

*Unofficial translation of Consolidated Act No. 960 of 13 September 2011. In case of discrepancy, the original Danish text shall prevail.*

## Consolidated Act on the Use of the Danish Subsoil<sup>1)</sup>

The Act on the Use of the Danish Subsoil, see Consolidated Act No. 889 of 4 July 2007, as amended by section 2 of Act No. 1400 of 27 December 2008, section 51 of Act No. 718 of 25 June 2010 and Act No. 541 of 30 May 2011, is hereby promulgated.

### Part 1

#### *General Provisions*

**1.**-(1) The purpose of this Act is to ensure appropriate use and exploitation of the Danish subsoil and its natural resources.

(2) This Act shall apply to

- (i) preliminary investigations, the exploration for and production of raw materials in the Danish subsoil that were not subject to private commercial exploitation in this country prior to 23 February 1932,
- (ii) use of the subsoil for storage or for purposes other than the production of raw materials, and
- (iii) scientific investigations of the subsoil that are of importance to the activities referred to in paragraphs (i) and (ii) above.

(3) The Act also applies in the Danish exclusive economic zone and in the Danish continental shelf area.

**2.** The raw materials referred to in section 1 above shall belong to the Danish state. The exploration for and production of the said raw materials by any other party shall be subject to a licence being granted by the Minister for Climate and Energy under the provisions contained in this Act. The activities referred to in section 1(2) (ii) and (iii) of above shall be subject to a licence being granted by the Minister for Climate and Energy.

**2a.** The Minister for Climate and Energy shall lay down rules or make decisions for the purpose of implementing or using international conventions and EU rules on matters covered by this Act, including regulations, directives and decisions regarding protection and conservation of the Danish

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<sup>1)</sup> This Act contains provisions to implement Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 (Official Journal 1994, L164, p. 3), parts of Council Directive 92/43/EEC of 21 May 1992 (Official Journal 1992, L206, p. 7), as most recently amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003 (Official Journal 2003, L284, p. 1), parts of Council Directive 85/337/EEC of 27 June 1985 (Official Journal 1985, L175, p. 40), as most recently amended by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 (Official Journal 2003, L156, p. 17), parts of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 (Official Journal 2008, L328, p. 28), parts of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 (Official Journal 2009, L140, p. 16), parts of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 (Official Journal 2009, L140, p. 114) and parts of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 (Official Journal 2010, L20, p. 7)

marine environment in the Danish exclusive economic zone and in the Danish continental shelf area.

## Part 2

### *Preliminary Investigations*

**3.** The Minister for Climate and Energy may grant licences for a term of up to three years for performing specific types of preliminary investigations in order to explore for and produce raw materials included under this Act, or to use the subsoil for storage or purposes other than the production of raw materials. Such licences shall indicate the areas to which they apply.

**4.-(1)** The Minister for Climate and Energy may lay down terms and conditions applicable to the licence, including terms and conditions regarding the payment of taxes and fees and reporting on the progress and results of investigations.

(2) The Minister for Climate and Energy may lay down provisions regarding the payment of a fee for the issuance of licences.

## Part 3

### *Exploration for and Production of Raw Materials*

**5.-(1)** The Minister for Climate and Energy may grant a licence conferring an exclusive right on the holder to explore for and to produce one or more raw materials within a defined area and subject to specific terms and conditions. Separate licences may be granted for exploration and production, respectively. An exploration licence may grant the licensee a preferential right to a production licence.

(2) An exploration licence may lay down provisions on a gradual reduction of the area comprised by the licence and may set out any work obligations to be met by the licensee.

(3) The licences referred to in subsection (1) hereof shall only be granted to applicants that are deemed to have the necessary expertise and financial resources, and who can be expected to carry on the activities in a manner so as to ensure that society gains maximum insight into and benefit from the activities.

(4) The Minister for Climate and Energy may refuse to consider an application for a licence pursuant to subsection (1) if the exploration for or production of the relevant raw material cannot be expected to be compatible with other ongoing or planned use of the subsoil or with appropriate exploitation of the subsoil in other respects.

(5) The Minister for Climate and Energy may lay down provisions on the payment of a fee for applying for the licences referred to in subsection (1) above.

**6.-(1)** The licences referred to in section 5 above shall be issued upon being submitted for approval to a committee set up by the Danish Parliament.

(2) As and when determined by the Minister for Climate and Energy or by the chairman of the committee concerned, the members of the committee and any other parties present during the committee's discussions shall keep confidential any information that may come to their knowledge as a consequence of considering licences submitted in accordance with subsection (1) hereof.

(3) If the committee does not grant its approval for a licence, see subsection (1) above, the committee shall inform the Minister of the reasons for withholding its approval, if the Minister so requests.

**7.** The term of a licence granted in pursuance of section 5 above shall be fixed with due regard being paid to the nature of the raw material(s) covered by the licence. The licence term cannot exceed 50 years.

**8.-(1)** A licence granted in pursuance of section 5 above may stipulate that the state or a state-owned company shall be entitled to take part in the activity covered by the licence, subject to specific terms and conditions.

(2) Where the state or a state-owned company participates in activities under a licence to explore for and produce hydrocarbons granted pursuant to section 5 above and issued after 1 July 1995, in exercising its voting rights the state or the state-owned may only safeguard such interests as are within the purview of this Act, and may not exercise its voting rights to prevent the licensee from basing its activities on commercial principles. The state or a state-owned company may not be informed about or exercise its voting rights in respect of decisions on the licensee's choice of suppliers. Nor may the state or a state-owned company exercise any majority voting right together with one or more Danish public-sector participants in respect of any other decisions.

(3) Notwithstanding the provision of subsection (2) above, it may be stipulated as a condition for such a licence that any decisions made by the licensee that fail to comply with licence terms regarding the protection of resources or the state's financial interests shall not be binding on the state participant, provided that such participant informs its co-licensees, within a specific time limit, that it opposes the decision in question. The right to oppose a decision shall be exercised non-discriminatorily, in particular with regard to decisions on investments and the licensee's choice of suppliers.

(4) Where state participation takes place through a state-owned company that also holds licences of the nature referred to in subsection (2) above or holds shares in licences that it has acquired on a different basis, the state-owned company shall keep separate accounts of the activities carried on under each category of shares in a licence. Further, the company shall ensure that the division of the company managing the state participation does not disclose any information to the division of the company that has acquired licence shares on a different basis. If the division of the company managing the state participation engages the division of the company that acquired licences on a different basis as its consultant, the former division of the company may make such information available to the latter division as is required to perform the consulting services. The other holders of the licences to which such information relates shall be notified in advance which information will be passed on in this way, and they shall be given sufficient time to raise any objections.

(5) The Minister for Climate and Energy may lay down more specific rules regulating the matters referred to in subsections (2) and (4) above, such rules being incorporated into the licence terms or into special agreements concluded between the Minister for Climate and Energy and the company managing the state participation.

**9.** A licence granted pursuant to section 5 above shall stipulate the consideration to be paid by the licensee to the state. In this connection, it may be stipulated that a periodic charge shall be paid based on the size of the area covered by the licence (area rental), and that a tax shall be levied on the volume of raw materials produced (royalty). Moreover, the licence terms may stipulate that a share of the profit from the activities covered by the licence shall be payable to the state.

**10.-(1)** Exploration and production shall be carried on in a safe and appropriate manner that prevents any waste of raw materials.

(2) Before production and measures aimed at production are initiated, a plan for the production activities, including the organization of production and the layout of production installations and any pipelines (production measures, etc.), shall be approved by the Minister for Climate and Energy.

(3) Substantial changes and supplements to an approved plan for the production activities are subject to approval by the Minister for Climate and Energy before they are initiated.

(4) The Minister for Climate and Energy may lay down terms and conditions for approvals granted pursuant to subsections (2) and (3).

**11.**-(1) Where an accumulation of hydrocarbons extends into the areas of several licensees, the relevant licensees shall coordinate exploration and any subsequent production activities. Agreements in this respect shall be subject to the approval of the Minister for Climate and Energy. Where the parties fail to reach an agreement on coordination of such activities within a reasonable time limit, the Minister for Climate and Energy may order such coordination and lay down the applicable terms and conditions.

