

Federal Act on the Expansion of Energy from Renewable Sources (Renewable Energy Expansion Act)

Full title

Federal Act on the Expansion of Energy from Renewable Sources (Renewable Energy Expansion Act)
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Contents

Title 1 General provisions

Section 1.	Competent authorities
Section 2.	Scope
Section 3.	Transposition and execution of European Union law
Section 4.	Objectives
Section 5.	Definitions
Section 6.	Sustainability and greenhouse gas emissions saving criteria for bioliquids and biomass fuels
Section 6a.	Socio-economic criteria
Section 7.	Adjustment of support funds
Section 8.	Information provision

Title 2 Renewable electricity support

Part 1 Feed-in premiums

Chapter 1 Feed-in premium mechanism

Section 9.	Principles
Section 10.	Eligibility
Section 11.	Calculation of the feed-in premium
Section 12.	General market price
Section 13.	Weighted market price
Section 14.	Disbursement of the feed-in premium
Section 15.	Suspension of the feed-in premium
Section 16.	Support period
Section 17.	General terms and conditions for support payments

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Chapter 2 Auctions

Sub-chapter 1 Auction design

- Section 18. Price caps
- Section 19. Notification of auctions
- Section 20. Bids
- Section 21. Submission of bids
- Section 22. Collateral
- Section 23. Award procedure
- Section 24. Bid restrictions
- Section 25. Bidder restrictions
- Section 26. Publication of results
- Section 27. Award cancellation
- Section 28. Fines
- Section 29. Return of collateral

Sub-chapter 2 PV auctions

- Section 30. Scope
- Section 31. Auction volume and deadline
- Section 32. Collateral
- Section 33. PV plants on agricultural land or green land
- Section 34. Operational deadline

Sub-chapter 3 Biomass auctions

- Section 35. Scope
- Section 36. Auction volume and deadline
- Section 37. Collateral
- Section 38. Price cap
- Section 39. Operational deadline

Sub-chapter 4 Wind auctions

- Section 40. Scope
- Section 41. Auction volume and deadline
- Section 42. Collateral
- Section 43. Awarded price correction
- Section 43a. Small wind power plants and energy communities
- Section 44. Operational deadline

Sub-chapter 5 Mixed wind and hydro auctions

- Section 44a. Scope
- Section 44b. Auction volume and deadline
- Section 44c. Collateral
- Section 44d. Price caps
- Section 44e. Awarded price correction
- Section 44f. Operational deadline

Chapter 3 FIP applications

- Section 45. Principles
- Section 46. Contracting
- Section 47. Guaranteed price
- Section 48. FIP for wind in 2022

- Section 49. Hydropower
- Section 50. Biomass
- Section 51. Biogas
- Section 52. Follow-up support for biomass
- Section 53. Follow-up support for biogas

Chapter 4

Plants with active support contracts based on the Green Electricity Act 2012

- Section 54. PV, wind power, hydropower, biomass, and biogas

Part 2

Investment aid

- Section 55. General provisions
- Section 56. PV plants and electricity storage
- Section 56a. Hydropower plants
- Section 57. Wind power plants
- Section 57a. Biomass plants
- Section 58. Investment aid ordinance

Title 3

Renewable gas

Part 1

Construction and repurposing

- Section 59. General provisions
- Section 60. Repurposing of existing biogas plants
- Section 61. Construction of renewable gas plants
- Section 62. Power-to-gas plants
- Section 63. Investment aid ordinance

Part 2

Renewable gas promotion agency (RGPA)

- Section 64. Designation
- Section 65. Duties and oversight

Title 4

Renewables support management entity (RSME)

- Section 66. Designation
- Section 67. Tasks and duties
- Section 68. RES support database
- Section 69. Costs and cost recovery
- Section 70. Oversight

Title 5

Collecting and administering support funds

- Section 71. Funding mechanism
- Section 72. Exemptions for low-income households
- Section 72a. Cost cap for households
- Section 73. Renewable electricity flat rate
- Section 74. Collection of the renewable electricity flat rate
- Section 75. Renewable electricity contribution
- Section 76. Renewable gas contribution
- Section 77. Support account
- Section 78. Provincial technology support

Title 6

Renewable energy communities

- Section 79. General provisions
- Section 80. Support for renewable energy communities

Title 7
Guarantees of origin

Part 1
General provisions

- Section 81. GO database
- Section 82. Self-consumption and off-grid generation and production
- Section 83. Guarantees of origin
- Section 84. Guarantees of origin from other countries

Part 2
Renewable gases

- Section 85. Renewable gas badge
- Section 86. Renewable gas certificates
- Section 87. Renewable gas quota

Part 3
Renewable district heating and cooling

- Section 88. Renewables share
- Section 89. Transparency of prices

Title 8
Monitoring, reports and transparency

- Section 90. RES monitoring report
- Section 91. Evaluation
- Section 92. Reporting on auctions, applications and support rounds
- Section 93. Transparency

Title 9
Integrated network plan

- Section 94. Integrated network plan
- Section 95. Strategic environmental assessment and public consultation
- Section 96. Cross-border consultation of environmental assessment

Title 10
Other provisions

- Section 97. Purchase obligation for renewable electricity
- Section 98. Penal provisions
- Section 99. Jurisdiction

Title 11
Transitional provisions and entry into force

- Section 100. General Transitional Provisions
- Section 102. Execution
- Section 103. Entry into force
- Section 103a. Entry into force of the amendment in FLG I no 181/2021
- Annex 1. Strategic environmental assessment

Title 1

General provisions

Competent authorities

Section 1. (constitutional provision) The rules provided for in in this Federal Act are issued, repealed and executed by the federal government, even with regard to matters for which the *Bundesverfassungsgesetz* (Federal Constitutional Act) provides otherwise. Matters regulated in these rules may be discharged directly by the bodies named in this Federal Act.

Scope

Section 2. (1) This Federal Act regulates

1. the support scheme for electricity from renewable sources and the relating eligibility requirements;
2. the organisation and functioning of renewable energy communities, including their participation in the support scheme;
3. the support scheme for gas from renewable sources and the relating eligibility requirements;
4. the support scheme for hydrogen from renewable sources and the relating eligibility requirements;
5. guarantees of origin for energy from renewable sources and the recognition of guarantees of origin issued in other EU member states, states party to the EEA Agreement or third countries;
6. certificates for gas from renewable sources;
7. the establishment of an integrated network plan.

(2) In particular, the following types of support are foreseen:

1. feed-in premiums (FIPs) for electricity from specific renewable energy sources;
2. investment grants for the construction or expansion of particular types of power plant that generate electricity from renewable sources;
3. investment grants for repurposing existing biogas plants for renewable gas production and processing, in line with the requirements set by the applicable technical rules according to section 7 para. 1 item 53 *Gaswirtschaftsgesetz 2011* (GWG 2011), FLG I no 107/2011;
4. investment grants for the construction of plants for the production of renewable gas or renewable hydrogen.

Transposition and execution of European Union law

Section 3. (1) This Federal Act transposes the following directives:

1. Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (recast), OJ L 328/82, 21.12.2018, as amended by the corrigendum in OJ L 311/11 of 25.09.2020;
2. Directive (EU) 2019/944 on common rules for the internal market in electricity and repealing Directive 2012/27/EU (recast), OJ L 158/125, 14.06.2019, as amended by the corrigendum in OJ L 15/8, 20.01.2020.

(2) Further, this Federal Act serves to execute the following regulations:

1. Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, amending Regulations (EU) 663/2009 and 715/2009, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU, Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) 525/2013, FLG L 328/1, 21.12.2018;
2. Regulation (EU) 2019/943 on the internal market for electricity, FLG L 158/54, 14.06.2019.

Objectives

Section 4. (1) This Federal Act is intended to contribute to the goals of the Paris Climate Agreement of 2015, to the goal of the European Union to cover at least 32% of the Union's gross final consumption of energy through renewable sources by 2030, and to the goal to make Austria climate neutral by 2040; for this purpose, this Federal Act aims

1. to promote the generation of renewable electricity and the production of renewable gas in Austria in line with the principles of Union law;
2. to increase the relative and absolute quantity of renewable electricity in line with the objectives stated in paras 2 and 4;

3. to ensure that the generation of renewable electricity and the production of renewable gas are energy efficient, resource efficient, market based, and competitive, and to support renewable electricity and gas efficiently;
4. to increase the penetration and market and system integration of renewable energies;
5. to provide certainty for investors in existing and future renewable electricity plants;
6. to provide certainty for investors in existing and future renewable gas plants;
7. to increase the quantity of renewable gas produced in Austria to 5 TWh by 2030;
8. to enable private individuals to form renewable energy communities with local authorities or SMEs and to promote the production and consumption of energy within such communities;
9. to support the construction and upgrading of the required infrastructure by establishing an integrated planning process;
10. to promote renewable hydrogen as key for sector coupling and integration.

(2) The construction, expansion and repowering of renewable power plants shall be supported to such an extent that domestic renewable electricity generation equals total domestic electricity consumption from 2030 onwards.

(3) With a view to reaching the objective stated in para. 2, sufficient available balancing capacity and the necessary operational flexibility must be secured, while having regard to economic and environmental impacts.

(4) Using the electricity generation in 2020 as a basis for calculation, annual renewable electricity generation must be increased by 27 TWh by 2030 to reach the objective stated in para. 2. Of these, 11 TWh shall come from PV, 10 TWh from wind, 5 TWh from hydro, and 1 TWh from biomass. The PV contribution shall particularly rely on a programme to install panels on one million rooftops.

(5) The three-year average of the annual support funds awarded in connection with title 2 of this Federal Act and in connection with the *Ökostromgesetz* (Green Electricity Act) 2012, FLG I no 75/2011, shall not exceed one billion Euro.

(6) This Federal Act is geared towards adhering to the indicative Union trajectory described by the reference points stated in Article 29(2) Regulation (EU) 2018/1999.

Definitions

Section 5. (1) For the purposes of this Federal Act, the term

1. ‘waste heat and cold’ means unavoidable heat or cold generated as by-product in industrial or power generation installations, or in the tertiary sector, which would be dissipated unused in air or water without access to a district heating or cooling system where a cogeneration process has been used or will be used or where cogeneration is not feasible;
2. ‘agrivoltaics area’ means land that is co-developed for both PV and agriculture;
3. ‘plant’ means the totality of components needed to produce or store renewable energy; unless provided otherwise, in the case of renewable electricity plants, all facilities and equipment behind the same metering point form part of a single plant; in the case of renewable gas plants, each gas production unit counts as a separate plant, even if they use the same processing plant;
4. ‘guaranteed price’ means the price, determined by way of an auction or an administrative procedure, that is used to calculate the feed-in premium;
5. ‘auction’ means a non-discriminatory, transparent, competitive procedure to decide the awardees of feed-in premiums and to determine the guaranteed price used to calculate such premium;
6. ‘auction volume’ means the total capacity for which feed-in premiums are offered via auctions;
7. ‘biogas’ means gaseous fuels digested from biomass;
8. ‘biomass’ means the biodegradable fraction of products, waste and residues from biological origin from agriculture, including vegetal and animal substances, from forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of waste, including industrial and municipal waste of biological origin;
9. ‘biomass fuels’ means gaseous and solid fuels produced from biomass;
10. ‘fuel efficiency’ means the sum of electricity output and used heat output, divided by the energy content of the energy carrier used as a fuel, calculated for a calendar year;

11. 'single day-ahead coupling' means the auctioning process defined in Commission Regulation 2015/1222 establishing a guideline on capacity allocation and congestion management, OJ L 197/24, 25.07.2015;
12. 'self-consumption share' means the portion of the renewable energy generated that is consumed by the producer itself, i.e. that is not injected into the public grid;
13. 'energy from renewable sources' or 'renewable energy' means energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, energy from biomass, landfill gas, sewage treatment plant gas, biogas and renewable gas;
14. 'maximum capacity' in the field of renewable electricity means the highest possible sustained electricity output of a plant including all its components, averaged over a 24-hour period, as limited by its lowest-output component; the maximum capacity of a PV plant is its modules' nameplate capacity (P_{max} in kilowatts);
15. 'renewable electricity contribution' means the financial contribution which is part of the funding mechanism under section 71, and which is payable by all final electricity customers that are connected to the public grid, except for pumped-storage power plants and households under section 72;
16. 'renewable electricity flat rate' means the financial contribution in Euro per metering point which is part of the funding mechanism under section 71 and which is payable by all final electricity customers that are connected to the public grid, except for final customers that provide balancing services under sections 23b to 23d *Elektrizitätswirtschafts- und -organisationsgesetz* (Electricity Act) 2010, FLG I 110/2010, pumped-storage power plants, and households under section 72;
17. 'renewable electricity' means electricity exclusively generated from renewable sources;
18. 'expansion' means an increase of a plant's maximum capacity by way of changes to the original plant, except for rehabilitations;
19. 'inhalable particles' means particulate matter that can pass a size-selecting air intake opening with a separating efficiency of 50% for an aerodynamic diameter of 10 μm ;
20. 'bioliquids' means liquid fuels for energy purposes other than for transport, including electricity and heating and cooling, produced from biomass;
21. 'bid volume' the installed capacity (kW) offered in a bid;
22. 'auction deadline' means the deadline by which bidders must submit their bids for a particular auction;
23. 'bid price' means the price in cent/kWh offered in a bid;
24. 'bidding zone' means the area defined in Regulation (EU) 2019/943;
25. 'geothermal energy' means energy stored in the form of heat beneath the surface of solid earth;
26. 'renewable gas contribution' means the financial contribution which is payable by all final gas customers that are connected to the public grid, except for households under to section 72, and which is part of the funding mechanism for support awarded under title 3 of this Federal Act and serves to finance the RGPA;
27. 'renewable gas badge' means a record of renewable energy that counts towards Austria's national contribution under Article 3(2) Directive (EU) 2018/2001 and towards suppliers' renewable gas quota;
28. 'green land' means land whose land-use plan designates it as grassland, green space, open land, open space, or future development zone;
29. 'renewable gas certificate' means a record confirming the production of renewable gas that is not fed into the public grid;
30. 'guarantee of origin' means an electronic record which has the sole function of providing evidence to final customers that a given share or quantity of energy has been produced from renewable sources;
- 30a. 'minimum reinvestment ratio' means the reinvestment sum as a percentage of the investment that would be necessary for building a new facility of the same quality as the repowered plant;
31. 'public electricity grid' means an electricity grid with a nominal frequency of 50 Hz, access to which is to be granted in accordance with the provincial legislation issued under section 15 Electricity Act 2010;

32. 'general market price' means the average hourly electricity price in a bidding zone during a specified period of time, used to calculate feed-in premiums, in cent/kWh;
33. 'weighted market price' means the weighted average hourly price of electricity generated through a particular technology in a bidding zone during a specified period of time, used to calculate feed-in premiums, in cent/kWh;
34. 'standard output' means the electricity output of power plants during a normal year that results from the annual discharge and the technical conditions (actual average output during the last five operative years);
35. 'repowering' means renewing power plants that produce renewable energy, including the full or partial replacement of installations or operating systems and equipment for the purposes of replacing capacity or increasing the efficiency or capacity of the plant;
36. 'residue' means a substance that is not the end product(s) that a production process directly seeks to produce; it is not a primary aim of the production process, and the process has not been deliberately modified to produce it;
37. 'agricultural, aquaculture, fisheries and forestry residues' means residues that directly result from agriculture, aquaculture, fisheries or forestry and that do not include residues from related industries or processing;
38. 'rehabilitation' means the repowering of hydropower plants, under the following conditions: if no measures for maintaining or improving water status in line with water law are taken, a project's maximum capacity or standard output must increase by at least 5% if the original maximum capacity is no more than 1 MW, and by at least 3% if the original maximum capacity is above 1 MW, so that it qualifies as rehabilitation; if measures for maintaining or improving water status in line with water law are taken, a project must at least maintain a plant's maximum capacity or standard output at pre-rehabilitation levels to qualify as rehabilitation; in addition, at least two of the main parts of a plant which already existed previously, such as the turbine, setting basin, penstock, channel, power house, fish ladder or weir, must continue to be used;
39. 'state of the art' means the state of tried and tested advanced processes, facilities and operating methods based on relevant academic findings. The determination of the state of the art shall be specifically based on the comparable methods, facilities or modes of operation which are most efficient in achieving the objectives specified in section 4;
40. 'ambient energy' means naturally occurring thermal energy and energy accumulated in the environment with constrained boundaries, which can be stored in the ambient air, excluding in exhaust air, or in surface or sewage water;
41. 'FCFS volume' means the total capacity available for FIP applications;
42. 'full-load hours' means a renewable electricity plant's expected annual output divided by its maximum capacity;
43. 'animal manure' means any solid or liquid animal excrements. Animal manure may contain small amounts of other substances which cannot be separated from the excrements without considerable economic effort;
44. 'awarded price' means the price at which a bid is accepted at an auction; unless otherwise provided, it corresponds to the bid price.

