1981 on electrical power plants.
8. Act No. 102/1985, enabling the Government to sell the Krafla Power Plant in the county of S-Thingeyjasýsla.

### **Interim provisions**

#### **I**

Notwithstanding the provisions of Article 35 of the Electricity Act No. 65/2003, licences may be assigned to companies established up until 1 July 2009 for the purpose of fulfilling the provisions of subsection (a) of Article 4 and Article 9.

#### **II**

The Minister for Industry shall take steps to initiate the review of special laws on energy undertakings, *inter alia* with a view to studying whether they can be repealed in part or in full. This work shall be conducted in consultation with, *inter alia*, the Finance Minister and the owners of the energy undertakings falling within the scope of the special laws.

#### **III**

On the entry into force of this Act, the Prime Minister shall appoint a committee to discuss arrangements concerning the lease of water and geothermal rights owned by the State. In its work, the committee shall discuss the amount of rent, lease periods, renewals of lease agreements and other matters relating to parties' rights and obligations. Also, the committee shall assess what actions are needed to secure the sustainable and efficient use of the resources. In its work, the

committee shall take account, *inter alia* of the experience of other nations. Also, the committee shall address the methods of choosing between those who express an interest in utilising the resources. The committee shall submit its recommendations before 1 June 2009.

*Adopted by the Althingi on 29 May 2008*