(2) Where an accumulation of hydrocarbons extends into another country's sovereign territory and an agreement on the coordination of exploration and production is made with the relevant country, the Minister for Climate and Energy may order the licensee whose licence includes the Danish share of the accumulation to take part in such coordination, and may lay down the applicable terms and conditions. Any agreements on coordination made by licensees shall be subject to the approval of the Minister for Climate and Energy.

(3) Upon submitting the matter to a committee set up by the Danish Parliament, the Minister for Climate and Energy shall be authorized to enter into an agreement with the relevant country's authorities about the coordination of exploration and production of the accumulations mentioned in subsection (2) above, and to grant the necessary exemptions from the provisions of this Act and the Act on Safety, etc. for Offshore Installations for the Exploration for, Production of and Transportation of Hydrocarbons (Offshore Safety Act).

#### Part 4

##### *Special Provisions on Exploration for and Production of Hydrocarbons*

**12.**-(1) The licences for hydrocarbon exploration and production mentioned in section 5 above shall be granted in one of the ways described in paragraphs (a) to (d) below, as determined by the Minister for Climate and Energy:

- (a) Following a notice inviting applications from the public. The invitation shall be published in the Danish Official Gazette and in the Official Journal of the European Union at least 90 days before the closing date for applications.
- (b) Where an application for a licence has been submitted for a specific area without a prior invitation to the public, see paragraph (a) above, and the Minister for Climate and Energy finds that the application should be considered, the Minister shall publish a notice concerning the application in the Danish Official Gazette and the Official Journal of the European Union. Other interested parties shall be granted a period of at least 90 days after the date of such publication in which to submit applications. As a minimum, the notices referred to in paragraph (a) and the first and second sentences of paragraph (b) shall specify that applicants may apply for an exclusive right to explore for and produce hydrocarbons, and shall indicate the areas for which applications may be or have been submitted, the expected date for granting licences, and from where information on the licence terms, etc. can be obtained. Any change in the licence terms, etc. shall be notified to all parties involved.
- (c) Where the employment of the procedures set out in paragraphs (a) or (b) above is not considered appropriate, the Minister for Climate and Energy may grant licences within specific areas, and possibly within specific time limits, without initiating the procedures set out in paragraphs (a) and (b) above. Such a procedure shall be introduced through the issuance of a special Executive Order,

which shall take effect when a notice concerning the employment of this procedure has been published in the Official Journal of the European Union. As a minimum, such notice shall indicate the areas for which applications may be submitted, and from where more detailed information on the licence terms can be obtained. Any amendments to the Executive Order shall be published in the same way.

(d) Where warranted by geological or production considerations, the Minister for Climate and Energy may grant a licence for an area to holders of licences for any adjoining area without employing the procedures set out in paragraphs (a) to (c) above. In such cases, the holders of licences for all other adjoining areas shall be given an opportunity to submit applications and sufficient time to do so, and they shall have access to information on the terms and conditions, etc. applicable to such licences.

(2) Before applications are invited in pursuance of subsection (1)(a) or (b) or under an Executive Order in pursuance of paragraph (c), the Minister for Climate and Energy shall submit a statement to a committee set up by the Danish Parliament, indicating for which areas or blocks applications are intended to be invited and the general terms and conditions on which licences are intended to be granted. Members of the committee and any other parties present during the committee's discussions about such statements shall keep confidential any information that may come to their knowledge through the committee with respect to the terms on which licences are to be granted based on the procedure outlined in subsection (1)(a), until the date on which an invitation is made to the public.

(3) The Minister for Climate and Energy may refrain from granting a licence on the basis of the applications received when the procedures referred to in subsection (1)(a) and (b) above are employed.

(4) The terms and conditions on which licences are to be granted when employing the procedure outlined in subsection (1)(a) may not be published until the date on which an invitation is made to the public.

**12a.**-(1) The licences mentioned in section 12(1) above shall be granted on the basis of selection criteria concerning:

(a) the applicant's expertise and financial base, and

(b) the exploration activities that the applicants intend to carry out, or the way in which the applicants intend to carry out production in the area in question.

(2) Moreover, the Minister for Climate and Energy may decide that the amount that applicants are prepared to pay for the issuance of a licence shall form part of the selection criteria.

(3) Further, the Minister for Climate and Energy may set up other relevant, objective and non-discriminatory criteria, in order to make a final choice among applicants considered to have equal merit based on an evaluation made according to the selection criteria established in subsection (1)(a) and (b), and possibly subsection (2).

(4) In addition to the criteria mentioned in subsections (1)-(3) above, when evaluating applications the Minister for Climate and Energy may attach weight to any lack of efficiency or non-compliance with obligations under previous licences.

(5) Where the Minister for Climate and Energy stipulates that the procedure for granting licences shall include a provision to the effect that the Minister shall determine the composition of any groups of companies jointly to be granted the licences mentioned in subsection (1), the composition shall be determined on the basis of one or more of the criteria established in subsections (1)-(4).

(6) Where the Minister for Climate and Energy stipulates that the procedure for granting licences shall include a provision to the effect that the Minister shall appoint the operator of a group of com-

panies that is granted licences jointly, such appointment shall be made on the basis of the operator's expertise and possibly on the basis of one or more of the criteria established in subsections (1)-(4).

(7) The criteria established in subsections (1)-(6) shall be published together with the notices inviting applications referred to in section 12(1)(a) to (c) above. Any changes made to these criteria shall be published in the same way.

**13.**-(1) The hydrocarbon exploration and production licences referred to in section 5 shall be granted for a term of up to six years, which term may be extended by up to two years at a time for the purpose of further exploration, where warranted by special circumstances. The total term of exploration may only exceed ten years in exceptional cases.

(2) When the pertinent terms and conditions in a licence granted pursuant to subsection (1) above have been met, the licensee shall be entitled to an extension of the licence with a view to production. In special cases, the Minister for Climate and Energy may extend the term of a licence notwithstanding that the conditions for an extension have not been met. The licence term may only be extended for those parts of the area that contain commercial accumulations that the licensee plans to exploit, and not by more than 30 years. In case of major uncertainty about the extent, in terms of area, of the production potential from one or more of the accumulations in an area covered by a licence to be extended for the purpose of production, the Minister for Climate and Energy may decide, when granting the extension, that the delineation of the accumulation shall be temporary. As a condition for extending the licence, the Minister for Climate and Energy may stipulate that an application for approval pursuant to section 10 shall be submitted within a specific time limit.

(3) If necessary from a resource point of view or due to economic considerations or in the interests of society, the Minister for Climate and Energy may order a licensee covered by this Act to submit an adequate plan within a specified time limit for the production measures, etc., see section 10, to be undertaken in respect of an accumulation that is considered commercially exploitable. Upon approving the plan, the Minister for Climate and Energy may order the licensee to initiate production. At the same time, the licence term shall be extended for the purpose of production from that part of the area that contains the accumulation, but not by more than 30 years.

(4) The term for production, as fixed in pursuance of subsections (2) and (3), or in the relevant licence, may be prolonged where warranted by special circumstances. In the event that the total licence term will thus exceed 50 years, the provisions of section 6 shall apply *mutatis mutandis*.

(5) Where required due to special circumstances, the Minister for Climate and Energy may grant licenses for a term exceeding the number of years mentioned in subsections (2) and (3) above.

**14.** In connection with approving production measures, etc. in pursuance of section 10, the date of production startup shall be fixed so as to ensure that the accumulation contributes to Denmark's energy supply in an expedient manner and that existing or planned processing and transportation systems are utilized.

**15.**-(1) In granting approval for the production of hydrocarbons pursuant to section 10, the Minister for Climate and Energy shall stipulate the quantities that may be produced for periods of at least six months. Unless new information about the accumulation has been obtained, the Minister shall base such stipulations on the production plan approved in pursuance of section 10 above.

