Act on the Development of Renewable Energy Sources
(Renewable Energy Sources Act - RES Act 2014)

Unofficial translation of the RES Act in the version in force as of 1 August 2014
(based on the Bundestag decisions of 27 June 2014 and 4 July 2014;
this version is not authentic - only the German text as published in the Federal Law Gazette is authen-
tic)

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Section 1
Purpose and aim of the Act

(1) The purpose of this Act is to enable the energy supply to develop in a sustainable manner in particular in the interest of mitigating climate change and protecting the environment, to reduce the costs to the economy not least by including long-term external effects, to conserve fossil energy resources and to promote the further development of technologies to generate electricity from renewable energy sources.

(2) In order to attain the purpose of subsection 1, this Act aims to increase the share of electricity generated from renewable energy sources to at least 80 percent of gross electricity consumption by 2050 in a steady and cost-efficient manner. To this end, the share is to amount to:

1. 40 to 45 percent by 2025 and
2. 55 to 60 percent by 2035.

(3) The aim pursuant to subsection 2 sentence 2 number 1 also serves to increase the share of renewable energy sources in terms of total gross final energy consumption to at least 18 percent by 2020.

Section 2
Principles of the Act

(1) Electricity from renewable energy sources and from mine gas is to be integrated into the electricity supply system. The improved integration of renewable energy sources into the market and grid system is intended to contribute towards a transformation of the entire energy supply system.
In order to integrate it into the market, electricity from renewable energy sources and from mine gas is to be sold directly.

Financial support for electricity from renewable energy sources and from mine gas is to be focused more on low-cost technologies. In this regard, consideration is to be given to the medium- to long-term cost outlook.

The costs of the financial support for electricity from renewable energy sources and from mine gas should be distributed appropriately in view of the user-pays principle and energy industry aspects.

Financial support and the level of such support is to be determined by auctions for electricity from renewable energy sources and from mine gas by 2017 at the latest. To this end, experience with competition-based determining of the level of financial support will be gathered, initially with electricity from ground-mounted installations. In the course of the move to auctions, the diversity of players involved in generating electricity from renewable energy sources is to be retained.

The auctions pursuant to subsection 5 are to be opened up to pan-European competition to a degree of at least 5 percent of the newly installed capacity each year to the extent that

1. there is an agreement under international law which implements the cooperation measures within the meaning of Articles 5 to 8 or of Article 11 of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140 of 5 June 2009, p. 16),
2. the support is given on the basis of reciprocity and
3. proof can be furnished of the physical importation of the electricity.

Section 3

Development corridor

The aims pursuant to Section 1 subsection 2 sentence 2 are to be achieved by

1. a rise in the installed capacity of the onshore wind energy installations by 2,500 megawatts a year (net),
2. a rise in the installed capacity of the offshore wind energy installations to a total of 6,500 megawatts in 2020 and 15,000 megawatts in 2030,
3. a rise in the installed capacity of the installations to generate electricity from solar radiation energy by 2,500 megawatts a year (gross) and
4. a rise in the installed capacity of the installations to generate electricity from biomass by up to 100 megawatts a year (gross).

Section 4

Area of validity

This Act shall apply to installations if and to the extent that the electricity is generated in the federal territory including the German exclusive economic zone.

Section 5

Definitions

For the purposes of this Act

1. "installation" shall mean every facility to generate electricity from renewable energy sources or from mine gas; "installation" shall include facilities which receive energy which has been temporarily stored and which derives exclusively from renewable energy sources or mine gas and convert it into electrical energy,
2. "installation operator" shall mean the party who uses the installation to generate electricity from renewable energy sources or mine gas, irrespective of who owns the installation,
3. “auction” shall mean an objective, transparent, non-discriminatory and competitive procedure to determine the level of financial support,

4. “rated capacity” of an installation shall mean the quotient of the total of the kilowatt-hours generated in the respective calendar-year and the total of the full hours of the respective calendar-year minus the full hours before the first generation of electricity from renewable energy sources or mine gas by the installation and following the final decommissioning of the installation,

5. “balancing group” shall mean a balancing group pursuant to Section 3 number 10a of the Energy Industry Act,

6. “balancing group contract” shall mean a contract pursuant to Section 26 subsection 1 of the Electricity Grid Access Ordinance,

7. “biogas” shall mean gas which is produced by the anaerobic fermentation of biomass,

8. “biomethane” shall mean biogas or other gaseous biomass which is processed and fed into the natural gas system,

9. “direct selling” shall mean the sale of electricity from renewable energy sources or from mine gas to third parties unless the electricity is consumed in immediate proximity to the installation and is not fed through a grid system,

10. “direct seller” shall mean the party commissioned by the installation operator with the direct selling of electricity from renewable energy sources or from mine gas or who commercially purchases electricity from renewable energy sources or from mine gas without in this regard being the final consumer of this electricity or the grid system operator,


12. “self-supply” shall mean the consumption of electricity which a natural or legal person consumes himself in the immediate vicinity of the electricity-generating installation if the electricity is not fed through a grid system and this person operates the electricity-generating installation himself,

13. “electricity supplier” shall mean every natural or legal person supplying electricity to final consumers,

14. “renewable energy sources” shall mean
   a) hydropower including wave, tidal, salinity gradient and marine current energy,
   b) wind energy,
   c) solar radiation energy,
   d) geothermal energy,
   e) energy from biomass including biogas, biomethane, landfill gas and sewage treatment gas and from the biologically degradable part of waste from households and industry,

15. “financial support” shall mean the payment by the grid system operator to the installation operator on the basis of the entitlements pursuant to Section 19 or Section 52,

16. “ground-mounted installations” shall mean every installation to generate electricity from solar radiation energy which is not in, affixed to or on a building or any other construction which has been erected primarily for purposes other than the generation of electricity from solar radiation energy,

17. “building” shall mean every independently usable roofed construction which can be entered by people and which is primarily designed to give shelter to people, animals or objects,

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1 Official note: Available from Beuth Verlag GmbH, 10772 Berlin, and securely archived in the Deutsche Nationalbibliothek.
18. “generator” shall mean every technical device which converts mechanical, chemical, thermal or electromagnetic energy directly into electrical energy,


20. “guarantee of origin” shall mean an electronic document which exclusively serves to furnish proof to a final consumer in the context of electricity labelling pursuant to Section 42 subsection 1 number 1 of the Energy Industry Act that a certain proportion or quantity of the electricity has been generated from renewable energy sources,

21. “commissioning” shall mean the first putting into operation of the installation following the establishment of its technical readiness for operation exclusively with renewable energy sources or mine gas; the technical readiness for operation presupposes that the installation has been installed firmly at the place envisaged for permanent operations and is permanently furnished with the necessary equipment for the generation of alternating current; the replacement of the generator or of other technical or structural parts following initial commissioning shall not alter the time of commissioning,

22. “installed capacity” of an installation shall mean the effective electrical power which the installation is technically capable of generating when operated as intended without time restrictions irrespective of minor short-term deviations,

23. “CHP installation” shall mean a CHP installation within the meaning of Section 3 subsection 2 of the Combined Heat and Power Act,

24. “final consumer” shall mean every natural or legal person consuming electricity,

25. “monthly market value” shall mean the average actual monthly value calculated retrospectively of the source-specific market value of electricity generated from renewable energy sources or from mine gas on the spot market of the EPEX Spot SE power exchange in Paris for the Germany/Austria price zone in cents per kilowatt-hour,

26. “grid system” shall mean the totality of the interlinked technical devices to purchase, transmit and distribute electricity for general supply,

27. “grid system operator” shall mean every operator of a grid system for the general supply of electricity, irrespective of the voltage level,

28. “railways” shall mean every undertaking which operates vehicles like railways, maglev trains, trams or similar rail transport in terms of construction and operation for the purpose of transporting people or freight or which operates infrastructure necessary for the operation of these vehicles,

29. “storage gas” shall mean any gas which is not a renewable energy source but which is generated exclusively using electricity from renewable energy sources for the purpose of temporary storage of electricity from renewable energy sources,

30. “electricity from combined heat and power generation” shall mean electricity within the meaning of Section 3 subsection 4 of the Combined Heat and Power Act,

31. “transmission system operator” shall mean the regular grid system operator of high and ultra-high voltage grid systems which serve the supra-regional transmission of electricity to subordinate grid systems,

32. “conversion of form” shall mean every conversion of undertakings’ form pursuant to the Corporate Conversion Act or every transfer of all economic assets of an undertaking or a part of an undertaking on the basis of a singular succession,

33. “environmental auditor” shall mean every person or organisation which may act pursuant to the Environmental Audit Act in the version currently in force as an environmental auditor or an environmental auditors’ organisation,

34. “undertaking” shall mean every association of persons or legal person with legal capacity which disposes of a business operation established in a commercial manner in terms of its nature and
size which is operated on a sustainable basis with its own profit-making intention whilst participat-
ing in general commercial activity,

35. “onshore wind energy installation” shall mean every installation to generate electricity from
wind energy which is not an offshore wind energy installation,

36. “offshore wind energy installation” shall mean every installation to generate electricity from
wind energy which has been erected at sea at a distance of at least three nautical miles measured
seaward from the coastline; the coastline shall be taken to be the coastline depicted in
Map Number 2920 German North Sea Coast and Adjacent Waters, 1994 edition, XII., and in Map
Number 2921 German Baltic Coast and Adjacent Waters, 1994 edition, XII. of the Federal Mar-
time and Hydrographic Agency, scale of 1 : 375,000,2

37. “residential building” shall mean every building which is predominantly intended for residential
purposes, including hostels, old-people’s homes, nursing homes and similar buildings.

Section 6

Register of installations

(1) The Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway
(Federal Network Agency) shall establish and maintain a list in which installations are to be regis-
tered (register of installations). The register of installations shall collect and provide the data re-
quired to

1. promote the integration of electricity from renewable energy sources and mine gas into the elec-
tricity supply system,

2. review the principles pursuant to Section 2 subsection 1 to 3 and the development corridor pur-
suant to Section 3,

3. implement the gradual reduction in support pursuant to Sections 28, 29 and 31,

4. facilitate the nationwide balancing of the electricity which has been purchased and the financial
support, and

5. facilitate the meeting of national, European and international reporting requirements on the de-
velopment of renewable energy sources.

(2) Installation operators must in particular transmit the following to the register of installa-
tions:

1. data on their identity and their contact data,

2. the location of the installation,

3. the energy source used to generate the electricity,

4. the installed capacity of the installation,

5. confirmation of whether financial support is to be claimed for the electricity generated in the in-
stallation.

(3) To make it easier to understand and follow the development of renewable energy sources,
the register of installations shall be made available to the public. To this end, the data of the regis-
tered installations, with the exception of the data pursuant to subsection 2 number 1, shall be pub-
lished on the website of the register of installations and updated at least once a month.

(4) Further details, including the transmission of further data and the delivery of the data stored
in the register of installations to grid system operators and third parties, shall be determined by an
ordinance pursuant to Section 93. An ordinance pursuant to Section 93 can also determine that the
tasks of the register of installations can be wholly or partially met by the total register of installa-
tions of the Federal Network Agency pursuant to Section 53b of the Energy Industry Act.

Section 7

Statutory obligations

(1) Grid system operators must not make the fulfilment of their obligations pursuant to this Act dependent on the conclusion of a contract.

(2) Without prejudice to Section 11 subsection 3 and 4, it is not permitted to depart from the provisions of this Act to the detriment of the installation operator or the grid system operator. This shall not apply to contractual agreements deviating from Sections 5 to 55, 70, 71, 80 and 100 and from ordinances enacted on the basis of this Act which

1. are the subject of a court settlement within the meaning of Section 794 subsection 1 number 1 of the Code of Civil Procedure,
2. correspond to the result of a procedure conducted by one of the parties to the procedure at the clearing house pursuant to Section 81 subsection 4 sentence 1 number 1 or
3. correspond to a decision by the Federal Network Agency pursuant to Section 85.

Part 2
Connection, purchase, transmission and distribution

Division 1
General Provisions

Section 8
Connection

(1) Grid system operators must connect installations to generate electricity from renewable energy sources and from mine gas without delay and as a priority to the place in their grid system which is appropriate in terms of the voltage level and which is the shortest linear distance to the site of the installation if this or a different grid system does not have a technically and economically more suitable connection point; when the question of which is the economically more suitable connection point is examined, consideration must be given to the costs deriving directly from the grid system connection. In the case of one or several installations with a total maximum installed capacity of 30 kilowatts which are located on a plot of land with an existing connection to the grid system, the point of connection of the plot of land with the grid system shall be deemed the most suitable connection point.

(2) Installation operators may select a different connection point of this or a different grid system which is appropriate in terms of the voltage level unless the additional costs resulting from this for the grid system operator are not inconsiderable.

(3) In derogation of subsections 1 and 2, the grid system operator may assign a different connection point to the installation unless the purchase of the electricity from the relevant installation pursuant to Section 11 subsection 1 would not be ensured at this connection point.

(4) The duty to provide a connection to the grid system still applies if the purchase of the electricity is only possible following optimisation, strengthening or development of the grid system pursuant to Section 12.

(5) Grid system operators must transmit to those wishing to feed in electricity a precise timetable for the processing of the request to connect to the grid system without delay following receipt of a request to connect to the grid system. This timetable must state

1. the procedural steps in which the request to connect to the grid system will be processed and
2. what information the parties wishing to feed in electricity must transmit from their field of responsibility to the grid system operators so that the grid system operators can determine the point of connection or can conduct their planning pursuant to Section 12.

(6) Grid system operators must transmit the following to parties wishing to feed in electricity following receipt of the necessary information, but at the latest within eight weeks:
1. a timetable for the establishment without delay of the connection to the grid system containing all the necessary procedural steps,
2. all the information needed by parties wishing to feed in electricity to test the connection point, and on application the grid system data required for a system compatibility check,
3. a comprehensible and detailed advance estimate of the costs incurred by the installation operators due to the connection to the grid system; this cost estimate shall include only the costs resulting from the technical provision of the connection to the grid system, and in particular shall not include the costs of obtaining permission to use third-party real estate for the laying of the line to the connection to the grid system,
4. the information required to meet the obligations pursuant to Section 9 subsections 1 and 2. This shall still be without prejudice to the right of the installation operator pursuant to Section 10 subsection 1 if the grid system operator has transmitted the cost estimate pursuant to sentence 1 number 3.

Section 9

Technical requirements

(1) Installation operators and operators of CHP installations must equip their installations which have an installed capacity of more than 100 kilowatts with technical devices which the grid system operator can use at all times
1. to reduce the feed-in by remote control in the event of grid system overload and
2. to call up the current level of feed-in.

The obligation pursuant to sentence 1 shall also be deemed to be met if several installations which use the same type of renewable energy sources and which are connected to the grid system via the same connection point are equipped with a shared technical device which the grid system operator can use at all times
1. to reduce the entire feed-in by remote control in the event of grid system overload and
2. to call up the current level of total feed-in.

(2) Operators of installations to generate electricity from solar radiation energy
1. with an installed capacity of more than 30 kilowatts and a maximum of 100 kilowatts must meet the obligation pursuant to subsection 1 sentence 1 number 1 or subsection 1 sentence 2 number 1,
2. with a total maximum installed capacity of 30 kilowatts must
   a) meet the obligation pursuant to subsection 1 sentence 1 number 1 or subsection 1 sentence 2 number 1 or
   b) limit the maximum effective capacity fed in at the point of connection of their installation with the grid system to 70 percent of the installed capacity.

(3) Several installations to generate electricity from solar radiation energy shall, irrespective of the ownership situation and solely for the purpose of determining the installed capacity within the meaning of subsections 1 and 2, be regarded as one installation if
1. they are located on the same plot of land or building and
2. they have commenced operations within twelve consecutive calendar months.

If an obligation for an installation operator pursuant to subsection 1 or 2 only arises due to the additional construction of installations by another installation operator, it can require the latter to reimburse him for the costs incurred.

(4) As long as a grid system operator does not transmit the information pursuant to Section 8 subsection 6 sentence 1 number 4, the legal consequences cited in subsection 7 in the case of violations of subsection 1 or 2 shall not apply if
1. the installation operators or the operators of CHP installations have requested grid system operator in writing or electronically to transmit the necessary information pursuant to Section 8 subsection 6 sentence 1 number 4 and
2. the installations are equipped with technical devices which are suited to switch the installations on and off and to process a communication signal of a reception device.

(5) Operators of installations to generate electricity from biogas must ensure that when the biogas is generated
1. a new digestate storage facility to be constructed at the site of biogas generation is gas-tight,
2. the hydraulic retention time in the gas-tight new system which is connected to a gas consumption device pursuant to number 1 amounts to at least 150 days and
3. additional gas consumption devices are used to avoid a release of biogas.
Sentence 1 number 1 and 2 shall not be applied if only manure is used to generate the biogas. Sentence 1 number 2 shall furthermore not be applied if the entitlement pursuant to Section 19 in conjunction with Section 45 is claimed.

(6) Operators of onshore wind energy installations which are commissioned before 1 January 2017 must ensure that the requirements of the System Services Ordinance are met at the point of connection of their installation with the grid system.

(7) In the case of installations for whose electricity generation there is basically an entitlement to financial support pursuant to Section 19, the legal consequences of violations of subsections 1, 2, 5 or 6 shall be oriented to Section 25 subsection 2 number 1. In the case of the other installations, the installation operators’ entitlement to priority purchase, transmission and distribution pursuant to Section 11 shall not apply for the duration of violation of subsections 1, 2, 5 or 6; operators of CHP installations shall in this case forfeit their entitlement to payment of a supplement pursuant to Section 4 subsection 3 of the CHP Act or, where this does not pertain, their entitlement to priority access to the grid system pursuant to Section 4 subsection 4 of the CHP Act.

(8) This shall be without prejudice to the obligations and requirements pursuant to Sections 21c, 21d and 21e of the Energy Industry Act and the ordinances enacted on the basis of Section 21i subsection 1 of the Energy Industry Act.

Section 10

Establishment and use of the connection

(1) Installation operators may have the connection of the installations and the installation and operation of the metering devices including the metering undertaken by the grid system operator or a qualified third party. The provisions of Sections 21b to 21h of the Energy Industry Act and the ordinances enacted on the basis of Section 21i of the Energy Industry Act shall apply to the operation of the metering stations and the metering.

(2) The establishment of the connection and the other devices required for the safety of the grid system must correspond to the individually necessary technical requirements of the grid system operator and Section 49 of the Energy Industry Act.

(3) When electricity from renewable energy sources or mine gas is fed in, Section 18 subsection 2 of the Low Voltage Connection Ordinance shall be applied mutatis mutandis in favour of the installation operator.

Section 11

Purchase, transmission and distribution

(1) Subject to Section 14, grid system operators must purchase, transmit and distribute physically, without delay and as a priority, all electricity from renewable energy sources or from mine gas which is sold in a form of sale pursuant to Section 20 subsection 1. If the installation operator claims the entitlement pursuant to Section 19 in conjunction with Section 37 or Section 38, the obligation under sentence 1 shall also include the commercial purchase. The obligations pursuant to sentences 1 and 2 and the obligations pursuant to Section 4 subsection 1 sentence 1 and subsection 4 sentence 2 of the CHP Act shall apply pari passu.
(2) Subsection 1 shall be applied *mutatis mutandis* if the installation is connected to the grid system of the installation operator or a third party who is not a grid system operator and the electricity is offered to a grid system for commercial and accounting purposes.

(3) The obligations pursuant to subsection 1 shall not pertain where the installation operators or direct sellers and grid system operators exceptionally agree by contract and without prejudice to Section 15 to deviate by way of exception from the priority purchase with a view to a better integration of the installation into the grid system. When contractual agreements pursuant to sentence 1 are applied, it must be ensured that appropriate consideration is given to the priority granted to electricity from renewable energy sources and that, overall, the largest possible quantity of electricity from renewable energy sources is purchased.

(4) The obligations pursuant to subsection 1 shall also not apply to the extent permitted by the Equalisation Scheme Ordinance.

(5) In the relationship to the grid system operator which is not a transmission system operator purchasing the electricity, the obligations to purchase, transmit and distribute as a priority shall refer to
1. the upstream transmission system operator,
2. the nearest domestic transmission system operator if no domestic transmission system is operated in the system area of the grid system operator entitled to impose the levy, or
3. any other grid system operator, particularly in the case of delivery of the electricity pursuant to subsection 2.

**Division 2**

**Capacity expansion and feed-in management**

**Section 12**

**Expansion of grid system capacity**

(1) At the request of parties wishing to feed in electricity, grid system operators must optimise, strengthen and expand their grid systems without delay in accordance with the best available technology in order to ensure the purchase, transmission and distribution of the electricity from renewable energy sources or mine gas. This entitlement shall also pertain with regard to the operators of upstream grid systems of up to 110 kilovolts to which the installation is not directly connected if this is necessary in order to ensure the purchase, transmission and distribution of the electricity.

(2) The obligation shall cover all technical devices necessary for the operation of the grid system and the connection installations owned by the grid system operator or transferring to his ownership.

(3) The grid system operator shall not have to optimise, strengthen and expand his grid system to the extent that this is economically unreasonable.

(4) This shall be without prejudice to the obligations pursuant to Section 4 subsection 1 of the CHP Act and pursuant to Section 12 subsection 3 of the Energy Industry Act.

**Section 13**

**Compensation**

(1) If the grid system operator violates his obligation under Section 12 subsection 1, parties wishing to feed in electricity can demand compensation for the damage caused by this. The obligation to pay compensation shall not pertain if the grid system operator is not responsible for the violation of the obligation.

(2) If there are facts that substantiate the assumption that the grid system operator has failed to fulfil his obligation under Section 12 subsection 1, installation operators can demand information from the grid system operator about whether and the extent to which the grid system operator has optimised, strengthened and expanded the grid system.
Section 14

Feed-in management

(1) Without prejudice to their obligation pursuant to Section 12, grid system operators may exceptionally assume technical control over installations and CHP installations which are directly or indirectly connected to the grid system and which are equipped with a device for remotely controlled output reduction in the event of grid system overload within the meaning of Section 9 subsection 1 sentence 1 number 1, sentence 2 number 1 or subsection 2 number 1 or 2 letter a, to the extent that

1. otherwise there would be a grid system bottleneck in the respective grid system area including the upstream grid system,
2. priority for electricity from renewable energy sources, mine gas and CHP is maintained to the extent that other power generators do not have to remain on the grid system in order to ensure the security and reliability of the electricity supply system, and
3. they have called up the available data on the current level of feed-in in the respective grid system region.

When technical control is assumed of the installations pursuant to sentence 1, control of installations within the meaning of Section 9 subsection 2 must be assumed subordinately to the other installations. Apart from this, the grid system operators must ensure that overall the largest possible quantity of electricity from renewable energy sources and CHP is purchased.

(2) Grid system operators must inform operators of installations pursuant to Section 9 subsection 1 at the latest on the day before, otherwise without delay, of the expected point in time, scope and duration of the assumption of technical control to the extent that the execution of the measure is predictable.