(2) In addition to the above, the definitions from the Electricity Act 2010, as amended by FLG I no 150/2021, and from the Gas Act 2011, as amended by FLG I no 150/2021, apply.

(3) Insofar as reference is made in this Federal Act to provisions of other federal acts without explicitly stating the relevant amendment, such provisions apply as last amended.

(4) <not applicable in the English version>

(5) Unless otherwise provided, the regulatory authority referred to in this Federal Act is *E-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft* (E-Control), established by virtue of section 2 para. 1 *E-Control-Gesetz* (E-Control Act), FLG I no 110/2010.

Sustainability and greenhouse gas emissions saving criteria for bioliquids and biomass fuels

Section 6. (1) Bioliquids and biomass fuels qualify for the purposes under items 1 or 2 only if they comply with the sustainability and greenhouse gas emissions saving criteria stated in paras 2 and 3.

1. Counting towards the Austrian contribution under Article 3(2) Directive (EU) 2018/2001;

2. For biomass-fuelled plants with a total rated thermal input of 20 MW or more and for biogas-fuelled plants with a total rated thermal input of 2 MW or more: receiving support under this Federal Act.

(2) Where agricultural materials are used to produce bioliquids or biomass fuels, the criteria laid down in the ordinance issued under sections 6 para. 5, 22, 23, and 28 *Marktordnungsgesetz* (Market Organisation Act) 2007, FLG I no 55, as amended by FLG I no 104/2019, apply. Where forestry materials are used to produce bioliquids or biomass fuels, the criteria laid down in the ordinance issued under section 16 para. 2 *Holzhandelsüberwachungsgesetz* (Timber Trading Act) 2007, FLG I no 178/2013, as amended by FLG I no 167/2021, apply. Where biodegradable fractions of residue or waste, including biodegradable fractions of industrial and municipal waste of biological origin, are used, the criteria laid down in the *Abfallwirtschaftsgesetz* (Waste Management Act) 2002, FLG I no 102/2002, as amended by FLG I no 8/2021, and in the ordinances issued pursuant to that act, apply.

(3) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance detailed sustainability and greenhouse gas emissions saving criteria for bioliquids and biomass fuels that are used to produce renewable electricity, heating or cooling or renewable gas. They shall respect the ordinances mentioned in para. 2. The ordinance may provide for mechanisms to monitor compliance with the sustainability and greenhouse gas emissions saving criteria.

Socio-economic criteria

Section 6a. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may decree by ordinance criteria for fostering enhanced social and worker protection standards and for increasing regional value creation, and may make support under this Federal Act conditional on compliance with these criteria.

(2) The criteria mentioned under para. 1 may include, for instance:

1. the realisation of measures to promote equal opportunities, equality and equal treatment of employees;
2. the realisation of measures improving safety or health on the job;
3. labour conditions, including the application of collective bargaining agreements;
4. regional (European) value creation criteria for components.

(3) Evidence of compliance with the criteria decreed under para. 1 must be included with bids under section 20 and with applications under sections 45, 54, 55, and 59.

Adjustment of support funds

Section 7. (1) If the three-year average of the annual support funds needed under title 2 of this Federal Act and in connection with the Green Electricity Act 2012 (with the funds needed for the third year forecast in accordance with the monitoring report under section 90) exceeds one billion Euro, the annual support funds across all technologies and support types available under title 2 of this Federal Act shall be cut by the same percentage by which the average exceeds one billion Euro. Such cut shall be equally distributed to all years until 2030. When calculating the cuts, any shifts in accordance with para. 2, section 31 para. 3, section 36 para. 3, section 41 para. 3, section 46 para. 4, section 56 para. 13, section 56a para. 6, section 57 para. 7, and section 57a para. 7, as well as any reductions in accordance with para. 3 and any shifts in accordance with para. 3a shall be taken into account.

(2) Where this Federal Act supports a technology both through feed-in premiums and through investment aid, up to 30% of the annual FIP funds for that technology may be transferred to the annual investment aid funds, and vice versa.

(3) When a technology reaches the target laid down in section 4 para. 4, the annual FIP funds and/or investment aid for this technology provided for under title 2 of this Federal Act may be reduced for the following year.

(3a) In the interest of effective functioning of auctions, once the integrated network plan under section 94 has been published, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may issue an ordinance to reduce a technology's annual auction volume as laid down in title 2 part 1 chapter 2 of this Federal Act by up to 50% for the next year or the years thereafter if the following conditions are fulfilled:

1. the total bid volume submitted in an auction round for that technology was less than the auction volume; and
2. the RES monitoring report under section 90, the evaluation under section 91, the reports on auctions under section 92, the technological development as assessed in the integrated network plan under section 94, and the results of previous auction rounds for this technology indicate that the auction volume will not be exhausted in future rounds.

Based on the results of the RES monitoring report under section 90, the reduced auction volume shall be transferred to auctions for the same or a different technology to be held during the next year or the years thereafter. The reduction may not jeopardise the attainment of the targets laid down in section 4.

(4) Calculation of the cuts or increases to the feed-in premiums under title 2 part 1 shall assume the following average full-load hours per year:

1. 6,850 full-load hours for biomass-fuelled plants;
2. 4,000 full-load hours for hydropower plants with maximum capacities up to 1 MW;
3. 5,000 full-load hours for hydropower plants with maximum capacities above 1 MW;
4. 2,500 full-load hours for wind power plants;
5. 1,000 full-load hours for PV plants;
6. 7,000 full-load hours for biogas-fuelled plants.

The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may decree by ordinance adjustments to these average annual full-load hours in line with the RES monitoring report under section 90.

(5) **(constitutional provision)** Should the cuts provided for in para. 1 jeopardise the attainment of the targets under section 4 para. 4, the federal government shall immediately present a draft legislative act to the National Council with financially prudent, economically efficient and expedient measures that ensure attainment of the goals under section 4 para. 1. In addition, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall immediately present a report to the National Council by way of the Ministerial Council, explaining the cuts pursuant to para. 1 and their impact on the attainment of the targets under section 4 para. 4. Such report shall contain all relevant calculations and projections along with all underlying data.

(6) Any shifts under para. 2 and any cuts under para. 3 for a particular year shall be decreed by ordinance by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, by 22 January of that same year.

Information provision

Section 8. Support awardees under this Federal Act, electricity undertakings, and gas undertakings shall grant access to all their documents and records to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology and to all other competent authorities, and shall provide information about all issues within the respective body's competence with a view to fulfilling the provisions of this Federal Act, in particular (but not limited to) the calculation of feed-in premiums and the establishment of the integrated network plan. This duty to grant access and to provide information applies even if there is no specific incident as long as such documents, records or information are required for the discovery or in the run-up to the discovery of facts which are relevant to future proceedings.

Title 2 Renewable electricity support

Part 1 Feed-in premiums

Chapter 1 Feed-in premium mechanism

Principles

Section 9. (1) The following provisions outline the feed-in premium mechanism for renewable electricity.

(2) The feed-in premium aims to fully or partially compensate awardees for the difference between renewable electricity generation costs and the average electricity market price (determined in accordance with sections 12 and 13) during a limited period of time. It is granted on top of the sales income for GO-attached renewable electricity that is fed into the public electricity grid.

(3) Feed-in premiums are awarded through auction (chapter 2) or upon application (chapter 3).

Eligibility

Section 10. (1) For electricity to be eligible for a feed-in premium, it must be generated at one of the following types of plant:

1. (a) newly built or expanded hydropower plants with maximum capacities up to 25 MW (after expansion); for plants with higher maximum capacities, the first 25 MW are eligible; or
- (b) rehabilitated hydropower plants with maximum capacities up to 1 MW (after rehabilitation); for plants with higher maximum capacities, the first additional 25 MW are eligible; where rehabilitation increases the mean energy capability, the maximum support level is determined through the corresponding increase in the maximum capacity.

Electricity from the pumping and generation process at pumped-storage plants generated for the purpose of being put into storage is not eligible. Neither is electricity from the following types of plants:

- (aa) newly built, expanded or rehabilitated plants on waters of environmental significance that are either of excellent natural quality or that are in excellent hydro-morphological condition for a continuous stretch of at least one kilometre;
- (bb) newly built, expanded or rehabilitated plants that interfere with the protection of habitats, flora or fauna subject to Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora (Habitats Directive), OJ L 206/7, 22.07.1992, last amended by Council Directive 2013/17/EU, OJ L 158/193, 10.06.2013, and as corrected by the corrigendum in OJ L 95/70, 29.03.2014, or subject to Directive 2009/147/EC on the conservation of wild birds (Birds Directive), OJ L 20/7, 26.01.2010, last amended by Regulation (EU) 2019/2010, OJ L 170/115, 25.06.2019, and that are located in protected areas (Natura 2000 areas or national parks).

Item bb does not include investments in hydropower plants for which a preliminary procedure under section 4 *Umweltverträglichkeitsprüfungsgesetz* (Environmental Impact Assessment Act) 2000, FLG no 697/1993, had already been opened or an environmental impact assessment under section 5 Environmental Impact Assessment Act 2000 had already been initiated at the time this Federal Act comes into force, if the hydropower plant will replace an existing hydropower plant on a stretch of water where several hydropower plants exist already, if it will reduce the number of transverse electricity generation structures on that stretch, and if it will improve the condition of habitats, flora or fauna as mentioned in item bb in the protected area and a loss of priority habitats or other habitats under annex I Habitats Directive is doubly offset.

2. newly built wind power plants and wind power plant expansions;
3. newly built PV plants with maximum capacities above 10 kW_{peak}, and expansions of PV plants by more than 10 kW_{peak} maximum capacity;

4. newly built or repowered biomass-fuelled plants with maximum capacities up to 5 MW_{el} (after repowering); for plants with higher maximum capacities, the first 5 MW_{el} are eligible; in either case, plants are only eligible if they meet the following criteria:
 - (a) a fuel efficiency of at least 60%;
 - (b) state-of-the-art features that reduce the emission of inhalable particles;
 - (c) a state-of-the-art heat meter; and
 - (d) a fuel/feedstock procurement plan for the first five years of operation at the least;
5. newly built biogas-fuelled plants with maximum capacities up to 250 kW_{el}, if they meet the following criteria:
 - (a) a fuel efficiency of at least 65%;
 - (b) all the fuel/feedstock they use consists of biodegradable wastes or residue, of which at least 30% are animal manure and no more than 30% are intermediate crops or come from residual green land;
 - (c) the next gas network connection point is more than 10 km away;
 - (d) a state-of-the-art heat meter; and
 - (e) a fuel/feedstock procurement plan for the first five years of operation at the least;
6. existing biomass-fuelled plants, after the end of the support period under the Green Electricity Act 2012, the Green Electricity Act in FLG I no 149/2002, or the provincial legislation issued based on the *Biomasseförderung-Grundsatzgesetz* (Biomass Support Act) in FLG I no 43/2019, if they meet the following criteria:
 - (a) a fuel efficiency of at least 60%, unless the plant uses more than 50% fallen timber due to exceptional natural events; this requirement does not apply for wood-fired plants with extraction condensing steam turbines whose first-stage permit procedure was concluded by 31 December 2004 and whose electricity generation efficiency relies on condensation in a low-temperature vacuum with average annual output pressures of no more than 0.2 bara (or 0.3 bara if the plant has a maximum capacity of no more than 2.5 MW_{el});
 - (b) state-of-the-art features that reduce the emission of inhalable particles;
 - (c) a state-of-the-art heat meter; and
 - (d) a fuel/feedstock procurement plan for the first five years of operation at the least.
7. existing biogas-fuelled plants, after the end of the support period under the Green Electricity Act 2012 or the Green Electricity Act, if they meet the following criteria:
 - (a) a fuel efficiency of at least 60%;
 - (b) a fuel mix that consists of no more than 60% cereals or corn;
 - (c) a state-of-the-art heat meter; and
 - (d) a fuel/feedstock procurement plan for the first five years of operation at the least.

(2) Plants pursuant to para. 1 are only eligible for feed-in premiums if they are connected to the public electricity grid in Austria, can be remotely controlled in line with the technical and organisational rules provided for in section 22 E-Control Act and are equipped with a load meter or, if below the threshold set in section 17 para. 2 Electricity Act 2010, with a smart meter as defined in section 7 para. 1 item 31 Electricity Act 2010. Smart metering only counts if 15-minute quantities are metered, read and accessed.

(3) For rehabilitated plants, with the exception of rehabilitated hydropower plants with maximum capacities up to 1 MW as per para. 1 item 1(b) first case, and for expanded plants, only the electricity generated from the maximum capacity of the expansion or rehabilitation, as laid down in the support contract, or from the increased standard output as laid down in the support contract, is eligible. If the existing plant is under contract with the green power settlement agent under the Green Electricity Act 2012 or with a biomass balance responsible party under provincial legislation issued on the basis of the Biomass Support Act, the expansion is only eligible for a feed-in premium if such expansion is not part of that existing contract.

(4) In the case of biomass-fuelled plants, the electricity generated from meat and bone meal, lye or sewage sludge is not eligible.

(5) Eligibility of newly built plants does not depend on whether they use existing metering points or not.

(6) Feed-in premiums cannot be granted in cases where they do not have an incentive effect in line with the Union's state aid rules or where they would conflict with other parts of the Union's state aid legislation.

Calculation of the feed-in premium

Section 11. (1) The amount of the feed-in premium (in cent/kWh) is the difference between the guaranteed price (resulting from auction or determined via ordinance at the time of application, in cent/kWh) and the applicable general market price or weighted market price (in cent/kWh).

(2) The amount of the feed-in premium for electricity generated in biomass- and biogas-fuelled plants that is injected into the public electricity grid during a calendar year is calculated using that calendar year's general market price as defined in section 12.

(3) The amount of the feed-in premium for electricity generated at wind, hydropower and PV plants that is injected into the public electricity grid during a month is calculated using that month's weighted market price as defined in section 13, unless para. 3a applies.

(3a) In the case of electricity generated at wind and hydropower plants that have been awarded support in mixed auctions under section 44a, the amount of the feed-in premium for electricity that is injected into the public electricity grid during a month is calculated using that month's general market price as defined in section 12.

(4) The feed-in premium is awarded for all electricity generated at a plant and fed into the public electricity grid, insofar as the maximum capacity agreed in the support contract is not exceeded. If the agreed-upon maximum capacity is exceeded, the feed-in premium is not awarded for the electricity resulting from the excess portion. To determine the excess portion, the difference between the metered readings for each 15-minute interval and the maximum capacity shall be used.

(5) If calculations pursuant to paras 1 to 4 would yield a negative premium, the feed-in premium for wind power plants with maximum capacities below 20 MW, for hydropower plants with maximum capacities below 20 MW, for PV plants with maximum capacities below 5 MW, and for biomass- and biogas-fuelled plants is zero instead.

(6) If the weighted market price is more than 40% higher than the guaranteed price, wind power plants with maximum capacities from 20 MW, hydropower plants with maximum capacities from 20 MW, and PV plants with maximum capacities from 5 MW shall pay 66% of the overhang to the renewables support management entity (RSME). Disbursement of positive feed-in premiums by the RSME under section 14 shall be reduced to account for any such negative feed-in premiums.

(7) The guaranteed price is exclusive of VAT.

(8) The system operators shall provide the RSME with all data necessary to calculate and disburse the feed-in premium, including but not limited to the quantities injected into the public grid.

General market price

Section 12. (1) Calculation of the general market price shall be based on the hourly price achieved in single day-ahead coupling for the bidding zone that is relevant for Austria. Should single day-ahead coupling not have yielded a result, the replacing hourly price for day-ahead coupling published by the nominated electricity market operator that traded the largest quantities in the bidding zone that is relevant for Austria during that day shall be used.

(2) The general market price for a year shall be the arithmetic mean of all hourly prices pursuant to para. 1 for that calendar year. The general market price in cent/kWh for wind and hydropower plants that have been awarded support in mixed auctions under section 44a is the arithmetic mean of all hourly prices pursuant to para. 1 during a month.

(3) The regulatory authority shall calculate and publish the general market price for a year pursuant to section 12 para. 2 first sentence at the beginning of the following calendar year, and the general market price for a month pursuant to section 12 para. 2 second sentence at the beginning of the following month.