(2) Where warranted by concern for safe, appropriate or efficient production, or necessitated by weighty considerations for society, the Minister for Climate and Energy may make changes in approved production plans and regulate production.

**16.**-(1) Following negotiations with the licensees, the Minister for Climate and Energy may order that installations for the production, processing and transport of hydrocarbons, etc. established in

pursuance of an approval or a permit granted according to this Act may be used by other licensees where warranted by resource or economic considerations or the interests of society. It is a condition that the existing and planned users' projected use is not unreasonably impaired or obstructed as a consequence.

(2) Following negotiations with the licensees, the Minister for Climate and Energy may order that the exploitation of two or more hydrocarbon accumulations shall be coordinated where warranted by resource or economic considerations or the interests of society.

(3) Agreements regarding the use by other licensees of installations for the production, processing and transport of hydrocarbons, etc. established pursuant to an approval or a permit according to this Act and regarding the coordinated exploitation of two or more hydrocarbon accumulations shall be submitted to the Minister for Climate and Energy immediately following their conclusion.

(4) Where an agreement regarding the use by other licensees of installations for the production, processing and transport of hydrocarbons, etc. established pursuant to an approval or a permit according to this Act or regarding coordinated exploitation of two or more hydrocarbon accumulation cannot be reached within a reasonable period of time, the Minister for Climate and Energy may lay down terms and conditions in this respect, including about payment. The Minister for Climate and Energy may demand that the parties disclose the information required for laying down such terms and conditions.

(5) The Minister for Climate and Energy may lay down rules regarding the use by other licensees of installations for the production, processing and transport of hydrocarbons, etc., the procurement of information in this respect, the arrangement of negotiations, etc. concerning third-party use of installations and regarding publication of the key points of the agreements made.

(6) Subsections (1)-(5) do not apply to upstream pipeline networks for natural gas.

**17.**-(1) The establishment and operation of pipeline facilities for use in the activities comprised by this Act may only take place pursuant to a licence from the Minister for Climate and Energy.

(2) A licence may be granted subject to specific conditions on the routing, dimensions and ownership of the pipeline, as well as the right for other parties to use the pipeline, payment for this, fees payable to the state, etc.

(3) Subsections (1) and (2) shall not apply to local pipelines that form part of installations used in the production from an individual field.

**18.** The Minister for Climate and Energy may decide that a royalty fixed in pursuance of section 9, see section 13, shall be paid in the form of extracted hydrocarbons. Any such decision shall take effect at the earliest six months after the licensee has been notified of the decision.

#### Part 4a

##### *Special Provisions regarding Exploration for and Production of Geothermal Energy*

**18a.**-(1) Licences pursuant to section 5 for exploration and production of geothermal energy shall be granted following an invitation of applications from the public.

(2) Before applications are invited in pursuance of subsection (1), the Minister for Climate and Energy shall submit a statement to a committee set up by the Danish Parliament, indicating for which areas applications are intended to be invited and the general terms and conditions on which licences are intended to be granted. Members of the committee and any other parties present during the committee's discussions about such statements shall keep confidential any information that may come to their knowledge through the committee with respect to the terms on which licences are to be granted, until the date on which an invitation is made to the public.

(3) The Minister for Climate and Energy may refrain from granting a licence on the basis of the applications received based on the invitation to the public pursuant to subsection (1).

(4) The terms and conditions on which licences are to be granted following an invitation to the public, see subsection (1), may not be published until the date on which applications are invited from the public.

**18b.**-(1) Licences for exploration and production of geothermal energy shall be granted on the basis of selection criteria concerning

(a) the applicants' expertise and financial base, and

(b) the exploration activities that the applicants offer to carry out, or the way in which the applicants intend to carry out production in the area in question.

(2) Moreover, the Minister for Climate and Energy may decide that the amount that applicants are prepared to pay for the issuance of a licence shall form part of the selection criteria.

(3) Further, the Minister for Climate and Energy may set up other relevant, objective and non-discriminatory criteria, in order to make a final choice among applicants considered to have equal merit based on an evaluation made according to the selection criteria established in subsection (1)(a) and (b), and possibly subsection (2).

(4) In addition to the criteria mentioned in subsections (1)-(3) above, when evaluating applications the Minister for Climate and Energy may attach weight to any lack of efficiency or non-compliance with obligations under previous licences.

(5) Klima- og energiministeren kan fastsætte, at det i en procedure for meddelelse af tilladelser skal indgå, at sammensætning af grupper af virksomheder, der i forening meddeles tilladelser som nævnt i stk. 1, foretages af ministeren. The composition of such groups shall be determined on the basis of one or more of the criteria established in subsections (1)-(4).

(6) The Minister for Climate and Energy may stipulate that a procedure for granting licences shall include a provision to the effect that the Minister shall appoint the operator of a group of companies to be granted licences jointly. The appointment shall be based on the operator's expertise and possibly other of the criteria established in subsections (1)-(4).

(7) The criteria pursuant to subsections (1)-(6) shall be published in connection with inviting applications in accordance with section 18(a)(1). Any changes made to these criteria shall be published in the same way.

**18c.**-(1) Licences pursuant to section 5 for the exploration for and production of geothermal energy shall be granted for a term of up to six years.

(2) When the terms and conditions of a licence granted pursuant to subsection (1) above have been met, the licensee shall be entitled to an extension of the licence with a view to production. In special cases, the Minister for Climate and Energy may extend the term of a licence notwithstanding that the conditions for an extension have not been met. The licence term may only be extended for those parts of the area from which it is intended to recover geothermal energy, and not by more than 30 years. As a condition for extending the licence, the Minister for Climate and Energy may stipulate that an application for approval of a plan for the production activities pursuant to section 10 shall be submitted within a specific time limit.

(3) Where warranted by special circumstances, the Minister for Climate and Energy may grant licences for a term extending beyond the periods mentioned in subsections (1) and (2).

**18d.** Upon approval of plans for production measures, etc. in pursuance of section 10, the date of production startup shall be determined.

## Part 5

### *The State's Right to Purchase Liquid Hydrocarbons*

**19.**-(1) The Minister for Climate and Energy may decide that the state or a state-owned company shall be entitled to purchase up to half a licensee's ongoing production of liquid hydrocarbons. Any such decision shall take effect six months at the earliest after the seller has been notified of the decision. The hydrocarbons produced shall be supplied at a reasonable market price, at the time and place where delivery is effected, and on the usual terms of delivery.

(2) Decisions made in pursuance of subsection (1) above may not be made in respect of production that is carried on under licences granted after 1 January 1995.

**20.**-(1) If the buyer and the seller have not arrived at an agreement on the price or on the basis for its calculation within three months of the seller's receipt of the notification referred to in section 19 above, either party may bring the matter before the Oil Board.

(2) The parties shall be entitled to demand that negotiations be held at six-month intervals to review the price or the basis for its calculation. Where the buyer and seller have not arrived at an agreement on the price or the basis for its calculation within one month of the demand being made, either party may bring the matter before the Oil Board.

(3) In the event that the buyer and the seller fail to agree on the other terms of delivery, including the time and place of delivery, either party may bring the matter before the Oil Board.

**21.**-(1) The Oil Board, which is set up by the Minister for Climate and Energy, shall be composed of a chairman and two other members. The chairman shall be appointed on the recommendation of the President of the Danish Supreme Court. The two other members shall have special knowledge of the oil trade. The members and their deputies shall be appointed for a term of four years.

(2) Decisions made by the Oil Board cannot be brought before any other administrative authority.

(3) The Minister for Climate and Energy shall lay down detailed rules regulating the activities of the Board.

**22.** A decision to buy oil made in pursuance of section 19 above shall not restrict the state's right to make decisions to sell and supply liquid hydrocarbons in pursuance of other legislation.

## Part 6

### *Other Use*

**23.**-(1) The Minister for Climate and Energy may grant a licence for a defined part of the subsoil that gives the licensee an exclusive right of exploration and use of the subsoil for storage or purposes other than production, subject to specific terms and conditions. Exploration licences may be granted for a term of up to six years, which term may be extended by up to two years at a time for the purpose of further exploration, where warranted by special circumstances. The total term of exploration may only exceed ten years in exceptional cases.