(3) Grid system operators must inform the parties affected by measures pursuant to subsection 1 without delay of the actual points in time, the scope, duration and the reasons for the assumption of technical control and on request present within four weeks proof of the need for the measure. The proof must enable a qualified third party to fully understand the need for the measure without further information; to this end, in the case of a request pursuant to the last half-sentence of sentence 1, in particular the data collected pursuant to subsection 1 sentence 1 number 3 must be presented. In derogation of sentence 1, the grid system operators can inform operators of installations pursuant to Section 9 subsection 2 in conjunction with subsection 3 just once a year about the measures pursuant to subsection 1 as long as the total duration of these measures has not exceeded 15 hours per installation in the calendar year; this information must be provided by 31 January of the following year. This shall be without prejudice to Section 13 subsection 5 sentence 3 of the Energy Industry Act.

Section 15

Hardship clause

(1) If the feed-in of electricity from an installation to generate electricity from renewable energy sources, mine gas or CHP is reduced due to a grid system bottleneck within the meaning of Section 14 subsection 1, the grid system operator to whose grid system the installation is connected must compensate the operators affected by the measure in derogation of Section 13 subsection 4 of the Energy Industry Act for 95 percent of the lost revenues plus the additional expenses and minus the saved expenses. If the lost revenues pursuant to sentence 1 in a year exceed 1 percent of the revenues of that year, the operators affected by the assumption of technical control are to be given 100 percent compensation from that point in time. The grid system operator in whose grid system the cause for the assumption of technical control pursuant to Section 14 exists must reimburse the grid system operator to whose grid system the installation is connected with the costs of the compensation.

(2) The grid system operator can include the costs pursuant to subsection 1 when determining the grid system fees to the extent that the measure was necessary and the grid system operator was not responsible for causing it. The grid system operator shall be deemed responsible for causing it in particular if it has not exhausted all the possibilities to optimise, strengthen and expand the grid system.

(3) This shall be without prejudice to claims of installation operators for compensation.
Division 3
Costs

Section 16
Grid system connection

(1) The necessary costs of the connection of installations to generate electricity from renewable energy sources or from mine gas to the connection point pursuant to Section 8 subsection 1 or 2 and the necessary metering devices to record the electricity supplied and received shall be borne by the installation operator.

(2) If the grid system operator assigns a different connection point to the installations pursuant to Section 8 subsection 3, it must bear the resulting additional costs.

Section 17
Capacity expansion

The grid system operator shall bear the costs of optimising, strengthening and expanding the grid system.

Section 18
Contractual agreement

(1) As a consequence of the agreement pursuant to Section 11 subsection 3, grid system operators can factor incurred and proven costs into the determining of the grid system fee to the extent that the costs are economically reasonable in terms of Section 1 or Section 2 subsection 1.

(2) The costs shall be subject to an examination of efficiency by the regulatory authority in line with the provisions of the Energy Industry Act.

Part 3
Financial support

Division 1
General provisions on support

Section 19
Entitlement to support for electricity

(1) Operators of installations in which only renewable energy sources or mine gas are used have an entitlement to claim from the grid system operator for the electricity generated in these installations

1. the market premium pursuant to Section 34 if they sell the electricity directly and give the grid system operator the right to label this electricity “electricity from renewable energy sources or from mine gas” (supported direct selling), or

2. the feed-in tariff pursuant to Section 37 or Section 38 if they make the electricity available to the grid system operator and to the extent that this is exceptionally permitted in derogation of Section 2 subsection 2.

(2) Appropriate advance payments are to be made towards the expected payments pursuant to subsection 1 on the 15th calendar day of each month for the preceding month.
(3) The entitlement pursuant to subsection 1 will not be due and the entitlement to monthly advance payments pursuant to subsection 2 will be lost as long as installation operators have not met their obligations to transmit data for the relevant preceding year pursuant to Section 71.

(4) The entitlement pursuant to subsection 1 shall remain in place if the electricity has been placed in temporary storage before being fed into the grid system. In this case, the entitlement shall refer to the quantity of electricity which is fed from the temporary storage into the grid system. The level of the support shall be determined by the level of the financial support which the grid system operator would have to pay pursuant to subsection 1 if the electricity were fed into the grid system without temporary storage. The entitlement pursuant to subsection 1 shall also apply in the case of mixed use of renewable energy sources and storage gases.

Section 20

**Switch between forms of sale**

(1) Installation operators may switch each installation between the following forms of sale, on the first calendar day of a month only:
   1. supported direct selling,
   2. other direct selling,
   3. feed-in tariff pursuant to Section 37 and
   4. feed-in tariff pursuant to Section 38.

(2) Installation operators may divide up the electricity generated in their installations into percentages for different forms of sale pursuant to subsection 1 number 1, 2 or 3. In this case, they must furnish proof of the compliance with the percentages at all times.

(3) Without prejudice to subsection 1, installation operators may at any time
   1. switch their direct seller or
   2. sell the electricity fully or partially to third parties as long as the latter consume the electricity in immediate proximity to the installation and the electricity is not fed through a grid system.

Section 21

**Procedure for the switch**

(1) Installation operators must inform the grid system operator of a switch between the forms of sale pursuant to Section 20 subsection 1 before the beginning of the preceding calendar month. In derogation of sentence 1, if they switch into or out of the form of sale pursuant to Section 20 subsection 1 number 4, they can inform the grid system operator of a switch up to the fifth-last working day of the preceding month.

(2) In the case of the communications pursuant to subsection 1, the installation operators must also cite:
   1. the form of sale pursuant to Section 20 subsection 1 to which the switch is taking place,
   2. in the case of a switch to direct selling pursuant to Section 20 subsection 1 number 1 or 2 the balancing group to which the directly sold electricity is to be allocated, and
   3. in the case of a percentage breakdown of the electricity between different forms of sale pursuant to Section 20 subsection 2 the percentages to which the electricity is allocated to the forms of sale.

(3) To the extent that the Federal Network Agency has made a stipulation pursuant to Section 85 subsection 3 number 3, installation operators must use the stipulated procedure and format for the transmission of communications pursuant to subsections 1 and 2.

Section 22

**Commencement and duration of support**
The financial support must in each case be paid for the duration of 20 calendar years plus the year of commissioning of the installation. The commencement of the period pursuant to sentence 1 shall be the date of the commissioning of the installation unless the following provisions state otherwise.

Section 23
Calculation of the support

(1) The level of the entitlement to financial support is determined by the values to be used as a calculation basis for electricity from renewable energy sources or from mine gas. The value to be used is the amount to be used for the determining of the market premium or the feed-in tariff for electricity from renewable energy sources or from mine gas pursuant to Sections 40 to 51 or 55 in cents per kilowatt-hour.

(2) The level of the values to be used for electricity which is supported in line with the rated capacity or the installed capacity of the installation shall be determined
1. in the case of financial support for electricity from solar radiation energy in each case proportionately in line with the installed capacity of the installation in relation to the respective threshold value to be applied and
2. in the case of financial support in all other cases in each case proportionately in line with the rated capacity of the installation.

(3) Turnover tax is not included in the values to be applied.

(4) The level of the entitlement to financial support shall be reduced
1. in accordance with Section 24 in the case of negative prices,
2. in accordance with Sections 25, 47 subsection 4 or number 1.5 of Annex 3 in the case of a violation of a provision of this Act,
3. in accordance with Sections 26 to 31 due to the degressive shape of the financial support,
4. in accordance with Section 37 subsection 3 or Section 38 subsection 2 where feed-in tariff is claimed,
5. in accordance with Section 47 subsection 1 sentence 2 for the proportion cited there of the quantity of electricity from biogas generated in a calendar year or
6. in accordance with Section 55 subsection 3 for electricity from ground-mounted installations.

Section 24
Reduction of the support in the case of negative prices

(1) If the value of the hourly contracts for the Germany/Austria price zone on the spot market of the EPEX Spot SE electricity exchange in Paris is negative in at least six consecutive hours, the value to be applied pursuant to Section 23 subsection 1 sentence 2 shall be reduced to zero for the entire period in which the hourly contracts are negative without interruption.

(2) If the electricity is sold with the feed-in tariff pursuant to Section 38 in a calendar month in which the preconditions pursuant to subsection 1 are fulfilled at least once, the installation operator must inform the grid system operator of the quantity of electricity which it fed in in the period in which the hourly contracts were negative without interruption when transmitting the data pursuant to Section 71 number 1; otherwise the entitlement pursuant to Section 38 shall be reduced in this calendar month by 5 percent for each calendar day in which this period wholly or partly lies.

(3) Subsections 1 and 2 shall not be applied to
1. Installations which are commissioned before 1 January 2016,
2. wind energy installations with an installed capacity of less than 3 megawatts or other installations with an installed capacity of less than 500 kilowatts, whereby in each case Section 32 subsection 1 sentence 1 shall be applied mutatis mutandis,
3. demonstration projects.
Section 25

Reduction of the support in the case of violations of obligations

(1) The value to be applied pursuant to Section 23 subsection 1 sentence 2 shall be reduced to zero
1. as long as installation operators have not transmitted the data required to register the installation in line with the ordinance pursuant to Section 93,
2. as long as and to the extent that operators of an installation registered in line with the ordinance pursuant to Section 93 have not transmitted an increase in the installed capacity of the installation in line with the ordinance pursuant to Section 93,
3. if installation operators violate Section 20 subsection 2 sentence 2,
4. as long as the proof pursuant to Section 100 subsection 2 sentence 3 has not been provided in the case of installations pursuant to Section 100 subsection 2 sentence 2.
Sentence 1 number 3 shall apply until the end of the third calendar month following the end of the violation of Section 20 subsection 2 sentence 2.

(2) The value to be applied pursuant to Section 23 subsection 1 sentence 2 shall be reduced to the monthly market value
1. as long as installation operators violate Section 9 subsection 1, 2, 5 or 6,
2. if installation operators have not transmitted to the grid system operator the switch between the different forms of sale pursuant to Section 20 subsection 1 in line with Section 21,
3. if the electricity is billed with electricity from at least one other installation via a joint metering device and
   a) not all the electricity billed via this metering device is directly sold or
   b) feed-in tariff is not claimed for all the electricity billed via this metering device,
4. as long as installation operators which make the electricity generated in the installation available to the grid system operator pursuant to Section 19 subsection 1 number 2 violate Section 39 subsection 2, but at least for the duration of the entire calendar month in which such a violation has taken place,
5. if installation operators violate the obligations regulated in Section 80,
6. to the extent that the construction or operation of the installation serves to fulfil the role-model function of public buildings on the basis of Land legislation pursuant to Section 3 subsection 4 number 1 of the Renewable Energies Heat Act and if the installation is not a CHP installation.

In the case of sentence 1 number 2 or number 3 the reduction shall apply until the end of the calendar month which follows the cessation of the violation of the obligation, and in the case of sentence 1 number 5 for the duration of the violation plus the following six calendar months.

Section 26

General provisions on the gradual reduction of the support

(1) Without prejudice to Sections 100 and 101, the values to be applied shall form the basis for the calculation of the financial support
1. for electricity from installations to generate electricity from solar radiation energy which are commissioned before 1 September 2014,
2. for electricity from installations to generate electricity from geothermal energy and for electricity from offshore wind energy installations which are commissioned before 1 January 2018, and
3. for electricity from other installations which are commissioned before 1 January 2016.
They shall also be used as the basis for the calculation of the financial support for electricity from installations which are commissioned from the points in time cited in sentence 1 provided that the values to be applied are reduced in line with Sections 27 to 31, 37 subsection 3 and Section 38 subsection 2 sentence 1. The values to be applied which are calculated at the point of time of commissioning shall be applied for the entire period of support pursuant to Section 22.
The publications required for the application of Sections 28, 29, 31 and number I.5 of Annex 3, including the publication of the values in force to be applied pursuant to Sections 28, 29 and 31, shall be regulated by the ordinance pursuant to Section 93, and it shall be necessary to publish the following for each calendar month by the end of the following month in line with this ordinance:

1. for installations to generate electricity from biomass:
   a) the total of the installed capacity of the installations which have been registered as being commissioned in this period (gross new-build),
   b) the total of the installed capacity which is commissioned for the first time after 31 July 2014 in installations which were commissioned before 1 August 2014,

2. for onshore wind energy:
   a) the total of the installed capacity of the installations which have been registered as being commissioned in this period,
   b) the total of the installed capacity of the installations which have been registered as being finally decommissioned in this period, and
   c) the difference between the figures pursuant to letters a and b (net new-build),

3. for installations to generate electricity from solar radiation energy the total of the installed capacity of the installations which have been registered as being commissioned in this period (gross new-build).

(3) The values to be applied are rounded to two places after the decimal point following the calculation pursuant to subsection 1 in conjunction with Sections 27 to 31. For the calculation of the level of the values to be applied on the basis of a renewed adjustment pursuant to subsection 1 in conjunction with Sections 27 to 31, the unrounded values of the previous adjustment are to be used as a basis.

Section 27

Gradual reduction of the support for electricity from hydropower, landfill gas, sewage treatment gas, mine gas and geothermal energy

(1) The values to be applied shall be reduced annually on 1 January from 2016 for electricity from
1. hydropower pursuant to Section 40 by 0.5 percent,
2. landfill gas pursuant to Section 41 by 1.5 percent,
3. sewage treatment gas pursuant to Section 42 by 1.5 percent and
4. mine gas pursuant to Section 43 by 1.5 percent.

(2) The values to be applied for electricity from geothermal energy are reduced annually on 1 January from 2018 by 5.0 percent.

Section 28

Gradual reduction of the support for electricity from biomass

(1) The gross new-build of installations to generate electricity from biomass should not amount to more than 100 megawatts of installed capacity a year.

(2) The values to be applied pursuant to Sections 44 to 46 shall be reduced from 2016 on each 1 January, 1 April, 1 July and 1 October of a year by 0.5 percent compared with the values to be applied in the preceding three calendar months.

(3) The gradual reduction pursuant to subsection 2 shall rise to 1.27 percent if the gross new-build of installations to generate electricity from biomass published pursuant to Section 26 subsection 2 number 1 letter a exceeds the target pursuant to subsection 1 in the entire reference period pursuant to subsection 4.
Section 29

**Gradual reduction of the support for electricity from onshore wind energy**

(1) The target corridor for the net new-build of onshore wind energy installations shall amount to 2,400 to 2,600 megawatts per year.

(2) The values to be applied pursuant to Section 49 shall be reduced from 2016 on each 1 January, 1 April, 1 July and 1 October of a year by 0.4 percent compared with the values to be applied in the preceding three calendar months.

(3) The gradual reduction of the values to be applied pursuant to subsection 2 shall rise if the net new-build of onshore wind energy installations published pursuant to Section 26 subsection 2 number 2 letter c exceeds the target corridor pursuant to subsection 1 in the entire reference period pursuant to subsection 6
   1. by up to 200 megawatts: to 0.5 percent,
   2. by more than 200 megawatts: to 0.6 percent,
   3. by more than 400 megawatts: to 0.8 percent,
   4. by more than 600 megawatts: to 1.0 percent or
   5. by more than 800 megawatts: to 1.2 percent.

(4) The gradual reduction of the values to be applied pursuant to subsection 2 shall shrink if the net new-build of onshore wind energy installations published pursuant to Section 26 subsection 2 number 2 letter c falls below the target corridor pursuant to subsection 1 in the entire reference period pursuant to subsection 6
   1. by up to 200 megawatts: to 0.3 percent,
   2. by more than 200 megawatts: to 0.2 percent or
   3. by more than 400 megawatts: to zero.

(5) The gradual reduction of the values to be applied pursuant to subsection 2 shall shrink to zero and the values to be applied pursuant to Section 49 shall rise compared with the values to be applied in the preceding three calendar months if the net new-build of onshore wind energy installations published pursuant to Section 26 subsection 2 number 2 letter c falls below the target corridor pursuant to subsection 1 in the entire reference period pursuant to subsection 6
   1. by more than 600 megawatts: to 0.2 percent or
   2. by more than 800 megawatts: to 0.4 percent.

(6) The reference period shall be the period following the last calendar day of the eighteenth month and before the first calendar day of the fifth month preceding a point in time pursuant to subsection 2.

Section 30

**Gradual reduction of the support for electricity from offshore wind energy**

(1) The values to be applied shall be reduced for electricity from offshore wind energy
   1. pursuant to Section 50 subsection 2
      a) by 0.5 cents per kilowatt-hour from 1 January 2018,
      b) by 1.0 cent per kilowatt-hour from 1 January 2020,
      c) by 0.5 cents per kilowatt-hour each year on 1 January from 2021,
   2. pursuant to Section 50 subsection 3 by 1.0 cent per kilowatt-hour from 1 January 2018.

(2) For the application of subsection 1, in derogation of Section 26 subsection 1 sentence 2 and 3, the point in time of the readiness for operation of the offshore wind energy installation pursuant to
Section 17e subsection 2 sentence 1 and 4 of the Energy Industry Act shall pertain if the grid system connection has not been completed by the binding completion date pursuant to Section 17d subsection 2 sentence 5 of the Energy Industry Act.

Section 31

Gradual reduction of the support for electricity from solar radiation energy

(1) The target corridor for the gross new-build of installations to generate electricity from solar radiation energy shall amount to 2,400 to 2,600 megawatts per year.

(2) The values to be applied pursuant to Section 51 shall be reduced from 1 September 2014 each month on the first calendar day of a month by 0.5 percent compared with the values to be applied in the preceding calendar month. The monthly gradual reduction pursuant to sentence 1 shall rise or fall on each 1 January, 1 April, 1 July and 1 October of a year in line with subsections 3 and 4.

(3) The monthly gradual reduction of the values to be applied pursuant to subsection 2 sentence 2 shall rise if the gross new-build of installations to generate electricity from solar radiation energy published pursuant to Section 26 subsection 2 number 3 exceeds the target corridor pursuant to subsection 1 in the entire reference period pursuant to subsection 5

1. by up to 900 megawatts: to 1.00 percent,
2. by more than 900 megawatts: to 1.40 percent,
3. by more than 1,900 megawatts: to 1.80 percent,
4. by more than 2,900 megawatts: to 2.20 percent,
5. by more than 3,900 megawatts: to 2.50 percent or
6. by more than 4,900 megawatts: to 2.80 percent.

(4) The monthly gradual reduction of the values to be applied pursuant to subsection 2 sentence 2 shall shrink if the gross new-build of installations to generate electricity from solar radiation energy published pursuant to Section 26 subsection 2 number 3 exceeds the target corridor pursuant to subsection 1 in the entire reference period pursuant to subsection 5

1. by up to 900 megawatts: to 0.25 percent,
2. by more than 900 megawatts: to zero or
3. by more than 1,400 megawatts, to zero; the values to be applied pursuant to Section 51 shall rise on a one-off basis by 1.50 percent on the first calendar day of the respective quarter.

(5) The reference period shall be the period following the last calendar day of the fourteenth month and before the first calendar day of the last month preceding a point in time pursuant to subsection 2.

(6) When the total of the installed capacity of supported installations to generate electricity from solar radiation energy exceeds the value of 52,000 megawatts for the first time, the values to be applied pursuant to Section 51 shall shrink to zero on the first calendar day of the second calendar month following the exceeding of the value. Supported installations shall be all installations to generate electricity from solar radiation energy

1. which have been registered as a supported installation in line with the ordinance pursuant to Section 93,
2. for which the location and the installed capacity has been transmitted to the Federal Network Agency pursuant to Section 16 subsection 2 sentence 2 of the Renewable Energy Sources Act in the version in force on 31 December 2011, pursuant to Section 17 subsection 2 number 1 letter a of the Renewable Energy Sources Act in the version in force on 31 March 2012 or pursuant to Section 17 subsection 2 number 1 letter a of the Renewable Energy Sources Act in the version in force on 31 July 2014 or
3. which were commissioned before 1 January 2010; the total of the installed capacity shall be estimated by the Federal Network Agency taking into consideration the reports in its photovoltaic reporting portal and the data of the transmission system operators and the Federal Statistical Office.
Section 32  
**Support for electricity from several installations**

(1) Several installations shall, irrespective of the ownership situation and solely for the purpose of determining the entitlement pursuant to Section 19 for the most recently commissioned generator, be regarded as one installation if

1. they are located on the same plot of land or are otherwise in the immediate vicinity,
2. they generate electricity from the same type of renewable energy sources,
3. the electricity generated in them pursuant to the provisions of this Act is given financial support in line with the rated capacity or the installed capacity of the installation and
4. they have commenced operations within twelve consecutive calendar months.

In derogation of sentence 1, several installations shall, irrespective of the ownership situation and solely for the purpose of determining the entitlement pursuant to Section 19 for the most recently commissioned generator, be deemed equivalent to one installation if they generate electricity from biogas with the exception of biomethane and the biogas derives from the same biogas-generating installation.

(2) Without prejudice to subsection 1 sentence 1, several installations pursuant to section 51 subsection 1 number 2 and 3 shall, irrespective of the ownership situation and solely for the purpose of determining the entitlement pursuant to Section 19 for the most recently commissioned generator, be deemed equivalent to one installation if

1. they have been erected inside the same municipality which is responsible for adopting the local area plan and
2. they have been commissioned within 24 consecutive calendar months at a linear distance of up to 2 kilometres, measured from the further edge of the respective installation.

(3) Installation operators can invoice electricity from several installations which use the same type of renewable energy sources or mine gas via a joint metering device. In this case, the installed capacity of each individual installation shall determine the calculation of the support subject to subsection 1.

(4) If electricity from several wind energy installations is invoiced via a joint metering device, in derogation of subsection 3 the allocation of the quantities of electricity to the wind energy installations shall be undertaken in relationship to the respective reference yield.

Section 33  
**Offsetting**

(1) The offsetting of entitlements of the installation operator pursuant to Section 19 against a claim by the grid system operator shall only be permissible to the extent that the claim is undisputed or has been determined in a final and binding judgement.

(2) The prohibition of offsetting contained in Section 23 subsection 3 of the Low Voltage Connection Ordinance shall not apply to the extent that entitlements deriving from this Act are offset.

**Division 2**  
**Supported direct selling**

Section 34  
**Market premium**

(1) Installation operators can demand a market premium from the grid system operator for electricity from renewable energy sources or from mine gas which they sell directly pursuant to Section 20 subsection 1 number 1 and which is actually fed in and which is purchased by a third party.
(2) The amount of the market premium shall be calculated for each calendar month. The calculation shall take place retrospectively on the basis of the values for the respective calendar month pursuant to Annex 1.

Section 35

Preconditions for the market premium

The entitlement to payment of the market premium shall exist only if

1. no avoided grid system fee pursuant to Section 18 subsection 1 sentence 1 of the Electricity Grid Fee Ordinance is claimed for the electricity,
2. the electricity is generated in an installation which can be remotely controlled within the meaning of Section 36 subsection 1 and
3. the electricity is balanced in a balancing or subbalancing group in which only the following electricity is balanced:
   a) electricity from renewable energy sources or from mine gas which is sold directly in the form of sale of Section 20 subsection 1 number 1, or
   b) electricity which is not covered by letter a and the inclusion of which in the balancing or subbalancing group is not the responsibility of the installation operator or the direct seller.

The precondition pursuant to sentence 1 number 2 does not have to be met before the commencement of the second calendar month following the commissioning of the installation.