Weighted market price

Section 13. (1) Calculation of the weighted market price shall be based on the hourly price achieved in single day-ahead coupling for the bidding zone that is relevant for Austria. Should single day-ahead coupling not have yielded a result, the replacing hourly price for day-ahead coupling published by the

nominated electricity market operator that traded the largest quantities in the bidding zone that is relevant for Austria during that day shall be used.

(2) The weighted market price shall be calculated separately for each technology mentioned in section 11 para. 3, based on the quantity of electricity (kWh) generated by each technology during each hour. The data to be used for this purpose are those published for the entire Austrian control area in line with Article 16 Commission Regulation (EU) 543/2013 on submission and publication of data in electricity markets, OJ L 163/1, 15.06.2013, last amended by Regulation (EU) 2019/943, OJ L 158/54, 14.06.2019, on the ENTSO-E transparency platform. If any data needed under this paragraph are not available on the ENTSO-E transparency platform, the regulatory authority shall request and publish them.

(3) For each hour of a month, the hourly price according to para. 1 is multiplied by the hourly quantity of electricity generated by a technology according to para. 2. To calculate the weighted market price, these hourly values are summed up and then divided by the total amount of electricity generated by that technology during the month.

(4) The regulatory authority shall calculate and publish the weighted market price for each technology as per section 11 para. 3 for a month at the beginning of the following month.

Disbursement of the feed-in premium

Section 14. (1) The feed-in premium is disbursed each month by the RSME. Further details, including on billing and disbursement deadlines, shall be laid down in the general terms and conditions for support payments (section 17).

(2) For biomass- and biogas-fuelled plants, the RSME shall make payments based on the previous year's general market price pursuant to section 12 para. 2 first sentence. The RSME shall correct any differences between the disbursed sums and the actually applicable feed-in premium that have accrued in the course of a year by the end of Q1 of the following year.

(3) For wind power plants, hydropower plants, and PV plants, the RSME shall make payments based on the weighted market price calculated pursuant to section 13, unless para. 3a applies.

(3a) In the case of electricity generated at wind and hydropower plants that have been awarded support in mixed auctions under section 44a, the payments shall be based on the general market price calculated pursuant to section 12 para. 2 second sentence.

Suspension of the feed-in premium

Section 15. (1) If the hourly price from single day-ahead coupling in the Austrian bidding zone or, failing a market result, the replacement price published by the NEMO that traded the largest quantities in the Austrian bidding zone during the previous year, is negative during at least six consecutive hours, the feed-in premium for the entire period of negative hourly prices is zero.

(2) Para. 1 does not apply if a uniform Austrian price index for single intraday coupling accepted by the regulatory authority and published by the Austrian NEMOs is positive for those same six or more consecutive hours that had negative prices in single day-ahead coupling pursuant to para. 1.

Support period

Section 16. Unless otherwise provided, feed-in premiums are granted for a period of 20 years from the start of operations of the plant, expansion or rehabilitated plant, as evidenced to the RSME.

General terms and conditions for support payments

Section 17. (1) The RSME shall sign feed-in premium support contracts with awardees under sections 23, 46 and 54 based on the general terms and conditions for support payments.

(2) The general terms and conditions for support payments shall include details on:

1. the execution, deadlines and methods of payment;
2. the transmission of data necessary for handling support payments and the data formats to be used;
3. the rights and obligations of awardees;
4. disruptions and difficulties in contract fulfilment, liability and reversal.

(3) The general terms and conditions for support payments are subject to approval by ordinance by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology. The approval may be made conditional upon additional stipulations, conditions or deadlines.

(4) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology may instruct the RSME to revise or re-draft the general terms and conditions for support payments.

Chapter 2

Auctions

Sub-chapter 1

Auction design

Price caps

Section 18. (1) Based on one or several expert opinions, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, the Federal Minister for Digital and Economic Affairs, and the Federal Minister of Social Affairs, Health, Care and Consumer Protection, shall set a price cap (cent/kWh) for each technology, up to which bids can be made. A separate price cap under section 44d shall be set for mixed wind and hydro auctions under section 44a.

(2) In doing so, she shall respect the following basic tenets:

1. the price caps shall reflect the costs of an efficiently run state-of-the-art plant;
2. the calculation of costs shall include depreciation and appropriate interest on equity and debt for the investment. The applied WACC shall consist of rates for equity and debt, combined according to the normal capital structure, and income tax. A market risk premium for equity and debt, the capital market conditions and a risk-free interest rate shall be taken into account;
3. the price cap for biomass-fuelled plants may not cause biomass to be redirected away from non-energetic uses or cause food or animal feed to be redirected from its original intended purpose;
4. there shall be separate price caps for newly built plants and repowered plants; in the case of biomass-fuelled plants, there may be separate price caps for plants depending on the fuel they use.

(3) The price caps shall be revised annually, and may be revised more often. Price caps continue to apply until an ordinance with new price caps comes into force.

Notification of auctions

Section 19. (1) The RSME shall announce auctions on its website at least two months in advance. Such announcement shall state at least:

1. the auction deadline;
2. the renewable energy source sought;
3. the auction volume (kW);
4. the applicable price cap;
5. how bids can be submitted;
6. the applicable eligibility criteria and other conditions for admissible bids.

(2) The RSME shall publish easily accessible and comprehensible information for bidders on its website.

Bids

Section 20. Bids must contain:

1. the bidder's name, address, phone number, and e-mail address; additionally, for registered partnerships or legal persons: company address, commercial register number (if any), size category (as per headcount), and name of a natural person authorised to represent the company for all purposes of this Federal Act;
2. the renewable energy source used to generate electricity;
3. the (planned) location of the plant, i.e. the cadastral community and plot number;
4. a description of the project, including evidence of the project's eligibility, and a cost, time and financing plan;

5. the bid volume in kW in integral numbers;
6. the bid price in cent/kWh with two decimal places;
7. proof that the plant has received or will receive all necessary permits from the competent authorities for its construction, repowering, rehabilitation or expansion;
8. evidence that any necessary collateral pursuant to section 22 has been deposited;
9. a declaration of consent for providing meter readings in real time.

Submission of bids

Section 21. (1) Bids must be submitted through the electronic auctioning system to be set up by the RSME.

(2) Only complete bids that reach the RSME inside the auction deadline shall be taken into account. A bid is considered to have reached the RSME as soon as it enters the RSME's digital sphere of influence.

(3) Bids are binding on bidders until the award procedure has been completed as described in section 23.

(4) Bidders may withdraw their bids at any time before the auction deadline; the corresponding withdrawal declaration must reach the RSME before that deadline. A bid may only be re-submitted after the original bid has been withdrawn.

(5) Bidders may place bids for several plants in the same auction. Placing several bids for the same plant is not admissible.

(6) Any and all costs for drawing up and placing bids, including all preparatory works and production of evidence, shall be borne by the bidders.

Collateral

Section 22. (1) Bidders who wish to place bids for volumes above 100 kW must deposit collateral with the RSME to ensure that any fines under section 28 are covered.

(2) Collateral shall be deposited in two portions:

1. stage 1 collateral, to be deposited at the time of placing the bid;
2. additionally, if the bid is accepted: stage 2 collateral, to be deposited no later than 10 working days after the auction results are published.

(3) Collateral may take one of two forms:

1. a bank transfer into an account to be specified by the RSME; or
2. an abstract bank guarantee by a bank as laid down in section 1 para. 1 *Bankwesengesetz* (Banking Act), FLG no 532/1993, with the RSME as the beneficiary.

If a bank transfer is used, the stage 1 collateral must have been credited to the RES service point's account by the auction deadline, and the stage 2 collateral must have been credited to the RES service point's account by the end of the 10th working day after the auction results are published.

(4) The collateral pursuant to para. 3 item 1 shall be held by the RSME until the conditions for its return or partial or full retention materialise. Bidders do not earn any interest on collateral.

Award procedure

Section 23. (1) Once the auction deadline has passed, the RSME shall open the received bids and check whether they are in line with sections 24 and 25. A record of all factors that are decisive in finding a bid admissible or not shall be kept.

(2) The RSME shall rank the admissible bids according to their bid price, starting with the lowest. Of two bids with the same bid price, the one with the lower bid volume shall come first. If two bids are for the same bid price and volume, the lot shall decide, unless their ranking is irrelevant for their acceptance. A record of the ranked bid list shall be kept.

(3) The RSME shall accept bids in the order described under para. 2 until the auction volume is reached. The first-ranked bid to exhaust the auction volume shall be accepted if at least 50% of the bid volume is within the auction volume. In this case, the volume of the next auction for the same technology shall be reduced accordingly. Full records of the award procedure shall be kept.

(4) The RSME shall inform successful bidders of their awarded price without delay. Unsuccessful bidders under paras 2 and 3 shall be informed that they have not been awarded support.

Bid restrictions

Section 24. (1) Bids shall be excluded from an auction if

1. they arrive after the auction deadline;
2. they do not fully comply with the formalities defined in sections 20 and 21;
3. they are not eligible under the rules applicable for their energy source defined in section 10;
4. the full amount of the stage 1 collateral has not been deposited before the auction deadline;
5. the bid price exceeds the published price cap;
6. they contain conditions, time limits or other additional terms;
7. several bids have been placed for the same plant; or
8. the project has already been awarded support under section 23, chapter 3 or part 2.

(2) Bidders whose bids have been excluded pursuant to para. 1 shall be informed of the grounds for their exclusion.

Bidder restrictions

Section 25. (1) Bidders and their bids shall be excluded from an auction if

1. the bidder, in act of intent or gross negligence, has placed bids with false information or false evidence in this or the previous auction;
2. the bidder has colluded with other bidders with the intent of distorting competition during this or the previous auction;
3. the assets of the bidder are subject to bankruptcy or insolvency proceedings.

(2) Bidders that have been excluded themselves or whose bids have been excluded pursuant to para. 1 shall be informed of the grounds for their exclusion.

Publication of results

Section 26. After the end of an auction, the RSME shall publish the following information on its website:

1. the auction deadline and the energy source(s);
2. the total awarded volume;
3. the names of the successful bidders and the location of their plants as specified in their bids;
4. the lowest and highest awarded prices, and the weighted average awarded price.

Award cancellation

Section 27. (1) An award decision is cancelled if

1. the full amount of the stage 2 collateral pursuant to section 22 para. 2 item 1 is not deposited in time;
2. the RSME does not receive a confirmation by the system operator that the plant has started operating within the applicable deadline;
3. it turns out that the bid should have been excluded under section 24 para. 1 item 8; or
4. it turns out that the bidder should have been excluded under section 25 para. 1.

(2) The auction volume thus freed shall be added to the auction volume for the next calendar year.

Fines

Section 28. (1) In the following cases, bidders of bids with volumes above 100 kW shall pay fines to the RSME:

1. if their award decision is cancelled under section 27 para. 1 item 1, they shall pay a fine that corresponds to the stage 1 collateral;
2. if their award decision is cancelled under section 27 para. 1 items 2 to 4, they shall pay a fine that corresponds to the full collateral.

(2) Bidders of bids with volumes up to 100 kW shall pay fines to the RSME if their award decision is cancelled under section 27 para. 1 items 2 to 4; such fine shall correspond to 50 Euro per kW/kW_{peak} of the bid volume.

(3) If collateral has been deposited into the RSME's account, fines pursuant to para. 1 are paid by retaining the collateral. If collateral has been deposited in the form of a bank guarantee, the RSME may use

such bank guarantee to the amount of the fine under para. 1 unless the bidder transfers the fine into an account to be specified by the RSME immediately after the award decision is cancelled.

(4) Fines under para. 2 shall be paid into an account to be specified by the RSME immediately after the award decision is cancelled.

(5) Any collected fines shall be transferred into the support account pursuant to section 77.

Return of collateral

Section 29. The RSME shall immediately return collateral if

1. the bidder withdraws the bid pursuant to section 21 para. 4 before the auction deadline;
2. the bid is not accepted;
3. the RSME receives a confirmation from the system operator that the plant has started operating within the applicable deadline.

Sub-chapter 2

PV auctions

Scope

Section 30. (1) Auctions shall be held to determine the awardees of feed-in premiums for PV plants and the guaranteed price used to calculate these feed-in premiums.

(2) Only bids for PV plants that are eligible under section 10 may participate in auctions under para. 1.

Auction volume and deadline

Section 31. (1) The annual auction volume for PV is at least 700,000 kW_{peak} (before applying any adjustments under section 7 or section 23 para. 3).

(2) The RSME shall conduct at least two PV auctions each year. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall decree by ordinance the auction deadlines and the auction volume available through each auction.

(3) If the volume available through an auction is not exhausted, the residual volume shall be transferred to the other auctions during that same year, as far as this is compatible with any shifts between FIP funds and investment aid funds and with any adjustments under section 7.

Collateral

Section 32. (1) The amount of the stage 1 collateral shall be 5 Euro per kW_{peak} bid volume.

(2) The amount of the stage 2 collateral shall be 45 Euro per kW_{peak} bid volume.

(3) Collateral for several plants and several bids may be deposited as one.

PV plants on agricultural land or green land

Section 33. (1) A 25% reduction applies to the awarded price for PV plants on agricultural land or green land.

(2) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, may adjust by ordinance the reduction under para. 1 if this is conducive to reaching the targets for PV expansion under section 4 para. 4 or if this avoids displacement of agricultural or green land.

(3) The reduction under para. 1 is waived partially or fully

1. for plants on agrivoltaics areas that do not interfere with the mainly agricultural use of the land at all or do only do so to a very limited extent;
2. for plants attached to buildings or other structures that were originally built for purposes other than generating electricity through PV and that were completed at least 18 months before the support application date;
3. for plants on artificial bodies of water;
4. for plants at former or approved landfill sites or contaminated sites;
5. for plants at mining or infrastructure sites; and

6. for plants at military sites, with the exception of military training areas.

(4) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the reductions that apply to the plants listed in para. 3. That ordinance shall also specify any technical, economic and environmental conditions to be fulfilled. It may differentiate between different plant types.

Operational deadline

Section 34. (1) PV plants must start operations within the following deadlines:

1. plants or expansions with maximum capacities up to 100 kW_{peak}: within 6 months of the auction results being published on the website of the RSME;
2. plants or expansions with maximum capacities over 100 kW_{peak}: within 12 months of the auction results being published on the website of the RSME.

(2) The RSME may extend the deadline in para. 1 item 1 once by up to 3 months, and the deadline in para. 1 item 2 once by up to 12 months, if the awardee can show credibly that the causes for the delay are not within their sphere of influence.

Sub-chapter 3 Biomass auctions

Scope

Section 35. (1) Auctions shall be held to determine the awardees of feed-in premiums for biomass-fuelled plants and the guaranteed price used to calculate these feed-in premiums; feed-in premiums are awarded to newly built or repowered biomass-fuelled plants with maximum capacities from 0.5 MW_{el} up to 5 MW_{el}, and to the first 5 MW_{el} in the case of newly built or repowered biomass-fuelled plants with maximum capacities above 5 MW_{el}.

(2) Only bids for newly built or repowered biomass-fuelled plants that are eligible under section 10 may participate in auctions under para. 1. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, may decree by ordinance that a certain minimum reinvestment ratio and a certain minimum number of operating years constitute additional eligibility criteria for support to repowered biomass-fuelled plants.

Auction volume and deadline

Section 36. (1) The annual auction volume for biomass-fuelled plants is at least 7,500 kW (before applying any adjustments under section 7 or section 23 para. 3).

(2) The RSME shall conduct at least one biomass auction each year. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the auction deadlines and the auction volume available through each auction.

(3) If the volume available through an auction is not exhausted, the residual volume shall be transferred to the other auctions during that same year, as far as this is compatible with any adjustments under section 7.

Collateral

Section 37. (1) The amount of the stage 1 collateral shall be 5 Euro per kW bid volume.

(2) The amount of the stage 2 collateral shall be 55 Euro per kW bid volume.

(3) Collateral for several plants and several bids may be deposited as one.

Price cap

Section 38. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, the Federal Minister for Digital and Economic Affairs, and the Federal Minister of Social Affairs, Health, Care and Consumer Protection, shall decree by ordinance a separate price cap for repowered biomass-fuelled plants in line with section 18; such price cap shall be at least 1% lower than the price cap for newly built biomass-fuelled plants.

Operational deadline

Section 39. (1) Biomass-fuelled plants must start operations within 36 months of the auction results being published on the website of the RSME.

(2) The RSME may extend the deadline as laid down in para. 1 once by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Sub-chapter 4 Wind auctions

Scope

Section 40. (1) Auctions shall be held to determine the awardees of feed-in premiums for wind power plants and the guaranteed price used to calculate these feed-in premiums.