(2) Licences pursuant to subsection (1) shall be granted separately for exploration and for use of the subsoil for storage or purposes other than production.

(3) An exploration licence may grant the licensee a preferential right to use the subsoil for storage or purposes other than production, provided that exploration of the relevant area has been completed, that all conditions in the exploration licence have been met, and that the application for

a licence for storage or purposes other than production was submitted during the term of the exploration licence.

(4) An exploration licence may lay down provisions on the work obligations to be met by the licensee.

(5) Licences pursuant to subsection (1) may only be granted to an applicant considered to be financially sound, reliable and technically competent to operate and manage the activities comprised by the licence, and provided the applicant can ensure specialized and technical instruction and training of the operator and all personnel.

(6) During the term of the licence, the licensees shall at all times be able to substantiate that they are financially sound and possess or have access to the requisite technical competence to operate and manage the activities pursuant to subsection (1).

(7) Where an agreement has been concluded between the licensee and operator regarding the latter's operatorship of the activities pursuant to subsection (1), documentation substantiating the existence of the pertinent written agreements shall be available at all times. The operator shall be able to substantiate the specialized and technical instruction and training of its personnel; see subsection (5).

(8) The licences referred to in subsection (1) above shall be issued upon being submitted for approval to a committee set up by the Danish Parliament. Section 6(2) shall apply mutatis mutandis.

(9) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the payment of a fee for the processing of applications pursuant to subsection (1) above.

(10) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding use of the subsoil pursuant to subsection (1) above.

**23a.** A licence granted pursuant to section 23 above shall stipulate the consideration to be paid by the licensee to the state.

**23b.**-(1) Licences pursuant to section 23 shall be granted in one of the following ways, as determined by the Minister for Climate and Energy:

(i) Following a notice inviting applications from the public.

(ii) Where the employment of the procedure set out in paragraph (i) above is not considered expedient, the Minister for Climate and Energy may grant licences within specific areas, and possibly within specific time limits, without initiating the procedure set out in paragraph (i). Such a procedure shall be introduced through the issuance of a special Executive Order, which cannot take effect until a notice concerning the employment of this procedure has been published. As a minimum, such notice shall contain information about the areas for which applications can be submitted and how to obtain more detailed information about the terms and conditions. Any amendments to the Executive Order shall be published in the same way.

(iii) Where warranted by geological or storage considerations, the Minister for Climate and Energy may grant a licence for an area to holders of licences for any adjoining area without employing the procedures set out in paragraphs (i) and (ii) above. In such cases, the holders of licences for all other adjoining areas shall be given an opportunity to submit applications and sufficient time to do so, and they shall have access to information on the terms and conditions, etc. applicable to such licences.

(2) Before applications are invited in pursuance of subsection (1)(i), or an Executive Order pursuant to subsection (1)(ii) is issued, the Minister for Climate and Energy shall submit a statement to a committee set up by the Danish Parliament, indicating for which areas or blocks applications are intended to be invited and the general terms and conditions on which licences are intended to be granted. Members of the committee and any other parties present during the committee's discus-

sions about such statements shall keep confidential any information that may come to their knowledge through the committee with respect to the terms on which licences are to be granted based on the procedure outlined in subsection (1)(i), until the date on which an invitation is made to the public.

(3) The Minister for Climate and Energy may refrain from granting a licence on the basis of the applications received when the procedure referred to in subsection (1)(i) above is employed.

(4) The terms and conditions on which licences are to be granted when employing the procedure outlined in subsection (1)(i) may not be published until the date on which an invitation is made to the public.

(5) The Minister for Climate and Energy shall lay down more detailed rules and regulations about the granting of licences pursuant to section 23, including about the information to be submitted in applications for exploration and storage licences.

**23c.**-(1) The licences mentioned in section 23b(1) above shall be granted on the basis of selection criteria concerning:

(a) the applicants' expertise and financial base, and

(b) the exploration activities that the applicants offer to carry out, or the way in which the applicants intend to carry out storage or other use of the subsoil in the area in question.

(2) Moreover, the Minister for Climate and Energy may decide that the amount that applicants are prepared to pay for the issuance of a licence shall form part of the selection criteria.

(3) Further, the Minister for Climate and Energy may set up other relevant, objective and non-discriminatory criteria, in order to make a final choice among applicants considered to have equal merit based on an evaluation made according to the selection criteria established in subsection (1)(a) and (b), and possibly subsection (2).

(4) In addition to the criteria mentioned in subsections (1)-(3) above, when evaluating applications the Minister for Climate and Energy may attach weight to any lack of efficiency or non-compliance with obligations under previous licences.

(5) The Minister for Climate and Energy may stipulate that a procedure for granting licences shall include a provision to the effect that the Minister shall determine the composition of any groups of companies jointly to be granted the licences mentioned in subsection (1). The composition of such groups shall be determined on the basis of one or more of the criteria established in subsections (1)-(4).

(6) The Minister for Climate and Energy may stipulate that a procedure for granting licences shall include a provision to the effect that the Minister shall appoint the operator of a group of companies jointly to be granted licences. The appointment shall be based on the operator's expertise and possibly other of the criteria established in subsections (1)-(4).

(7) The criteria pursuant to subsections (1)-(6) shall be published together with the notices inviting the applications referred to section 23(b)(1). Any changes made to these criteria shall be published in the same way.

**23d.**-(1) Exploration and storage or other use of the subsoil shall be carried on in a safe and appropriate manner.

(2) Before storage or other use of the subsoil and any measures aimed at such activities are initiated, a plan for the activities, including the organization of production and the layout of installations, as well as a plan for corrective measures in case of leakages or significant irregularities that involve a risk of leakage from a storage complex shall be approved by the Minister for Climate and Energy.

(3) The holder of a licence pursuant to section 23 shall notify the Minister for Climate and Energy of any planned changes to the operation of the activities. Where required, the Minister shall issue an updated licence.

(4) Substantial changes and supplements to the plan for the activities, see subsection (2), shall be approved by the Minister for Climate and Energy before being initiated. The Minister shall issue a new or updated licence.

(5) The Minister for Climate and Energy may lay down terms and conditions in connection with granting approvals and licences pursuant to subsections (2) to (4).

(6) The Minister for Climate and Energy may lay down rules regarding plans, see subsection (2), for storage or other use of the subsoil.

## Part 6a

### *Special Provisions regarding Geological Storage and Piped Transport of CO<sub>2</sub> (Carbon Dioxide)*

**23e.**-(1) For the purposes of this Part, the following definitions shall apply:

- (i) “*waste*” means the substances defined as waste in Executive Order No. 1632 of 21 December 2010 on Waste;
- (ii) “*CO<sub>2</sub> storage site*” means a defined volume area within a geological formation used for the geological storage of CO<sub>2</sub> and associated surface and injection facilities;
- (iii) “*CO<sub>2</sub> stream*” means a flow of substances that results from CO<sub>2</sub> capture processes, to be injected into a CO<sub>2</sub> storage site;
- (iv) “*CO<sub>2</sub> transport network*” means a network of pipelines including associated booster stations or the like, for the transport of CO<sub>2</sub> to the CO<sub>2</sub> storage site;
- (v) “*geological formation*” means a lithostratigraphical subdivision within which distinct rock layers can be found and mapped;
- (vi) “*geological storage of CO<sub>2</sub>*” means injection of CO<sub>2</sub> streams accompanied by storage of CO<sub>2</sub> in underground formations;
- (vii) “*hydraulic unit*” means a hydraulically connected pore space where pressure communication can be measured by technical means and which is bordered by flow barriers, such as faults, salt domes, lithological boundaries, or by the wedging out or outcropping of the formation;
- (viii) “*storage complex*” means the CO<sub>2</sub> storage site and surrounding geological domain which can have an effect on overall storage integrity and security, that is, secondary containment formations;
- (ix) “*closure of a CO<sub>2</sub> storage site*” means the definitive cessation of CO<sub>2</sub> injection into that CO<sub>2</sub> storage site;
- (x) “*corrective measures*” means any measures taken to correct significant irregularities or to close leakages in order to prevent or stop the release of CO<sub>2</sub> from the storage complex;
- (xi) “*leakage*” means any release of CO<sub>2</sub> from the storage complex;
- (xii) “*significant risk*” means a combination of the probability of occurrence of damage and a magnitude of damage that cannot be disregarded without calling into question the purpose of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 for the storage site concerned;
- (xiii) “*significant irregularity*” means any irregularity in the CO<sub>2</sub> injection or storage operations or in the condition of the CO<sub>2</sub> storage complex itself, which implies the risk of a leakage or risk to the environment or human health.