Section 36

Remote controllability

(1) Installations shall be remotely controllable within the meaning of Section 35 sentence 1 number 2 if the installation operators

1. maintain the technical devices required for a direct seller or another person to whom the electricity is sold to be able at all times
   a) to call up the current level of feed-in and
   b) to reduce the feed-in by remote control, and
2. to grant to the direct seller or the other person to whom the electricity is sold the authority at all times
   a) to call up the current level of feed-in and
   b) to reduce the feed-in quantity by remote control to an extent which is necessary for a needs-based feed-in of the electricity and which is not proven to be excluded under the obligations imposed under licensing law.

Sentence 1 number 1 shall also be fulfilled if joint technical devices are maintained for several installations which are connected to the grid system via the same connection point, with which devices the direct seller or the other person can at any time call up the total current feed-in from the installations and reduce the total feed-in from the installations by remote control.

(2) For installations which pursuant to Section 21c of the Energy Industry Act are to be fitted with metering systems within the meaning of Section 21d of the Energy Industry Act which fulfil the requirements pursuant to Section 21e of the Energy Industry Act, the calling-up of the current feed-in and the remotely controlled reduction of the feed-in pursuant to subsection 1 must take place via the metering system; Section 21g of the Energy Industry Act must be observed. As long as the fitting of a metering system is not technically possible within the meaning of Section 21c subsection 2 of the Energy Industry Act, taking account of the relevant standards and recommendations of the Federal Office for Information Security transmission technologies and routes are admissible which are in accordance with the best available technology when the installation is commissioned; Section 21g of the Energy Industry Act must be observed. Sentence 2 shall be applied mutatis mutandis for installations where for other reasons there is no obligation to fit a metering system pursuant to Section 21c of the Energy Industry Act.
(3) The use of the technical devices pursuant to subsection 1 sentence 1 number 1 and the power given pursuant to subsection 1 sentence 1 number 2 to the direct seller or the other person must not restrict the right of the grid system operator to manage feed-in pursuant to Section 14.

Division 3
Feed-in tariff

Section 37
Feed-in tariff for small installations
(1) Installation operators can demand a feed-in tariff from the grid system operator for electricity from renewable energy sources or from mine gas which they provide to this grid system operator pursuant to Section 20 subsection 1 number 3.

(2) The entitlement to the feed-in tariff shall exist
1. for electricity from installations which are commissioned before 1 January 2016 and which have a total maximum installed capacity of 500 kilowatts, and
2. for electricity from installations which are commissioned after 31 December 2015 and which have a total maximum installed capacity of 100 kilowatts.

(3) The level of the feed-in tariff shall be calculated from the values to be applied and the Sections 20 to 32, whereby the following shall be deducted from the values to be applied before the gradual reduction pursuant to Sections 26 to 31:
1. 0.2 cents per kilowatt-hour for electricity within the meaning of Sections 40 to 48 and
2. 0.4 cents per kilowatt-hour for electricity within the meaning of Sections 49 to 51.

(4) Irrespective of the ownership situation and solely for the purpose of determining the installed capacity pursuant to subsection 2, Section 32 subsection 1 sentence 1 shall be applied mutatis mutandis

Section 38
Feed-in tariff in exceptional cases
(1) Installation operators can demand a feed-in tariff from the grid system operator for electricity from renewable energy sources or from mine gas which they provide to this grid system operator pursuant to Section 20 subsection 1 number 4.

(2) The level of the feed-in tariff shall be calculated from the values to be applied and the Sections 20 to 32, whereby the values to be applied following the gradual reduction pursuant to the Sections 26 to 31 shall be reduced by 20 percent from the value to be applied pursuant to Section 26 subsection 3 sentence 1. Section 26 subsection 3 sentence 1 shall be applied mutatis mutandis to the values determined pursuant to sentence 1.

Section 39
Common provisions for the feed-in tariff
(1) The entitlement to feed-in tariff shall exist only for electricity which is actually purchased by a grid system operator pursuant to Section 11.

(2) Installation operators which make electricity available to the grid system operator pursuant to Section 20 subsection 1 number 3 or number 4 must from this point in time and for this period make available to the grid system operator all of the electricity generated in this installation
1. for which there is basically an entitlement pursuant to Section 19,
2. which is not consumed in the immediate vicinity of the installation and
3. which is fed through a grid system.
They may not participate in the balancing energy market with this installation.

**Division 4**

Special provisions on support (sources)

**Section 40**

**Hydropower**

(1) For electricity from hydropower, the value to be applied shall be
1. 12.52 cents per kilowatt-hour up to and including a rated capacity of 500 kilowatts,
2. 8.25 cents per kilowatt-hour up to and including a rated capacity of 2 megawatts,
3. 6.31 cents per kilowatt-hour up to and including a rated capacity of 5 megawatts,
4. 5.54 cents per kilowatt-hour up to and including a rated capacity of 10 megawatts,
5. 5.34 cents per kilowatt-hour up to and including a rated capacity of 20 megawatts,
6. 4.28 cents per kilowatt-hour up to and including a rated capacity of 50 megawatts,
7. 3.50 cents per kilowatt-hour above a rated capacity of 50 megawatts.

(2) The entitlement to financial support shall also exist for electricity from installations which were commissioned before 1 January 2009 if after 31 July 2014 an increase in the capacity of the installation was undertaken via an upgrading measure permitted under water law. Sentence 1 shall not be applied to upgrading measures requiring a permit if the capacity was increased by at least 10 percent. The entitlement pursuant to sentence 1 or 2 shall exist from the completion of the measure for the duration of 20 years plus the remaining part of the year in which the upgrading measure was completed.

(3) For electricity from hydropower which is generated in installations pursuant to subsection 2 with an installed capacity of more than 5 megawatts, an entitlement to financial support shall exist only for the electricity which is to be allocated to the increased capacity pursuant to subsection 2 sentence 1 or 2. If the installation had an installed capacity of up to and including 5 megawatts before 1 August 2014, the electricity which corresponds to this part of the capacity shall be covered by the entitlement under the existing arrangement.

(4) The entitlement to financial support pursuant to subsection 1 shall only exist if the installation has been erected
1. in a spatial relationship to a wholly or partially existing dam installation or a dam installation which is primarily to be constructed for purposes other than the generation of electricity from hydropower or
2. without a complete transversal structure.

**Section 41**

**Landfill gas**

For electricity from landfill gas, the value to be applied shall be
1. 8.42 cents per kilowatt-hour up to and including a rated capacity of 500 kilowatts and
2. 5.83 cents per kilowatt-hour up to and including a rated capacity of 5 megawatts.

**Section 42**

**Sewage treatment gas**

For electricity from sewage treatment gas, the value to be applied shall be
1. 6.69 cents per kilowatt-hour up to and including a rated capacity of 500 kilowatts and
2. 5.83 cents per kilowatt-hour up to and including a rated capacity of 5 megawatts.
Section 43

Mine gas

(1) For electricity from mine gas, the value to be applied shall be
1. 6.74 cents per kilowatt-hour up to and including a rated capacity of 1 megawatt,
2. 4.30 cents per kilowatt-hour up to and including a rated capacity of 5 megawatts and
3. 3.80 cents per kilowatt-hour above a rated capacity of 5 megawatts.

(2) The entitlement pursuant to subsection 1 shall exist only if the mine gas derives from workings of active or decommissioned mining.

Section 44

Biomass

For electricity from biomass within the meaning of the Biomass Ordinance gas, the value to be applied shall be
1. 13.66 cents per kilowatt-hour up to and including a rated capacity of 150 kilowatts,
2. 11.78 cents per kilowatt-hour up to and including a rated capacity of 500 kilowatts,
3. 10.55 cents per kilowatt-hour up to and including a rated capacity of 5 megawatts and
4. 5.85 cents per kilowatt-hour up to and including a rated capacity of 20 megawatts.

Section 45

Fermentation of biowaste

(1) For electricity from installations using biogas which is gained from anaerobic fermentation of biomass within the meaning of the Biomass Ordinance with a proportion of separately collected biowaste within the meaning of waste key number 20 02 01, 20 03 01 and 20 03 02 of number 1 of Annex 1 of the Biowaste Ordinance in the respective calendar year of an average of at least 90 percent by mass, the value to be applied shall be
1. 15.26 cents per kilowatt-hour up to and including a rated capacity of 500 kilowatts and
2. 13.38 cents per kilowatt-hour up to and including a rated capacity of 20 megawatts.

(2) The entitlement to financial support shall exist only if the devices for the anaerobic fermentation of the biowaste are directly connected to a device for the post-rotting of the solid fermentation residues and the material of the post-rotted fermentation residues is recycled.

Section 46

Fermentation of manure

For electricity from installations using biogas which is gained from anaerobic fermentation of biomass within the meaning of the Biomass Ordinance, the value to be applied shall be 23.73 cents per kilowatt-hour if
1. the electricity is generated on the biogas-generating installation site,
2. the installed capacity at the site of the biogas-generating installation totals at most 75 kilowatts and
3. an average share of manure with the exception of poultry dung and dry poultry manure of at least 80 percent by mass is used to generate the biogas in the respective calendar year.

Section 47

Common provisions for electricity from biomass and gases

(1) For electricity which is generated in installations with an installed capacity of more than 100 kilowatts, the entitlement to financial support for electricity from biogas shall exist only for that part
of the quantity of electricity generated in a calendar year which corresponds to a rated capacity of the installation of 50 percent of the value of the installed capacity. For the share of the quantity of electricity generated in the calendar year which exceeds this, the entitlement to financial support in the form of sale pursuant to Section 20 subsection 1 number 1 shall be reduced to zero and in the forms of sale pursuant to Section 20 subsection 1 number 3 and 4 to the monthly market value.

(2) The entitlement to financial support for electricity from biomass shall furthermore exist only

1. if the installation operator keeps proof in the form of a copy of the feedstock diary containing data and documentation of the type, quantity, unit and origin of the feedstock showing what biomass and to what extent storage gas or mine gas is deployed,
2. to the extent in the case of installations in which biomethane is used, the electricity is generated from CHP, and
3. if liquid biomass is used in installations, for the share of electricity from liquid biomass which is needed for start-up, ignition and support fire; liquid biomass shall be biomass which is liquid at the time of entry into the combustion or firing chamber.

Vegetable oil methyl ester shall be regarded as biomass to the extent that it is necessary for start-up, ignition and support fire.

(3) For the entitlement to financial support for electricity from biomass pursuant to Sections 44, 45 or Section 46, it is necessary to furnish proof from the first calendar year which follows the first commissioning annually by 28 February for the preceding calendar year of:

1. the fulfilment of the preconditions pursuant to subsection 2 sentence 1 number 2 in accordance with recognised best available technology; compliance with recognised best available technology shall be assumed to exist if the requirements of Working Paper FW 308 published by the AGFW (Arbeitsgemeinschaft für Wärme und Heizkraftwirtschaft – AGFW – e.V.) entitled "Certification of CHP installations - determining the CHP electricity" in the latest version are met; the proof must be furnished by presenting an expertise of an environmental auditor with a licence for the field of electricity generation from renewable energy sources or for the field of heat supply; instead of proof pursuant to the first half-sentence, for mass-produced CHP installations with an installed capacity of up to 2 megawatts appropriate documentation from the manufacturer can be presented which shows the thermal and electrical output and the electricity coefficient,
2. the share of electricity from liquid biomass pursuant to subsection 2 sentence 1 number 3 by presenting a copy of the feedstock diary.

When first use is made of the entitlement pursuant to Section 19 in conjunction with Section 44 or Section 45, it shall also be necessary to furnish proof of the suitability of the installation to meet the preconditions within the meaning of sentence 1 number 1 by an expertise from an environmental auditor with a licence for the field of electricity generation from renewable energy sources or for the field of heat supply.

(4) The entitlement to financial support for electricity from biomass shall be reduced in the respective calendar year in total to the value “MW_{EPEX}” pursuant to number 2.1 of Annex 1 to this Act if fulfilment of the preconditions pursuant to subsection 3 is not proven.

(5) The entitlement to financial support for electricity from biomass pursuant to Section 45 or Section 46 cannot be combined with Section 44.

(6) Gas taken from a natural gas system shall be regarded respectively as landfill gas, sewage treatment gas, mine gas, biomethane or storage gas,

1. to the extent that the quantity of the gas taken corresponds to the heat equivalent at the end of a calendar year of the quantity of landfill gas, sewage treatment gas, mine gas, biomethane or storage gas which has been fed into the natural gas system at another place in the area of validity of this Act, and
2. if mass balance systems have been used for the entire transport and sale of the gas from its manufacture or extraction, its feed-in into the natural gas system and its transport in the natural gas system through to its removal from the natural gas system.

(7) The entitlement to financial support for electricity from biomethane pursuant to Section 44 or Section 45 shall remain in place if before its removal from the natural gas system the biomethane is divided in accounting terms into feedstock-related partial quantities on the basis of the energy
yields. The division in accounting terms into feedstock-related partial quantities including the allocation of the feedstock substances to the respective partial quantity shall be documented in the context of the mass balancing pursuant to subsection 6 number 2.

(8) To the extent that pursuant to subsections 2 or 3 the proof is to be kept in the form of a copy of a feedstock diary, the personal data not required for the proof in the feedstock diary must be redacted by the installation operator.

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Section 48

**Geothermal energy**

For electricity from geothermal energy, the value to be applied shall be 25.20 cents per kilowatt-hour.

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Section 49

**Onshore wind energy**

(1) For electricity from onshore wind energy installations, the value to be applied shall be 4.95 cents per kilowatt-hour (basic value).

(2) In derogation of subsection 1, the value to be applied in the first five years from the commissioning of the installation shall be 8.90 cents per kilowatt-hour (initial value). This period shall be extended by one month per 0.36 percent of the reference yield by which the yield of the installation falls below 130 percent of the reference yield. This period shall additionally be extended by one month per 0.48 percent of the reference yield by which the yield of the installation falls below 100 percent of the reference yield. The reference yield shall be the calculated yield of the reference installation in line with Annex 2 of this Act.

(3) For installations with an installed capacity of up to and including 50 kilowatts, it shall be assumed for the calculation of the duration of the initial tariff that its yield is 75% of the reference yield.

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Section 50

**Offshore wind energy**

(1) For electricity from offshore wind energy installations, the value to be applied shall be 3.90 cents per kilowatt-hour (basic value).

(2) In derogation of subsection 1, the value to be applied in the first twelve years from the commissioning of the offshore wind energy installation shall be 15.40 cents per kilowatt-hour (initial value). The period pursuant to sentence 1 shall be extended by 0.5 months for each full nautical mile extending beyond twelve nautical miles which the installation is further away from the coastline pursuant to Section 5 number 36 second half-sentence, and by 1.7 months for every full metre of water depth exceeding a depth of 20 metres. The water depth shall be determined on the basis of the chart datum.

(3) If the offshore wind energy installation is commissioned before 1 January 2020 or its operational readiness has been established under the preconditions of Section 30 subsection 2, the value to be applied shall in derogation of subsection 1 amount to 19.40 cents per kilowatt-hour in the first eight years from commissioning of the installation if the installation operator demands this from the grid system operator before the commissioning of the installation. In this case, the entitlement pursuant to subsection 2 sentence 1 shall be lost, whilst the entitlement to the payment pursuant to subsection 2 sentence 2 shall be applied *mutatis mutandis* with the proviso that the initial value shall amount to 15.40 cents per kilowatt-hour in the period of the extension.

(4) If the feed-in from an offshore wind energy installation is not possible for longer than seven consecutive days because the line pursuant to Section 17d subsection 1 sentence 1 of the Energy Industry Act has not been completed in time or is disrupted and this is not the fault of the grid system operator, the period of financial support pursuant to subsections 2 and 3 shall be extended starting on the eighth day of the disruption for the length of the disruption. Sentence 1 shall not be applied to
the extent that the operator of the offshore wind energy installation makes use of the compensation pursuant to Section 17e subsection 1 or subsection 2 of the Energy Industry Act. If the operator of the offshore wind energy installation makes use of the compensation pursuant to Section 17e subsection 2 of the Energy Industry Act, the entitlement to support pursuant to subsections 2 and 3 shall be reduced by the length of the delay.

(5) Subsections 1 to 4 shall not be applied to offshore wind energy installations whose erection has been authorised in an area of the German exclusive economic zone or the coastal sea after 31 December 2004 which has been declared a protected part of nature and landscape pursuant to Section 57 in conjunction with Section 32 subsection 2 of the Federal Nature Conservation Act or under Länder legislation. Sentence 1 shall also apply until the protection is imposed for those areas which the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety has nominated to the European Commission as areas of Community importance or as European bird sanctuaries.

Section 51

**Solar radiation energy**

(1) For electricity from installations to generate electricity from solar radiation energy, the value to be applied shall, subject to subsections 2 and 3, up to and including an installed capacity of 10 megawatts, be 9.23 cents per kilowatt-hour, taking into account the gradual reduction or increase pursuant to Section 31, if the installation

1. is affixed in, to or on a building or any other construction and the building or the other construction has primarily been erected primarily for purposes other than the generation of electricity from solar radiation energy,

2. has been erected on an area for which a procedure pursuant to Section 38 sentence 1 of the Federal Building Code has been carried out or

3. has been erected in the area of an adopted local area plan within the meaning of Section 30 of the Federal Building Code and

   a) the local area plan was produced before 1 September 2003 and was not subsequently altered for the purpose of erecting an installation to generate electricity from solar radiation energy,

   b) the local area plan designated a commercial or industrial area within the meaning of Sections 8 and 9 of the Federal Land Utilisation Ordinance before 1 January 2010 for the area on which the installation has been erected, even if the stipulation after 1 January 2010 was altered at least partially for the purpose of erecting an installation to generate electricity from solar radiation energy, or

   c) the local area plan was produced or altered after 1 September 2003 at least partially for the purpose of erecting an installation to generate electricity from solar radiation energy and the installation

      aa) is located on areas which are alongside motorways or railways and the installation has been erected at a distance of up to 110 metres measured from the further edge of the paved transport route,

      bb) is located on areas which were already sealed at the time of the decision on the establishment or alteration of the local area plan, or

      cc) is located on conversion areas from commercial, transport-related, residential or military use and these areas had not been bindingly designated nature conservation areas within the meaning of Section 23 of the Federal Nature Conservation Act or as a national park within the meaning of Section 24 of the Federal Nature Conservation Act at the time of the establishment or alteration of the local area plan.

(2) For electricity from installations to generate electricity from solar radiation energy which are exclusively fixed in, on or to a building or a noise barrier, the value to be applied shall, taking into account the gradual reduction or increase pursuant to Section 31, be

1. 13.15 cents per kilowatt-hour up to and including an installed capacity of 10 kilowatts.

2. 12.80 cents per kilowatt-hour up to and including an installed capacity of 40 kilowatts.
3. 11.49 cents per kilowatt-hour up to and including an installed capacity of 1 megawatt and
4. 9.23 cents per kilowatt-hour up to and including an installed capacity of 10 megawatts.

(3) For installations to generate electricity from solar radiation energy which are exclusively fixed in, on or to a building which is not a residential building and which was erected on white land pursuant to Section 35 of the Federal Building Code, subsection 2 shall only be applied if
1. it is proven that, before 1 April 2012,
   a) the building application or the application for approval was made or the start of construction was notified,
   b) in the case of a construction which is not subject to approval and which must be notified under the building regulations to the relevant authority, the necessary notification was made for the building to the authority, or
   c) in the case of another construction which does not require authorisation, and particularly a construction which is not subject to authorisation, notification or procedure, the execution of the building work had commenced,
2. the building is related spatially and functionally to a farmstead of an agricultural or forestry operation built after 31 March 2012 or
3. the building serves the permanent stabling of animals and has been authorised by the relevant building authority;

(4) Installations to generate electricity from solar radiation energy which replace installations to generate electricity from solar radiation energy due to technical defect, damage or theft at the same location shall, in derogation of Section 5 number 21, be regarded as having been commissioned at the time when the replaced installations were commissioned up to the level of the installed capacity of installations to generate electricity from solar radiation energy before the replacement at the same site. The entitlement to support for the installations replaced pursuant to sentence 1 is entirely lost.

Division 5
Special provisions on support (flexibility)

Section 52
Entitlement to support for flexibility

(1) Installation operators shall have an entitlement to receive financial support from the grid system operator in line with Sections 53, 54 or Section 55 for the provision of installed capacity if there is basically also an entitlement to financial support under the Renewable Energy Sources Act in the version applicable to the installation for the electricity generated in the installation; this entitlement shall not be affected.

(2) Section 19 subsection 2 and 3, Section 32 subsection 1 and Section 33 shall be applied mutatis mutandis.

Section 53
Flexibility supplement for new installations

(1) The entitlement pursuant to Section 52 for the provision of flexible installed capacity in installations to generate electricity from biogas with an installed capacity of more than 100 kilowatts shall be €40 per kilowatt of installed capacity and year (flexibility supplement).

(2) An entitlement to a flexibility supplement shall exist only if the installation operator claims financial support pursuant to Section 19 in conjunction with Section 44 or Section 45 for the share of the quantity of electricity generated in a calendar year stipulated in Section 47 subsection 1 and this entitlement is not reduced pursuant to Section 25.
The flexibility supplement can be demanded for the entire duration of the support pursuant to Section 22.

### Section 54

**Flexibility premium for existing installations**

Operators of installations to generate electricity from biogas which have been commissioned before 1 August 2014 pursuant to the definition of commissioning in force on 31 July 2014 can, in addition to a sale of the electricity in the forms of sale pursuant to Section 20 subsection 1 number 1 and 2, demand from the grid system operator a premium for the provision of additionally installed capacity for needs-oriented electricity generation (flexibility premium). The entitlement pursuant to sentence 1 shall amount to €130 per kilowatt of flexibly provided additionally installed capacity and year if the preconditions pursuant to number I of Annex 3 are met. The level of the flexibility premium shall be determined by Number II of Annex 3.

### Division 6

**Special provisions on support (auctions)**

### Section 55

**Auctioning the support for ground-mounted installations**

1. The Federal Network Agency must determine the financial support and its level for electricity for ground-mounted installations pursuant to Section 19 or for the provision of installed capacity from ground-mounted installations pursuant to Section 52 in line with the ordinance pursuant to Section 88 on the basis of auctions. The Federal Network Agency shall advertise the auctions in line with the ordinance pursuant to Section 88.

2. An entitlement to financial support in the case of auctioning shall exist if

   1. the installation operator has an entitlement to support which in the context of the auction in line with the ordinance pursuant to Section 88 has been awarded to the installation in the auction or which has subsequently been bindingly allocated to the installation,
   2. the installation has been erected in the area of an adopted local area plan within the meaning of Section 30 of the Federal Building Code, which has been established or altered at least partly with the intention of erecting an installation to generate electricity from solar radiation energy,
   3. from the time of commissioning of the installation all the electricity generated during the period of support pursuant to Section 22 is fed into the grid system and is not used by the installation operator itself and
   4. the remaining preconditions pursuant to this Act with the exception of the preconditions pursuant to Section 51 subsection 1 and the preconditions of the ordinance pursuant to Section 88 are met.

3. For electricity from ground-mounted installations which have been commissioned from the first day of the seventh calendar month following the first announcement of an auction pursuant to subsection 1 sentence 2, the value to be applied pursuant to Section 51 subsection 1 number 2 and 3 shall be reduced to zero. Subsections 1 and 2 shall not be applied to electricity from ground-mounted installations which were commissioned before the point in time cited in sentence 1.