(2) Only bids for wind power plants that are eligible under section 10 may participate in auctions under para. 1.

Auction volume and deadline

Section 41. (1) The annual auction volume for wind is at least 390,000 kW (before applying any adjustments under section 7 or section 23 para. 3. If during a year, wind power plants are awarded FIP support upon application under chapter 3, an auction pursuant to section 40 para. 1 may be held, but the annual auction volume is capped at 190,000 kW.

(2) The RSME shall conduct at least two wind auctions each year. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall decree by ordinance the auction deadlines and the auction volume available through each auction.

(3) If the volume available through an auction is not exhausted, the residual volume shall be transferred to the other auctions during that same year, as far as this is compatible with any shifts between FIP funds and investment aid funds and with any adjustments under section 7.

Collateral

Section 42. (1) The amount of the stage 1 collateral shall be 5 Euro per kW bid volume.

(2) The amount of the stage 2 collateral shall be 40 Euro per kW bid volume.

(3) Collateral for several plants and several bids may be deposited as one.

Awarded price correction

Section 43. The awarded price for wind power plants may be corrected depending on a plant's location. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the positive and negative correction factors that apply for wind power plants as compared to a notional average location. Such factors shall reflect the locational advantages and disadvantages for a state-of-the-art wind power plant in Austria depending on the average annual wind speed, log wind profile, and roughness length. They may also take into consideration use of existing plant parts, infrastructure or wind measurement.

Small wind power plants and energy communities

Section 43a. (1) By way of derogation from section 23 para. 3, the awarded price for all bids accepted at an auction for

1. wind power plants with a maximum capacity of up to 20 MW overall; and
2. wind power plants of renewable energy communities and citizen energy communities under section 16b Electricity Act 2010

corresponds to the highest bid price accepted at that auction.

(2) To ensure that the maximum capacity cap in para. 1 item 1 cannot be circumvented by splitting plants, the maximum capacity of wind power plants is added up if these are plants of the same type at the same location that are subject to the operational decisions and the control of one or several companies that directly or indirectly control each other, and if bids for these plants have been submitted during the same

auction or an auction during the last 24 months or if there is a contract under section 17 or sections 12 or 13 Green Electricity Act 2012. Further details may be decreed as part of the ordinance under section 41 para. 2.

Operational deadline

Section 44. (1) Wind power plants must start operations within 36 months of the auction results being published on the website of the RSME.

(2) The RSME may extend the deadline as laid down in para. 1 once by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Sub-chapter 5 **Mixed wind and hydro auctions**

Scope

Section 44a. (1) Only bids for wind and hydropower plants that are eligible under section 10 may participate in mixed auctions.

(2) If certain types of plant have an unreasonable competitive advantage due to their low costs, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may decree by ordinance that they are excluded from auctions under para. 1.

Auction volume and deadline

Section 44b. (1) The annual auction volume for mixed auctions under section 44a is at least 20,000 kW (before applying any adjustments under section 7 or section 23 para. 3).

(2) The RSME shall conduct at least one mixed wind and hydro auction each year. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall decree by ordinance the auction deadlines and the auction volume available through each auction.

Collateral

Section 44c. (1) The amount of the stage 1 collateral shall be the bid volume multiplied by

1. 5 Euro per kW for wind power plants;
2. 5 Euro per kW for hydropower plants.

(2) The amount of the stage 2 collateral shall be the bid volume multiplied by

1. 40 Euro per kW for wind power plants;
2. 40 Euro per kW for hydropower plants.

(3) Collateral for several plants and several bids may be deposited as one.

Price caps

Section 44d. Based on one or several expert opinions, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, the Federal Minister for Digital and Economic Affairs, and the Federal Minister of Social Affairs, Health, Care and Consumer Protection, shall set a separate price cap (cent/kWh) for mixed auctions under section 44a, up to which bids can be made. The price cap shall respect the common cost structures of wind and hydropower plants and may contain a markup on the electricity generation costs based on an expert opinion.

Awarded price correction

Section 44e. The awarded price for wind power plants may be corrected in line with section 43.

Operational deadline

Section 44f. (1) Wind and hydropower plants must start operations within 36 months of the auction results being published on the website of the RSME.

(2) The RSME may extend the deadline as laid down in para. 1

1. once by up to twelve months for wind power plants and

2. twice by up to twelve months for hydropower plants
- if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Chapter 3

FIP applications

Principles

Section 45. Feed-in premium applications (FIP applications) must contain:

1. the applicant's name, address, phone number, and e-mail address; additionally, for registered partnerships or legal persons: company address, commercial register number (if any), size category (as per headcount), and name of a natural person authorised to represent the company for all purposes of this Federal Act;
2. the energy source used, the installed capacity, and the expected annual output;
3. the (planned) location of the plant, i.e. the cadastral community and plot number;
4. a description of the project, including evidence of the project's eligibility, and a cost, time and financing plan;
5. proof that the plant has received or will receive all necessary permits from the competent authorities for its construction, expansion or rehabilitation.

Contracting

Section 46. (1) FIP applications must be submitted through the electronic auctioning system to be set up by the RSME.

(2) The RSME shall rank and accept them according to the first come, first served (FCFS) principle. Incomplete applications shall be rejected, with the applicant being informed thereof in writing.

(3) FIP applications shall be accepted until the annual FCFS volume is exhausted. The first-ranked application to exhaust the annual FCFS volume shall be accepted if at least 50% of the application volume is within the annual FCFS volume. The FCFS volume for the following year shall then be reduced accordingly. Applications that cannot be accepted shall be considered to have been withdrawn.

(4) If the annual FCFS volume is not exhausted, the residual volume shall be transferred to the FCFS volume for the following year, as far as this is compatible with any shifts between FIP funds and investment aid funds and any adjustment under section 7. If the FCFS volume is not exhausted during three years in a row, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, may reallocate by ordinance the residual volume to other technologies or other support types in line with the results of the RES monitoring report under section 90.

(5) FIP applications for projects that have been awarded support under section 23 or part 2 are not admissible.

Guaranteed price

Section 47. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, the Federal Minister for Digital and Economic Affairs, and the Federal Minister of Social Affairs, Health, Care and Consumer Protection, shall decree by ordinance the guaranteed price (cent/kWh) that is used if FIP support is awarded upon application.

(2) There shall be a separate guaranteed price for each technology, based on one or several expert opinions. Unless otherwise provided, the following basic tenets shall be respected:

1. the guaranteed price shall reflect the costs of an efficiently run state-of-the-art plant;
2. the calculation of costs shall include depreciation and appropriate interest on equity and debt for the investment. The applied WACC shall consist of rates for equity and debt, combined according to the normal capital structure, and income tax. A market risk premium for equity and debt, the capital market conditions and a risk-free interest rate shall be taken into account;
3. income from the sale of heat and guarantees of origin pursuant to section 83 shall be reflected;

4. there shall be different guaranteed prices for wind power plants reflecting their locational output differences;
5. for hydropower plants, there may be different guaranteed prices for newly built plants, newly built plants that require transversal structures, expansions, and rehabilitations; there may also be different guaranteed prices reflecting the annual output, and the degree of rehabilitation;
6. the guaranteed price for biomass-fuelled plants may not cause biomass to be redirected away from non-energetic uses or cause food or animal feed to be redirected away from its original intended purpose;
7. for biomass-fuelled plants, there shall be separate guaranteed prices for newly built and repowered plants; there may be different guaranteed prices depending on the fuel used.

(3) The guaranteed prices shall be revised annually, and may be revised more frequently. Guaranteed prices continue to apply until an ordinance with new guaranteed prices comes into force.

Wind applications in 2022

Section 48. (1) Wind power plants that are eligible under section 10 may apply for FIP support in 2022.

(2) The 2022 FCFS volume for wind power plants is 200,000 kW.

(3) If a wind power plant does not commence operation within 24 months after the award decision, the FIP application is considered withdrawn and the relating contract void. The RSME may extend the deadline twice by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence. The FCFS volume freed by void contracts shall be transferred to the FCFS volume available for the current year.

Hydropower

Section 49. (1) Hydropower plants that are eligible under section 10 may apply for FIP support.

(2) The annual FCFS volume for hydropower is at least 90,000 kW (before applying any adjustments under section 7 or section 46 para. 3). The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs and the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the auction volume available during a calendar year.

(3) If a hydropower plant does not commence operation within 36 months after the award decision, the FIP application is considered withdrawn and the relating contract void. The RSME may extend the deadline twice by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence. The FCFS volume freed by void contracts shall be transferred to the FCFS volume available for the current year.

Biomass

Section 50. (1) Newly built or repowered biomass-fuelled plants with maximum capacities below 0.5 MW_{el} that are eligible under section 10 may apply for FIP support. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, may decree by ordinance that a certain minimum reinvestment ratio and a certain minimum number of operating years constitute additional eligibility criteria for support to repowered biomass-fuelled plants.

(2) The annual FCFS volume for plants as per para. 1 is at least 7,500 kW (before applying any adjustments under section 7 or section 46 para. 3). The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the auction volume available during a calendar year.

(3) If a biomass-fuelled plant does not commence operation within 36 months after the award decision, the FIP application is considered withdrawn and the relating contract void. The RSME may extend the deadline once by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence. The FCFS volume freed by void contracts shall be transferred to the FCFS volume available for the current year.

Biogas

Section 51. (1) Newly built biogas-fuelled plants that are eligible under section 10 may apply for FIP support.

(2) The annual FCFS volume for plants as per para. 1 is at least 1,500 kW_{el} (before applying any adjustments under section 7 or section 46 para. 3). The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, shall decree by ordinance the auction volume available during a calendar year.

(3) If a biogas-fuelled plant does not commence operation within 36 months after the award decision, the FIP application is considered withdrawn and the relating contract void. The RSME may extend the deadline once by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence. The FCFS volume freed by void contracts shall be transferred to the FCFS volume available for the current year.

Follow-up support for biomass

Section 52. (1) Existing biomass-fuelled plants that are eligible under section 10 may apply for feed-in premiums.

(2) By way of derogation from section 16, the support period for follow-up support for biomass-fuelled plants covers the first 30 years of operation.

(3) By way of derogation from section 47 para. 1 items 1 and 2, the guaranteed price for these plants shall reflect the necessary operational costs, while excluding depreciation and interest on equity and debt for the investment.

(4) The earliest time when FIP applications may be filed is 24 months before the support period under the Green Electricity Act 2012, the Green Electricity Act or the provincial legislation issued on the basis of the Biomass Support Act runs out.

Follow-up support for biogas

Section 53. (1) Existing biogas-fuelled plants that are eligible under section 10 may apply for feed-in premiums.

(2) By way of derogation from section 16, the support period for follow-up support for biogas-fuelled plants with maximum capacities above 250 kW_{el} that require no more than 10 km of pipeline to be connected to the gas grid is 24 months; awardees may apply for a one-time extension by up to 24 months, if they can credibly show that the causes for the plant not being connected to the gas grid within the original follow-up support period are not within their sphere of influence. For all other types of plant, the follow-up support period covers the first 30 years of operation.

(3) By way of derogation from section 47 para. 1 items 1 and 2, the guaranteed price for these plants shall reflect the necessary operational costs, while excluding depreciation and interest on equity and debt for the investment.

(4) The earliest time when FIP applications may be filed is 24 months before the support period under the Green Electricity Act 2012 or the Green Electricity Act runs out.

Chapter 4

Plants with active support contracts based on the Green Electricity Act 2012

PV, wind power, hydropower, biomass, and biogas

Section 54. (1) PV plants, wind power plants, hydropower plants, biomass-fuelled plants, and biogas-fuelled plants that have an active support contract based on section 12 Green Electricity Act 2012 at the time this Federal Act comes into force may apply for feed-in premiums.

(2) Section 10 paras 2 to 6 apply. Excess support shall be avoided.

(3) FIP applications must be submitted through the electronic auctioning system to be set up by the RSME, within two years after this Federal Act enters into force. Section 45 applies, but instead of a description of the project, including evidence of the project's eligibility, and a cost, time and financing plan (section 45 item 4), applications must include a copy of the existing support contract, and a declaration

confirming that the applicant is also the plant operator. Incomplete applications shall be rejected, with the applicant being informed thereof in writing.

(4) The applicable feed-in premium is determined by the residual support period under the Green Electricity Act 2012, the maximum support period under section 16, the investment and operating costs to be covered, and any income from heat sales. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may decree by ordinance further details.

(5) If the RSME concludes an FIP support contract with an applicant, their existing support contract with the green power settlement agent terminates. The FIP support contract with the RSME automatically terminates at the end of the plant's 20th year of operation.

(6) The funds bound by FIP support contracts under this stipulation have no impact on the annual auction or FCFS funds.

Part 2

Investment aid

General provisions

Section 55. (1) Plants in line with sections 56, 56a, 57, and 57a which are connected to the public electricity grid or to the railway electricity grid and which have either a load meter or, if below the threshold defined in section 17 para. 2 Electricity Act 2010, a smart meter pursuant to section 7 para. 1 item 31 Electricity Act 2010 can apply for investment grants. The ordinance under section 58 may define exemptions from the requirement of being connected to the grid for certain types of plants.

(2) Applications for investment aid must be handed in during a support round that takes place before the relating works have started; the RSME shall establish a digital interface for this purpose.

(3) Applications must be accompanied by the documents listed in the ordinance issued pursuant to section 58.

(4) Once the application window has closed, the RSME shall check the received applications and rank them in accordance with the criteria from section 56 para. 6, section 56a para. 5, section 57 para. 5, and section 57a para. 5.

(5) Investment grants shall be awarded according to this ranking until the dedicated support funds are exhausted. The first application to exhaust the support funds in each category shall be accepted in that same round if at least 50% of the application's amount is within the support funds. The support funds foreseen for the following round shall then be reduced accordingly. Applications that are not accepted during a round shall be considered to have been withdrawn.

(6) Applications for investment grants of more than 100,000 EUR for an individual applicant are decided by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, considering the recommendation of the Energy Advisory Council (section 20 E-Control Act). The relating contract is concluded with the RSME, which signs on behalf of the Minister. Applicants have no legal claim to investment aid.

(7) Investment aid shall be disbursed by the RSME once the plant has taken up operation and the final investment accounts have been checked. The RSME shall only disburse the investment aid after evidence of operation and of registration in the database of guarantees of origin pursuant to section 81 has been provided. Partial advance payments are permissible if securities (e.g. bank guarantees) can be provided.

(8) If a plant does not commence operation before the deadlines specified in section 56 para. 14, section 56a para. 7, section 57 para. 8 or section 57a para. 8, the application for an investment grant is considered to have been withdrawn and the relating contract void. The funds freed shall be added to the next support round. Unless otherwise provided, the RSME may extend the applicable deadline once by up to six months if the applicant can show credibly that the causes for the delay are not within their sphere of influence.

(9) When awarding investment grants, the state aid guidelines of the European Union shall be complied with. Investments that are awarded feed-in premiums under part 1 are no longer eligible for investment aid. The ordinance issued pursuant to section 58 shall specify whether there are any further support payments from Austrian or European funds that exclude awardees from receiving investment aid.

PV plants and electricity storage

Section 56. (1) Construction and expansion of PV plants are eligible for investment aid up to a maximum capacity of 1000 kW_{peak}.

(2) If a plant pursuant to para. 1 has electricity storage of at least 0.5 kWh per kW_{peak} of installed maximum capacity, storage of up to 50 kWh per plant is eligible for additional investment aid.

(3) The annual support level for investment aid pursuant to paras 1 and 2 is at least 60 million Euro (before applying any adjustments under sections 7 or 55 para. 5); it is awarded in the following categories:

1. category A: up to 10 kW_{peak}, with and without electricity storage;
2. category B: between 10 kW_{peak} and 20 kW_{peak}, with and without electricity storage;
3. category C: between 20 kW_{peak} and 100 kW_{peak}, with and without electricity storage;
4. category D: between 100 kW_{peak} and 1000 kW_{peak}, with and without electricity storage.

(4) The ordinance pursuant to section 58 shall lay down the maximum support rate per kW_{peak} for categories B, C, and D. It shall also set the applicable support rate per kWh / kW_{peak} for storage and for category A.

(5) There shall be at least two support rounds each year. The ordinance issued pursuant to section 58 shall state the support funds available in each round and each category; the round shall then be published on the website of the RSME. Applicants must have at least two weeks to hand in their applications.