**23f.**-(1) The suitability of the subsoil for geological storage of CO<sub>2</sub> shall be determined through a characterization and assessment of the potential storage complex and surrounding area.

(2) A geological formation in the subsoil shall only be selected as a CO<sub>2</sub> storage site, if under the intended conditions of use there is no significant risk of leakage, and if no significant environmental or health risks exist.

(3) In the case of more than one CO<sub>2</sub> storage site in the same hydraulic unit, the potential pressure interactions shall be such that both sites can simultaneously meet the requirements of this Act and provisions laid down in pursuance hereof.

(4) The Minister for Climate and Energy shall lay down more detailed rules and regulations regarding the criteria for a characterization and assessment of the suitability of a geological formation for use as a CO<sub>2</sub> storage site.

**23g.**-(1) A CO<sub>2</sub> stream shall consist overwhelmingly of carbon dioxide. No waste or other matter may be added for the purpose of disposing of that waste or other matter.

(2) The Minister for Climate and Energy shall lay down more detailed rules and regulations regarding criteria and procedures for the composition of CO<sub>2</sub> streams.

**23h.**-(1) The holder of a licence for a CO<sub>2</sub> storage site shall establish and maintain a register of the quantities of CO<sub>2</sub> delivered and injected as well as the properties and composition of the CO<sub>2</sub> stream. In case of injection of CO<sub>2</sub> streams, they shall be deemed to have been stored immediately following injection.

(2) The Minister for Climate and Energy shall lay down more detailed rules and regulations regarding the content of the register.

**23i.**-(1) The holder of a licence for a CO<sub>2</sub> storage site shall set up a programme for monitoring the injection facilities and storage complex before the injection of CO<sub>2</sub> is initiated. The programme shall describe the licensee's measures to ensure appropriate operation of the storage site. The licensee shall ensure compliance with the monitoring programme and ensure that it is checked appropriately. At least once a year, the licensee shall submit a report to the Minister for Climate and Energy that describes the programme and programme checks. The report is subject to approval by the Minister for Climate and Energy.

(2) The Minister for Climate and Energy shall lay down more detailed rules and regulations regarding the matters mentioned in subsection (1), including about the content of the monitoring programme and the procedure for checking it and submitting reports.

**23j.**-(1) In case of leakages or significant irregularities which imply the risk of leakage from a CO<sub>2</sub> storage complex, the licensee shall immediately notify the Minister for Climate and Energy.

(2) The licensee shall take the necessary corrective measures for the storage complex, including measures related to the protection of human health. As a minimum, the corrective measures shall be taken on the basis of a corrective measures plan; see section 23d(2).

(3) The Minister for Climate and Energy may at any time require the licensee to take the necessary corrective measures as well as measures related to the protection of human health, including measures additional to those laid out in the corrective measures plan; see section 23d(2).

(4) If the licensee fails to take the necessary corrective measures within a reasonable period of time, the Minister for Climate and Energy shall take the necessary corrective measures and order the licensee to pay the associated costs.

**23k.**-(1) Closure of a CO<sub>2</sub> storage site may only take place following the approval of the Minister for Climate and Energy.

(2) A CO<sub>2</sub> storage site shall be closed:

(i) if the relevant conditions stated in the CO<sub>2</sub> storage licence have been met;

- (ii) following an application from the licensee; or
  - (iii) if the Minister for Climate and Energy so decides pursuant to section 23n(1) after the withdrawal of a CO<sub>2</sub> storage licence.
- (3) After a CO<sub>2</sub> storage site has been closed, the licensee shall be responsible for sealing the storage site and removing the injection facilities.
- (4) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the conditions applicable to closure of a CO<sub>2</sub> storage site.

**23l.**-(1) The licensee shall draw up and comply with a post-closure plan for the period following closure of the CO<sub>2</sub> storage site before responsibility is transferred in pursuance of section 23o. The post-closure plan shall be approved by the Minister for Climate and Energy.

(2) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the content of the post-closure plan.

**23m.**-(1) The Minister for Climate and Energy shall review and where necessary update or, as a last resort, withdraw the CO<sub>2</sub> storage licence;

- (i) if any leakages or significant irregularities occur or there is a risk of such leakages or irregularities occurring; or
- (ii) if it is necessary on the basis of the latest scientific findings and technological progress.

(2) The Minister for Climate and Energy shall lay down more detailed rules and regulations for reviewing, updating and withdrawing CO<sub>2</sub> storage licences.

**23n.**-(1) If a CO<sub>2</sub> storage licence is withdrawn pursuant to section 23m or section 30(1), the Minister for Climate and Energy shall either issue a new storage licence to another licensee or close the CO<sub>2</sub> storage site.

(2) Until a new CO<sub>2</sub> storage licence has been issued, the Minister for Climate and Energy shall temporarily take over all obligations relating to the CO<sub>2</sub> storage site.

(3) If the Minister for Climate and Energy decides to close the CO<sub>2</sub> storage site, the Minister for Climate and Energy shall take over the responsibility for such site.

(4) The Minister for Climate and Energy may order the previous licensee to pay the costs associated with transferring the obligations regarding the CO<sub>2</sub> storage site pursuant to subsection (2) and the responsibility for the CO<sub>2</sub> storage site pursuant to subsection (3).

**23o.**-(1) Where a CO<sub>2</sub> storage site has been closed pursuant to section 23(k)(2)(i) and (ii), all legal obligations relating to the storage site shall be transferred to the Minister for Climate and Energy on the Minister's initiative or upon request from the licensee, provided the following conditions are met:

- (i) all available evidence indicates that the stored CO<sub>2</sub> will be completely and permanently contained;
- (ii) a period of no less than 20 years after the closure of the CO<sub>2</sub> storage site has elapsed, unless the licensee can substantiate that the criterion set up in paragraph (i) above has been complied with before the end of such period;
- (iii) the payment obligation pursuant to 23r has been fulfilled;
- (iv) the CO<sub>2</sub> storage site has been sealed and the injection facilities have been removed.

(2) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the transfer of responsibility for CO<sub>2</sub> storage sites pursuant to subsection (1) and regarding the documentation to be made available before the transfer of responsibility can be deemed to have taken place.

**23p.**-(1) Where a CO<sub>2</sub> storage site has been closed pursuant to section 23k(2)(iii), transfer of responsibility shall be deemed to have taken place if and when all available evidence indicates that the stored CO<sub>2</sub> will be completely and permanently contained, and after the CO<sub>2</sub> storage site has been sealed and the injection facilities have been removed.

(2) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the transfer of responsibility for CO<sub>2</sub> storage sites pursuant to subsection (1) and regarding the documentation to be made available before the transfer of responsibility can be deemed to have taken place.

**23q.**-(1) A holder of a licence for a CO<sub>2</sub> storage site shall provide valid and effective financial security or any other equivalent for the estimated costs of all obligations following from the licence for CO<sub>2</sub> storage. The financial security or any other equivalent shall be periodically adjusted to take account of changes to the assessed risk of leakage and the estimated costs of all obligations arising under the licence for storage of CO<sub>2</sub>. The financial security or any other equivalent shall be valid and effective before commencement of injection into a CO<sub>2</sub> storage site.