4. The Federal Network Agency shall publish in line with the ordinance pursuant to Section 88 the result of the auctions including the level of financial support granted in each case. The Federal Network Agency shall inform the relevant grid system operators of the allocation of a support entitlement to an installation within the meaning of subsection 2 number 1 including the level of the financial support in line with the ordinance pursuant to Section 88.

Part 4
Equalisation scheme

Division 1
Nationwide equalisation

Section 56
Delivery to the transmission system operator

Grid system operators must deliver the following without delay to the upstream transmission system operator:
1. the electricity for which tariffs are paid pursuant to section 19 subsection 1 number 2 and
2. the right for all the electricity which is financially supported pursuant to Section 19 subsection 1 to label this electricity “electricity from renewable energy sources, supported under the Renewable Energy Sources Act”.

Section 57
Equalisation between grid system operators and transmission system operators

(1) Upstream transmission system operators must reimburse the grid system operators with the financial support given pursuant to Section 19 or Section 52 in line with Part 3.

(2) Transmission system operators must reimburse grid system operators with 50 percent of the necessary costs which accrue to them due to an efficient retrofitting of installations to generate electricity from solar radiation energy if the grid system operators are obliged to retrofit by the System Stability Ordinance. Section 11 subsection 5 shall be applied mutatis mutandis.

(3) Grid system operators must pay out avoided grid fees pursuant to Section 18 of the Electricity Grid Fee Ordinance which are not granted to installation operators and which have been determined pursuant to Section 18 subsection 2 and 3 of the Electricity Grid Fee Ordinance to the upstream transmission system operators. Section 11 subsection 5 number 2 must be applied mutatis mutandis.

(4) The payments pursuant to subsections 1 to 3 must be netted. Appropriate monthly advance payments shall be made towards the payments.

(5) If a transmission system operator pays the grid system operator a higher amount of financial support than that envisaged in Part 3, it must demand the extra amount back. The entitlement to repayment shall expire at the end of 31 December of the second calendar year following the feed-in; the obligation pursuant to sentence 1 shall end at this point. Sentences 1 and 2 shall be applied mutatis mutandis in the relationship between the receiving grid system operator and the installation operator unless the payment obligation derives from a contractual agreement. Section 33 subsection 1 shall not be applied to entitlements pursuant to sentence 3.

Section 58
Equalisation amongst the transmission system operators

(1) The transition system operators must
1. store the information about the different quantities and temporal sequence of the amounts of electricity which are financially supported pursuant to Section 19,
2. store the information about the payments of financial support pursuant to Section 19 or Section 52,
3. provisionally equalise the quantities of electricity pursuant to Section 1 without delay amongst each other,
4. make appropriate monthly advance payments towards the payments pursuant to number 2 and
5. invoice the quantities of electricity pursuant to number 1 and the payments pursuant to number 2 in line with subsection 2.

When it comes to the storage and invoicing of the payments pursuant to sentence 1 number 2, 4 and 5, the balancing on the basis of Section 57 subsection 4 shall be taken as a basis.

(2) The transmission system operators shall determine by 31 July each year the quantity of electricity which they purchased in the preceding calendar year pursuant to Section 11 or Section 56 and have financially supported pursuant to Section 19 or Section 57 and provisionally equalised pursuant to subsection 1 including the quantity of electricity for which they have received the right to label the electricity as “electricity from renewable energy sources or mine gas” and the share of this quantity of electricity in relation to the total quantity of electricity which electricity suppliers have supplied to final consumers in the area of the respective transmission system operator in the preceding calendar year.

(3) Transmission system operators which had to purchase larger quantities than correspond to this average share have an entitlement against the other transmission system operators that they purchase and pay a tariff pursuant to Sections 19 and 52 until these system operators also purchase a quantity of electricity which corresponds to this average value. Transmission system operators which, in relation to the total quantity of electricity supplied by electricity suppliers in the area of the respective transmission system operator in the preceding calendar year, have to pay tariffs for a higher share of the financial support pursuant to Section 57 subsection 1 or to replace a higher share of the costs pursuant to Section 57 subsection 2 than corresponds to the average share of all transmission system operators, have an entitlement against the other transmission system operators to reimbursement of the financial support or costs until the burden of costs of all the transmission system operators corresponds to the average.

Section 59  
Selling by the transmission system operators

The transmission system operators must, either themselves or jointly, sell the electricity for which tariffs are paid pursuant to Section 19 subsection 1 number 2 without discrimination, transparently and observing the provisions of the Equalisation Scheme Ordinance.

Section 60  
EEG surcharge for electricity suppliers

(1) The transmission system operators can demand the costs for the necessary expenses following deduction of the revenues attained and in line with the Equalisation Scheme Ordinance from electricity suppliers which supply electricity to final consumers proportionate to the electricity supplied by the various electricity suppliers to their final consumers (EEG surcharge). Subject to evidence to the contrary, it is assumed that quantities of energy which are taken off from a balancing group managed by the transmission system operator at physical reception points and for which there is no report by an electricity supplier broken down to a specific balancing group pursuant to Section 74 have been supplied by the owner of the relevant balancing group to final consumers. The share shall be determined in such a manner that each electricity supplier bears the same costs for each kilowatt-hour of electricity supplied by it to a final consumer. Appropriate monthly advance payments shall be made towards the payments of the EEG surcharge.

(2) Objections to demands by the transmission system operators for payments pursuant to subsection 1 shall only entitle a party to delay or refuse payment to the extent that there is the serious possibility of a manifest error. Offsetting against claims pursuant to subsection 1 shall not be permitted. In the case of payment arrears of more than one advance payment, the transmission system operators may terminate the balancing group contract with the electricity supplier if the payment of the arrears has not been fully made despite a reminder and a threat of termination three weeks after the threat of termination. The threat of termination can be linked to the reminder. Sentences 1, 3 and 4 shall be applied mutatis mutandis to the report of the quantities of energy pursuant to Section 74 with the proviso that the deadline for the reporting of the data shall be six weeks after the threat of termination.
(3) For electricity which is supplied or conducted for the purpose of temporary storage to an electrical, chemical, mechanical or physical electricity storage installation, the entitlement of the transmission system operators to payment of the EEG surcharge pursuant to subsections 1 or 2 shall not apply if energy is removed from the electricity storage installation solely for the purpose of re-feeding in electricity into the grid system. Sentence 1 shall also be applied to electricity which is used to generate storage gas which is fed into the natural gas system if the storage gas is used to generate electricity taking into account the requirements pursuant to Section 47 subsection 6 number 1 and 2 to generate electricity and the electricity is actually fed into the network. The entitlement of the transmission system operators to payment of the EEG surcharge pursuant to subsections 1 and 2 shall also not apply to electricity which is supplied to grid system operators to equalise losses in the grid system due to physical causes as loss energy pursuant to Section 10 of the Electricity Grid Fee Ordinance.

(4) Electricity suppliers which have failed to fulfil their obligation to pay the EEG surcharge pursuant to subsection 1 in time must pay interest on this monetary debt pursuant to Section 352 subsection 2 of the Commercial Code once the money is due. Sentence 1 shall be applied mutatis mutandis if the debt could not fall due because the electricity supplier did not report to the transmission system operator the quantities of electricity supplied by it contrary to Section 74 or did not do so in time; solely for the purpose of charging interest, in this case the monetary debt for the payment of the EEG surcharge for the quantity of electricity to be reported for a year shall be regarded as due at the latest on 1 January of the following year.

Section 61

EEG surcharge for final consumers and self-suppliers

(1) The transmission system operators can demand from final consumers the following shares of the EEG surcharge for self-supply pursuant to Section 60 subsection 1:

1. 30 percent for electricity consumed after 31 July 2014 and before 1 January 2016,
2. 35 percent for electricity consumed after 31 December 2015 and before 1 January 2017, and
3. 40 percent for electricity consumed after 1 January 2017.

The value pursuant to sentence 1 shall rise to 100 percent of the EEG surcharge if

1. the electricity-generating installation is not an installation pursuant to Section 5 number 1 or a CHP installation which is highly efficient within the meaning of Section 53a subsection 1 sentence 3 of the Energy Tax Act and attains a monthly or annual utilisation rate of at least 70 percent pursuant to Section 53a subsection 1 sentence 2 number 2 of the Energy Tax Act, or
2. the self-supplier has not fulfilled its reporting obligation pursuant to Section 74 by 31 May of the following year.

The transmission system operators can also demand from final consumers 100 percent of the EEG surcharge for other consumption of electricity which is not supplied by an electricity supplier pursuant to Section 60 subsection 1. The provisions of this Act for electricity suppliers shall be applied mutatis mutandis to final consumers which are required to make payment pursuant to sentences 1 to 3.

(2) The entitlement pursuant to subsection 1 shall not apply to self-suppliers

1. to the extent that the electricity is consumed in the auxiliary and ancillary installations of an electricity-generating installation to generate electricity in the technical sense (electricity consumed by the power station itself),
2. if the self-supplier is not directly or indirectly connected to a grid system,
3. if the self-supplier fully supplies itself with electricity from renewable energy sources and does not claim any financial support pursuant to Part 3 for the electricity from his installation which it does not consume itself, or
4. if electricity is generated by electricity-generating installations with a total maximum installed capacity of 10 kilowatts, for a maximum of 10 megawatt-hours of self-consumed electricity per calendar year; this shall apply from the commissioning of the electricity-generating installation for the duration of 20 calendar years plus the year of commissioning; Section 32 subsection 1 sentence 1 shall be applied mutatis mutandis.
The entitlement pursuant to subsection 1 shall also not apply to existing installations if the final consumer operates the electricity-generating installation as a self-producer, to the extent that the final consumer consumes the electricity itself and to the extent that the electricity is not conducted through a grid system unless the electricity is consumed in the spatial context of the electricity-generating installation.

An existing installation shall be every electricity-generating installation which the final consumer operated before 1 August 2014 as a self-producer in compliance with the requirements of sentence 1, which was authorised before 23 January 2014 pursuant to the Federal Immission Control Act or permitted pursuant to another provision of federal law, generated electricity for the first time after 1 August 2014 and was used before 1 January 2015 in compliance with the requirements of sentence 1 or which modernises, expands or replaces an electricity-generating installation pursuant to numbers 1 or 2 at the same site unless the installed capacity is raised by more than 30 percent as a result of the modernisation, expansion or replacement.

For existing installations which were commissioned before 1 September 2011 subsection 3 shall be applied with the provisos that subsection 3 sentence 1 number 3 shall not be applied and subsection 3 sentence 2 number 3 shall only be applied if:

a) the requirements of subsection 3 sentence 1 number 3 are met or

b) the entire electricity-generating installation was owned even before 1 January 2011 by the final consumer who takes advantage of the privilege pursuant to subsection 3 and the electricity-generating installation was erected on the commercial property of the final consumer.

For the scrutiny of the obligation of self-providers to pay the EEG surcharge, the transmission system operators can have the following data transferred to them: from the main customs offices data on the self-producers and self-suppliers if and to the extent that this is permitted in the Electricity Tax Act or in an ordinance issued on the basis of the Electricity Tax Act, from the Federal Office for Economic Affairs and Export Control the data on the self-suppliers pursuant to Section 8 subsection 1 of the CHP Act in the version in force and from the operators of downstream grid systems the contact data for the self-suppliers and further data on the self-supply including the electricity consumption of self-suppliers connected to their grid system.

The transmission system operators can undertake an automated comparison of the data pursuant to the conclusion of the scrutiny pursuant to sentence 1 number 1 or of the comparison pursuant to sentence 2 they must be immediately deleted.

Electricity for which the transmission system operators can demand the payment of the EEG surcharge pursuant to subsection 1 must be registered by the final consumer by calibrated metering devices.

In the calculation of the self-produced and self-consumed quantities of electricity pursuant to sections 1 to 6, electricity may only be included up to the level of the aggregated self-consumption in terms of each 15-minute interval (simultaneity). A measurement of the current feed-in is only necessary if it has not already been technically ensured that generation and consumption of the electricity takes place simultaneously. This shall be without prejudice to other provisions which require a measurement of the current feed-in.

Section 62

Retrospective corrections
(1) At the next invoicing, changes in the quantity of electricity to be invoiced or in the financial support shall be taken into account which occur for the following reasons:
1. demands for repayment on the basis of section 57 subsection 5,
2. a legally binding court ruling in the main proceedings,
3. the transmission and comparison of data pursuant to section 61 subsection 5,
4. a procedure conducted by the parties to the procedure at the clearing house pursuant to Section 81 subsection 4 sentence 1 number 1,
5. a decision by the Federal Network Agency pursuant to Section 85 or
6. an enforceable title which has only been issued following the invoicing pursuant to section 58 subsection 1.

(2) If the invoicing of consumption by the electricity suppliers to final consumers contain deviations from the quantities of electricity on which a final invoicing pursuant to Section 74 is based, these changes shall be taken into account in the next invoice. Section 75 shall be applied mutatis mutandis.

Division 2
Special equalisation scheme

Section 63
Principle
On application, the Federal Office for Economic Affairs and Export Control shall limit, for specific consumption points,
1. in line with Section 64 the EEG surcharge for electricity which is used by electro-intensive undertakings themselves in order to keep the contribution of these undertakings to the EEG surcharge at a level which is compatible with their international competitive situation and to prevent their relocation abroad, and
2. in line with Section 65 the EEG surcharge for electricity which is used by railways themselves in order to maintain the intermodal competitiveness of the railways, to the extent that this does not imperil the objectives of the Act and the limitation is compatible with the interest of the totality of the electricity consumers.

Section 64
Electro-intensive undertakings
(1) In the case of an undertaking which is to be allocated to a sector pursuant to Annex 4, the limitation shall be undertaken only to the extent that it furnishes proof that and to what extent
1. in the last completed financial year the quantity of electricity which pursuant to Section 60 subsection 1 or Section 61 is liable to the surcharge and is consumed by the undertaking itself at a consumption point which is to be allocated to the undertaking of a sector pursuant to Annex 4 amounted to more than 1 gigawatt-hour,
2. the intensity of the electricity costs
   a) in the case of an undertaking which is to be allocated to a sector pursuant to List 1 of Annex 4 amounted to at least the following value:
      aa) 16 percent for the limitation in calendar year 2015 and
      bb) 17 percent for the limitation from calendar year 2016,
   b) in the case of an undertaking which is allocated to a sector pursuant to List 2 of Annex 4 amounted to at least 20 percent and
3. the undertaking operates a certified energy or environmental management system or, to the extent that the undertaking consumed less than 5 gigawatt-hours of electricity in the last completed
financial year, an alternative system to improve energy efficiency pursuant to Section 3 of the Peak Equalisation Efficiency System Ordinance in the version in force at the time of the last completed financial year.

2) The EEG surcharge shall be limited as follows at the consumption points to be allocated to the undertaking of a sector pursuant to Annex 4 for the electricity which is used there by the undertaking itself in the limitation period:

1. The EEG surcharge shall not be limited for the share of electricity up to and including 1 gigawatt-hour (the "deductible"). This deductible must be paid first in the year of limitation.

2. The EEG surcharge shall be limited to 15 percent of the EEG surcharge determined pursuant to Section 60 subsection 1 for the share of electricity above 1 gigawatt-hour.

3. The level of the EEG surcharge to be paid pursuant to number 2 shall be limited in the total of all the undertaking's limited consumption points to at most the following share of the gross value added which the undertaking has attained in the arithmetic mean of the last three completed financial years:
   a) 0.5 percent of the gross value added as long as the intensity of the electricity costs of the undertaking amounted to at least 20 per cent, or
   b) 4.0 percent of the gross value added as long as the intensity of the electricity costs of the undertaking amounted to less than 20 per cent.

4. The limitation pursuant to numbers 2 and 3 shall only be undertaken to the extent that the EEG surcharge to be paid by the undertaking for the share of electricity above 1 gigawatt-hour does not fall below the following value:
   a) 0.05 cents per kilowatt-hour at consumption points at which the undertaking is allocated to a sector with the serial number 130, 131 or 132 pursuant to Annex 4, or
   b) 0.1 cents per kilowatt-hour at other consumption points;
   this shall be without prejudice to the deductible pursuant to number 1.

3) Proof shall be furnished of the fulfilment of the preconditions pursuant to subsection 1 and the gross value added which must form the basis for the decision on the limitation pursuant to subsection 2 number 3 (basis of the limitation) as follows:

1. for the preconditions pursuant to subsection 1 number 1 and 2 and the basis of the limitation pursuant to subsection 2 by
   a) the electricity supply contracts and electricity invoices for the last completed financial year,
   b) the details of the quantities of electricity supplied by an electricity supplier or self-produced and self-consumed as well as of forwarded electricity and
   c) the certificate by an auditor, a company of auditors, a certified accountant or an accountancy company on the basis of the audited annual accounts in line with the provisions of the Commercial Code for the last three completed financial years; the certificate must contain the following details:
      aa) details of the commercial purpose and the commercial activities of the undertaking,
      bb) details of the quantities of electricity of the undertaking which were supplied by electricity suppliers or self-produced and self-consumed including the details of the amount of EEG surcharge which would have had to be paid without a limitation for these quantities of electricity, and
      cc) all components of the gross value added;
   Section 319 subsection 2 to 4, Section 319b subsection 1, Section 320 subsection 2 and Section 323 of the Commercial Code shall be applied mutatis mutandis to the certificate; the certificate shall state that the data contained in it are free of substantial erroneous details and deviations to a sufficiently certain degree; in the auditing of the gross value added, a materiality threshold of 5 percent shall suffice,
   d) proof of the classification of the undertaking by the statistical offices of the Länder using the classification of the branches of industry and commerce of the Federal Statistical Office, 2008...
edition, and the agreement of the undertaking that the Federal Office for Economic Affairs and Export Control can have the statistical offices of the Länder transmit to it the classification of the undertaking pursuant to their and of its permanent establishments,

2. for the preconditions pursuant to subsection 1 number 3 by a valid DIN EN ISO 50001 certificate, a valid notification of entry or extension from the EMAS registration body regarding the entry in the EMAS register or valid proof of the operation of an alternative system to improve energy efficiency; Section 4 subsection 1 to 3 of the Peak Equalisation Efficiency System Ordinance in the version in force at the end of the last completed financial year shall be applied mutatis mutandis.

(4) Undertakings which were newly established after 30 June of the preceding year can in derogation of subsection 3 number 1 transmit data on a rump financial year in the first year following the new establishment, in the second year following the new establishment data for the first completed financial year and in the third year after the new establishment data for the first and second completed financial years. For the first year following the new establishment the decision on the limitation shall be subject to revocation. Following the end of the first completed financial year there shall be a retrospective review of the preconditions governing the application and the scope of the limitation by the Federal Office for Economic Affairs and Export Control on the basis of the data of the completed financial year. Apart from this, subsection 3 shall be applied mutatis mutandis. Newly established undertakings shall only be those which take up their activity for the first time, creating essentially new corporate assets; they must not have been created by conversion of form. Newly created corporate assets shall exist if, beyond the basic equity and shares, further capital and current assets have been acquired or leased. Without the possibility of evidence to the contrary, it is assumed that the time of the new establishment is the time at which electricity is first used for production purposes.

(5) Subsections 1 to 4 shall be applied mutatis mutandis to independent parts of an undertaking which is to be allocated to a sector pursuant to List 1 of Annex 4. An independent part of an undertaking shall exist only if it is a partial operation on its own site or an operation separated from the rest of the undertaking with the main functions of an undertaking, the part of the undertaking could manage its business as a legally independent undertaking at any time, its revenues mainly come from external third parties and it has a consumption point of its own. Separate accounts and a separate profit-and-loss calculation shall be kept for the independent part of the undertaking on the basis, mutatis mutandis, of the rules of the Commercial Code applying to all merchants. The accounts and the profit-and-loss calculation pursuant to sentence 3 shall be audited applying mutatis mutandis Sections 317 to 323 of the Commercial Code.

6. For the purposes of this Section

1. “consumption point” shall mean the total of all the spatially and physically related electrical devices including the self-supply installations of an undertaking which are located on a discrete corporate site and are linked to the grid system via one or several withdrawal points; they must be equipped with their own electricity meters at all withdrawal points and at all self-supply installations,

2. “gross value added” shall mean the gross value added of the undertaking at factor costs pursuant to the definition of the Federal Statistical Office, Fachserie 4, Reihe 4.3, Wiesbaden 20074, without the deduction of the staff costs for temporary agency workers; the effects caused by previous decisions on limitations shall be disregarded in the calculation of the gross value added, and

3. “intensity of electricity costs” shall mean the ratio of the relevant electricity costs including the electricity costs for self-consumed quantities of electricity subject to surcharge pursuant to Section 61 to the arithmetic mean of the gross value added in the undertaking’s last three completed financial years; here, the relevant electricity costs shall be calculated by the multiplication of the arithmetic mean of the undertaking’s electricity consumption in the last three completed financial years or the standardised electricity consumption which is determined in line with an ordinance pursuant to Section 94 number 1, with the average electricity price for undertakings with similar levels of electricity consumption, which shall be based on an ordinance pursuant to Section 94

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3 Official note: Obtainable from Statistisches Bundesamt, Gustav-Stresemann-Ring 11, 65189 Wiesbaden; also obtainable via www.destatis.de.
4 Official note: Obtainable from Statistisches Bundesamt, Gustav-Stresemann-Ring 11, 65189 Wiesbaden; also obtainable via www.destatis.de.
number 2; the effects caused by previous decisions on limitations shall be disregarded when the intensity of electricity costs is calculated.

(5) For the allocation of an undertaking to the sectors pursuant to Annex 4, the point in time of the end of the last completed financial year shall be decisive.

Section 65

Railways

(1) In the case of railways, the limitation of the EEG surcharge shall only take place if the railways furnish proof that and to what extent in the last completed financial year the quantity of self-consumed electricity was consumed directly for the railway transport operation and amounted to at least 2 gigawatt-hours excluding the energy fed back in.

(2) For railways, the EEG surcharge shall be limited to 20 percent of the EEG surcharge determined pursuant to Section 60 subsection 1 for the total quantity of electricity which the undertaking uses itself directly for railway transport operations, excluding the energy fed back in.

(3) The consumption point within the meaning of subsections 1 and 2 shall be the totality of the consumption points for the undertaking’s railway transport operations. Section 64 subsection 3 number 1 letter a to c and subsection 4 shall be applied mutatis mutandis; without the possibility of evidence to the contrary, it is assumed that the time of the new establishment is the time at which electricity is first used for transport purposes.

Section 66

Submission of applications and effect of decisions

(1) The application pursuant to Section 63 in conjunction with Section 64 including the certificates pursuant to Section 64 subsection 3 number 1 letter c and number 2 shall be submitted by 30 June of each year (substantive exclusion deadline) for the following calendar year. Sentence 1 shall be applied mutatis mutandis to applications pursuant to Section 63 in conjunction with Section 65 including the certificates pursuant to Section 64 subsection 3 number 1 letter c. The other documents cited in Sections 64 or 65 must be supplied with an application pursuant to sentences 1 and 2.