(6) Applications for support under category A that reach the RSME before the deadline shall be ranked according to the first come first served principle. In applications for support under all other categories, applicants must state the support rate needed in Euro/kW_{peak}. Of these, all applications that reach the RSME before the deadline shall be ranked, in their categories, according to the requested support rate per kW_{peak}, starting with the lowest. Of two applications with the same requested support rate per kW_{peak}, the one that arrives first at the RSME shall be ranked first. If the requested support rate per kW_{peak} exceeds the maximum support rate, the application shall be discarded.

(7) The size of investment grants for PV plants in categories B, C, and D is determined by the requested support rate per kW_{peak}, while that of investment grants for storage and PV plants in category A is determined by the support rate laid down in the relevant ordinance; in both cases, it is capped at 30% of the total investment directly necessary for the construction or expansion in question (excluding the costs of land).

(8) A 25% reduction applies to investment grants for PV plants on agricultural land or green land.

(9) The ordinance pursuant to section 58 may adjust the reduction under para. 8 if this is conducive to reaching the targets for PV expansion under section 4 para. 4 or if this avoids displacement of agricultural or green land.

(10) The reduction under para. 8 is waived partially or fully

1. for plants on agrivoltaics areas that do not interfere with the mainly agricultural use of the land at all or do only do so to a very limited extent;
2. for plants attached to buildings or other structures that were originally built for purposes other than generating electricity through PV and that were completed at least three years before the support application date;
3. for plants on artificial bodies of water;
4. for plants at former or approved landfill sites or contaminated sites;
5. for plants at mining or infrastructure sites; and
6. for plants at military sites, with the exception of military training areas.

(11) The reduction that applies to plants pursuant to para. 10 shall be decreed by ordinance under section 58. That ordinance shall also specify any technical, economic and environmental conditions to be fulfilled. It may differentiate between different plant types.

(12) The ordinance under section 58 may foresee an increase of up to 30% for innovative PV plants. It may differentiate between different plant types. However, investment grants may never exceed 45% of the extra environmental costs. This shall be without prejudice to any mark-ups under Commission Regulation (EU) no 651/2014 declaring certain categories of aid compatible with the internal market in

application of Articles 107 and 108 of the Treaty, OJ L 187/1, 26.06.2014, last amended by Commission Regulation (EU) 2020/972, OJ L 215/3, 07.07.2020.

(13) If a round's support funds for a certain category are not exhausted, they shall be awarded to applicants from the other categories, starting with the one that has requested the lowest support rate per kW_{peak}. If two applications request the same support rate per kW_{peak}, the first come first served principle as laid down in para. 6 third sentence shall apply. Should any support funds be left after this procedure has been followed, they shall be added to the next support round for the same category opened during that year. If such a situation arises at the end of a calendar year, the support funds for the following year shall be increased accordingly, as far as this is compatible with any shifts between investment aid funds and FIP funds and with any adjustments under section 7. If the support funds for a particular technology are not exhausted during three years in a row, the ordinance under section 58 may reallocate the leftover funds to other technologies or other support types in line with the results of the monitoring report under section 90.

(14) Plants or expansions must take up operations

1. within six months of the support contract being signed, if the plant or expansion has a maximum capacity of up to 100 kW_{peak};
2. within twelve months of the support contract being signed, if the plant or expansion has a maximum capacity of more than 100 kW_{peak}.

Notwithstanding section 55 para. 8, the deadline in item 1 may be extended once by up to three months if the awardee can show credibly that the causes for the delay are not within their sphere of influence.

Hydropower plants

Section 56a. (1) Construction and rehabilitation of hydropower plants with a maximum capacity of up to 2 MW (after rehabilitation) is eligible for investment aid, with the following exceptions:

1. construction or rehabilitation of plants on waters of environmental significance that are either of excellent environmental quality or that are in excellent hydro-morphological condition along a continuous stretch of at least one kilometre;
2. construction or rehabilitation of plants that interfere with the protection of habitats, flora or fauna subject to Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora (Habitats Directive), OJ L 206/7, 22.07.1992, last amended by Council Directive 2013/17/EU, OJ L 158/193, 10.06.2013, and as corrected by the corrigendum in OJ L 95/70, 29.03.2014, or to Directive 2009/147/EC on the conservation of wild birds (Birds Directive), OJ L 20/7, 26.01.2010, last amended by Regulation (EU) 2019/2010, OJ L 170/115, 25.06.2019, and that are located in protected areas (Natura 2000 areas or national parks).

Item 2 does not include investments in hydropower plants for which a preliminary procedure under section 4 *Umweltverträglichkeitsprüfungsgesetz* (Environmental Impact Assessment Act) 2000, FLG no 697/1993, had already been opened or an environmental impact assessment under section 5 Environmental Impact Assessment Act 2000 had already been initiated at the time this Federal Act comes into force, if the hydropower plant will replace an existing hydropower plant on a stretch of water where several hydropower plants exist already, if it will reduce the number of transverse electricity generation structures on that stretch, and if it will improve the condition of habitats, flora or fauna as mentioned in item 2 in the protected area and a loss of priority habitats or other habitats under annex I Habitats Directive is doubly offset.

(1a) Construction and rehabilitation of hydropower plants with a maximum capacity of more than 2 MW (after rehabilitation) and up to 25 MW (after rehabilitation), with the exception of construction and rehabilitation under para. 1 items 1 and 2, may be eligible for investment aid if there are leftover funds under section 27 Green Electricity Act 2012. The categories listed in para. 2 apply, but by way of derogation from that para. 2, the available funds are capped at the amount of the leftover funds from section 27 Green Electricity Act 2012. Para. 4 applies, while one support round shall be held in 2022 and, if there are sufficient funds, one support round in 2023. Applications that cannot be fully satisfied with the funds under this stipulation are considered withdrawn. Any residual funds shall be transferred to the support funds under para. 2. Paras 3, 5, and 7 apply *mutatis mutandis*.

(2) The annual support funds for investment grants pursuant to paras 1 and 2 are at least 5 million Euro (before applying any adjustments under sections 7 or 55 para. 5); they are awarded in the following categories:

1. category A: construction; or
2. category B: rehabilitation.

Unless the 5 million Euro threshold is affected by cuts under section 7 or 55 para. 5, at least 2 million Euro are earmarked for item 1 (category A) and at least 3 million Euro for item 2 (category B). The ordinance pursuant to section 58 may shift this distribution.

(3) The ordinance pursuant to section 58 shall lay down the support rate per kW for each category, while there may be different rates depending on the maximum capacity, and investment aid is capped at 30% of the investment directly necessary for the construction or rehabilitation in question (excluding the costs of land). However, investment grants may never exceed 45% of the extra environmental costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(4) There shall be at least one round of support each year. The ordinance issued pursuant to section 58 shall state the support funds available in each round and each category; the round shall then be published on the website of the RSME. Applicants must have at least two weeks to hand in their applications.

(5) Applications for support that reach the RSME before the deadline shall be ranked according to the first come first served principle.

(6) If the support funds available through a round for a certain category are not exhausted, they shall be awarded to applicants from the other category. Should any support funds be left after this procedure has been followed, they shall be added to the next support round for the same category opened during that year. If such a situation arises at the end of a calendar year, the support funds for the following year shall be increased accordingly, as far as this is compatible with any shifts between investment aid funds and FIP funds and with any adjustments under section 7. If the support funds for a particular technology are not exhausted during three years in a row, the ordinance under section 58 may reallocate the leftover funds to other technologies or other support types in line with the results of the monitoring report under section 90.

(7) Supported plants must start operations within 36 months after the support contract has been signed. Notwithstanding section 55 para. 8, the deadline may be extended once by up to twelve months if the awardee can show credibly that the causes for the delay are not within their sphere of influence.

Wind power plants

Section 57. (1) Construction of wind power plants with maximum capacities between 20 kW and 1 MW is eligible for investment aid.

(2) The annual support level for investment grants pursuant to para. 1 is at least 1 million Euro (before applying any adjustments under sections 7 or section 55 para. 5).

(3) The ordinance pursuant to section 58 shall lay down maximum support rates per kW, while there may be different rates depending on the maximum capacity.

(4) There shall be at least one round of support each year. The ordinance issued pursuant to section 58 shall state the amount of support funds available; the round shall then be announced on the website of the RSME. Applicants must have at least two weeks to hand in their applications.

(5) Applicants must state the requested support rate in Euro per kW. All applications that reach the RSME before the deadline shall be ranked according to the requested support rate per kW, starting with the lowest. Of two applications with the same requested support rate per kW, the one that arrived first at the RSME shall be ranked first. If the requested support rate per kW exceeds the maximum support rate, the application shall be discarded.

(6) The amount of the investment grant results from the requested support rate per kW but is capped at 30% of the total investment directly necessary for the construction (excluding the cost of land). However, investment grants may never exceed 45% of the extra environmental costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(7) If the support funds available through a round are not exhausted, they shall be added to the next round of support opened during that year. If such a situation arises at the end of a calendar year, the support funds for the following year shall be increased accordingly, as far as this is compatible with any shifts between investment aid funds and FIP funds and with any adjustments under section 7. If the support funds for a particular technology are not exhausted during three years in a row, the ordinance under section 58 may reallocate the leftover funds to other technologies or other support types in line with the results of the monitoring report under section 90.

(8) Supported plants must start operations within 12 months after the support contract has been signed.

Biomass plants

Section 57a. (1) Construction of biomass-fired plants with maximum capacities of up to 50 kW_{el} are eligible for investment grants if they fulfil the following conditions:

1. a fuel efficiency of at least 60%;
2. state-of-the-art features for the avoidance of inhalable particle emission;
3. a state-of-the-art heat meter; and
4. a fuel/feedstock procurement plan for the first five years of operation at the least.

(2) The annual support level for investment grants pursuant to para. 1 is at least 4 million Euro (before applying any adjustments under sections 7 or 55 para. 5).

(3) The ordinance under section 58 shall lay down the maximum support rate per kW_{el}.

(4) There shall be at least one round of support each year. The ordinance issued pursuant to section 58 shall state the amount of support funds available; the round shall then be announced on the website of the RSME. Applicants must have at least two weeks to hand in their applications.

(5) Applicants must state the requested support rate in Euro per kW_{el}. All applications that reach the RSME before the deadline shall be ranked according to the requested support rate per kW_{el}, starting with the lowest. Of two applications with the same requested support rate per kW_{el}, the one that arrived first at the RSME shall be ranked first. If the requested support rate per kW_{el} exceeds the maximum support rate, the application shall be discarded.

(6) The amount of the investment grant results from the requested support rate per kW_{el} but is capped at 30% of the total investment directly necessary for the construction (excluding the cost of land). However, investment grants may never exceed 45% of the extra environmental costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(7) If the support funds available through a round are not exhausted, they shall be added to the next round of support opened during that year. If such a situation arises at the end of a calendar year, the support funds for the following year shall be increased accordingly, as far as this is compatible with any shifts between investment aid funds and FIP funds and with any adjustments under section 7. If the support funds for a particular technology are not exhausted during three years in a row, the ordinance under section 58 may reallocate the leftover funds to other technologies or other support types in line with the results of the monitoring report under section 90.

(8) Supported plants must start operations within 12 months after the support contract has been signed.

Investment aid ordinance

Section 58. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism and in accordance with the goals and principles laid down in this Federal Act shall decree by ordinance details on how investment grants are managed, including rules on

1. support rounds and the award procedure;
2. support rates and reductions;
3. eligible investment and non-eligibility to avoid double support through other public instruments;
4. rights and obligations of awardees;
5. personal and factual requirements for eligibility;
6. disbursement, scrutiny, withholding, and reimbursement of support; and
7. items to be covered in support contracts.

(2) When issuing this ordinance, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall receive the advice of the Energy Advisory Council (section 20 E-Control Act).

Title 3 **Renewable gas**

1. Part 2 **Construction and repurposing**

General provisions

Section 59. (1) Plants under section 60 that are connected to the public grid and plants under sections 61 and 62 can apply for investment grants.

(2) Applications for investment aid must be handed in during a support round that takes place before the relating works have started; the RSME shall establish a digital interface for this purpose.

(3) Applications must be accompanied by the documents listed in the ordinance issued pursuant to section 63.

(4) Unless otherwise provided, the RSME shall rank and process applications according to the first come first served principle.

(5) Investment grants shall be awarded and disbursed until the support funds are exhausted. The first application to exhaust the support funds from a round shall be accepted if at least 50% of the application's amount is within the support funds. The support funds foreseen for the following round shall then be reduced accordingly. Applications that are not accepted during a round shall be considered to have been withdrawn.

(6) Applications for investment grants of more than 100,000 EUR for an individual applicant are decided by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, considering the recommendation of the Energy Advisory Council (section 20 E-Control Act). The relating contract is concluded with the RSME, which signs on behalf of the Minister. Applicants have no legal claim to investment aid.

(7) Investment aid shall be disbursed by the RSME once the plant has taken up operation and the final investment accounts have been checked. The RSME shall only disburse the investment aid after evidence of operation and of registration in the database of guarantees of origin pursuant to section 81 has been provided. Partial previous payments are permissible if securities (e.g. bank guarantees) can be provided.

(8) If a plant does not commence operation before the deadlines specified in section 60 para. 7, section 61 para. 8 or section 62 para. 9, the application for an investment grant is considered to have been withdrawn and the relating contract void. The funds freed shall be added to the next support round. Unless otherwise provided below, the RSME may extend the applicable deadline once by up to six months if the applicant can credibly show that the causes for the delay are not within their sphere of influence.

(9) When awarding investment grants, the state aid guidelines of the European Union shall be complied with. The ordinance issued pursuant to section 63 shall specify whether there are any other support payments from public funds that exclude applicants from receiving investment aid.

Repurposing of existing biogas plants

Section 60. (1) Repurposing existing biogas plants for renewable gas production and upgrading, in line with the requirements set by the applicable technical rules according to section 7 para. 1 item 53 Gas Act 2011, is eligible for investment grants if

1. no more than 50% of the fuels used are cereals or corn; and
2. there is a plan for fuel/feedstock procurement and for the further use of the digestate for the first five years of operation at the least.

Only construction of gas processing plants, repurposing of plants for use of a different fuel, and any production capacity expansion resulting from repurposing are eligible for investment grants.

(2) By way of derogation from para. 1 item 1, applications filed with the RSME after 31 December 2024 must prove that no more than 30% of the fuel they will be using is cereal or other starch-rich crops, sugar crops or oil crops. By way of derogation from para. 1 item 1, applications filed with the RSME after 31 December 2026 must prove that no more than 15% of the fuel they will be using is cereal or other starch-rich crops, sugar crops or oil crops.

(3) The annual support level for investment grants pursuant to paras 1 and 2 is 15 million Euro (before applying any adjustments under section 59 para. 5). By way of derogation from section 59 para. 5 last sentence, applications that exceed a support round's available funds are not considered withdrawn but instead moved onto a waiting list for future rounds of support. The overall support funds for investment grants for expanding production capacities resulting from repurposing works may not exceed 30% of the annual support funds.

(4) The ordinance pursuant to section 63 shall decree support rates for up to 45% of the investment directly necessary for construction of gas processing plants, repurposing of plants for use of a different fuel or expanding production capacities resulting from repurposing (exclusive of the land costs). However, investment grants may never exceed 45% of the extra environmental costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(5) There shall be at least two support rounds each year. The ordinance issued pursuant to section 63 shall state the amount of support funds available in each round; the round shall then be announced on the website of the RSME. Applicants must have at least eight weeks to hand in their applications.

(6) If the support funds available through a round are not exhausted, they may be added to the next round of support.

(7) Repurposed plants must start operations within 24 months after the support contract has been signed. The RSME may extend the deadline once by up to 24 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Construction of renewable gas plants

Section 61. (1) Construction of plants for the production and processing of renewable gas is eligible for investment grants unless they are power-to-gas plants that produce hydrogen or synthetic gas, and only if the renewable gas is either injected into the gas grid or consumed on site; if a plant is biomass-fuelled, it must fulfil the following additional conditions:

1. no more than 25% of the fuels used are cereals or corn; and
2. there must be a plan for fuel/feedstock procurement and for the further use of the digestate for the first five years of operation at the least.

(2) By way of derogation from para. 1 item 1, applications filed with the RSME after 31 December 2024 must prove that the fuel they will be using is exclusively made up of biodegradable wastes and/or residue.

(3) The annual support level for investment grants pursuant to paras 1 and 2 is 25 million Euro (before applying any adjustments under section 59 para. 5).

(4) The ordinance pursuant to section 63 shall decree support rates for up to 30% of the investment directly necessary for construction of the plant (exclusive of the land costs).

(5) However, investment grants may never exceed 45% of the environmental protection costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(6) There shall be at least two support rounds each year. The ordinance issued pursuant to section 63 shall state the amount of support funds available in each round; the round shall then be announced on the website of the RSME. Applicants must have at least eight weeks to hand in their applications.