(2) The financial security or any other equivalent, see subsection (1), shall remain valid and effective:

- (i) after a CO<sub>2</sub> storage site has been closed pursuant to section 23k(2)(i) and (ii) until the responsibility for the storage site is transferred to the Minister for Climate and Energy, see section 23o; and
- (ii) after the withdrawal of a CO<sub>2</sub> storage licence, see section 23m or section 30(1);
  - (a) until a new licence for storage of CO<sub>2</sub> has been issued to another licensee; or
  - (b) where the storage site is closed pursuant to section 23n(1) until the transfer of responsibility has taken place pursuant to section 23o, provided the payment stipulated in section 23r has been effected.

(3) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the establishment, adjustment and maintenance of the financial security or any other equivalent and regarding the calculation of coverage of such security.

**23r.**-(1) Before the transfer of responsibility pursuant to section 23o, the licensee shall pay an amount to the Minister for Climate and Energy to cover the expected monitoring costs for a period of 30 years. No other costs may be imposed following the transfer of responsibility, but see section 23s.

(2) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the calculation and payment of the costs referred to in subsection (1) above.

**23s.** If, before or in connection with the transfer of responsibility, the holder of a licence for a CO<sub>2</sub> storage site is guilty of providing deficient data, has concealed relevant information, displayed negligence or deceit or has failed to exercise due diligence, the Minister for Climate and Energy shall order the previous licensee to pay the costs incurred after the transfer of responsibility.

**23t.**-(1) Potential users are entitled to use CO<sub>2</sub> transport networks and CO<sub>2</sub> storage sites against payment, but see subsection (3).

(2) The prices and conditions for transport in CO<sub>2</sub> transport networks and storage at CO<sub>2</sub> storage sites pursuant to subsection (1) shall be determined by the CO<sub>2</sub> transport network company and the storage company, respectively. The companies shall publish their tariffs and conditions for use of CO<sub>2</sub> transport networks and CO<sub>2</sub> storage sites.

(3) CO<sub>2</sub> transport network and storage companies may refuse access to CO<sub>2</sub> transport networks and CO<sub>2</sub> storage sites pursuant to subsection (1) if the necessary capacity or connection is not available to the companies. Duly substantiated reasons shall be given for any such refusal.

(4) CO<sub>2</sub> transport network and storage companies that refuse access on the grounds of lack of capacity or a lack of connection shall make any necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for them, provided this would not negatively impact on the environmental security of transport and geological storage of CO<sub>2</sub>.

(5) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding the access to CO<sub>2</sub> transport networks and CO<sub>2</sub> storage sites.

(6) The Minister for Climate and Energy shall lay down rules regarding the settlement of disputes concerning access to CO<sub>2</sub> transport networks and CO<sub>2</sub> storage sites.

**23u.**-(1) The establishment and operation of pipeline facilities for transporting and storing CO<sub>2</sub> may only take place pursuant to a licence from the Minister for Climate and Energy.

(2) A licence may be granted subject to conditions regarding routing, dimensions, ownership and payment for use.

(3) Subsections (1) and (2) shall not apply to local pipelines forming part of facilities used for storing CO<sub>2</sub>.

**23v.** The Minister for Climate and Energy shall lay down rules regarding the establishment and maintenance of a register of licences granted for storage of CO<sub>2</sub> and of closed CO<sub>2</sub> storage sites.

## Part 7

### *Scientific Investigations*

**24.** The Minister for Climate and Energy may grant licences for scientific investigations of the subsoil; see section 1(2)(iii) above.

## Part 8

### *Supervision, etc.*

**25.**-(1) The Minister for Climate and Energy shall supervise compliance with the provisions of this present Act and with the rules and regulations, terms and conditions drawn up in pursuance of this Act. The Minister for Climate and Energy may issue enforcement notices ordering compliance with this Act and with regulations issued in pursuance hereof.

(2) The Minister for Climate and Energy may lay down more detailed rules and regulations regarding performance of the supervision.

(3) The Minister for Climate and Energy may order licensees to pay the expenses associated with public authority case handling pursuant to this Act, including for a public consultation procedure as referred to in section 28a(1) below, and the Minister may lay down more detailed rules and regulations in this respect.

**26.**-(1) Licensees shall submit all information required for the Minister for Climate and Energy's supervision of the activities covered by this Act. For the purpose of his supervision, the Minister for Climate and Energy may order a licensee to submit samples, raw data, processing results, interpretations and assessments as well as technical and financial information.

(2) Licensees shall submit all information regarding protection of the environment and natural resources that is required for the Minister of Transport and Energy's supervision of the activities covered by this Act. In this connection, the Minister may order a licensee to submit information about or make investigations into specific matters regarding the protection of natural resources.

(3) The Minister for Climate and Energy may not order a licensee to submit information on its actual or intended suppliers, except where this is done with a view to meeting the objectives set out in Article 30 of the EU Treaty.

(4) Any information received by the supervisory authority under subsection (1) above shall be subject to confidentiality; see sections 152, section 152a, the first sentence, and section 152c of the Danish Criminal Code.

**27.**-(1) Where an imminent risk of inappropriate use or exploitation of the subsoil is deemed to exist, the staff of the supervisory authority shall have access, without a prior court order, to all parts of the licensee's business against duly showing proof of their identity.

(2) A licence granted in pursuance of section 5 above may provide that a representative of the supervisory authority shall be entitled to attend meetings held by the licensees' decision-making bodies.

## Part 9

### *Other Provisions*

**28.** Any works to be carried out in connection with activities covered by this Act, including drilling wells, sinking shafts, and driving adits and drifts, may not be initiated until the approval of the Minister for Climate and Energy has been obtained for equipment, working programme and working methods in each individual case.

**28a.**-(1) Licences and approvals for offshore projects under this Act that are assumed to have a major impact on the environment may only be granted following an assessment of the effects on the environment and after the members of the public, authorities and organizations that are affected have been given an opportunity to express their opinion. If the project, either alone or in conjunction with other projects or plans, is assumed to have a major impact on designated international nature protection areas, the licence or approval may only be granted following an assessment of the impact of the project on the site, with due consideration paid to the objectives for conservation of the site. If deemed necessary by the Minister for Climate and Energy, an assessment of the impact on the site shall be included in the material that has been submitted to the general public, authorities and organizations for consultation.

(2) When submitting applications and assessments pursuant to subsection (1) above, the applicant shall include all information necessary for the consideration of the relevant application or assessment. For use in considering the application or assessment, the Minister for Climate and Energy may order the applicant to submit information about or make investigations into specific matters.

(3) Licences or approvals may only be granted pursuant to this Act if

- (i) the project does not adversely affect the integrity of an international nature protection area; or
- (ii) weighty societal considerations, including of a social or economic nature, make it imperative to implement the project because no alternative solutions exist; but see subsection (4) below.

(4) In case of international nature protection areas with a priority natural habitat type or a priority species, a licence or approval for a project covered by subsection (3)(ii) may only be granted if

- (i) this is necessary in the interest of human health, public safety or significant beneficial effects on the environment; or
- (ii) other weighty societal considerations make it imperative to implement the project.

(5) A licence or approval pursuant to subsection (4)(ii) may be granted only upon submitting the matter for the opinion of the European Commission.

(6) When licences or approvals are granted pursuant to subsection (3)(ii) or subsection (4), the Minister for Climate and Energy shall lay down terms and conditions regarding appropriate compensatory measures. The expenses for such compensatory measures shall be covered by the project applicant. The Minister shall notify the European Commission of the compensatory measures taken.

**28b.** In connection with offshore projects, the Minister for Climate and Energy shall take appropriate measures, including by laying down terms and conditions, issuing enforcement notices or prohibition notices, to avoid deteriorating natural habitat types and the natural habitats of the species in international nature protection areas and disturbing the species for whose protection the areas have been designated if such disturbances have major consequences for the objectives set out in Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).

**28c.**-(1) The Minister for Climate and Energy shall lay down detailed rules and regulations regarding the projects falling under section 28a(1), the content and scope of assessments pursuant to section 28a(1), applications for and the granting of licences and approvals for the projects covered, the minimum information and investigations required for making an assessment of the effects on the environment and of the impact on international nature protection areas, the notification and consultation of the members of the public, authorities and organizations affected in respect of assessments made pursuant to section 28a(1), and regarding terms and conditions, compensatory measures and enforcement notices.