(2) For applications submitted from 2015, the application must be made electronically via the portal set up by the Federal Office for Economic Affairs and Export Control. The Federal Office for Economic Affairs and Export Control is authorised to bindingly stipulate exceptions from the obligation to submit applications electronically pursuant to sentence 1 by a general instruction to be published in the Federal Gazette.

(3) Newly established undertakings within the meaning of Section 64 subsection 4 can in derogation of subsection 1 sentence 1 submit the application up to 30 September of a year for the following calendar year. Sentence 1 shall be applied mutatis mutandis to newly established railways.

(4) The decision shall be taken with effect for the party submitting the application, the electricity supplier and the regular transmission system operator. It shall apply in each case for the calendar year following the year of application.

(5) The entitlement of the regular transmission system operator at the respective consumption point to payment of the EEG surcharge by the relevant electricity supplier shall be limited in line with the decision by the Federal Office for Economic Affairs and Export Control. The transmission system operators must take account of this limitation in the equalisation pursuant to Section 58. If during the period of validity of the decision there is a change in the regular transmission system operator at the respective consumption point or in the electricity supplier, the beneficiary must inform the transmission system operator or the electricity supplier and the Federal Office for Economic Affairs and Export Control without delay.

Section 67

Conversion of form of undertakings
(1) If the applicant undertaking has converted its form in its last three completed financial years before application or in the subsequent period before the end of the substantive exclusion deadline, the applicant undertaking can only have recourse to the data of the undertaking before its conversion of form in order to furnish proof of the preconditions for entitlement if the economic and organisa-
tional unity of this undertaking has been virtually entirely retained in the applicant undertaking fol-
lowing conversion of form. Otherwise, Section 64 subsection 4 sentence 1 to 4 shall be applied muta-
tis mutandis.

(2) If the form of the applicant or beneficiary undertaking is converted, it must inform the Fed-
eral Office for Economic Affairs and Export Control of this in writing without delay.

(3) If the conversion of a beneficiary undertaking’s form results in its economic and organisa-
tional unity being virtually entirely transferred to another undertaking, the Federal Office for Eco-
nomic Affairs and Export Control shall transfer the decision on limitation to the other undertaking on 
application from the latter. The obligation of the applicant undertaking to pay the EEG surcharge de-
termined pursuant to Section 60 subsection 1 shall only exist if the Federal Office for Economic Af-
fairs and Export Control rejects the application to transfer the limitation decision. In this case, the ob-
ligation to pay the EEG surcharge determined pursuant to Section 60 subsection 1 shall commence 
when the conversion of form takes effect.

(4) Subsections 1 and 3 shall be applied mutatis mutandis to independent parts of undertakings and to railways.

Section 68
 Withdrawal of the decision, information, right of access

(1) The decision pursuant to Section 63 shall be withdrawn, also for the past, if it becomes known that the preconditions pursuant to Sections 64 or 65 were not met when it was issued.

(2) For the purpose of examining the statutory preconditions, the officials of the Federal Office for Economic Affairs and Export Control and their agents are authorised to demand the information required for the examination from the natural persons acting for the beneficiaries, to view the business documents during the normal business hours, and to access operational and business premises and the related real estate of the beneficiaries during normal business hours. The natural persons acting on behalf of the beneficiaries must provide the required information and present the documents for scrutiny. Parties obliged to furnish information may refuse to provide information on ques-
tions the answer to which would make themselves or a relative, as specified in Section 383 subsec-
tion 1 numbers 1 to 3 of the Code of Civil Procedure, liable to criminal prosecution or to proceedings under the Administrative Offences Act.

Section 69
 Obligation to cooperate and to provide information

Undertakings and railways which apply for or have received a decision pursuant to Section 63 must cooperate on the evaluation and revision of Sections 63 to 68 by the Federal Ministry for Eco-
nomic Affairs and Energy, the Federal Office for Economic Affairs and Export Control or their agents. On demand, they must provide

1. information about all the quantities of electricity consumed by them themselves, including those not covered by the limitation decision, in order to establish a basis of the development of efficiency requirements,

2. information about possible and implemented efficiency-enhancing measures, and particularly measures which are highlighted by the operation of the energy or environmental management system or an alternative system to improve energy efficiency,

3. information about all the components of the undertaking’s electricity costs, as far as this is necessary for the determining of average electricity prices for undertakings with similar levels of electricity consumption, and

4. further information necessary to evaluate and revise Sections 63 to 68.
The Federal Office for Economic Affairs and Export Control can specify the nature of provision of information pursuant to sentence 2 in greater detail. Operational and business confidentiality must be upheld.

Part 5

Transparency

Division 1

Obligations to communicate and publish

Section 70

Principle

Installation operators, grid system operators and electricity suppliers must provide to one another without delay the data required for the nationwide equalisation pursuant to Sections 56 to 62, and particularly the data cited in Sections 71 to 74. Section 62 shall be applied *mutatis mutandis*.

Section 71

Installation operators

Installation operators must provide the grid system operators with

1. all the necessary data for the final invoicing of the preceding year by 28 February of a year and
2. in the case of biomass installations pursuant to Sections 44 to 46 details of the nature and quantity of the feedstocks and details of heat usages and technologies deployed pursuant to Section 45 subsection 2 or Section 47 subsection 2 sentence 1 number 2 or of the share of manure used pursuant to Section 46 number 3 in the manner stipulated for the record-keeping pursuant to Section 47.

Section 72

Grid system operators

(1) Grid system operators which are not transmission system operators must provide their upstream transmission system operator with

1. the following details in summarised form without delay once they are available:
   a) the financial support actually provided towards electricity from renewable energy sources and from mine gas or for the provision of installed capacity pursuant to the provisions on support of the Renewable Energy Sources Act in the version to be applied for the respective installation,
   b) the reports pursuant to Section 21 subsection 1 received by the installation operators, in each case separately for the various forms of sale pursuant to Section 20 subsection 1,
   c) in the case of changes to the form of sale pursuant to Section 20 subsection 1 number 4, additionally to the details pursuant to letter b the form of energy from which the electricity is generated in the respective installation, the installed capacity of the installation and the length of time for which the respective installation has already been using this form of sale,
   d) the costs of the retrofitting pursuant to Section 57 subsection 2 in conjunction with the System Stability Ordinance, the number of retrofitted installations and the details received from them pursuant to Section 71 and
   e) the other details required for the nationwide equalisation,
2. by 31 May of a year by means of forms provided by the transmission system operator on its website, the final invoicing for the preceding year in electronic form both for each individual installa-
tion and in summarised form; Section 32 subsection 3 and 4 shall be applied mutatis mutandis, up to 31 May of a year the upstream transmission system operator shall be presented with proof of the costs to be reimbursed pursuant to Section 57 subsection 2 sentence 1; subsequent changes to the estimates must be transmitted to the transmission system operator without delay and included in the next invoice.

(2) For the determining of the quantities of energy and payments of financial support pursuant to subsection 1, the following information is necessary in particular:

1. the voltage level at which the installation is connected,
2. the level of the avoided grid fees pursuant to Section 57 subsection 3,
3. the extent to which the grid system operator has purchased the quantities of energy from a downstream grid system, and
4. the extent to which the grid system operator has passed on the quantities of energy pursuant to number 3 to final consumers, grid system operators or electricity suppliers or has consumed them itself.

Section 73

Transmission system operators

(1) Section 72 shall be applied mutatis mutandis for transmission system operators with the proviso that the details and the final invoicing pursuant to Section 72 subsection 1 must be published on their website for installations which are directly or indirectly connected to their grid system pursuant to Section 11 subsection 2, without prejudice to Section 77 subsection 4.

(2) Transmission system operators must also present the electricity suppliers for which they are normally responsible with the final invoicing for the EEG surcharge of the preceding year by 31 July of a year. Section 72 subsection 2 shall be applied mutatis mutandis.

(3) The transmission system operators must continue to publish the data for the calculation of the market premium in line with Annex 1 number 3 of this Act in non-personal form and the actual annual average of the market value of electricity from solar radiation energy ("MW_{Solar(a)}").

(4) Transmission system operators which make use of their right pursuant to Section 60 subsection 2 sentence 3 must inform all grid system operators in whose grid system the balancing group has physical withdrawal points about the termination of the balancing group contract.

Section 74

Electricity suppliers

Electricity suppliers must inform by electronic means their regular transmission system operator without delay of the quantity of electricity supplied to final consumers and present the final invoice for the preceding year by 31 May. To the extent that the supply takes place via balancing groups, the details of the quantities of electricity have to be transmitted for each balancing group. Sentence 1 shall be applied to self-suppliers mutatis mutandis; this shall not apply to electricity from existing installations for which no surcharge obligation exists pursuant to Section 61 subsection 3 and 4, and to electricity from electricity-generating installations within the meaning of Section 61 subsection 2 number 4 if the installed capacity of the self-producing installation does not exceed 10 kilowatts and the self-consumed quantity of electricity does not exceed 10 megawatt-hours per calendar year. The transmission system operators must provide uniform nationwide procedures without delay, but at the latest from 1 January 2016, for the fully automated electronic transmission of the data pursuant to sentence 2; these procedures must satisfy the provisions of the Federal Data Protection Act.

Section 75

Auditing

The summarised final invoices of the grid system operators pursuant to Section 72 subsection 1 number 2 must be audited by an auditor, a company of auditors, a certified accountant or an ac-
A countancy company. Apart from this, the grid system operators and electricity suppliers can require that when the final invoices pursuant to Sections 73 and 74 are presented, they are audited by an auditor, a company of auditors, a certified accountant or an accountancy company. The audits must give consideration to:

1. the rulings by the supreme courts,
2. the decisions by the Federal Network Agency pursuant to Section 85 and
3. the decisions of the clearing house pursuant to Section 81 subsection 4 sentence 1 number 1 or subsection 5.

Section 73 subsection 2 to 4, Section 319b subsection 1, Section 320 subsection 2 and Section 323 of the Commercial Code shall be applied mutatis mutandis to the audits.

Section 76

**Data to be provided to the Federal Network Agency**

(1) Grid system operators must present to the Federal Network Agency in electronic form the details which they receive pursuant to Section 71 from the installation operators, the details pursuant to Section 72 subsection 2 number 1 and the final invoices pursuant to Section 72 subsection 1 number 2 and Section 73 subsection 2 including the data necessary for their review at the expiry of the respective deadlines; the first half-sentence shall be applied mutatis mutandis regarding the details pursuant to Section 74 for electricity suppliers and self-suppliers.

(2) To the extent that the Federal Network Agency provides forms, grid system operators, electricity suppliers and installation operators must transmit the data in this form. The data pursuant to subsection 1 with the exception of the costs of purchasing the electricity shall be provided to the Federal Minister for Economic Affairs and Energy by the Federal Network Agency for statistical purposes and the evaluation of the Act and the reporting pursuant to Sections 97 to 99.

Section 77

**Data to be provided to the public**

(1) Grid system operators and electricity suppliers must publish on their websites:

1. the details pursuant to Sections 70 to 74 immediately following their transmission and
2. a report on the determining of the data transmitted by them pursuant to Sections 70 to 74 without delay after 30 September of a year.

They must retain the details and the report until the end of the following year. This shall be without prejudice to Section 73 subsection 1.

(2) The transmission system operators must publish the quantities of electricity benefiting from financial support pursuant to Section 57 subsection 1 and sold quantities of electricity pursuant to Section 59 and the details pursuant to Section 72 subsection 1 number 1 letter c in line with the Equalisation Scheme Ordinance on a joint website in non-personal form.

(3) The details and the report must enable a qualified third party to fully understand the financial support and the supported quantities of electricity without further information.

(4) Details which are published online on the basis of the ordinance pursuant to Section 93 do not have to be published by the grid system operators.

Division 2

Electricity labelling and prohibition of multiple sale

Section 78

**Electricity labelling in accordance with the EEG surcharge**
(1) In return for the payment of the EEG surcharge, pursuant to Section 60 subsection 1 electricity suppliers gain the right to label electricity as “renewable energy sources, supported under the Renewable Energy Sources Act”. The feature of the electricity shall be identified to final consumers in the context of electricity labelling in line with subsections 2 to 4 and of Section 42 of the Energy Industry Act.

(2) The share identified to final consumers pursuant to subsection 1 shall be calculated in percent, whereby the EEG surcharge which the electricity supplier actually paid for the quantity of electricity supplied to its final consumers in a year
1. is multiplied with the EEG quotients pursuant to subsection 3,
2. is then divided by the total quantity of electricity supplied to its final consumer in that year and
3. is then multiplied by a hundred.
The share identified pursuant to subsection 1 shall be a direct component of the quantity of electricity supplied and cannot be identified separately or sold further.

(3) The EEG quotient shall be the relationship between the total quantity of electricity for which financial support pursuant to Section 19 was claimed in the last calendar year and the total revenues received by the transmission system operators from the EEG surcharge for the quantities of electricity supplied by the electricity suppliers to final consumers in the last calendar year. The transmission system operators shall publish on a joint internet platform in a uniform format the EEG quotients in non-personal form each year by 31 July for the preceding calendar year.

(4) The shares of the energy sources to be cited pursuant to Section 42 subsection 1 number 1 and subsection 3 of the Energy Industry Act shall be reduced by the percentage to be identified pursuant to subsection 1 pro rata for the respective final consumer with the exception of the share for “electricity from renewable energy sources, supported under the Renewable Energy Sources Act”.

(5) Electricity suppliers shall also identify, in addition to the total energy source mix, to final consumers whose obligation to pay the EEG surcharge is limited pursuant to Sections 63 to 68, a separate “energy sources mix for undertakings privileged pursuant to the Renewable Energy Sources Act” to be calculated pursuant to sentences 3 and 4. This energy sources mix shall identify the shares pursuant to section 42 subsection 1 number 1 of the Energy Industry Act. The share in percent of “renewable energy sources, supported under the Renewable Energy Sources Act” shall in derogation of subsection 2 be calculated whereby the EEG surcharge which the electricity supplier actually paid for the quantity of electricity supplied to its final consumers in a year
1. is multiplied with the EEG quotients pursuant to subsection 3,
2. is then divided by the total quantity of electricity supplied to the respective final consumer in that year and
3. is then multiplied by a hundred.
The shares of the other energy sources to be cited pursuant to Section 42 subsection 1 number 1 of the Energy Industry Act shall be reduced by the percentage calculated pursuant to subsection 3 pro rata for the respective final consumer.

(6) For self-suppliers which have to pay the EEG surcharge pursuant to Section 61, subsections 1 to 5 shall be applied with the proviso that their own electricity shall pro rata be regarded as “electricity from renewable energy sources, supported under the Renewable Energy Sources Act”.

Section 79
Guarantees of origin

(1) The competent authority shall issue installation operators with guarantees of origin for electricity from renewable energy sources which is sold directly in a different manner pursuant to Section 20 subsection 1 number 2. The competent authority shall transfer and cancel guarantees of origin. The issuing, transmission and cancellation shall take place electronically and in line with the Ordinance on Guarantees of Origin for Electricity from Renewable Energy Sources. The guarantees of origin must be protected from misuse.
(2) The competent authority shall on application recognise foreign guarantees of origin for electricity from renewable energy sources in line with the Ordinance on Guarantees of Origin for Electricity from Renewable Energy Sources. Sentence 1 shall only be applied to guarantees of origin which at least fulfil the provisions of Articles 15(6) and (9) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140 of 5 June 2009, p. 16). Electricity for which a guarantee of origin has been recognised pursuant to sentence 1 shall be regarded as electricity which is sold directly in a different manner pursuant to Section 20 subsection 1 number 2.

(3) The competent authority shall set up an electronic database in which the issuing, recognition, transfer and cancellation of guarantees of origin is registered (register of guarantees of origin).

(4) The competent authority within the meaning of subsections 1 to 3 shall be the Federal Environment Agency.

(5) Guarantees of origin shall not be financial instruments within the meaning of Section 1 subsection 11 of the Banking Act or of Section 2 subsection 2b of the Securities Trading Act.

Section 80

Prohibition of multiple sale

(1) Electricity from renewable energy sources and from mine gas, and landfill or sewage treatment gas fed into a gas system and gas from biomass, may not be sold several times, transferred to other parties or sold to a third party in violation of Section 56. In particular, electricity from renewable energy sources and from mine gas may not be sold in several forms of sale pursuant to Section 20 subsection 1 or several times in the same form pursuant to Section 20 subsection 1. As long as installation operators sell electricity from their installation in a form of sale pursuant to Section 20 subsection 1, there shall be no entitlements from a different form of sale pursuant to Section 20 subsection 1. In the context of direct selling, the selling as balancing energy shall not be regarded as multiple sale or other transfer of electricity.

(2) Installation operators which claim financial support pursuant to Section 19 for electricity from renewable energy sources or from mine gas may not pass on guarantees of origin or other proof demonstrating the origin of the electricity for this electricity. If an installation operator passes on a guarantee of origin or other proof which demonstrates the origin of the electricity for electricity from renewable energy sources or from mine gas, no financial support pursuant to Section 19 may be claimed for this electricity.

(3) As long as emission reduction units can be generated in the context of joint project implementation pursuant to the Project Mechanisms Act for the emissions reductions of the installation, the entitlement pursuant to Section 19 may not be claimed for the electricity from the respective installation.

Part 6

Legal protection and official procedures

Section 81

Clearing house

(1) A clearing house shall be established for this Act. The operation shall take place on behalf of the Federal Ministry for Economic Affairs and Energy by a legal person under private law.

(2) The clearing house shall be responsible for questions and disputes

1. in the application of Sections 5, 7 to 55, 70, 71, 80, 100 and 101 and the ordinances enacted on the basis of this Act,

2. in the application of the provisions which corresponded to the provisions cited in number 1 in a version of this Act in force before 1 August 2014,
3. in the application of Section 61 to the extent that installations are affected, and
4. to measure the electricity supplied or consumed for the operation of an installation.

(3) The tasks of the clearing house shall be:
1. the avoidance of disputes and
2. the settlement of disputes.

In the handling of these tasks, the rules on the protection of personal data and of operational and business secrets and decisions by the Federal Network Agency pursuant to Section 85 must be observed. Furthermore, the principles of Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165 of 18.6.2013, p. 63) must be taken into account and applied accordingly.

(4) In order to avoid or settle disputes between parties to the procedures, the clearing house can
1. implement procedures between the parties to the procedures in response to their joint application; Section 204 subsection 1 number 11 of the Civil Code shall be applied mutatis mutandis; the procedures can also be carried out as arbitration procedures within the meaning of the Tenth Book of the Code of Civil Procedure if the parties have agreed to arbitration, or
2. issue comments to ordinary courts at which these disputes are pending at their request.

Parties to the disputes can be installation operators, direct sellers and grid system operators. This shall be without prejudice to their right to recourse to ordinary courts.

(5) The clearing house can in order to avoid disputes also implement procedures to clarify issues beyond individual cases as long as this is applied for by at least one installation operator, one direct seller, one grid system operator or one association and there is a public interest in clarifying these issues. Associations whose field of responsibilities according to their statutes is affected by the issue must be involved.

(6) The carrying out of the tasks pursuant to subsections 3 to 5 shall take place in line with the rules of procedure given to the clearing house by itself. The rules of procedure must also contain provisions on how an arbitration procedure is carried out by the clearing house. The issuing and amendment of the rules of procedure require the prior approval of the Federal Ministry for Economic Affairs and Energy. The carrying out of the tasks pursuant to subsections 3 to 5 shall in each case be subject to the reservation of the prior approval of the rules of procedure by the parties to the procedure.

(7) The clearing house must implement the tasks pursuant to subsections 3 to 5 on a priority and accelerated basis. It can set deadlines for the parties to the procedure and discontinue procedures if the parties to the procedure do not participate adequately.

(8) The carrying out of the tasks pursuant to subsections 3 to 5 shall not be a legal service within the meaning of Section 2 subsection 1 of the Legal Services Act. The possibility of liability of the management of the clearing house for damages to assets caused by its carrying out of its tasks is excluded; this shall not apply in the case of intention.

(9) The clearing house must publish on its website an annual report on its carrying out of the tasks pursuant to subsections 3 to 5 in non-personal form.

(10) The clearing house can levy fees on the parties to the procedure in line with its rules of procedure to cover the cost of actions pursuant to subsection 4. Procedures pursuant to subsection 5 shall be conducted free of charge. The clearing house can levy fees to cover costs of other actions related to the tasks pursuant to subsections 3 to 5.

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Section 82

**Consumer protection**

Sections 8 to 14 of the Unfair Competition Act shall apply mutatis mutandis to violations of Sections 19 to 55.

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Section 83
Temporary legal protection

(1) On application from the installation operator, the court responsible for the main proceedings can issue an injunction even before the construction of the installation and taking the individual circumstances into account stipulating that the debtor of the entitlements described in Sections 8, 11, 12, 19 and 52 must provide information, provisionally connect the installation, optimise, strengthen or expand its grid system without delay, purchase the electricity and make a contribution regarded as fair and just as an advance payment towards the financial support.

(2) The injunction can be issued even if the preconditions described in Sections 935 and 940 of the Code of Civil Procedure do not exist.

Section 84
Use of maritime shipping lanes

As long as installation operators claim financial support pursuant to Section 19, they can use the German exclusive economic zone or the coastal sea for the operation of the installations without charge.

Section 85
Tasks of the Federal Network Agency

(1) The Federal Network Agency is tasked, subject to further tasks transferred to it in ordinances issued on the basis of this Act, with monitoring to ensure that

1. the grid system operators only assume technical control of installations pursuant to Section 14 which they are entitled to so control,
2. the transmission system operators sell the electricity which is financially supported pursuant to Sections 19 and 57 pursuant to Section 59 in conjunction with the Equalisation Scheme Ordinance, determine, stipulate, publish and invoice the electricity suppliers with the EEG surcharge in an orderly manner, and that in particular the transmission system operators are only invoiced with the financial support pursuant to Sections 19 to 55 and that the netting pursuant to Section 57 subsection 4 has been taken into account,
3. the data are transmitted pursuant to Section 76 and published pursuant to Section 77,
4. the labelling of the electricity supported pursuant to this Act takes place solely in line with Section 78.

(2) In the case of substantiated suspicion, controls can be carried out at installation operators, electricity suppliers and grid system operators in order to fulfil tasks pursuant to subsection 1 number 2. This shall be without prejudice to the right of installation operators or grid system operators to appeal to ordinary courts or to launch a procedure at the clearing house pursuant to Section 81 subsection 4.

(3) Taking account of the purpose and objective pursuant to Section 1, the Federal Network Agency can make stipulations pursuant to Section 29 subsection 1 of the Energy Industry Act

1. regarding the technical devices pursuant to Section 9 subsection 1 and 2, particularly on the data formats,
2. within the scope of application of Section 14 regarding
   a) the sequence in which technical control over the various installations and CHP installations affected by a measure pursuant to Section 14 is assumed,
   b) the criteria which the grid system operator must use to decide on this sequence,
   c) which electricity-generating installations pursuant to Section 14 subsection 1 sentence 1 number 2 must remain on the grid system even when feed-in management is being applied in order to ensure the security and reliability of the electricity supply system,
3. to handle switches pursuant to Section 21, particularly regarding procedures, deadlines and data formats,
4. to furnish proof of remote controllability pursuant to Section 36, particularly regarding procedures, deadlines and data formats, and
5. to take account of electricity from solar radiation energy which is self-consumed in the publication obligations pursuant to Section 73 and in the calculation of the monthly market value of electricity from solar radiation energy pursuant to Annex 1 number 2.2.4 to this Act, in each case in particular regarding the calculation or estimation of the quantities of electricity.