(7) If the support funds available through a round are not exhausted, they may be added to the next round of support.

(8) Supported plants must start operations within 36 months after the support contract has been signed. The RSME may extend the deadline once by up to 12 months if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Power-to-gas plants

Section 62. (1) Power-to-gas plants that produce hydrogen or synthetic gas and have a minimum capacity of at least 1 MW are eligible for investment grants if they produce exclusively renewable gases and use exclusively renewable electricity. Plants that are built and operated by system operators under section 22a Electricity Act 2010 or that blend hydrogen into fossil gas in the public grid are not eligible

(2) The annual support level for investment grants pursuant to paras 1 and 5 is 40 million Euro (before applying any adjustments under section 59 para. 5).

(3) By derogation from section 59 para. 4, the ordinance issued under section 63 may lay down criteria for ranking applications depending on the further use of the gas or the amount of greenhouse gas emissions saved.

(4) For plants under para. 1, the ordinance pursuant to section 63 shall determine support rates for up to 45% of the investment directly necessary for construction of the plant (exclusive of the land costs). Plants that contribute to operational security of the network may be eligible for additional investment aid if the ordinance determines so.

(5) For plants with a minimum capacity of 0.5 MW and a maximum capacity of less than 1 MW, the ordinance pursuant to section 63 shall determine support rates for up to 20% of the investment directly necessary for construction of the plant (exclusive of the land costs).

(6) Investment grants may never exceed 45% of the extra environmental costs. This is without prejudice to any mark-ups applicable under Commission Regulation (EU) 651/2014.

(7) There shall be at least one support round each year. The ordinance issued pursuant to section 63 shall state the amount of support funds available in each round; the round shall then be announced on the website of the RSME. Applicants must have at least eight weeks to hand in their applications.

(8) If the investment grant needed for a plant exceeds 30% of the support funds available for that year, up to 30% of the support funds available for the following years may be used. The support funds for those years shall then be reduced accordingly. If the support funds available through a round are not exhausted, they shall be added to the next round of support.

(9) Supported plants must start operations within 36 months after the support contract has been signed. The RSME may extend the deadline once by up to one year if the awardee can credibly show that the causes for the delay are not within their sphere of influence.

Investment aid ordinance

Section 63. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism and in accordance with the goals and principles laid down in this Federal Act, shall decree by ordinance details on how investment grants are managed, including rules on

1. support rounds and the award procedure;
2. support rates (considering the particular case of plants that contribute to system operation);
3. eligible investment and non-eligibility to avoid double support through other public instruments;
4. rights and obligations of awardees;
5. personal and factual requirements for eligibility;
6. disbursement, scrutiny, withholding, and reimbursement of support; and
7. items to be covered in support contracts.

(2) When issuing this ordinance, the Federal Minister shall receive the advice of the Energy Advisory Council (section 20 E-Control Act).

Part 2

Renewable gas promotion agency (RGPA)

Designation

Section 64. (1) A renewable gas promotion agency (RGPA) is established to create the conditions for the penetration of renewable gas. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall designate a body that will properly discharge the pertaining tasks and duties (section 65).

(2) The contract with the RGPA shall cover at least the following issues:

1. an obligation to discharge the tasks and duties entrusted to the RGPA in line with the provisions of this Federal Act and of the ordinances and guidelines issued pursuant to this Federal Act;
2. detailed rules on the rights of the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology to instruct, inspect and oversee;
4. a fee to be paid to the RGPA that adequately reflects the effort involved;

5. the grounds for contract cancellation;
6. the choice of jurisdiction.

(3) The contract under para. 2 shall be concluded for a five-year period. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology may extend it once by up to five years. Such an extension shall be communicated to the RGPA at least six months before the contract expires.

(4) In discharging its tasks and duties under section 65, the RGPA shall act in a financially prudent, economically efficient and expedient way.

Duties and oversight

Section 65. (1) The tasks and duties of the RGPA include:

1. providing information and advice to producers of renewable gas;
2. establishing a platform that facilitates matching of demand for financial services by renewable gas producers with offers by financial service providers;
3. developing criteria for contract templates for the sale of renewable gas by producers to gas suppliers or financial service providers, and making these criteria available to such producers;
4. monitoring the market for renewable gases and drawing up an annual market report that includes proposals for how to further promote penetration, to be submitted to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology each year;
5. identifying and marking sites where new renewable gas investments would be technically and economically feasible;
6. keeping, updating and publishing a register of suppliers that would be subject to a green gas quota;
7. keeping, updating and publishing a register of renewable gas producers.

(2) Upon request, the regulatory authority and the distribution area manager pursuant to section 17 Gas Act 2011 shall provide the RGPA with the data it needs to perform its tasks and duties under para. 1 items 5, 6 and 7.

(3) The fee for the RGPA shall be financed through the mechanism described in section 71 para. 2.

(4) For the purpose of auditing the activities of the RGPA under this Federal Act, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall appoint a chartered accountant not identical with the auditor of annual accounts to be appointed under commercial law. The chartered accountant shall also audit the adequacy of the fee to be set every year and the costs. The results of the audit shall be submitted to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology without delay.

(5) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall oversee the activities of the RGPA. She may issue instructions to the service point. The RGPA shall grant the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology access to its documents and records at all times, shall inform her about its activities, and shall deliver any requested reports.

(6) The RGPA shall publish an annual activity report and shall submit it to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology.

(7) Where the RGPA discharges activities under this Federal Act, it is subject to scrutiny by the Austrian Court of Audit.

Title 4

Renewables support management entity (RSME)

Designation

Section 66. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall contract a body that will discharge the tasks and duties listed in section 67 para. 1 (the renewables support management entity, RSME).

(2) The contract with the RSME shall cover at least the following issues:

1. an obligation to discharge the tasks and duties entrusted to the RSME in line with the provisions of this Federal Act and of the ordinances and guidelines issued pursuant to this Federal Act;
2. an obligation to keep separate accounts for the support funds it handles;
3. detailed rules on the rights of the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology to instruct, inspect and oversee;
4. recovery of the sums listed under section 69 para. 1;
5. the grounds for contract cancellation;
6. the choice of jurisdiction.

(3) In discharging its tasks and duties, the RSME shall apply the diligence of a prudent business person and act in a financially cautious, economically efficient and expedient way.

Tasks and duties

Section 67. (1) The tasks and duties of the RSME include:

1. awarding, handling and overseeing financial support under this Federal Act;
2. publishing the annual support available through auctions or investment grants, both in terms of volume (capacity) and funds for each technology and type of support, on its website by 22 January each year;
3. running the RES support database established by virtue of section 68.

(2) The RSME shall take all measures in its power to secure the necessary funds, including taking on debt. The latter is only possible with the express agreement of the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology.

(3) The RSME shall provide the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology and the regulatory authority with any and all data and information that are necessary for them to carry out their duties under this Federal Act.

RES support database

Section 68. (1) The RSME shall automatically feed all current and past support contracts under this Federal Act into a database (RES support database). The following data shall be recorded for each supported plant:

1. plant designation and operator;
2. plant type, maximum capacity, and storage capacity (if applicable);
3. type and amount of support received under this Federal Act;
4. in the case of renewable electricity plants that receive a feed-in premium: the quantity of electricity fed into the public electricity grid in kWh;
5. type and amount of other support granted (if any);
6. operational date of the plant;
7. decommissioning date of the plant;
8. in the case of plants that run on raw materials: the type of fuel used.

(2) Plant operators shall inform the RSME of any changes to the data listed in para. 1 items 1 through 8 within 14 days, either by letter or e-mail.

Costs and cost recovery

Section 69. (1) The RSME shall be allowed to recover the following costs:

1. feed-in premiums and investment grants awarded under title 2 of this Federal Act;
2. investment grants awarded under title 3 of this Federal Act;
3. provincial technology support pursuant to section 78;
4. administrative and financial expenses associated with discharging the duties of the RSME under item 1;
5. administrative and financial expenses associated with discharging the duties of the RSME under item 2;
6. the fee for the RGPA;
7. the costs of the evaluation under section 91.

(2) The costs under para. 1 items 1, 3, 4, and 7 shall be recovered through the funding mechanism described in section 71 para. 1. Based on the requisite documentation, the RSME may send quarterly advance bills to the green power settlement agent (section 31 et sqq. Green Electricity Act 2012), covering the difference between the costs listed in para. 1 items 1, 3, 4, and 7 and the funds raised through section 71 para. 1 items 3 to 7, and including the costs created by section 71 para. 2 item 2, and list them on its balance sheet as accounts receivable or payable. The green power settlement agent shall pay these bills by the end of the following quarter. Final annual accounts for a year shall be drawn up within five months after the end of that year, and any resulting positive or negative balance shall be offset as soon as possible.

(3) The costs under para. 1 items 2, 5, and 6 shall be recovered through the funding mechanism described in section 71 para. 2. Any deviation of these expenses from these funds during a calendar year shall be recorded as a separate item that year's annual accounts and offset by adjusting the renewable gas contribution for the next year. The expenses expected for a year should equal the forecast collected funds. If any portion of a year's costs cannot be covered through the funds collected, it shall be reported as an asset in the RSME's annual accounts and be covered through additional funds collected by way of the future renewable gas contribution. If the funds collected exceed a year's costs, such surplus shall be recorded as a liability in the RSME's annual accounts and reduce the additional funds collected by way of the future renewable gas contribution.

(4) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall audit the costs reported by the RSME.

Oversight

Section 70. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall oversee the activities of the RSME.

(2) For this purpose, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall be invited to the meetings of the RSME's supervisory board, or the meetings of whichever other supervisory body is established by law or statute. She may be represented by employees from within her ministry. The Minister or her representative has an advisory role in the meetings of the supervisory body.

(3) Irrespective of its ownership structure, the RSME is subject to scrutiny by the Austrian Court of Audit.

(4) The RSME shall submit annual accounts and an annual report to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology by 30 June of each year for the previous year; before their submission, the accounts and report shall be audited and cleared by a chartered accountant.

Title 5

Collecting and administering support funds

Funding mechanism

Section 71. (1) The funds for support awarded under title 2 of this Federal Act and under the Green Electricity Act 2012 are sourced as follows:

1. from that part of the renewable electricity flat rate pursuant to section 73 which is not needed to fund support under title 3 of this Federal Act;
2. from that part of the renewable electricity contribution pursuant to section 75 which is not needed to fund support under title 3 of this Federal Act;
3. from any administrative fines imposed pursuant to section 28;
4. from any administrative fines imposed pursuant to sections 98 and 55 Green Electricity Act 2012;
5. from any lost advance payments pursuant to section 20 Electricity Act 2010;
6. from any interest accrued on the funds mentioned in this paragraph;
7. from other sources.

(2) The funds for support awarded under title 3 of this Federal Act are sourced as follows:

1. from the renewable gas contribution set in accordance with section 76;

2. 50% of the support awarded pursuant to section 62: from the renewable electricity flat rate under section 73 and the renewable electricity contribution under section 75;
3. from other federal or Union funds;
4. from any interest accrued on the funds mentioned in this paragraph.

(3) System operator costs resulting from the obligations under this title are allowed costs, while applying the principles in section 59 Electricity Act 2010.

Exemptions for low-income households

Section 72. (1) The principal residence of persons who fall within the scope of section 3 para. 5 *Rundfunkgebührengesetz* (Broadcasting Fees Act), FLG I no 159/1999, is exempt from the renewable electricity flat rate, the renewable electricity contribution, and the renewable gas contribution.

(2) Section 6 para. 1 Broadcasting Fees Act and sections 47 to 50, section 51 paras 1 to 4, and section 53 of the annex to the *Fernmeldegebührengesetz* (Telecommunication Fees Code), FLG 170/1970, apply mutatis mutandis to the exemption procedure, the term of the exemption, the information, documentation and notification obligations related thereto, and the termination of the exemption, while GIS Gebühren Info Service GmbH shall provide the regulatory authority and the relevant system operator with information about the eligibility circumstances and the applicants whenever requested.

(3) The regulatory authority may issue ordinances with more detailed provisions, in particular but not limited to:

1. the process for verifying an applicant's eligibility and the way an eligible party can realise their claim;
2. the maximum time it may take until within the renewable electricity flat rate, the renewable electricity contribution, and the renewable gas contribution are taken off eligible parties' bills and until the system operators must reimburse or credit any excess charges and contributions paid after the party has become eligible;
3. the eligible parties' obligation to immediately notify any change in their income, including an explicit reminder of such obligation;
4. the data to be furnished as part of an eligible party's claim and to be collected through the forms to be filled in as part of the exemption procedure, as well as the transfer of data to the extent necessary;
5. the way in which information and forms relating to the exemption under this stipulation must be published on the website of GIS Gebühren Info Service GmbH;
6. an appropriate fee for the services provided by GIS Gebühren Info Service GmbH, payable by the green power settlement agent.

The ordinance shall ensure that GIS Gebühren Info Service GmbH discharges its tasks in an expeditious, simple and administratively efficient way.

(4) Existing data processing arrangements (section 19a Electricity Act 2010) may be used by GIS Gebühren Info Service GmbH to submit data to the regulatory authority and the system operators, and by the system operators to submit data to GIS Gebühren Info Service GmbH, for the purposes of this stipulation. In the ordinance issued under para. 3, the regulatory authority may decree further details.

(5) Eligibility for an exemption under para. 1 expires if at least one of the conditions is no longer fulfilled or if the information, documentation and notification obligations pursuant to section 51 para. 3 Telecommunication Fees Code are not complied with. GIS Gebühren Info Service GmbH shall notify the persons concerned and the system operator when this happens. GIS Gebühren Info Service GmbH shall bill the persons concerned for any charges and fees that are payable because an exemption no longer applies, and shall pass on any sums from such bills that relate to the renewable electricity contribution and the renewable electricity flat rate to the green power settlement agent. GIS Gebühren Info Service GmbH shall pass on any such sums that relate to the renewable gas contribution to the RSME.

(6) Once this provision has come into force, GIS Gebühren Info Service GmbH shall send a letter or an e-mail to all persons who are exempt from paying broadcasting fees under section 3 para. 5 Broadcasting Fees Act but were not exempt from paying the flat-rate renewables charge under section 46 para. 1 Green Electricity Act 2012, FLG I no 75/2011, in the version before the amendment in FLG I no 150/2021, or from paying the renewables contribution under section 49 para 1 Green Electricity Act 2012, FLG I 75/2011, in the version before the amendment in FLG I no 150/2021, and inform them that they are eligible

for an exemption under this stipulation. Such letter or e-mail shall contain the form that eligible parties must fill in to realise their claim. The ordinance issued by the regulatory authority under para. 3 shall specify a deadline by which GIS Gebühren Info Service GmbH shall send these letters or e-mails.

(7) System charges bills shall remind recipients of the exemption under this stipulation.

Cost cap for households

Section 72a. (1) The principal residence of persons whose net household income does not exceed the threshold determined in line with section 48 para. 1 Telecommunication Fees Code is exempt from the renewable electricity flat rate and the renewable electricity contribution in excess of 75 Euro/year overall. The net household income shall be calculated in line with section 48 paras 1, 3, 4, and 5 Telecommunication Fees Code.

(2) Section 6 para. 1 Broadcasting Fees Act and section 49 items 1 to 4 first sentence, section 50 paras 2 to 6, section 51 para. 1, para. 2 first sentence, paras 3 and 4, and section 53 Telecommunication Fees Code apply mutatis mutandis to the exemption procedure, the term of the exemption, the information, documentation and notification obligations related thereto, and the termination of the exemption, while GIS Gebühren Info Service GmbH shall provide the regulatory authority and the relevant system operator with information about the eligibility circumstances and the applicants whenever requested.

(3) System charges bills shall remind recipients of the exemption under this stipulation. In addition, the provisions of section 72 paras 3, 4, and 5 apply mutatis mutandis.

(4) The sums above the threshold pursuant to para. 1 but below 100 Euro shall be collected from all non-exempted final customers connected to the grid level mentioned in section 63 item 7 Electricity Act 2010 that are consumers as defined in section 1 para. 1 item 2 Consumer Protection Act, FLG no 140/1979. Companies in the meaning of section 1 para. 2 Consumer Protection Act shall be informed about this provision in an appropriate way, e.g. on system use bills and on the website of the system operators. Any sums pursuant to para. 1 above 100 Euro shall be collected from all final customers connected to the public grid. Final customers that are businesses shall be asked to provide the pertaining documentation. Once the necessary proof has been provided, the system operators shall no longer include these sums on that company's bill.