(2) The Minister for Climate and Energy may stipulate that decisions pursuant to section 26(2) and sections 28a and 28b shall be subject to an opinion being obtained from the Minister for the Environment, or from an agency duly authorized by the Minister, on issues relating to protection of the environment and natural resources.

**29.**-(1) Licences may not be assigned to any other party, neither directly nor indirectly, unless the Minister for Climate and Energy allows such assignment and approves the pertinent terms and conditions.

(2) A licence granted under the provisions of this Act shall not be available to the recourse of creditors.

**30.**-(1) The Minister for Climate and Energy may revoke any licence granted under this Act

- (i) in case of non-compliance with the provisions of this Act or with any provisions, terms and conditions or enforcement notices issued in pursuance of the Act;
- (ii) where an application for a licence contains incorrect or misleading information;
- (iii) where a licensee files a petition for suspension of payments or is declared bankrupt.

(2) Where the matter can be rectified by the licensee, a licence may not be revoked in accordance with subsection (1)(i) above until the Minister for Climate and Energy has issued an enforcement notice specifying a time limit within which the matter shall be rectified, and the licensee fails to comply with such enforcement notice.

**31.** It may be stipulated in a licence that a dispute between the Minister for Climate and Energy and the licensee as to whether the licensee has complied with the licence terms shall be brought before an arbitral tribunal, whose decision shall be final and conclusive.

**32.** A licence shall stipulate the extent to which the licensee's obligations shall continue to exist after the expiry, relinquishment, lapsing or revocation of the licence. Further, it may be stipulated that if a work obligation or other obligations are not fulfilled, the Minister for Climate and Energy may demand that the licensee shall pay the amount, in whole or in part, that it would have cost to fulfil the relevant obligation.

**33.** Licences granted in pursuance of this Act shall lay down detailed provisions on the action to be taken in respect of installations established by the licensee when the licence expires, is relinquished, lapses or is revoked, as well as the action to be taken in respect of installations that become obsolete prior to such time.

**34.**(1) The Geological Survey of Denmark and Greenland and the Danish Energy Agency shall collect all information available about the Danish subsoil. With a view hereto, samples and other information about the subsoil obtained in connection with the performance of activities covered by this Act shall be submitted to them in accordance with rules and regulations laid down by the Minister for Climate and Energy.

(2) Licences granted in pursuance of this Act may lay down provisions on confidentiality with regard to the samples and information submitted in pursuance of subsection (1) above.

**34a.**(1) The Minister for Climate and Energy may lay down rules to the effect that specific international regulations and technical specifications containing requirements regarding companies, installations, facilities, formats, etc. that are referred to in rules issued under this Act shall not be recorded in the Official Gazette.

(2) The Minister for Climate and Energy shall lay down rules describing how to obtain information about the international regulations and technical specifications that are not recorded in the Official Gazette; see subsection (1).

**35.**(1) A licensee shall be liable to pay damages for any loss, damage or injury caused by the activities carried on under the licence, even though such loss, damage or injury was caused accidentally.

(2) In the event that the injured party contributed to the loss, damage or injury, either intentionally or through gross negligence, the damages payable may be reduced or lapse.

**36.**(1) To the extent necessary, the Minister for Climate and Energy may permit the compulsory acquisition of real property for the purpose of activities covered by this Act.

(2) Compulsory acquisition in accordance with subsection (1) above shall take place subject to the provisions of the Act on the Procedure for the Compulsory Acquisition of Real Property.

(3) The Minister for Climate and Energy may allow short-term surveys undertaken in order to carry out any of the activities covered by this Act to be made on third-party property, although this may result in damage or inconvenience, against payment of compensation in full for any such damage or inconvenience. In the absence of agreement on the amount of compensation payable, such compensation shall be fixed in accordance with the provisions referred to in subsection (2) above.

**37.** The Minister for Climate and Energy may authorize the Danish Energy Agency and other governmental authorities to exercise the powers conferred on the Minister for Climate and Energy under this Act.

**37a.**-(1) The Energy Board of Appeal shall consider complaints about decisions made by the Minister for Climate and Energy pursuant to this Act or rules or regulations laid down pursuant to this Act.

(2) Any party having a substantial and individual interest in the decision may file an appeal against decisions made pursuant to this Act.

(3) Moreover, local and natural associations or organizations whose main objective is to protect nature and the environment, or whose objective is to safeguard substantial, recreational interests, where the decision affects these interests, have a right to appeal against the environmental issues relating to decisions made pursuant to sections 10, 17, 23d, 23u and 28, provided the decisions are also comprised by sections 28a and 28b. No later than at the time of filing their appeal, the relevant local and national associations or organizations shall submit their byelaws to the Energy Board of Appeal to substantiate that they are locally based or have nationwide coverage and that their objectives meet the requirements stipulated.

(4) The complaint shall be lodged in writing to the Energy Board of Appeal within four weeks from the time when the decision has been announced. If the decision has been published, the time limit shall always be reckoned from the date of publication. If the time limit for lodging appeals expires on a Saturday or a holiday, the time limit shall be extended to the next following weekday.

(5) A licence pursuant to sections 10, 17, 23d, 23u and 28, where such licence is also comprised by sections 28a and 28b, may not be utilized until the time for lodging appeals has expired.

(6) Appeals against a licence granted for a project comprised by subsection (5) above shall not have a suspensive effect unless otherwise determined by the Energy Board of Appeal.

(7) Decisions made by the Danish Energy Agency or another state authority to which the Minister has transferred his powers cannot be brought before an administrative authority other than the Energy Board of Appeal.

**37b.**-(1) When considering the decisions referred to in section 37a above, the representatives appointed to the Energy Board of Appeal on the recommendation of the Confederation of Danish Industries and the Agricultural Council of Denmark shall be replaced by one expert in exploration and production of the relevant raw material or in the relevant form of storage or other use of the subsoil, and by one expert in marine environmental issues. These two members shall be appointed by the Minister for Climate and Energy.

(2) The Minister for Climate and Energy may lay down rules on the procedure to be adopted by the Energy Board of Appeal in hearing appeals lodged in accordance with section 37a and on the payment of fees for filing such appeals.

## Part 10

### *Penalties and Commencement Provisions, etc.*

**38.**-(1) Any party

- (i) carrying on the activities referred to in sections 1(2) and 17 without a licence issued by the Minister for Climate and Energy,
- (ii) transgressing the provisions of section 26(1) or failing to submit the samples and other information required according to section 34,

(iii) disregarding enforcement notices issued in accordance with this Act or regulations laid down in pursuance of this Act, shall be punishable by a fine or imprisonment for a term of up to four months.

(2) Any regulations issued in pursuance of this Act may include penalty provisions imposing a fine or imprisonment for a term of up to four months for any transgression of the provisions laid down in such regulations.

(3) Companies, etc. (legal persons) may be held criminally liable in accordance with the provisions laid down in Part 5 of the Danish Criminal Code.

**39.** In case of non-payment, the taxes and fees payable under this Act shall be recoverable through execution proceedings.

**40.**-(1) This Act shall come into force on 1 July 1981.

(2) Any concessions and licences granted under Act No. 181 of 8 May 1950 on the Exploration for and Production of Raw Materials in the Subsoil of the Kingdom of Denmark, with associated protocols, contracts and agreements, shall remain in force subject to the amendments following from this Act, but the provisions of sections 19 through 22 shall not apply to such concessions and licences. Section 13 of the Sole Concession of 8 July 1962 to Explore for and Recover Hydrocarbons from the Danish Subsoil shall not be changed as a result of section 29. The provisions laid down in the above-mentioned concessions and licences regarding confidentiality shall continue to apply to information submitted in pursuance of section 34(1) above. As concerns activities undertaken in pursuance of the Sole Concession of 8 July 1962 to Explore for and Recover Hydrocarbons from the Danish Subsoil, with appurtenant protocols and agreements, any decisions made by the Minister for Climate and Energy that fix dates of production startup pursuant to section 14 above, see section 10, and change approved production plans and regulate production pursuant to section 15(2) may be referred by the Concessionaires to the Board of Arbitration mentioned in Section 14(2) of the Concession; see Executive Order No. 372 of 7 November 1963, as subsequently amended.