(4) The provisions of Part 8 of the Energy Industry Act with the exception of Section 69 subsection 1 sentence 2 and subsection 10, of Sections 91, 92 and 95 to 101 and of Division 6 shall be applied mutatis mutandis for the assumption of the tasks of the Federal Network Agency pursuant to this Act and to the ordinances issued on the basis of this Act.

(5) The decisions by the Federal Network Agency pursuant to Section 4 shall be taken by the decision divisions. Sentence 1 shall not apply to decisions related to the auctioning of financial support pursuant to Section 55 and the ordinance issued on the basis of Section 88. Section 59 subsection 1 sentence 2 and 3, subsection 2 and 3 and Section 60 of the Energy Industry Act shall be applied mutatis mutandis.

Section 86

Provisions on fines

(1) An administrative offence is committed by anyone who deliberately or negligently
1. contrary to Section 80 subsection 1 sentence 1 sells or otherwise transfers electricity or gas,
2. acts contrary to an enforceable order under Section 69 subsection 2,
3. contravenes an enforceable order pursuant to Section 85 subsection 4 in conjunction with Section 65 subsection 1 or subsection 2 or Section 69 subsection 7 sentence 1 or subsection 8 sentence 1 of the Energy Industry Act or
4. contravenes an ordinance
   a) pursuant to Section 90 number 3,
   b) pursuant to Section 92 number 1,
   c) pursuant to Section 92 number 3 or number 4,
   d) pursuant to Section 93 number 1, 4 or number 9.
   or an enforceable order on the basis of such an ordinance to the extent that the ordinance refers to this provision on fines for a certain offence.

(2) The administrative offence can in the cases of subsection 1 number 4 letter a, c and d be punished by a fine of up to fifty thousand euros and in the other cases by a fine of up to two hundred thousand euros.

(3) Within the meaning of Section 36 subsection 1 number 1 of the Act on Administrative Offences, the administrative authority shall be
1. the Federal Network Agency in the cases of subsection 1 number 1, 3 or number 4 letter d,
2. the Federal Office for Economic Affairs and Export Control in the cases of subsection 1 number 2,
3. the Federal Agency of Agriculture and Food in the cases of subsection 1 number 4 letter a and
4. the Federal Environment Agency in the cases of subsection 1 number 4 letter b or letter c.

Section 87

Fees and expenses

(1) Fees and expenses shall be levied for official acts pursuant to this Act and the ordinances based on this Act and for the use of the register of guarantees of origin and the register of installations; here, consideration can also be given to the amount of administration which accrues in each case at the supervisory authority. With regard to the imposition of fees for official acts pursuant to sentence 1, the Administrative Costs Act of 23 June 1970 (Federal Law Gazette I p. 821) in the ver-
sion in force on 14 August 2013 shall be applied. The provisions of Divisions 2 and 3 of the Administrative Costs Act in the version in force on 14 August 2013 shall be applied *mutatis mutandis* for the use of the register of guarantees of origin and the register of installations.

(2) The cases for which fees shall be levied and the rates of fees shall be determined by ordinance without approval from the Bundesrat. Here, fixed fees, also in the form of time fees, or framework fees can be stipulated, and the reimbursement of expenses can also be regulated in derogation of the Administrative Costs Act. The Federal Ministry for Economic Affairs and Energy shall be authorised to issue ordinances. It can transfer this authorisation by ordinance without the approval of the Bundesrat to a higher federal authority to the extent that the latter assumes tasks on the basis of this Act or of an ordinance pursuant to Sections 88, 90, 92 or Section 93. In derogation of sentence 3, the Federal Ministry of Food and Agriculture in consensus with the Federal Ministry of Finance, the Federal Ministry for Economic Affairs and Energy and the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety shall be authorised to issue the ordinance for official acts of the Federal Office for Agriculture and Food in relation to the recognition of systems or the recognition and supervision of an independent control body pursuant to the Biomass Electricity Sustainability Ordinance.

Part 7
Authorisations to issue ordinances, reports, transitional provisions

Division 1
Authorisations to issue ordinances

Section 88
Authorisation to issue ordinances on the auctioning of the support for ground-mounted installations

(1) The Federal Government shall be authorised to provide rules in the form of an ordinance without the approval of the Bundesrat within the scope of application of Section 55

1. regarding the procedure and content of the auctions, in particular
   a) regarding the total capacity to be installed in a calendar year on the basis of auction in megawatts or electrical output in megawatt-hours,
   b) to divide the annual quantity to be auctioned into lots and to stipulate the minimum and maximum sizes of partial lots,
   c) to stipulate the minimum and maximum amounts of the financial support for electrical output or for the provision of installed capacity,
   d) regarding the formation of prices, the number of bidding rounds and the course of the auctions,
   e) in derogation of Section 51 or Section 55 subsection 2 number 2 to determine areas on which installations can be erected,

2. regarding further preconditions pursuant to Section 55 subsection 2 number 4, in particular
   a) to limit the size of the installations and in derogation of Section 32 subsection 1 and 2 to control the composition of installations,
   b) to impose requirements which serve the grid or system integration of the installations,
   c) to make regulations which derogate from Sections 19 to 39 and 55 subsection 2 number 2,

3. regarding the requirements for participation in the auctions, in particular
   a) to impose minimum requirements on the aptitude of the participants,
   b) to impose requirements on the state of planning and authorisation of the projects,
   c) to impose requirements regarding the nature, the form and the content of collateral to be provided by all participants in the auctions or only in the case of being awarded the contract in
order to ensure the commissioning and operation of the installation, and the corresponding rules on the partial or complete repayment of this collateral,
d) to stipulate how participants in the auctions have to furnish proof of the compliance with the requirements pursuant to letters a to c,
4. regarding the nature, the form and the content of the award of the contract in the context of an auction and regarding the criteria for the award,
5. regarding the nature, the form and the content of the financial support provided by an award, and particularly to regulate that
   a) the financial support for electrical output per kilowatt-hour, for the provision of installed capacity in euros per kilowatt or for a combination of both variants is to be paid, including in derogation of the provisions in Sections 19 to 39,
   b) an entitlement to support issued by an award shall prevail irrespective of legal challenges by third parties against the auction procedure or the award of the contract,
6. regarding a reimbursement of expenses for the drawing up of bids which do not win an award,
7. regarding requirements which are intended to ensure the operation of the installations, in particular if an installation is not commissioned or is commissioned late or is not operated to a sufficient degree,
   a) to provide for an obligation to pay money and to regulate the level and the preconditions for the obligation to pay,
   b) to stipulate criteria for an exclusion of bidders from future auctions, and
   c) to provide for the possibility to withdraw or to alter and then reissue the entitlements to support issued in the context of the auctions after a certain period, or to alter the duration or level of the entitlement to support after the expiry of a certain period,
8. regarding the nature, the form and the content of the publications of the notification of auctions, the outcome of the auctions and the necessary communications to the grid system operators,
9. regarding the transferability of entitlements to support before the commissioning of the installation and their binding allocation to an installation, in particular
   a) regarding the deadlines, formal requirements and communication obligations to be observed,
   b) regarding the group of entitled persons and the requirements to be made to them,
10. regarding the information to be transmitted pursuant to numbers 1 to 9 and the protection of the personal data transmitted in this context.
   (2) In order to implement Section 2 subsection 6, the Federal Government shall be authorised to issue an ordinance without the approval of the Bundesrat within the scope of application of Section 55 and in derogation of the scope of this Act for electricity from ground-mounted installations which are erected in another Member State of the European Union

1. to regulate that an entitlement to financial support pursuant to this Act exists if
   a) the installation operator has an entitlement to support which has been awarded in the context of an auction,
   b) none of the electricity generated in the installation from the time of commissioning of the installation is used by the installation operator himself,
   c) it is ensured that the actual impact of the electricity generated in the installation on the German electricity grid system or the German electricity market is comparable to the effect that the electricity would have if fed in within Germany,
   d) a treaty under international law or a corresponding administrative agreement has been concluded with the Member State of the European Union in which the installation is to be erected in which the other preconditions for entitlement to the financial support, the procedure and the nature and scope of the financial support has been regulated with the Member State of the European Union, and this treaty under international law or administrative agreement takes account of the principle of mutual cooperation on support, the exclusion of double support and an appropriate distribution of costs and benefits between Germany and the other Member State,
e) the other preconditions pursuant to this Act or the ordinance pursuant to subsection 1 with
the exception of the preconditions pursuant to Section 51 subsection 1 are met, to the extent
that no different rules have been provided in the ordinance on the basis of numbers 2 to 5,

2. to make corresponding rules pursuant to subsection 1 number 1 to 10, in particular
   a) in derogation of the precondition regulated in Sections 19, 34, 35 number 3, Sections 37 to 39
      of the actual feed-in into the grid system in Germany to make rules which ensure that even
      without a feed-in into this grid system the supported quantity of electricity has a comparable
      actual effect on the German electricity grid system or on the German electricity market to feed-
      in within Germany, and to make rules for the preconditions and the procedure for the furnishing
      of proof,
   b) to provide rules regarding the affected party challenging the entitlement who is obliged to pay
      the financial support, the reimbursement of the corresponding costs and the preconditions for
      the entitlement to financial support in derogation of Sections 19, 23 to 26,
   c) to provide rules on the scope of the financial support and the \textit{pro-rata} financial support of the
      electricity generated by this Act and by the other Member State of the European Union,

3. to make regulations which derogate from Section 6 subsection 2, Section 55 subsection 4, from
   Sections 70 to 72 and 75 to 77 and from the ordinance pursuant to Section 93 regarding commu-
   nication and publication obligations,

4. to make rules on the grid and system integration which derogate from Sections 8 to 18,

5. to provide rules governing how the installations are to be taken into consideration in the calcula-
   tion of the target corridor pursuant to Section 31 subsection 1,

6. to make regulations which derogate from Sections 56 to 61 regarding the obligations to bear costs
   and the nationwide equalisation of the costs of the financial support for the installations,

7. to provide for rules which derogate from Section 81 on the avoidance or settlement of disputes by
   the clearing body and to provide rules which derogate from Section 85 regarding the powers of
   the Federal Network Agency.

(3) In order to implement the treaty under international law or the administrative agreement
pursuant to subsection 2 number 1 letter d, the Federal Government shall be authorised to issue an
ordinance without the approval of the Bundesrat for operators of ground-mounted installations
which have been erected within Germany and which have an entitlement to financial support in a
support system of another Member State of the European Union,

1. in derogation of Sections 19 to 55 to regulate the level of the financial support or the removal of
   the entitlement to financial support pursuant to this Act if there is an entitlement to support from
   another Member State,

2. in derogation of Section 15 to regulate the compensation.

(4) The Federal Government shall be authorised to provide rules in the form of an ordinance
without the approval of the Bundesrat within the scope of application of Section 55

1. in derogation of subsections 1 and 2 and from Section 55 to entrust not the Federal Network
   Agency but another legal person under public law with the auctions or to commission a legal per-
   son under private law to the corresponding extent and to regulate details of this,

2. to authorise, taking account of the purpose and aim pursuant to Section 1, the Federal Network
   Agency to make stipulations pursuant to Section 29 subsection 1 of the Energy Industry Act re-
   garding the auctions including the specific details of the regulations pursuant to subsection 1
   number 1 to 10 and subsection 2.

Section 89

\textbf{Authorisation to issue ordinances on the generation of electricity from biomass}

(1) The Federal Government shall be authorised to provide rules in the form of an ordinance
without the approval of the Bundesrat within the scope of application of Sections 44 to 46 to regulate

1. what substances are regarded as biomass and
2. what technical procedures may be applied to generate electricity.

(2) The Federal Government shall further be authorised to provide rules in the form of an ordinance without the approval of the Bundesrat within the scope of application of Section 47 subsection 6 number 2 regarding requirements for a mass balance system to trace back gas taken from a natural gas system.

Section 90

Authorisation to issue ordinances on sustainability requirements for biomass

The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety shall be authorised to issue an ordinance without the approval of the Bundesrat in consensus with the Federal Ministry for Economic Affairs and Energy and the Federal Ministry of Food and Agriculture

1. regulating that the entitlement to financial support for electricity from solid, liquid or gaseous biomass shall only exist if the biomass used to generate electricity meets the following requirements:

   a) certain ecological and other requirements in terms of sustainable cultivation and the areas used for cultivation, particularly to protect natural habitats, of grassland with high biodiversity value within the meaning of Directive 2009/28/EC and of areas with high carbon stocks,

   b) certain ecological and social requirements in terms of sustainable production,

   c) a certain greenhouse-gas reduction potential which must at least be attained in the electricity generation,

2. to regulate the requirements pursuant to number 1 including the rules to determine the greenhouse-gas reduction potential pursuant to number 1 letter c,

3. to stipulate how installation operators must furnish proof of compliance with the requirements pursuant to numbers 1 and 2; this shall include rules

   a) on the content, the form and the duration of validity of this proof including rules to recognise proof which have been recognised pursuant to the law of the European Union or another state as proof of the compliance with the requirements pursuant to number 1,

   b) on the inclusion of systems and independent control bodies in the keeping of the proof and

   c) on the requirements to be met by the recognition of systems and independent control bodies and on the measures to monitor this including necessary rights to obtain information, access and test samples and to issue instructions and the right of the competent authority or independent control bodies to enter land, business, operating and storage rooms and means of transport to the extent necessary for the monitoring or control,

4. to entrust the Federal Office for Agriculture and Food with tasks which ensure compliance with the requirements regulated in the ordinance pursuant to numbers 1 to 3, particularly with the more detailed provisions of the requirements regulated in the ordinance on the basis of numbers 1 and 2 and with the assumption of tasks pursuant to number 3.

Section 91

Authorisation to issue ordinances on the equalisation scheme

In order to further develop the nationwide equalisation scheme, the Federal Government is authorised to regulate by ordinance without the approval of the Bundesrat

1. that rules can be imposed on the selling of the electricity supported pursuant to this Act, including

   a) the possibility to offset tariff payments and transaction costs via financial incentives or to involve transmission system operators in the profits and losses made in the selling,

   b) the monitoring of the selling,

   c) requirements imposed on the selling, payment and determining of the EEG surcharge including publication and transparency obligations, deadlines and transitional arrangements for financial equalisation,
2. that the transmission system operators can be authorised to do the following, and the preconditions under which this can take place:
   a) to conclude contractual agreements with installation operators which, giving appropriate consideration to the priority feed-in, serve to optimise the selling of the electricity; this shall include the consideration of the costs arising from such agreements in the context of the equalisation scheme, to the extent that they are economically reasonable,
   b) to reduce the feed-in from installations which are commissioned after 31 December 2015 in the event of lasting negative prices,

3. that the transmission system operators can be obliged to maintain a joint, transparent EEG account, particularly for the offsetting of the revenues from sales, the necessary transaction costs and the tariff payments,

4. that the transmission system operators can be obliged jointly, on the basis of the forecast volumes of electricity from renewable energy sources and mine gas, to determine the likely costs and revenues including a liquidity reserve for the following calendar year and, netting the balance of the EEG account for the following calendar year, a uniform nationwide EEG surcharge for the following calendar year, and to publish them in a non-personal form,

5. that the tasks of the transmission system operators can be wholly or partially transferred to third parties which have been determined by means of an invitation to bid or another objective, transparent and non-discriminatory procedure; this shall include rules for the procedure to be carried out for this including the invitation to tender for the services provided by the transmission system operators in the context of the nationwide equalisation or the quantities of EEG electricity and the possibility to regulate the assumption of tasks by third parties in a different way from that of the transmission system operators,

6. the necessary adaptations to the rules of direct selling and the necessary adaptations of the special equalisation scheme for electro-intensive undertakings and railways, of the regulation of the possibility for retrospective correction, of the powers of the Federal Network Agency, of the obligations to transmit and publish information, and of the EEG surcharge to the further developments in the special equalisation scheme,

7. that in the case of Section 61 the EEG surcharge for electricity from installations or other electricity-generating installations must in derogation of Sections 60 and 61 be paid to the grid system operator to whose grid system the installation is connected, and this grid system operator shall pass on the payment to the transmission system operator; here, entitlements to payment of the EEG surcharge can be netted, even in derogation of Section 33 subsection 1, against entitlements to financial support, and it can be regulated
   a) when payments or advance payments must be made towards the EEG surcharge and
   b) how the obligations to communicate and publish shall be adapted, also in derogation of Sections 70 to 76.

Section 92

Authorisation to issue ordinances on guarantees of origin

The Federal Ministry for Economic Affairs and Energy shall be authorised to issue ordinances without the approval of the Bundesrat

1. to regulate the requirements for
   a) the issuing, transfer and cancellation of guarantees of origin pursuant to Section 79 subsection 1,
   b) the recognition, transfer and cancellation of guarantees of origin issued before the commissioning of the register of guarantees of origin, and
   c) the recognition of guarantees of origin pursuant to Section 79 subsection 2,

2. to stipulate the content, form and length of validity of the guarantees of origin,
3. to regulate the procedure for the issuing, recognition, transfer and cancellation of guarantees of origin and to stipulate how applicants have to furnish proof of compliance with the requirements pursuant to number 1,

4. to regulate the design of the register of guarantees of origin pursuant to Section 79 subsection 3 and to stipulate what data must be transmitted to the register of guarantees of origin and who is obliged to transmit the data; this shall include rules on the protection of personal data,

5. in derogation of Section 79 subsection 5 to regulate that guarantees of origin shall be financial instruments within the meaning of Section 1 subsection 11 of the Banking Act or of Section 2 subsection 2b of the Securities Trading Act,

6. in derogation of Section 78 to regulate the designation of electricity in the context of electricity labelling for which financial support is claimed pursuant to Section 19; here, in particular in derogation of Section 79 subsection 1, the issuing of guarantees of origin for this electricity to the transmission system operators can be regulated,

7. in derogation of Section 79 subsection 4 to entrust a legal person under public law with the tasks pursuant to Section 79 subsection 1 to 3, particularly with the creation and operation of the register of guarantees of origin and with the issuing, recognition, transfer or cancellation of guarantees of origin including the enforcement of the administrative decisions in this regard or to entrust this to the appropriate extent to a legal person under private law and to regulate the details of this, including the legal and substantive supervision by the Federal Environment Agency.

Section 93

Authorisation to issue ordinances on the register of installations

In order to design the register of installations pursuant to Section 6, the Federal Ministry for Economic Affairs and Energy shall be authorised to issue ordinances without the approval of the Bundesrat to regulate:

1. the data pursuant to Section 6 subsection 2 and other data which have to be transmitted to the register of installations, including the requirements in terms of the type, the format, the scope and the preparation; the other data shall in particular include data about:
   a) the self-supply from the installation,
   b) the date of commissioning of the installation,
   c) technical characteristics of the installation,
   d) the grid system to which the installation is connected,

2. who has to transmit the other data pursuant to number 1, in particular whether the installation operator, grid system operator, public bodies or other persons are obliged to transmit the data,

3. the procedure to register the installations including the deadlines and the rule that the registration by installation operators must in derogation of Section 6 subsection 2 be made by a third party who shall be obliged to transfer the data to the register of installations,

4. the review of the data stored in the register of installations including obligations of installation operators and grid system operators to cooperate,

5. that changes in the form of sale in derogation of Section 21 subsection 1 must be reported to the register of installations, including the deadlines for the data transmission and stipulations of format and procedure,

6. that the data shall be compared with the data of the register of guarantees of origin pursuant to Section 79 subsection 3 or with other registers and data sets to be set up or compiled
   a) on the basis of this Act or an ordinance enacted on its basis,
   b) on the basis of the Energy Industry Act or an ordinance or stipulation enacted on its basis or
   c) on the basis of the Act against Restraints of Competition or an ordinance or stipulation enacted on its basis,
to the extent that the provisions governing these registers and data sets do not prevent a comparison,

7. that data of the installation operators on installations requiring authorisation shall be compared with data of the competent authorising authority,

8. what registered installations shall be published in the internet; here, giving appropriate consideration to data protection, a high degree of transparency shall be desired; this shall also include provisions pursuant to Section 26 subsection 2 on the necessary publications to review the construction of additional installations to generate electricity from biomass, onshore wind energy installations and installations to generate electricity from solar radiation energy and the respective values to be applied pursuant to Sections 28, 29 and 31,

9. the obligation of the grid system operators to call up the current feed-in of installations registered in the register of installations and equipped with technical devices within the meaning of Section 9 subsection 1 number 2 and to transmit these data to the register of installations, including the deadlines and the demands in terms of the type, the formats, the scope and the preparation of the data to be transmitted,

10. the relationship to the obligations to transmit and publish information pursuant to Sections 70 to 73; here, it shall particularly be possible to regulate the extent to which data contained and published in the register of installations no longer have to be transmitted and published pursuant to Sections 70 to 73 from the point in time of their publication,

11. the type and scope of the delivery of data to
   a) grid system operators to fulfil their tasks pursuant to this Act and the Energy Industry Act,
   b) public bodies to fulfil their tasks relating to the development of renewable energies,
   c) third parties to the extent necessary for them to fulfil their tasks pursuant to letter b or to the extent that there is a justified interest in the data for which publication pursuant to number 8 is not sufficient; data pursuant to Section 6 subsection 2 number 1 may not be forwarded to third parties,

12. the authorisation of the Federal Network Agency to regulate, by stipulation pursuant to Section 29 of the Energy Industry Act:
   a) further data to be transmitted by installation operators or grid system operators to the extent necessary pursuant to Section 6 subsection 1 sentence 2,
   b) that in derogation of an ordinance pursuant to number 1 certain data no longer have to be transmitted if they are no longer required pursuant to Section 6 subsection 1 sentence 2; the data pursuant to Section 6 subsection 2 shall be excepted from this,
   c) the type and scope of an extended access to data in the register of installations for certain groups of people to improve market and grid system integration,

13. rules to protect personal data related to the data to be transmitted pursuant to numbers 1 to 11, in particular obligations to explain, provide and delete information,

14. the transfer of the register of installations pursuant to Section 6 subsection 4 into the total register of installations pursuant to Section 53b of the Energy Industry Act including the necessary rules on the transfer of the registered data and on the assumption of tasks pursuant to Section 6 subsection 1 sentence 2 by the total register of installations.

Section 94

Authorisations to issue ordinances on the special equalisation scheme

The Federal Ministry for Economic Affairs and Energy shall be authorised to issue ordinances without the approval of the Bundesrat

1. to regulate provisions to stipulate efficiency requirements which are to be applied in the calculation of the standardised electricity consumption in the context of the calculation of the electricity cost intensity pursuant to Section 64 subsection 6 number 3, in particular to stipulate electricity efficiency reference values which correspond to the status of advanced electricity-efficient production technologies, or other efficiency requirements, so that not the actual electricity con-
sumption but the standardised electricity consumption can be used to calculate the electricity costs; here, it shall be possible

a) to take account of prior improvements made by undertakings by investing in advanced production technologies, or

b) to draw on findings from the information on the operation of energy or environmental management systems or alternative systems to improve energy efficiency by the undertakings pursuant to Section 69 sentence 2 number 1 and 2,

2. to stipulate what average electricity prices pursuant to Section 64 subsection 6 number 3 have to be taken as a basis for the calculation of the electricity cost intensity of an undertaking and how these electricity prices are calculated; here, in particular,

a) electricity prices can be formed for various groups of undertakings with similar electricity consumption or patterns of electricity consumption which reflect the realities of the electricity market, and

b) available statistical surveys of electricity prices in industry can be taken into consideration,

3. to include sectors in or remove them from Annex 4 as soon as and to the extent that this is necessary for an alignment with decisions by the European Commission.