Renewable electricity flat rate

Section 73. (1) All final customers connected to the public grid shall pay a renewable electricity flat rate in Euro per metering point, billed by their system operators along with the applicable system utilisation charge from 2023 onwards. Parties that use electricity from the grid exclusively to operate power plants are not considered final customers under this provision. Final customers that provide balancing services under section 23b to 23d Electricity Act 2010, and pumped-storage power plants are exempt from paying the renewable electricity flat rate.

(1a) The ordinance issued under para. 7 may decree exemptions or reductions for power-to-gas plants with a minimum capacity of 1 MW that use exclusively renewable electricity to produce hydrogen or synthetic gas and that do not inject into the gas grid, while respecting the applicable state aid rules of the European Union. As long as no such exemptions or reductions are decreed, they may be granted as de minimis aid under the conditions of Commission Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 352/1, 24.12.2013, as amended by Commission Regulation (EU) No 2020/972, OJ L 215/3, 7.7.2020. Final customers may apply to the green power settlement agent, which shall then verify whether the conditions for receiving de minimis aid are fulfilled and if so, issue a corresponding confirmation. The final customer and the RSME shall supply the green power settlement agent with all documents and records necessary for such verification. If all conditions are met, the green power settlement agent shall inform the relevant system operator and the final customer that de minimis aid is granted.

(2) In 2023, the amount of the renewable electricity flat rate is as follows:

1. for system users connected to network levels 1 to 3: 114,438.65 Euro;
2. for system users connected to network level 4: 114,438.65 Euro;
3. for system users connected to network level 5: 17,002.31 Euro;
4. for system users connected to network level 6: 1,046.30 Euro;
5. for system users connected to network level 7: 35.97 Euro.

(3) If a network user's injection load differs from their withdrawal load to such an extent that with only the withdrawal load they would be connected at a different grid level, the applicable amount of renewable electricity flat rate is the one corresponding to the hypothetical withdrawal load grid level.

(4) If the system utilisation period is shorter than one calendar year, one-twelfth of the applicable renewable electricity flat rate as specified under paras 2 and 3 applies for every calendar month begun.

(5) Final customers at grid level 5 or 6 whose electricity consumption during three consecutive months of a calendar year is at least 80% below their average electricity consumption during the six previous months may apply to have 80% of the renewable electricity flat rate reimbursed for up to nine months of such reduced consumption. This only applies if the customer's facility can be remotely controlled and is equipped either with a load meter or, if below the threshold set in section 17 para. 2 Electricity Act 2010, with a smart meter pursuant to section 7 para. 1 item 31 Electricity Act 2010. Applications for a calendar year must be filed with the system operator by 31 March of the following year, using a form to be provided by the system operator on its website. The system operator shall review the application and, if all conditions are met, clear it for reimbursement by the green power settlement agent.

(6) If premises are closed on the basis of section 20 *Epidemiegesetz* (Epidemics Act) 1950, FLG 186/1950, or on the basis of an ordinance issued pursuant to section 3 *Covid-19-Maßnahmengesetz* (Covid Measures Act), FLG I no 12/2020, no renewable electricity flat rate applies for this period. The system operator shall be notified about the start and end dates of such closures.

(7) For the years from 2024 onwards, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall issue an ordinance every three years to set the renewable electricity flat rate for each grid level. The Minister shall do so by adjusting all renewable electricity flat rates listed in para. 2 by the same percentage until the total renewable electricity flat rates collected equal 38% of the funds needed to finance the support schemes under this Federal Act and the Green Electricity Act 2012 and the percentage of the funds needed for support under title 3 of this Federal Act that is determined in line with section 71 para. 2 item 2 to be covered through the renewable electricity flat rate.

Collection of the renewable electricity flat rate

Section 74. (1) The system operators shall include the renewable electricity flat rate on their bills to final customers and shall pass it on to the green power settlement agent every three months. The green power settlement agent may project the amount of the renewable electricity flat rate and collect it in advance for every quarter, with any differences between the projected and actual funds collected corrected afterwards. The system operators and the settlement body shall provide the green power settlement agent with any and all data and other information necessary for these projections.

(2) The renewable electricity flat rate shall be itemised on bills for system use or billed separately.

(3) Should final customers fail to pay the renewable electricity flat rate, their system operators shall pursue the necessary measures toward the extra-judicial and judicial recovery of the charge. Any disputes between system operators and final customers or between the green power settlement agent and system operators, in particular where payment of the renewable electricity flat rate is concerned, are subject to the jurisdiction of the courts of law.

(4) If the renewable electricity flat rate for 2022 has already been billed for and paid, the system operators shall credit it on their next bill. If a system access contract terminates, the renewable electricity flat rate already paid for 2022 shall be reimbursed.

Renewable electricity contribution

Section 75. (1) The support under title 2 of this Federal Act and the Green Electricity Act 2012, and part of the support under title 3 of this Federal Act, insofar as they are not funded through the renewable electricity flat rate, are recovered through a renewable electricity contribution payable by all final customers connected to the public electricity grid and reflective of the charges for system use and grid losses they pay. Parties that use electricity from the grid exclusively to operate power plants are not considered final customers under this provision. Pumped-storage power stations are exempt from paying the renewable electricity contribution.

(1a) The ordinance issued under para. 2 may decree exemptions or reductions for power-to-gas plants with a minimum capacity of 1 MW that use exclusively renewable electricity to produce hydrogen or synthetic gas and that do not inject into the gas grid, while respecting the applicable state aid rules of the

European Union. As long as no such exemptions or reductions are decreed, they may be granted as de minimis aid under the conditions of Commission Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 352/1, 24.12.2013, as amended by Commission Regulation (EU) No 2020/972, OJ L 215/3, 7.7.2020. Final customers may apply to the green power settlement agent, which shall then verify whether the conditions for receiving de minimis aid are fulfilled and if so, issue a corresponding confirmation. The final customer and the RSME shall supply the green power settlement agent with all documents and records necessary for such verification. If all conditions are met, the green power settlement agent shall inform the relevant system operator and the final customer that de minimis aid is granted.

(2) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall decree by ordinance every year the renewable electricity contribution for the next year. The renewable electricity contribution shall be the same for all final customers in Austria that are connected to the same network level. The contribution may be adjusted in the course of a year.

(3) The system operators shall include the renewable electricity contribution on their bills to final customers. The amounts specified in the ordinance issued under para. 2 shall be passed on to the green power settlement agent every month. The green power settlement agent may project the amount of the renewable electricity contribution and collect it in advance for every month, with any differences between the projected and actual funds collected corrected afterwards. The system operators and the settlement body shall provide the green power settlement agent with any and all data and other information necessary for these projections.

(4) The renewable electricity contribution shall be itemised on bills for system use or billed separately.

(5) Any electricity generated and consumed within a renewable energy community does not count towards the basis from which a final customer's renewable electricity contribution is calculated.

(6) Should final customers fail to pay the renewable electricity contribution, their system operators shall pursue the necessary measures toward the extra-judicial and judicial recovery of the contribution. Any disputes between system operators and final customers or between the green power settlement agent and system operators, in particular where payment of the renewable electricity contribution is concerned, are subject to the jurisdiction of the courts of law.

Renewable gas contribution

Section 76. (1) Part of the expenses of the RGPA and of the support under title 3 of this Federal Act is recovered through a renewable gas contribution payable by all final customers connected to the public gas distribution grid, reflective of the charge for system use they pay. Federal funds may also be used to recover the expenses; if so, the renewable gas contribution shall be reduced accordingly. In addition, Union funds may be used, in particular those resulting from Regulation (EU) 2021/241 establishing the Recovery and Resilience Facility, OJ L 57/17, 18.02.2021, as corrected by the corrigendum in OJ L 158/25, 06.05.2021; if so, it shall have no consequences for the amount of the renewable gas contribution.

(2) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, shall decree by ordinance every year the renewable gas contribution for the next year. The renewable gas contribution shall be the same for all final customers in Austria that are connected to the same network level. The contribution may be adjusted in the course of a year.

(3) The system operators shall include the renewable gas contribution on their bills to final customers. The amounts specified in the ordinance issued under para. 2 shall be passed on to the RSME every month. The RSME may project the amount of the renewable gas contribution and collect it in advance for every month, with any differences between the projected and actual funds collected corrected afterwards. The system operators and the settlement body shall provide the RSME with any and all data and other information necessary for these projections.

(4) The renewable gas contribution shall be itemised on bills for system use or billed separately.

(5) Any gas produced and consumed within a renewable energy community does not count towards the basis from which a final customer's renewable gas contribution is calculated.

(6) Should final customers fail to pay the renewable gas contribution, their system operators shall pursue the necessary measures toward the extra-judicial and judicial recovery of the contribution. Any

disputes between system operators and final customers or between the RSME and system operators, in particular where payment of the renewable gas contribution is concerned, are subject to the jurisdiction of the courts of law.

Support account

Section 77. (1) The RSME shall open a bank account that serves to administer the funds for support under this Federal Act. Funds for support under title 2 and title 3 of this Federal Act shall be kept in separate sub-accounts.

(2) The RSME shall deposit the funds into an interest-bearing instrument. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, the regulatory authority and any experts consulted shall be given access to all documents and records at any time.

(3) The RSME shall transfer the funds for the activities under section 65 to the RGPA every three months.

Provincial technology support

Section 78. (1) For the purpose of supporting renewable electricity generation, an annual amount of 8 million Euro shall be made available to the federal provinces. Out of these funds, 4 million Euro shall be distributed according to each province's share in the total quantity of electricity supplied to final customers from the public grid during a calendar year, while the other 4 million Euro shall be distributed according to each province's share in the total newly built renewable power plant capacity.

(2) The funds from para. 1 shall be used to complement the support under this Federal Act so that they contribute to achieving the goals listed in section 4. If goal attainment is unsatisfactory, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, cooperating with the Federal Minister for Digital and Economic Affairs, may decree by ordinance further details on the purposes for which the funds may be used.

(3) Each federal province shall submit a written report on the use of these funds during a year to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology and to the regulatory authority by 30 June of the following year. As a minimum, such reports shall list the capacity, technology, annual output, and greenhouse gas emissions savings of the supported projects, including the amount of support granted. The greenhouse gas emissions savings shall be audited by a control, auditing or certification body accredited for the relevant domain under the *Akkreditierungsgesetz* (Accreditation Act) 2012, FLG I no 28/2012, before they can be listed in the reports. If reporting is incomplete or inadequate, further technology support funds shall be withheld until proper reports have been submitted.

Title 6

Renewable energy communities

General provisions

Section 79. (1) A renewable energy community may produce energy from renewable sources, consume such energy, store it or sell it. It may also act as an aggregator or provide other energy services. In doing so, it must comply with the rules and regulations applicable for each type of activity. The rights and obligations of the system users that participate in a renewable energy community, in particular their right to choose their supplier, remain unaffected.

(2) The members and general partners of a renewable energy community may be natural persons, municipalities, local authorities or other legal persons governed by public law, or SMEs. Renewable energy communities must have two or more members or general partners and must be organised as bodies with legal personality, such as (but not limited to) an association, a cooperative, a partnership or a corporation. Its primary purpose may not be financial profits; this shall be explicitly laid down in its statutes, unless it is inherent in the legal format chosen. Instead, renewable energy communities aim to provide environmental, economic or social community benefits for their members or the local areas where they operate. Participation in renewable energy communities is voluntary and open; in the case of private businesses, participation in the renewable energy community may not be their primary activity.

(3) By the end of Q1 2024, the regulatory authority shall publish a cost-benefit analysis which takes into account the evaluation under section 91 para. 3 and logically presents data to show whether renewable energy communities and citizen energy communities as provided for in section 16b Electricity Act 2010

are bearing an adequate share of the network costs. The analysis shall particularly make reference to balancing costs; if it finds inadequacies in this area, the regulatory authority shall make proposals for how they could be distributed in a cost-reflective way. The system operators, renewable energy communities, and citizen energy communities under section 16b Electricity Act 2010 shall provide the regulatory authority with all data necessary for this purpose.

(4) The stipulations from the *Gewerbeordnung* (Industrial Code) 1994, FLG no 194, do not apply to renewable energy communities.

Support for renewable energy communities

Section 80. (1) The plants operated by renewable energy communities are eligible for support under part 2 of title 2 and under title 3 if they fulfil all applicable conditions. A renewable energy community must apply for support under section 55 in conjunction with section 56, 56a, 57 or 57a, or under section 59 in conjunction with sections 60, 61 or 62, for each of its plants (including any electricity storage) separately.

(2) Electricity generated but not consumed by a renewable energy community is eligible for a feed-in premium in line with part 2 of title 2, if all applicable conditions are fulfilled, up to a maximum of 50% of the total electricity generated by that community. The feed-in premium applies to the quantity of electricity sold by the renewable energy community and fed into the public electricity grid. No feed-in premium applies for electricity consumed by or allocated to the community's members or general partners.

Title 7

Guarantees of origin

Part 1

General provisions

GO database

Section 81. (1) The regulatory authority is appointed as competent body for issuing guarantees of origin and for monitoring that they are correctly transferred and cancelled. The regulatory authority shall establish an automated database for this purpose (GO database).

(2) All renewable electricity plants that are connected to the public grid must be registered in the regulatory authority's GO database pursuant to para. 1 by their operator or an appointed third party before they start operating. The registration deadline for existing plants is three months after this Federal Act enters into force. As a minimum, registration shall require the following data:

1. plant operator and designation;
2. plant location;
3. plant type and maximum capacity;
4. metering point reference number;
5. designation of the system operator whose system the plant is connected to;
6. quantity of energy produced;
7. energy sources used;
8. type and amount of investment aid received;
9. type and amount of other support granted (if any);
10. operational date of the plant;
11. decommissioning date of the plant.

The signed system access contract and other adequate documentation must be supplied to evidence the above information. The regulatory authority may request further documentation for this purpose; in particular, it may ask for plant audit documentation and permits to be submitted. Information relating to renewable gas plants may be supplied by the clearing and settlement agent or other parties acting on behalf of the plant operator.

(3) Operators of renewable energy plants may request either the imbalance settlement responsible / clearing and settlement agent or the system operator to whose system their plant is connected to report their

monthly net generation that is injected to the public grid to the GO database so that the regulatory authority can issue the corresponding guarantees of origin.

(4) When admitting plants to their system, the system operators shall remind plant operators that they must register with the GO database. If a plant operator does not register or a registration is faulty, the system operator shall inform the regulatory authority.

(5) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, may decree by ordinance technical specifications.

(6) Liability for the accuracy of their statements as to the energy sources used lies with the plant operators.

(7) The RSME, the federal provinces, system operators, the imbalance settlement responsible, the clearing and settlement agent, producers, and traders shall provide the regulatory authority with any and all data it needs to handle issuing, transfer and cancellation of guarantees of origin, including but not limited to plant and operator data and injected quantities, whenever requested. These data may be provided through an automated data processing and submission system.

(8) The regulatory authority shall ensure proper data exchange between the GO database, the electronic database of all sustainable biofuels run by Umweltbundesamt GmbH pursuant to the *Kraftstoffverordnung* (Fuels Ordinance) 2012, FLG II no 398/2012, as amended by FLG II no 630/2020, and the clearing and settlement agent from section 85 Gas Act 2011, to avoid double counting.

(9) The regulatory authority shall publish a list of all plant operators registered in the GO database. Such list shall include the following data:

1. fuels used;
2. installed capacity;
3. annual output;
4. technical specifications; and
5. postcode of plant location, unless this allows for identifying the plant operator; in such case, the federal province shall be mentioned instead.

Self-consumption and off-grid generation and production

Section 82. (1) Operators of renewable energy plants that are geared towards self-consumption or that inject no or only some of their output into the public grid shall register their plants in the regulatory authority's GO database in line with section 81 para. 1. The provisions in section 81 para. 2 apply.

(2) Renewable electricity plants with maximum capacities above 100 kW shall use smart meters pursuant to section 7 para. 1 item 31 Electricity Act 2010 to determine the self-consumption share. Renewable electricity plants with maximum capacities below 0.8 kW (micro-generation plants) and emergency generators do not have to register under para. 1.

(3) Renewable gas plants that do not inject into the public grid shall use smart meters pursuant to section 7 para. 1 item 26 Gas Act 2011, load meters pursuant to section 7 para. 1 item 35 Gas Act 2011 or meters as defined in section 2 item 10 *Lastprofilverordnung* (Load Profile Ordinance) 2018, FLG II no 338/2018.