**41.** Act No. 181 of 8 May 1950 on the Exploration for and Production of Raw Materials in the Subsoil of the Kingdom of Denmark shall be repealed.

**42.** Any concessions and licences, etc. granted in pursuance of Act No. 181 of 8 May 1950 on the Exploration for and Production of Raw Materials in the Subsoil of the Kingdom of Denmark may be revoked in accordance with the provisions of section 30 above, in the event that the concessionaires or licensees fail to comply with the provisions of such concessions and licences, including the associated protocols, contracts and agreements, or with terms and conditions or enforcement notices issued in pursuance thereof.

**43.** This Act shall not extend to Greenland and the Faroe Islands.

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Act No. 310 of 17 May 1995 to amend the Act on the Use of the Danish Subsoil,<sup>2)</sup> which amended section 5(4), section 6(3), section 8(2)-(5), sections 9, 12, and 12a, section 13(1), section 19(2), section 26(2) and (3), and sections 28a and 33, contains the following commencement provision:

## Section 2

(1) This Act shall come into force on 1 July 1995, but see subsection (2) below.

(2) The provisions of sections 12 and 12a of the Subsoil Act, as embodied in section 1(v) and (vi), of this Amendment Act, shall not apply to the licences for hydrocarbon exploration and production mentioned in section 5 that are granted before 31 December 2012 for those areas to which the exclusive right lapses on 8 July 2012 upon the expiry of the Sole Concession of 8 July 1962 to Explore for and Recover Hydrocarbons from the Danish Subsoil. Such licences shall be granted on the basis of objective and non-discriminatory principles.

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Act No. 447 of 31 May 2000 to amend certain environmental Acts,<sup>3)</sup> whose section 6 amended sections 37a and 37b of the Subsoil Act, contains the following commencement provision:

#### **Section 14**

(1) This Act shall come into force on 15 September 2000, but see subsections (2)-(4) below.

(2) The provisions of this Act regarding the right to appeal against decisions shall apply to cases decided by courts of first instance after the commencement of this Act. The provisions regarding the right to appeal against the rejection of requests for access to documents pursuant to section 4(5) of the Environmental Information Act, as amended by section 1(x) of this present Act, shall likewise apply to rejections issued after the commencement of this Act.

Subsections (3) and (4) omitted.

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Act No. 74 of 12 February 2002 to amend the Act on the Use of the Danish Subsoil, the Act on the Establishment and Use of a Pipeline for Transport of Crude Oil and Condensate, and the Act on Certain Offshore Installations,<sup>4)</sup> whose section 1 amended section 6(1), section 11(2) and (3), section 12(2), the heading of Part 8, section 25(3) and section 38, contains the following commencement provision:

#### **Section 4**

This Act shall come into force on 15 March 2002.

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Act No. 1230 of 27 February 2003 to amend the Act on the Use of the Danish Subsoil,<sup>5)</sup> which amended section 13(4) and (5), contains the following commencement provision:

#### **Section 2**

This Act shall come into force on the day after the promulgation in the Danish Law Gazette.

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Act No. 442 of 9 June 2004 on Due Process Protection in connection with the Public Administration's Use of Compulsory Measures and Duties of Disclosure,<sup>6)</sup> whose section 12 amended section 27(1) of the Subsoil Act, contains the following commencement provision:

#### **Section 24**

This Act shall come into force on 1 January 2005.

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Act No. 548 of 6 June 2007 to amend the Act on the Use of the Danish Subsoil, the Act on Electricity Supply, the Act on Coastline Protection, the Act on Harbours and various other Acts,<sup>7)</sup> whose section 1 amended the footnote to the title, section 2a, section 11(3), section 26(2)-(4), sections 28a-28c, and section 37a(1) of the Subsoil Act, contains the following commencement provision:

#### **Section 9**

(1) This Act shall come into force on the day after the promulgation in the Danish Law Gazette.  
Subsection (2) omitted.

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Act no. 1400 of 27 December 2008 to amend various Acts within the administrative sphere of the Ministry of Climate and Energy,<sup>8)</sup> section 2 of which amended section 34a of the Subsoil Act, contains the following commencement provision.

#### **Section 9**

This Act shall come into force on 1 January 2009.

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Act No. 718 of 25 June 2010 to amend the Insolvency Act and various other Acts, of which section 51 amended section 30(1)(iii) of the Subsoil Act, contains the following commencement provision:

#### **Section 55**

(1) The Minister of Justice shall determine when the Act shall come into force.<sup>9)</sup>  
(2)-(10) (Omitted)

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Act No. 541 of 30 May 2011 to amend the Act on the Use of the Danish Subsoil,<sup>10)</sup> which amended section 1(3), section 2a, section 5(4), section 10, section 12a(3), section 13(2), section 16, sections 18a-18d, sections 23-23v, sections 28a, 28b, 37a and 37b, contains the following commencement provision:

## Section 2

- (1) This Act shall come into force on 1 June 2011.
- (2) (Omitted)

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*The Danish Energy Agency, 13 September 2011*

IB LARSEN

/Jens Skov-Spilling

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<sup>2)</sup> The Amendment Act contains provisions implementing the Directive of the European Parliament and of the Council on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons (the Hydrocarbons Licensing Directive), and parts of the Council Directive on the assessment of the effects of certain public and private projects on the environment (the EIA Directive).

<sup>3)</sup> The Amendment Act implements the Convention of 25 June 1999 on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention).

<sup>4)</sup> The Amendment Act authorizes The Minister for Climate and Energy to enter into agreements with other countries to coordinate the exploration for and production of hydrocarbon accumulations extending into the sovereign territory of the relevant country (border-straddling accumulations). In addition, the Amendment Act modernizes and clarifies the rules regarding the reimbursement of public authority expenditure for administrative case handling under the Subsoil Act.

<sup>5)</sup> The Amendment Act, which came into force on 31 December 2003, implements the agreement of 29 September 2003 made between the Minister for Economic and Business Affairs and A.P. Møller – Mærsk A/S regarding exploration and production of hydrocarbons in the Danish subsoil. The amendment permits licences for exploration and production that already from the date of issue have a longer duration, but no more than 50 years, than permitted under the provisions hitherto. In addition, the Amendment Act renders it possible to extend existing licences beyond 50 years.

<sup>6)</sup> Pursuant to the Danish Act on Due Process Protection in connection with the Public Administration's Use of Compulsory Measures and Duties of Disclosure the supervisory authority must deem an imminent risk of inappropriate exploitation of the subsoil to exist for the supervisory authority to have access to the licensee's business without a prior court order.

<sup>7)</sup> The Amendment Act, which came into force on 8 June 2007, contains provisions implementing parts of the Council Directive on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and parts of the Council Directive on the conservation of wild birds (the Birds Directive).

8) The Amendment Act authorizes the Minister for Climate and Energy to lay down rules regarding an exemption from the obligation to include records of technical specifications, etc. in the Danish Law Gazette.

9) Section 51 of Act no. 718 of 25 June 2010 to amend the Insolvency Act and various other Acts came into force on 1 April, see Executive Order No. 208 of 15 March 2011 on the Commencement of the Amendment of the Insolvency Act and various other Acts (Restructuring, etc.)

10) The amendment implements parts of the Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and parts of the Directive of the European Parliament and of the Council on the geological storage of carbon dioxide. Moreover, the amendment makes it possible for the Minister to refuse to consider an application for the exploration for and production of one or more raw materials where such activities cannot be expected to be compatible with other ongoing or planned use of the subsoil or with appropriate exploitation of the subsoil in other respects. At the same time, it is proposed that various provisions regarding the granting of licences for the exploration for and production of geothermal energy be laid down. Furthermore, the provision authorizing the Minister to stipulate coordinated production and utilization of installations for producing and transporting oil and gas has been revised.