Section 95
Further authorisations to issue ordinances

The Federal Government shall also be authorised to provide rules in the form of an ordinance without the approval of the Bundesrat

1. which regulate the calculation procedure for the compensation pursuant to Section 15 subsection 1, in particular a generalised procedure to determine the lost revenues and saved expenses, and a procedure to furnish proof for the calculation of the individual case,

2. which regulate that where the feed-in tariff pursuant to Section 38 is claimed

a) installation operators must make the electricity from their installation available to a third party in derogation of Section 19 subsection 1 number 2,

b) the claim pursuant to Section 38 subsection 1 shall be addressed to the third party to whom the electricity is made available pursuant to letter a,

c) that the third party pursuant to letters a and b is determined in the context of an invitation to bid or other objective, transparent and non-discriminatory procedure and is entrusted with the implementation of Section 38; here in particular the authority inviting the bids and requirements regarding the implementation of the procedure, requirements for the third party entrusted with the implementation of Section 38, the preconditions which installations must meet in order to utilise Section 38, requirements regarding the conditions and implementation of Section 38 and requirements regarding the level of financial support in the context of Section 38 can be stipulated,

3. which regulate for the calculation of the market premium pursuant to number 1.2 of Annex 1 to this Act for electricity from installations which have been commissioned before 1 August 2014 pursuant to the definition of commissioning in force on 31 July 2014 the level of the increase in the “AW” value to be applied in each case in derogation of Section 100 subsection 1 number 8 for electricity which is directly sold following the entry into force of this Act, including from installations which first claimed the market premium before the entry into force of this Act; here, different values can be stipulated for different sources of energy or for selling on different markets and negative values can also be stipulated,

4. in addition to Annex 2 which regulate stipulations to determine and apply the reference yield,

5. which regulate requirements for wind energy installations to improve grid system integration (system services), in particular

a) for onshore wind energy installations requirements

aa) in terms of the behaviour of the installations in the event of error,
bb) in terms of the voltage stability and provision of reactive power,
cc) in terms of the frequency stability,
dd) in terms of the procedure to furnish proof,
ee) in terms of the rebuilding of supply and
ff) in terms of the expansion of existing wind farms and

b) for onshore wind installations which were commissioned before 1 January 2012, requirements
aa) in terms of the behaviour of the installations in the event of error,
bb) in terms of the frequency stability,
cc) in terms of the procedure to furnish proof,
dd) in terms of the rebuilding of supply and
ee) in terms of the retrofitting of existing installations in existing wind farms,

6. which introduce a system for the direct selling of electricity from renewable energy sources to final consumers, in which this electricity can be labelled as “electricity from renewable energy sources”, and particularly to regulate:

a) requirements to be met by installation operators and electricity suppliers in order to be permitted to participate in this system; this shall particularly include
   aa) requirements in terms of the supply portfolio of the participating electricity suppliers regarding minimum shares of electricity from installations which generate electricity from wind energy or from solar radiation energy,
   bb) obligations to invest in new installations to generate electricity from renewable energy sources or to pay into a fund from which installations to generate electricity from renewable energy sources are financed;
   these requirements can also include volumes of electricity from countries of the European Union and as a further precondition provide that it be ensured that the actual impact of the electricity generated in the installation on the German electricity grid system or the German electricity market is comparable to the effect that the electricity would have if fed in within Germany,

b) requirements in terms of payments by the participating electricity suppliers to the transmission system operators or to installation operators as a precondition for participation in this system,

c) in derogation of Section 78 regulations in the context of electricity labelling according to which electricity which is sold directly pursuant to Section 20 subsection 1 number 1 may be labelled “electricity from renewable energy sources”,

d) in derogation of Section 79 the issuing of guarantees of origin for the electricity sold in this system,

e) the procedure to furnish proof of the fulfilment of the requirements pursuant to letters a to d and, as far as is necessary, additions to or deviations from the procedural rules stipulated in this Act, particularly regarding reporting, labelling and publication obligations on the part of the electricity suppliers and the transmission system operators,

f) rules under which electricity suppliers have no or a reduced obligation to pay the EEG surcharge, to the extent that these undertakings, by paying the average cost of the electricity from renewable energy, the development of which is supported by this Act, participate to an appropriate extent in the financing of the installations which are eligible for support under this Act and the level of the EEG surcharge does not rise as a result for other electricity suppliers, including rules under which the electricity suppliers can be obliged to make other payments, e.g. into a fund,

g) additional or deviating rules in terms of equalisation claims amongst transmission system operators and between electricity suppliers and grid system operators in order to ensure that the electricity suppliers participating in this system bear appropriate costs;
here, it should also be borne in mind that the introduction of this system must not be used to subst-
stantiate an unlimited obligation to financially assist electricity which is generated from renewa-
ble energy outside Germany.

Section 96

Common provisions

(1) The ordinances enacted on the basis of Sections 89, 91 and 92 shall require the approval of
the Bundestag.

(2) If ordinances require the approval of the Bundestag pursuant to subsection 1, this approval
can be made dependent on the inclusion of its desired changes. If the authority issuing the ordinance
includes the changes, the Bundestag shall not need to consider the adoption of the ordinance again. If
the Bundestag has not considered the ordinance following the expiry of six weeks of session follow-
the receipt of the ordinance, its approval of the unchanged ordinance shall be deemed to have
been given in the cases of Sections 89 and 91.

(3) The authorisation to issue ordinanaces on the basis of Sections 91 to 93 can be transferred to a
higher federal authority by ordinance without the approval of the Bundesrat and in the case of Sec-
tions 91 and 92 with the approval of the Bundestag. The ordinances which are enacted by the higher
federal authority on this basis shall not require the approval of the Bundesrat or the Bundestag.

Division 2

Reports

Section 97

Progress report

The Federal Government shall evaluate this Act and shall present a progress report to the Bundes-
tag by 31 December 2018 and every four years thereafter. The Federal Network Agency, the Federal
Office for Economic Affairs and Export Control and the Federal Environment Agency shall support
the Federal Government as it drafts the progress report.

Section 98

Monitoring Report

(1) The Federal Government shall report to the Bundestag by 31 December 2014 and annually
thereafter on
1. the state of the development of renewable energy sources and the attainment of the objectives
   pursuant to Section 1 subsection 2,
2. the fulfilment of the principles pursuant to Section 2,
3. the state of direct selling of electricity from renewable energy sources,
4. the development of self-supply within the meaning of Section 61 and
5. the challenges arising from numbers 1 to 4.

(2) The Federal Government shall present a proposal for the reshaping of the existing rules in
good time before the attainment of the objective stipulated in Section 31 subsection 6 sentence 1.

(3) The Federal Government shall review Section 61 subsection 3 and 4 by 2017 and shall pre-
sent a proposal for a reshaping of the existing rules in good time.

Section 99

Report on auctions
The Federal Government shall report to the Bundestag by 30 June 2016 at the latest on the experience with auctions, particularly pursuant to Section 55. The report shall also contain recommendations for action

1. to determine the financial support and its level by auctions with regard to Section 2 subsection 5 sentence 1 and
2. regarding the quantity of the quantities of electricity or installed capacity which needs to be auctioned to attain the objectives pursuant to Section 1 subsection 2.

Division 3
Transitional provisions

Section 100
General transitional provisions

(1) For electricity from installations and CHP installations which were commissioned before 1 August 2014 pursuant to the definition of commissioning in force on 31 July 2014, the provisions of this Act shall be applied with the proviso that

1. instead of Section 5 number 21, Section 3 number 5 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied,
2. instead of Section 9 subsection 3 and 7, Section 6 subsection 3 and 6 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied,
3. Section 25 shall be applied with the following provisos:
   a) the entitlement to tariff payments of the Renewable Energy Sources Act in the version applicable to the respective installation shall apply in place of the value to be applied pursuant to Section 23 subsection 1 sentence 2 and
   b) for operators of installations to generate electricity from solar radiation energy which were commissioned after 31 December 2011, subsection 1 sentence 1 shall be applied as long as the installation operator has not registered the installation pursuant to Section 17 subsection 2 number 1 letter a of the Renewable Energy Sources Act in the version in force on 31 July 2014 as a supported installation within the meaning of Section 20a subsection 5 of the Renewable Energy Sources Act in the version in force on 31 July 2014 and has not transmitted the location and the installed capacity of the installation to the Federal Network Agency by means of the forms provided by it;
4. instead of Sections 26 to 31, Section 40 subsection 1, Sections 41 to 51, 53 and 55, 71 figure 2: Sections 20 to 20b, 23 to 33, 46 number 2 and Annexes 1 and 2 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied; in derogation of this, Section 47 subsection 7 shall be applied mutatis mutandis exclusively for installations which were commissioned pursuant to the definition of commissioning in force on 31 December 2011,
5. Section 35 sentence 1 number 2 shall be applied from 1 April 2015,
6. Section 37 shall be applied mutatis mutandis with the exception of Section 37 subsection 2 and 3 second half-sentence,
7. for electricity from installations to generate electricity from hydropower which were commissioned before 1 January 2009, Section 23 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied instead of Section 40 subsection 2 if the measure pursuant to Section 23 subsection 2 sentence 1 of the Renewable Energy Sources Act in the version in force on 31 July 2014 was completed before 1 August 2014,
8. Number 1.2 of Annex 1 shall be applied with the proviso that the respective “AW” value to be applied is increased
   a) for electricity generated before 1 January 2015
      aa) from wind energy and solar radiation energy by 0.60 cents per kilowatt-hour if the installation can be remotely controlled within the meaning of Section 3 of the Management
Premium Ordinance of 2 November 2012 (Federal Law Gazette I p. 2278), and apart from that by 0.45 cents per kilowatt-hour,

bb) from hydropower, landfill gas, sewage treatment gas, mine gas, biomass and geothermal energy by 0.25 cents per kilowatt-hour,

b) for electricity generated after 31 December 2014

aa) from wind energy and solar radiation energy by 0.40 cents per kilowatt-hour; in derogation of the first half-sentence, the value to be applied for electricity which is generated after 31 December 2014 and before 1 April 2015 is raised only by 0.30 cents per kilowatt-hour for electricity which is generated after 31 December 2014 and before 1 April 2015 if the installation cannot be remotely controlled within the meaning of Section 36, or

bb) from hydropower, landfill gas, sewage treatment gas, mine gas, biomass and geothermal energy by 0.20 cents per kilowatt-hour,

9. Section 66 subsection 2 number 1, subsection 4, 5, 6, 11, 18, 18a, 19 and 20 of the Renewable Energy Sources Act shall be applied in the version in force on 31 July 2014,

10. for electricity from installations which were commissioned before 1 January 2012 pursuant to the definition of commissioning in force on 31 December 2011, in derogation of this and without prejudice to numbers 3, 5, 6 7 and 8, Section 66 subsection 1 number 1 to 13, subsection 2, 3, 4, 14, 17 and 21 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied, whereby the general application of the provisions of the Renewable Energy Sources Act in the version in force on 31 December 2011 as required by Section 66 subsection 1 first half-sentence shall not be applied, and the following provisos shall apply:

a) instead of Section 5 number 21, Section 3 number 5 of the Renewable Energy Sources Act shall be applied in the version in force on 31 December 2011; in derogation of this Section 3 subsection 4 of the Renewable Energy Sources Act in the version in force on 31 December 2008 shall be applied to installations which were renewed before 1 January 2009 pursuant to Section 3 subsection 4 second half-sentence of the Renewable Energy Sources Act in the version in force on 31 December 2008 exclusively for this renewal,

b) instead of Section 9, Section 6 of the Renewable Energy Sources Act in the version in force on 31 December 2011 shall be applied without prejudice to Section 66 subsection 1 number 1 to 3 of the Renewable Energy Sources Act in the version in force on 31 July 2014 with the following provisos:

aa) Section 9 subsection 1 sentence 2 and subsection 4 shall be applied mutatis mutandis,

bb) Section 9 subsection 8 shall be applied, and

cc) in the case of violations, Section 16 subsection 6 of the Renewable Energy Sources Act in the version in force on 31 December 2011 shall be applied mutatis mutandis

c) instead of Sections 26 to 29, Section 40 subsection 1, Sections 41 to 51, 53 and 55, 71 number 2: Sections 19, 20, 23 to 33 and 66 and Annexes 1 to 4 of the Renewable Energy Sources Act in the version in force on 31 December 2011 shall be applied,

d) instead of Section 66 subsection 1 number 10 sentence 1 and 2 of the Renewable Energy Sources Act in the version in force on 31 July 2014, Sections 20, 21, 34 to 36 and Annex 1 to this Act shall be applied with the proviso that in derogation of Section 20 subsection 1 number 3 and 4 the feed-in tariff pursuant to the provisions of the Renewable Energy Sources Act in the version applicable to the respective installation shall apply and that in the calculation of the market premium pursuant to Section 34 the value to be applied shall be the level of tariff in cents per kilowatt-hour which could actually be claimed for the directly sold electricity at the specific installation in the case of a tariff pursuant to the provisions on tariffs of the Renewable Energy Sources Act in the version applicable to the respective installation,

e) instead of Section 66 subsection 1 number 11 of the Renewable Energy Sources Act in the version in force on 31 July 2014, Sections 52 and 54 and Annex 3 shall be applied.

(2) For electricity from installations which
1. were commissioned before 1 August 2014 pursuant to the definition of commissioning in force on 31 July 2014 and
2. did not generate electricity exclusively from renewable energy sources or mine gas at any time before 1 August 2014,

Section 5 number 21 first half-sentence shall be applied. In derogation of sentence 1, the definition of commissioning in force on 31 July 2014 shall apply for installations pursuant to sentence 1 which exclusively use biomethane if the biomethane used to generate electricity from 1 August 2014 derives exclusively from gas processing installations which first fed biomethane into the natural gas system before 23 January 2014. For the entitlement to financial support for electricity from an installation pursuant to sentence 2 it shall be necessary to furnish proof that before its first operation exclusively with biomethane another installation in line with the ordinance pursuant to Section 93 was registered as finally decommissioned, which
1. was operated exclusively with biomethane even before 1 August 2014 and
2. has at least the same installed capacity as the installation pursuant to sentence 2.

Sentence 2 shall be applied mutatis mutandis to installations which exclusively use biomethane which derives from a gas processing plant which is subject to licence pursuant to the Federal Immission Control Act and was licensed before 23 January 2014 and which fed biomethane into the natural gas system for the first time before 1 January 2015 if the installation was not operated before 1 January 2015 with biomethane from another gas processing installation; if the installation is exclusively operated with biomethane for the first time after 31 December 2014, sentence 3 shall be applied mutatis mutandis.

(3) For electricity from installations which were commissioned after 31 July 2014 and before 1 January 2015, subsection 1 shall be applied if the installations are subject to licence pursuant to the Federal Immission Control Act and require approval for their operation pursuant to another provision of federal law and were licensed or approved before 23 January 2014.

(4) For electricity from installations which were commissioned before 1 January 2012 pursuant to the definition of commissioning in force on 31 December 2011, there shall be a reduction for each calendar month in which installation operators have wholly or partially failed to meet obligations relating to retrofitting to ensure system stability on the basis of an ordinance pursuant to Section 12 subsection 3a and Section 49 subsection 4 of the Energy Industry Act following the deadline set in the ordinance or the deadline set by the grid system operators in line with the ordinance
1. in the entitlement to the market premium or the feed-in tariff for installations which are equipped with a technical device pursuant to Section 9 subsection 1 sentence 1 number 2 or sentence 2 number 2 to zero or
2. in the entitlement arising in a calendar year to a feed-in tariff for installations which are not equipped with a technical device pursuant to Section 9 subsection 1 sentence 1 number 2 or sentence 2 number 2 by one-twelfth.

(5) Number 3.1 sentence 2 of Annex 1 shall not be applied before 1 January 2015.

Section 101

Transitional provisions for electricity from biogas

(1) For electricity from installations to generate electricity from biogas which were commissioned before 1 August 2014 pursuant to the definition of commissioning in force on 31 July 2014, the entitlement to tariff payments shall be reduced to the monthly market value from 1 August 2014 pursuant to the provisions of the Renewable Energy Sources Act in the version applicable to the installation for each kilowatt-hour of electricity by which the maximum rated capacity of the installation reached before 1 August 2014 is exceeded; for installations to generate electricity from biogas which were commissioned before 1 January 2009, the entitlement to tariff payments shall be reduced mutatis mutandis pursuant to Section 8 subsection 1 of the Renewable Energy Sources Act of 21 July 2004 (Federal Law Gazette I p. 1918) in the version in force on 31 December 2008 with the proviso of the first half-sentence. The maximum rated capacity within the meaning of sentence 1 shall be the highest rated capacity of the installation in a calendar year since the point in time of its commissioning and before 1 January 2014. In derogation of sentence 2, the 5 percent reduced value of the in-
stalled capacity of the installation on 31 July 2014 shall be regarded as the maximum rated capacity if the value determined in this manner is higher than the actual maximum rated capacity pursuant to sentence 2.

(2) For electricity from installations which were commissioned before 1 January 2012 pursuant to the definition of commissioning in force on 31 December 2011,

1. the entitlement to increase the bonus for electricity from regenerative raw materials pursuant to Section 27 subsection 4 number 2 in conjunction with Annex 2 number VI.2.c to the Renewable Energy Sources Act in the version in force on 31 December 2011 shall only exist from 1 August 2014 if material from landscape management including landscape management grass within the meaning of Annex 3 number 5 to the Biomass Ordinance in the version in force on 31 July 2014 is predominantly used to generate electricity,

2. Section 47 subsection 6 number 2 shall be applied for electricity which has been generated after 31 July 2014.

(3) For installations which were commissioned after 31 December 2011 and before 1 August 2014, the Biomass Ordinance in its version in force on 31 July 2014 shall continue to be applied after 31 July 2014.

Section 102

Transitional provisions for the move to auctions

Once the financial support within the meaning of Section 2 subsection 5 has been converted to auctions, there shall be an entitlement pursuant to Section 19 subsection 1 even without a support entitlement granted in the context of an auction for installation operators of

1. offshore wind energy installations which have been given an unconditional grid connection commitment before 1 January 2017 or connection capacities pursuant to Section 17d subsection 3 of the Energy Industry Act and which were commissioned before 1 January 2021,

2. installations to generate electricity from geothermal energy which have been given a first approval pursuant to Section 51 subsection 1 of the Federal Mining Act for exploration before 1 January 2017 and which were commissioned before 1 January 2021, or

3. all other installations which require approval pursuant to the Federal Immission Control Act or require an approval for their operation pursuant to another provision of federal law and were licensed or approved before 1 January 2017 and commissioned before 1 January 2019; this shall not apply to the operators of ground-mounted installations.

Section 103

Transitional and hardship provisions for the special equalisation scheme

(1) For applications for the year of limitation 2015, Sections 63 to 69 shall be applied with the following provisos:

1. Section 64 subsection 1 number 3 shall not be applied for undertakings with an electricity consumption of less than 10 gigawatt-hours in the last completed financial year if the undertaking demonstrates to the Federal Office for Economic Affairs and Export Control that it was not in a position to acquire a valid certificate pursuant to Section 64 subsection 3 number 2 within the application period.

2. Section 64 subsection 2 and 3 number 1 shall be applied with the proviso that instead of the arithmetic mean of the gross value added of the last three completed financial years it is also possible only to take as a basis the gross value added pursuant to Section 64 subsection 6 number 2 of the undertaking's last completed financial year.

3. Section 64 subsection 6 number 1 last half-sentence shall not be applied.

4. Section 64 subsection 6 number 3 shall be applied with the proviso that the electricity cost intensity shall be the ratio of the actual electricity costs to be borne by the undertaking in the last completed financial year including the electricity costs for self-consumed quantities of electricity which are subject to the surcharge pursuant to Section 61 to the gross value added at factor
costs of the undertaking pursuant to number 2; electricity costs for self-consumed quantities of electricity which are not subject to the surcharge pursuant to Section 61 can be considered to the extent that these were permanently replaced in the last completed financial year by quantities of electricity subject to the surcharge pursuant to Section 60 subsection 1 or pursuant to Section 61; the certificate pursuant to Section 64 subsection 3 number 1 letter c must cover all the elements of the electricity costs borne by the undertaking.

5. In derogation of Section 66 subsection 1 sentence 1 and 2 an application can be made once by 30 September 2014 (substantive exclusion deadline).

6. Apart from this, Sections 63 to 69 shall be applied unless applications for the year of limitation of 2015 have been finally and bindingly decided by the end of 31 July 2014.

(2) For applications for the year of limitation 2016, Sections 63 to 69 shall be applied with the following provisos:

1. Section 64 subsection 2 and 3 number 1 shall be applied with the proviso that instead of the arithmetic mean of the gross value added of the last three completed financial years it is also possible to apply the arithmetic mean of the gross value added pursuant to Section 64 subsection 6 number 2 of the undertaking’s last two completed financial years.

2. Section 64 subsection 6 number 3 shall be applied with the proviso that the electricity cost intensity shall be the ratio of the actual electricity costs to be borne by the undertaking in the last completed financial year including the electricity costs for self-consumed quantities of electricity which are subject to the surcharge pursuant to Section 61 to the gross value added at factor costs of the undertaking pursuant to number 1; electricity costs for self-consumed quantities of electricity which are not subject to the surcharge pursuant to Section 61 can be considered to the extent that these were permanently replaced in the last completed financial year by quantities of electricity subject to the surcharge pursuant to Section 60 subsection 1 or pursuant to Section 61; the certificate pursuant to Section 64 subsection 3 number 1 letter c must cover all the elements of the electricity costs borne by the undertaking.

3. Apart from this, Sections 63 to 69 shall be applied.

(3) For undertakings or independent parts of undertakings which as undertakings of the manufacturing sector pursuant to Section 3 number 14 of the Renewable Energy Sources Act in the version in force on 31 July 2014 dispose of a final and binding decision on limitation pursuant to Sections 40 to 44 of the Renewable Energy Sources Act in the version in force on 31 July 2014 for the year of limitation of 2014, the Federal Office for Economic Affairs and Export Control shall limit the EEG surcharge for the years of 2015 to 2018 pursuant to Sections 63 to 69 in such a way that the EEG surcharge shall not amount to more than twice the amount in cents per kilowatt-hour for an undertaking in a year of limitation which was to be paid for the self-consumed electricity at the limited consumption points of the undertaking in the financial year preceding the year of application in line with the decision on limitation in force for that year. Sentence 1 shall apply mutatis mutandis for undertakings or independent parts of undertakings which have a final and binding decision on limitation for the year of limitation of 2014 and which do not fulfil the preconditions pursuant to Section 64 because they are allocated to a sector pursuant to List 1 of Annex 4 or their electricity cost intensity amounts to less than 16 percent for the year of limitation of 2015 or less than 17 percent from the year of limitation of 2016 if and to the extent that the undertaking or the independent part of the undertaking furnishes proof that its electricity cost intensity within the meaning of Section 64 subsection 6 number 3 in conjunction with subsection 1 and 2 of this Section amounted to at least 14 percent; apart from this Sections 64, 66, 68 and 69 shall be applied mutatis mutandis.

(4) For undertakings or independent parts of undertakings which

1. do not fulfil the preconditions pursuant to Section 64 of this Act because they

a) are not allocated to a sector pursuant to Annex 4 or

b) are allocated to a sector pursuant to List 2 of Annex 4, but their electricity cost intensity amounts to less than 20 percent,
the Federal Office for Economic Affairs and Export Control shall on application limit the EEG surcharge for the share of electricity exceeding 1 gigawatt-hour to 20 percent of the EEG surcharge determined pursuant to Section 60 subsection 1 if and to the extent that the undertaking or the independent part of the undertaking furnishes proof that its electricity cost intensity within the meaning of Section 64 subsection 6 number 3 in conjunction with subsection 1 and 2 of this Section amounted to at least 14 percent. Sentence 1 shall also be applied to independent parts of undertakings which in derogation of sentence 1 number 2 letter a or b do not fulfill the preconditions pursuant to Section 64 of this Act because the undertaking is allocated to a sector pursuant to List 2 of Annex 4. Apart from this, subsection 3 and Sections 64, 66, 68 and 69 shall be applied mutatis mutandis.

(5) For railways which do not yet have a decision on limitation for the year of limitation of 2014, Sections 63 to 69 shall be applied for the application for limitation for the second half of the year of 2014 with the provisos that

1. the EEG surcharge shall be limited to 20 percent of the EEG surcharge determined pursuant to Section 37 subsection 2 of the Renewable Energy Sources Act in the version in force on 31 July 2014 for the year of 2014 for the total quantity of electricity which the undertaking has used itself directly for railway transport operations,
2. the application pursuant to Section 63 in conjunction with Section 65 including the certificates pursuant to Section 64 subsection 3 number 1 letter c shall be made by 30 September 2014 (substantive exclusion deadline) and
3. the decision takes effect retroactively as of 1 July 2014 with a period of validity up to 31 December 2014.

(6) The transmission system operators shall only have a claim to payment of an EEG surcharge of 0.05 cents per kilowatt-hour against electricity suppliers for the quantities of electricity generated outside the regular responsibility of a transmission system operator specifically for the supply of railways, fed directly into the railway electricity system and consumed directly for railway transport operations (railway power plant electricity) for the years 2009 to 2013. The claims shall fall due as follows:

1. for railway power plant electricity which was consumed in the years 2009 to 2011, as of 31 August 2014,
2. for railway power plant electricity which was consumed in the year 2012, as of 31 January 2015
3. for railway power plant electricity which was consumed in the year 2013, as of 31 October 2015.

Electricity suppliers must present their transmission system operator with the final accounts for the years 2009 to 2013 for the railway power plant electricity without delay; Section 75 shall be applied mutatis mutandis. Electricity suppliers can refuse to purchase and pay for railway power plant electricity which they supplied before 1 January 2009 pursuant to Section 37 subsection 1 sentence 1 of the Renewable Energy Sources Act in the version in force on 31 December 2011 and pursuant to Section 14 subsection 3 sentence 1 of the Renewable Energy Sources Act in the version in force on 31 July 2008.

Section 104

Further transitional provisions

(1) For installations and CHP installations which were commissioned before 1 August 2014 and which needed to be equipped with a technical device pursuant to Section 6 subsection 1 or subsection 2 number 1 and 2 letter a of the Renewable Energy Sources Act in the version in force on 31 July 2014, Section 9 subsection 1 sentence 2 shall be applied retroactively from 1 January 2009. Cases in which a legal dispute between the installation operator and the grid system operator was pending or was finally and bindingly decided before 9 April 2014 shall be excluded from this.

(2) Section 39 subsection 1 and 2 of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall be applied to electricity which was supplied by the electricity suppliers after 31 December 2013 and before 1 August 2014 to all their final consumers with the proviso that in derogation of Section 39 subsection 1 number 1 of the Renewable Energy Sources Act in the version in force on 31 July 2014 this electricity fulfils the requirements cited there in the period following 31
December 2013 and before 1 August 2014 and also in at least four respective months of this period, whereby Section 39 subsection 1 number 1 second half-sentence of the Renewable Energy Sources Act in the version in force on 31 July 2014 shall not be applied.

(3) For self-supply installations which before 1 August 2014 exclusively generated electricity from blast furnace gas, converter gas or coke oven gas (by-product gases) which was produced in the course of the manufacture of steel, Section 61 subsection 7 shall not be applied and the quantities of electricity may, where they are covered by the exceptions pursuant to Section 61 subsection 2 to 4, be accounted annually with retroactive effect back to 1 January 2014. Natural gas shall be regarded as a by-product gas to the extent that it is necessary for start-up, ignition and support fire.
Annex 1
(ad Section 34)

Amount of the market premium

1. Calculation of the market premium

1.1 Within the meaning of this Annex:

– “MP” shall be the amount of the market premium pursuant to Section 34 subsection 2 in cents per kilowatt-hour,

– “AW” shall be the value to be applied pursuant to Sections 40 to 55 giving consideration to Sections 19 to 32 in cents per kilowatt-hour,

– “MW” shall be the respective monthly market value in cents per kilowatt-hour.

1.2 The amount of the market premium pursuant to Section 34 subsection 2 (“MP”) in cents per kilowatt-hour of directly sold and actually fed-in electricity is calculated in line with the following formula:

\[ \text{MP} = \text{AW} - \text{MW} \]

If the calculation produces a value below zero, in derogation of sentence 1 the value “MP” shall be set at zero.

2. Calculation of the monthly market value “MW”

2.1 Monthly market value for electricity from hydropower, landfill gas, sewage treatment gas, mine gas, biomass and geothermal energy pursuant to Sections 40 to 48

In the case of directly sold electricity from hydropower, landfill gas, sewage treatment gas, mine gas, biomass and geothermal energy, the value “\( \text{MW}_{\text{EPEX}} \)” shall be applied as the value “MW”. Here, “\( \text{MW}_{\text{EPEX}} \)” shall be the actual average monthly value of the hourly contracts for the Germany/Austria price zone on the spot market of the EPEX Spot SE power exchange in Paris in cents per kilowatt-hour.

2.2 Monthly market value for electricity from wind energy and solar radiation energy pursuant to Sections 49 to 51

2.2.1 Energy-source-specific monthly market value

The following values shall be applied as the value “MW” in cents per kilowatt-hour for directly sold electricity from

– onshore wind energy installations: the value “\( \text{MW}_{\text{Wind an Land}} \)”,

– offshore wind energy installations: the value “\( \text{MW}_{\text{Wind auf See}} \)” and

– installations to generate electricity from solar radiation energy: the value “\( \text{MW}_{\text{Solar}} \)”,

2.2.2 Onshore wind energy

“\( \text{MW}_{\text{Wind an Land}} \)” shall be the actual average monthly value of the market value of electricity from onshore wind energy installations on the spot market of the EPEX Spot SE power exchange in Paris for the Germany/Austria price zone in cents per kilowatt-hour. This value shall be calculated as follows:

2.2.2.1 For each hour of a calendar month the average value of the hourly contracts on the spot market of the EPEX Spot SE power exchange in Paris for the Germany/Austria price zone shall be multiplied by the quantity of the electricity from onshore wind energy installations generated in this hour according to the online extrapolation pursuant to number 3.1.

2.2.2.2 The results for all the hours of this calendar month shall be totalled.

2.2.2.3 This total shall be divided by the quantity of the electricity from onshore wind energy installations generated in the total calendar month according to the online extrapolation pursuant to number 3.1.
2.2.3 Offshore wind energy

"MW_{\text{Wind auf See}}" shall be the actual average monthly value of the market value of electricity from offshore wind energy installations on the spot market of the EPEX Spot SE power exchange in Paris for the Germany/Austria price zone in cents per kilowatt-hour. For the calculation of "MW_{\text{Wind auf See}}", numbers 2.2.2.1 to 2.2.2.3 shall be applied with the proviso that instead of the electricity generated from onshore wind energy installations according to the online extrapolation pursuant to number 3.1, the electricity generated from offshore wind energy installations according to the online extrapolation pursuant to number 3.1 shall be taken as a basis.

2.2.4 Solar radiation energy

"MW_{\text{Solar}}" shall be the actual average monthly value of the market value of electricity from installations to generate electricity from solar radiation energy on the spot market of the EPEX Spot SE power exchange in Paris for the Germany/Austria price zone in cents per kilowatt-hour. For the calculation of "MW_{\text{Solar}}", numbers 2.2.2.1 to 2.2.2.3 shall be applied with the proviso that instead of the electricity generated from onshore wind energy installations according to the online extrapolation pursuant to number 3.1, the electricity generated from installations to generate electricity from solar radiation energy according to the online extrapolation pursuant to number 3.1 shall be taken as a basis.

3. Publication of the calculation

3.1 The transmission system operators must publish, at all times, without delay, on a joint internet site and in a uniform format, the online extrapolation produced on the basis of a representative number of metered reference installations of the quantity of actually generated electricity from onshore wind energy installations, offshore wind energy installations and installations to generate electricity from solar radiation energy in their control zones broken down into at least hourly figures. When the online extrapolation is produced, reductions in the feed-in output of the installation by the grid system operator or in the context of direct selling shall be disregarded.

3.2 The transmission system operators must also publish the following data in non-personal form for each calendar month by the end of the tenth working day of the following month on a joint internet site, in a uniform format, and rounded to three decimal places:

a) the value of the hourly contracts for the Germany/Austria price zone on the spot market of the EPEX Spot SE power exchange in Paris for each calendar-day in hourly figures,
b) the value "MW_{\text{EPEX}}" in line with number 2.1,
c) the value "MW_{\text{Wind an Land}}" in line with number 2.2.2,
d) the value "MW_{\text{Wind auf See}}" in line with number 2.2.3,
e) the value "MW_{\text{Solar}}" in line with number 2.2.4.

3.3 To the extent that the data pursuant to number 3.2 are not available by the end of the tenth working day of the following month, they must be published immediately in non-personal form as soon as they are available.
Annex 2
(ad Section 49)

Reference yield

1. A reference installation shall be a wind energy installation of a certain type for which a yield equivalent to the reference yield is calculated at the reference site in line with its P-V curve measured by an institution authorised to do so.

2. The reference yield shall be the quantity of electricity determined for each type of a wind energy installation including the respective hub height which this type would arithmetically produce if erected at the reference site on the basis of a measured P-V curve in five years of operation. The reference yield shall be determined in line with the generally recognised best available technology; compliance with the generally recognised best available technology shall be assumed if the procedures, bases and methods of calculation are used which are contained in the Technical Guidelines for Wind Energy Installations, Part 5, of the FGW e.V. (Fördergesellschaft Windenergie und andere Erneuerbare Energien) in the version in force at the time of the determining of the reference yield.

3. The type of a wind energy installation shall be determined by the designation of the type, the swept rotor area, the nominal capacity and the hub height in line with the manufacturer’s data.

4. The reference site shall be a site which is determined by a Rayleigh distribution with a mean annual wind speed of 5.5 meters per second at a height of 30 metres above ground, a logarithmic height profile and a roughness length of 0.1 metres.

5. The P-V curve shall be the interrelationship between wind speed and power purchase irrespective of hub height determined for each type of wind energy installation. The P-V curve shall be determined in line with the generally recognised best available technology; compliance with the generally recognised best available technology shall be assumed if the procedures, bases and methods of calculation are used which are contained in the Technical Guidelines for Wind Energy Installations, Part 2, of the FGW in the version in force at the time of the determining of the reference yield. Where the P-V curve was determined using a comparable procedure before 1 January 2000, this can be used instead of the P-V curve determined pursuant to sentence 2 if no further erection of installations of the type to which it applies has been started in the area of validity of this law after 31 December 2001.

6. For the purposes of this Act, the institutions shall be authorised to measure the P-V curves pursuant to number 5 and to calculate the reference yields of installation types at the reference site pursuant to number 2 which have been accredited in line with the technical directive entitled General Requirements for the Competence of Testing and Calibration Laboratories (DIN EN ISO/IEC 17025), April 2000 edition, or accordingly by a state-recognised accreditation body or an accreditation body evaluated with the involvement of state agencies.

7. In the application of the reference yield to determine the extended period of the initial tariff, account shall be taken of the installed capacity, but at the most of that capacity which the installation may at most produce due to licensing rules pursuant to the Federal Immission Control Act. Temporary reductions in output must be taken into consideration, particularly on the grounds of assumption of technical control of the installation pursuant to Section 14.

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5 Official note: Available from the FGW e.V. Fördergesellschaft Windenergie und andere Erneuerbare Energien, Oranienburger Straße 45, 10117 Berlin.

6 Official note: Available from the FGW e.V. Fördergesellschaft Windenergie und andere Erneuerbare Energien, Oranienburger Straße 45, 10117 Berlin.

Annex 3
(ad Section 54)

Preconditions for and level of the flexibility premium

I. Preconditions for the flexibility premium

1. Installation operators can demand the flexibility premium
   a) if no feed-in tariff is claimed for any of the electricity generated in the installation and without prejudice to Section 27 subsection 3 and 4, Section 27a subsection 2 and Section 27c subsection 3 of the Renewable Energy Sources Act in the version in force on 31 July 2014 there is basically an entitlement to tariff payments pursuant to Section 19 in conjunction with Section 100 subsection 1 which is not reduced pursuant to Section 25 in conjunction with Section 100 subsection 1,
   b) if the rated capacity of the installation within the meaning of number II.1 first indent amounts to at least 0.2 times the installed capacity of the installation,
   c) if the installation operator has transmitted the data required in line with the ordinance pursuant to Section 93 to register the claim to the flexibility premium and
   d) as soon as an environmental auditor with a licence for the field of electricity generation from renewable energy sources has confirmed that the installation is technically suited for the demand-oriented operation needed for the entitlement to the flexibility premium according to the generally recognised best available technology.

2. The level of the flexibility premium shall be calculated each calendar year. The calculation shall be made in each case for the additionally provided installed capacity in line with number II. Appropriately monthly advance payments shall be made towards the expected payments.

3. Installation operators must inform the grid system operator in advance about the first time the flexibility premium is claimed.

4. The flexibility premium shall be paid for a period of ten years. The commencement of the period shall be the first day of the second calendar month following the report pursuant to I.3.

5. The entitlement to the flexibility premium shall not apply to additionally installed capacity which is transmitted as an increase in the installed capacity of the installation after 31 July 2014 in line with the ordinance pursuant to Section 93 from the first day of the second calendar month following the calendar month in which the aggregated addition of the additionally installed capacity published by the Federal Network Agency in line with Section 26 subsection 2 number 1 letter b in conjunction with the ordinance pursuant to Section 93 first exceeds the value of 1,350 megawatts after 31 July 2014.

II. Level of the flexibility premium

1. Definition of terms

Within the meaning of this Annex,
   – “\( P_{\text{ben}} \)” shall be the rated capacity in kilowatts; in the first and in the tenth calendar year of the claiming of the flexibility premium, the rated capacity shall be calculated with the proviso that account shall be taken only of the kilowatt-hours generated in the calendar months of the claiming of the flexibility premium and only the full hours of time of these calendar months; this shall only apply for the purpose of calculating the level of the flexibility premium,
   – “\( P_{\text{inst}} \)” shall be the installed capacity in kilowatts,
   – “\( P_{\text{zu satz}} \)” shall be the additionally provided installed capacity for the demand-oriented generation of electricity in kilowatts and in the respective calendar year,
   – “\( fKor \)” shall be the correction factor for the degree of utilisation of the plant,
“KK” shall be the capacity component for the provision of the additionally installed capacity in euros and kilowatts,
“FP” shall be the flexibility premium pursuant to Section 54 in cents per kilowatt-hour.

2. Calculation

2.1 The level of the flexibility premium pursuant to Section 54 ("FP") in cents per kilowatt-hour of directly sold and actually fed-in electricity shall be calculated in line with the following formula:

$$FP = \frac{P_{Zusatz} \times KK \times 100}{P_{Bem} \times 6780 \cdot h}$$

2.2 "P_{Zusatz}" shall be calculated in line with the following formula:

$$P_{Zusatz} = P_{inst} - (f_{Kor} \times P_{Bem})$$

Here, "f_{Kor}" shall amount to

- 1.6 for biomethane and
- 1.1 for biogas that is not biomethane.

In derogation of sentence 1, the value "P_{Zusatz}" shall be set

- at the value of zero if the rated capacity falls below 0.2 times the installed capacity,
- at 0.5 times the value of the installed capacity "P_{inst}" if the calculation shows that it is greater than 0.5 times the value of the installed capacity.

2.3 “KK” shall amount to 130 euros per kilowatt.
### Annex 4

**Electro-intensive or trade-intensive sectors**

(ad Sections 64, 103)

<table>
<thead>
<tr>
<th>Number</th>
<th>Code</th>
<th>Bezeichnung</th>
<th>List 1</th>
<th>List 2</th>
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<td>1</td>
<td>510</td>
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<td>Herstellung von Kohlenhydraten und Dauerspitzen</td>
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<td>1103</td>
<td>Herstellung von Tabakwaren und anderen Fruchtwaren</td>
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<td>Herstellung von Bier</td>
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</table>

*Statistisches Bundesamt, Günter-Griesmann-Ring 11, 65191 Wiesbaden, auch zu beziehen über www.destatis.de*
| 74 | 1729 | Herstellung von sonstigen Waren aus Pappe, Karton und Pappe | X |
| 75 | 1813 | Druck- und Medienprodukte | X |
| 76 | 1910 | Klärgeräte | X |
| 77 | 1920 | Mineraldüngemittel | X |
| 78 | 2011 | Herstellung von Textilfasern | X |
| 79 | 2012 | Herstellung von Pigmenten und Farbstoffen | X |
| 80 | 2013 | Herstellung von chemischen Präparaten | X |
| 81 | 2014 | Herstellung von Flüssigkeiten und Lacken | X |
| 82 | 2016 | Herstellung von Kunststoffen und Kunstfasern | X |
| 83 | 2018 | Herstellung von pharmazeutischen Präparaten | X |
| 84 | 2020 | Herstellung von pharmazeutischen Erzeugnissen | X |
| 85 | 2030 | Herstellung von chemischen Erzeugnissen | X |
| 86 | 2040 | Herstellung von chemischen Präparaten | X |
| 87 | 2050 | Herstellung von chemischen Erzeugnissen | X |
| 88 | 2060 | Herstellung von chemischen Erzeugnissen | X |
| 89 | 2070 | Herstellung von chemischen Erzeugnissen | X |
| 90 | 2080 | Herstellung von chemischen Erzeugnissen | X |
| 91 | 2090 | Herstellung von chemischen Erzeugnissen | X |
| 92 | 2100 | Herstellung von chemischen Erzeugnissen | X |
| 93 | 2110 | Herstellung von chemischen Erzeugnissen | X |
| 94 | 2120 | Herstellung von chemischen Erzeugnissen | X |
| 95 | 2130 | Herstellung von chemischen Erzeugnissen | X |
| 96 | 2140 | Herstellung von chemischen Erzeugnissen | X |
| 97 | 2150 | Herstellung von chemischen Erzeugnissen | X |
| 98 | 2160 | Herstellung von chemischen Erzeugnissen | X |
| 99 | 2170 | Herstellung von chemischen Erzeugnissen | X |
| 100 | 2180 | Herstellung von chemischen Erzeugnissen | X |
| 101 | 2190 | Herstellung von chemischen Erzeugnissen | X |
| 102 | 2200 | Herstellung von chemischen Erzeugnissen | X |
| 103 | 2210 | Herstellung von chemischen Erzeugnissen | X |
| 104 | 2220 | Herstellung von chemischen Erzeugnissen | X |
| 105 | 2230 | Herstellung von chemischen Erzeugnissen | X |
| 106 | 2240 | Herstellung von chemischen Erzeugnissen | X |
| 107 | 2250 | Herstellung von chemischen Erzeugnissen | X |
| 108 | 2260 | Herstellung von chemischen Erzeugnissen | X |
| 109 | 2270 | Herstellung von chemischen Erzeugnissen | X |

| 110 | 2341 | Herstellung von keramischen Haushaltswaren und Ziergegenständen | X |
| 111 | 2342 | Herstellung von Keramik | X |
| 112 | 2343 | Herstellung von Keramik und Isolerien aus Keramik | X |
| 113 | 2344 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 114 | 2345 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 115 | 2346 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
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| 119 | 2350 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
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| 121 | 2352 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 122 | 2353 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 123 | 2354 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
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| 126 | 2357 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 127 | 2358 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 128 | 2359 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 129 | 2360 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 130 | 2361 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 131 | 2362 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 132 | 2363 | Herstellung von keramischen Erzeugnissen für technische Zwecke | X |
| 133 | 2364 | Herstellung von keramischen Erzeugnisses für technische Zwecke | X |
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| 141 | 2372 | Herstellung von keramischen Erzeugnisses für technische Zwecke | X |
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| 146. | 2872 | Herstellung von Schlosserei- und Meßgeräten und - ausrüstungen | X |
| 147. | 2873 | Herstellung von Werkzeugen | X |
| 148. | 2891 | Herstellung von Pressen, Trenn- und Drehmaschinen aus Eisen, Stahl und Nie-Metall | X |
| 149. | 2892 | Herstellung von Verarbeitungsmaschinen aus Eisen, Stahl und Nie-Metall | X |
| 150. | 2893 | Herstellung von Druckmaschinen und -ausrüstungen | X |
| 151. | 2894 | Herstellung von Schmuck, Brillen und Uhren | X |
| 152. | 2895 | Herstellung von Metallen und Stahl | X |
| 153. | 2896 | Herstellung von elektronischen Bauelementen | X |
| 154. | 2897 | Herstellung von Eisen- und Stahl- und Metall- und Edelstahlwaren und -ausrüstungen | X |
| 155. | 2898 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 156. | 2899 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
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| 203. | 2946 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
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| 205. | 2948 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 206. | 2949 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 207. | 2950 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
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| 209. | 2952 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 210. | 2953 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 211. | 2954 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 212. | 2955 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 213. | 2956 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 214. | 2957 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 215. | 2958 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 216. | 2959 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 217. | 2960 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 218. | 2961 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
| 219. | 2962 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |

211 | 3212 | Herstellung von Schmuck, Silber- und Goldwaren | X |
212 | 3213 | Herstellung von Silberwaren | X |
213 | 3220 | Herstellung von Edelmetallen | X |
214 | 3230 | Herstellung von Goldwaren | X |
215 | 3240 | Herstellung von Goldwaren | X |
216 | 3260 | Herstellung von Schmuck und Schmuckwaren | X |
217 | 3291 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
218 | 3298 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |
219 | 3632 | Herstellung von Fabriken, Fabriken, Fabriken und -ausrüstungen | X |