(4) Any existing renewable electricity plants that are not equipped with smart meters, and any renewable gas plants that are not equipped with smart meters, load meters or other meters as described in para. 3, shall have such meters installed within six months of this Federal Act entering into force. Plant operators or their designated service providers shall report readings of the energy output and consumption quantities to the regulatory authority once a year.

Guarantees of origin

Section 83. (1) Only one guarantee of origin may be issued per unit of energy generated. A guarantee of origin is normally valid for 1 MWh but its amount may be broken down into quantities with up to three decimal places.

(2) Guarantees of origin are valid for 12 months after generation/production. Once used, guarantees of origin shall be cancelled. Any guarantees of origin that are not cancelled shall be marked as expired in the GO database 18 months after generation/production at the latest.

(3) Guarantees of origin pursuant to para. 1 shall include the following information:

1. quantity of energy produced;
2. output type: electricity or gas (including hydrogen);
3. type and maximum capacity of the plant;
4. period and place of generation/production;
5. energy sources used;
6. type of investment aid received;
7. type of other support received;
8. operational date of the plant;
9. date and country of issue and unique identification number.

(4) Operators of renewable energy plants and traders selling renewable energy to other traders shall verifiably transfer the guarantees of origin corresponding to the quantity of renewable energy sold to the buyer (via an automated process) if the latter requests so.

(5) Where issuing of guarantees of origin is automated, a confirmation based on the first clearing shall be produced each month and submitted to the plant operators.

(6) Operators of renewable power-to-gas plants shall transfer the guarantees of origin and environmental impacts from electricity generation to gas production. This shall be achieved by reducing the guarantees of origin and environmental impacts from the electricity generated by the conversion losses and marking them as energy input for gas production on the electricity side. The conversion losses are counted towards the consumption of the energy sector. This provision applies mutatis mutandis for renewable gas-fired power plants.

(7) Operators of renewable energy plants that receive support under titles 2 or 3 of this Federal Act must use the relating guarantees of origin exclusively to supply domestic customers.

Guarantees of origin from other countries

Section 84. (1) Guarantees of origin from renewable energy plants located in other EU member states or in states party to the EEA Agreement are deemed guarantees of origin within the meaning of this Federal Act if they meet the requirements set out in section 83 para. 3. Guarantees of origin for energy from renewable sources located in third countries are deemed guarantees of origin within the meaning of this Federal Act if the European Union has concluded an agreement with that third country on the mutual recognition of guarantees of origin issued in the Union and compatible guarantees of origin systems established in that third country, and only where there is direct import or export of energy.

(2) In case of doubt, the regulatory authority shall declare by official decision, in response to a request or ex officio, whether the conditions for recognition as laid down in para. 1 are met.

(3) The regulatory authority may declare by ordinance in which countries guarantees of origin for renewable energy meet the conditions pursuant to para. 1.

(4) The conditions for recognising guarantees of origin for the purpose of electricity labelling shall be laid down in the ordinance under section 79 para. 11 Electricity Act 2010. For gas labelling, the conditions shall be laid down in the ordinance under section 130 para. 8 Gas Act 2011.

Part 2

Renewable gases

Renewable gas badge

Section 85. (1) Renewable gas badges serve as evidence for counting gas towards the renewable gas quota under section 87.

(2) Renewable gas badges may be attached to renewable gas guarantees of origin and to renewable gas certificates under section 86. They are awarded by the regulatory authority.

(3) Renewable gas badges shall be awarded to renewable gas produced from renewable energy that counts towards Austria's national contribution under Article 3(2) Directive (EU) 2018/2001. Where gas is produced from biomass fuels, it must also comply with the sustainability and greenhouse gas emissions saving criteria pursuant to section 6 paras 2 and 3 to qualify for a renewable gas badge.

Renewable gas certificates

Section 86. (1) Renewable gas certificates serve as evidence for the production of renewable gas that is not injected into the public grid but instead geared towards direct consumption or non-energetic use.

(2) Renewable gas certificates are issued through and listed in the regulatory authority's GO database. If a renewable gas certificate is issued, no guarantee of origin under part 1 of this title may be issued for the same energy.

(3) Renewable gas certificates with a renewable gas badge count towards the renewable gas quota pursuant to section 87. Obligated parties may trade renewable gas certificates among themselves for the only purpose of counting towards the renewable gas quota.

(4) Only one renewable gas certificate may be issued per unit of renewable gas that is not injected into the public grid. A renewable gas certificate is normally valid for 1 MWh but its amount may be broken down into quantities with up to three decimal places.

(5) Renewable gas certificates are valid for 12 months after production. Once used, certificates shall be cancelled. Any certificates that are not cancelled shall be marked as expired in the GO database 18 months after production at the latest.

(6) Renewable gas certificates shall include the following information:

1. output in MWh;
2. type and maximum capacity of the generating plant;
3. period and place of generation;
4. energy sources used;
5. type of investment aid received;
6. type of other support received;
7. operational date of the plant;
8. date of issue and unique identification number;
9. issuing body and country;
10. whether a renewable gas badge is attached or not.

(7) Renewable gas certificates may include further information if this is needed for other uses.

(8) Where issuing of renewable gas certificates is automated, a confirmation based on meter readings shall be produced each month and submitted to the plant operators.

Renewable gas quota

Section 87. (1) Where suppliers are subject to an obligation to replace a certain percentage of their fossil gas sales with renewable gas sales (renewable gas quota), they shall use guarantees of origin with renewable gas badges or renewable gas certificates with renewable gas badges to prove that they comply with their quota.

(2) For suppliers to be able to count renewable gas certificates with a renewable gas badge towards their renewable gas quota pursuant to para. 1, they must fulfil the following criteria:

1. they must operate a renewable gas generation plant themselves; or
2. they must be in control of a renewable gas plant operator, as defined in section 7 para. 1 item 30 Gas Act 2011; or
3. they must have bought a renewable gas certificate with a renewable gas badge from a supplier that fulfils the conditions in item 1 or item 2.

(3) The following certificates do not count towards the renewable gas quota:

1. renewable gas certificates from plants that are already in operation at the time this Federal Act comes into force;
2. renewable gas certificates from biomass-fuelled plants that run on biodegradable wastes or residues that result from industrial production processes at the same location.

(4) Without prejudice to para. 2 item 3, renewable gas certificates cannot be transferred to third parties.

Part 3

Renewable district heating and cooling

Renewables share

Section 88. (1) Operators of district heating or cooling plants with more than 250 customers or more than 3 GWh heat sales per year from each contiguous district heating or cooling grid shall publish a list of the type of fuels they use in their heating and cogeneration plants and the share of waste heat or cold injected into the grid on their website at the end of each business year. The list shall at least state the percentages for the following primary energy sources: renewable energy, waste heat and cold, fossil fuels, and other sources.

(2) The information described in para. 1 shall be included with or attached to annual customer bills.

(3) The information pursuant to para. 1 must be audited and cleared by a control, auditing or certification body accredited for the relevant domain under the Accreditation Act 2012 before it can be published.

Transparency of prices

Section 89. (1) Suppliers as defined in section 2 item 3 *Heiz- und Kältekostenabrechnungsgesetz* (Heating and Cooling Costs Act), FLG no 827/1992, that serve more than 30 customers pursuant to section 2 item 4 Heating and Cooling Costs Act shall notify their prices for consumers in the meaning of section 1 para 1 item 2 Consumer Protection Act, and for small businesses to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology once a year. In doing so, they shall state their rates for all price components (commodity rate, base price, metering fee) and one-off fees for establishing connections, installing equipment, disabling and enabling connections, reading meters, and billing (including any late payment fees). If their prices are indexed, they shall also indicate the relevant indices.

(2) Data may be collected and transmitted in a widely used electronic format. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology may double-check the information submitted and request additional documentation for this purpose.

(3) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall publish the information from para. 1 for each supplier as defined in section 2 item 3 Heating and Cooling Costs Act on her website, and shall update it annually.

(4) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology may delegate her tasks under this provision to a third party, with the exception of the regulatory authority.

Title 8

Monitoring, reports and transparency

RES monitoring report

Section 90. (1) The regulatory authority shall continuously monitor achievement of the objectives in section 4 and identify developments impeding the achievement of these objectives.

(2) The regulatory authority shall present a report about target achievement and the main underlying developments to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, the National Council and the Energy Advisory Council by 30 September each year. This report shall particularly contain:

1. details about the development and current progress of renewables expansion, including the gross and net annual expansion, the amounts of electricity and gas fed into the public grid and off-grid amounts, as totals and itemised per technology and federal province;
2. electricity and gas consumption trends, including an analysis;
3. details on the support funds disbursed under this Federal Act and under the Green Electricity Act 2012, itemised per technology and support type, and the costs for final customers;
4. the degree of target attainment under section 4 para. 2;
5. the degree of target attainment under section 4 para. 1 item 7;

6. electricity and gas flows across the borders (imports and exports), itemised per neighbouring country and other relevant statistical factors relating to operation, infrastructure or renewable energies.

The regulatory authority shall then publish the report in an adequate format.

(3) The federal provinces, the RSME, and the RGPA shall provide the regulatory authority with all data it needs to put such report together.

(4) At the end of Q1 2024, the regulatory authority shall publish a cost-benefit analysis relating to section 73 paras 1 and 5, section 52 para. 2a, section 54 paras 3, 4 and 6, and sections 55 and 58a Electricity Act 2010, and sections 75 and 78a Gas Act 2011. The analysis shall be based on transparent data and shall particularly gauge whether the exemptions granted foster target attainment under section 4 of this Federal Act. For this purpose, the analysis shall state the costs entailed by each of the measures and the financial impact they have on other system users.

Evaluation

Section 91. (1) Three years after the renewables support scheme under this Federal Act comes into force, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall seek the advice of external experts to evaluate it, and shall present the result of such evaluation to the National Council no later than December 2024. This evaluation and reporting exercise shall be repeated every five years thereafter. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall publish her evaluation report in an appropriate format. The RSME shall supply the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology and the experts with the data necessary for this purpose. This also includes data needed to draw up the evaluation plan and any intermediate reports the Republic of Austria has committed to in the procedure under Article 108(3) TFEU towards the European Commission.

(2) The evaluation shall be based on a thorough analysis of experience with the new support scheme and shall assess at least the following aspects:

1. target attainment;
2. competition, number of players, regional distribution of supported plants, further renewables potential;
3. adequacy of auction volumes and distribution of support awarded, price caps, support rates, and number of auctions and support rounds;
4. bidding behaviour;
5. impact of the exemptions under section 73 para. 5;
6. room for improvement and need for adjustment.

(3) The evaluation shall also address renewable energy communities, citizen energy communities under section 16b Electricity Act 2010, and electricity generation cooperatives under section 16a Electricity Act 2010. For each of these community/cooperation types, the evaluation shall assess:

1. current situation and trends;
2. unnecessary barriers to further penetration;
3. room for improvement and need for adjustment, in particular with reference to the practical aspects of the legal rules on profits pursuant to section 79 para. 2 and section 16b para 2 Electricity Act 2010.

The system operators, the regulatory authority, operators and participants of electricity generation cooperatives under section 16a Electricity Act 2010, citizen energy communities under section 16b Electricity Act 2010, and renewable energy communities shall provide the experts commissioned by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology with all data necessary for this purpose.

(4) The evaluation shall also identify and assess any legal and administrative hurdles to long-term renewable power purchase agreements.

(5) The evaluation shall be funded through the mechanism in section 71 para. 1; the RSME shall pay the relating invoice by transferring money into the account specified by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology. This also includes costs involved in drawing up the evaluation plan and any intermediate reports the Republic of Austria has committed to in the procedure under Article 108(3) TFEU towards the European Commission.

Reporting on auctions, applications and support rounds

Section 92. (1) After each auction and support round, the RSME shall file a written report with the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology. The RSME shall also report about the applications for feed-in premiums under title 2, part 1, chapter 3 at the end of each calendar year.

(2) Auction reports shall contain at least the auction date, the technology, the volume, the cap, the number of bids received, the aggregated bid volume, the number of awards, the aggregated award volume, any excluded bids and the reasons for their exclusion, the lowest and highest bid prices received, the lowest and highest awarded prices, the weighted average bid price and awarded price, and a list of all accepted bids.

(3) Support round reports shall contain at least the deadline, the technology, the funds available, the number of applications received in each category, the support rates and maximum support rates (if any), the highest and lowest support rates requested, the highest and lowest support rates granted, the weighted average support rate granted, any excluded applications and the reasons for their exclusion, the number of applications accepted overall and per category, the total maximum capacity/storage capacity supported, and a list of all accepted applications.

(4) Feed-in premium reports shall contain at least the technology, the annual award volume, the guaranteed price, the number of applications received, the total supported capacity, and a list of all accepted applications.

(5) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall inform the Energy Advisory Council (section 20 E-Control Act) about the reports under para. 1 at least once a year.

Transparency

Section 93. The RSME shall publish on its website this Federal Act, all support-related ordinances issued on the basis of this Federal Act, and a list of all support under this Federal Act if the support level exceeds 100,000 Euro per awardee; such list shall state:

1. designation of the plant operator;
2. country where the plant is located;
3. type of support awarded;
4. total amount of support awarded;
5. date of support contract signature;
6. goal of the support;
7. permitting authority;
8. in the case of commercial plant operators, the type of business and its main activity; and
9. the legal basis upon which support is granted.

The RSME shall publish these data in a spreadsheet that can be easily searched, extracted, and published on-line. It shall keep this information publicly available for at least ten years without limitations.

Title 9

Integrated network plan

Integrated network plan

Section 94. (1) In the interest of contributing to the Energy Union, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall draw up an integrated network plan that shall work as an accompanying measure to Regulation (EU) 2018/1999 and be submitted to a strategic environmental assessment pursuant to section 95 and 96.

(2) Without prejudice to the competence of the federal provinces, the integrated network plan shall respect the following basic tenets:

1. To ensure security of supply in the long term, energy infrastructure shall benefit from an early and ongoing modernisation and upgrading process which coordinates network expansion with the construction and development of generation, production and storage plants for renewable electricity and gas.

2. Cross-sector approaches to infrastructure planning, construction and operation shall exploit interdependencies and synergies between the different energy carriers, the different generation/production methods, and the different consumption types.
3. Infrastructure planning shall be subject to strategic environmental assessments under section 95 and shall be particularly mindful of soil, water and environmental protection, of spatial planning, and of mobility planning.
4. Household and business affordability and competitiveness shall be protected by keeping the cost-benefit ratio of energy infrastructure reasonable.
5. To increase acceptance of necessary new infrastructure, all interested parties shall be informed and involved early on.

(3) Without prejudice to the competencies for planning that lie with the federal provinces, the integrated network plan shall contain at least:

1. an account of the currently existing energy infrastructure, itemising renewable energy sources and technologies;
2. based on item 1, a projection of further infrastructure development and energy demand, and a list of measures necessary to further decarbonise the energy system, increase seasonal flexibility and promote renewable electricity storage solutions; it is crucial that the integrated network plan enable delivery of high-quality renewable energy via the required energy vector to the entire economy;
3. a projection of future electricity transmission network development which shall be coordinated with other relevant planning instruments and results, taking into account current technological research and development (including underground lines under section 40 para. 1a and section 40a Electricity Act 2010) so as to avoid or minimise utilisation conflicts;
4. information about the interrelations and synergies between the relevant energy carriers, generation/production technologies and consumption sectors;
5. an index of regions that would lend themselves to the construction of generation/production, storage, conversion, or transport infrastructure.

The measures in the integrated network plan shall particularly focus on the expansion of the electricity and gas transmission infrastructure, as well as expansion at grid levels 1 and 2.

(4) Facts and plans that fall within the federal provinces' authority may be included in the integrated network plan in a coordinated way. Other plans or programmes that are subject to an environmental assessment under Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, OJ L 197/30, 21.07.2001, may only be included in the integrated network plan if such assessment has already been executed by the competent municipal, provincial or federal authority. These contents must not be submitted to a strategic environmental assessment under section 95.

(5) In drawing up the integrated network plan, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall take into account the network development plan pursuant to section 37 Electricity Act 2010, the coordinated network development plan pursuant to section 63 Gas Act 2011, the long-term integrated plan pursuant to section 22 Gas Act 2011, and potential entry points and production sites for renewable gas pursuant to section 18 para. 1 item 12a Gas Act 2011.

(6) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall be given access to all records and documents and shall be provided with all factual information that is necessary to draw up the integrated network plan. She may also access all information on record at the provincial governments that is necessary to draw up the integrated network plan. The same applies to all information that is collected under Austrian law and is held by companies or other bodies which discharge statutory tasks. As part of the integrated network plan, and for the purpose of the strategic environmental assessment and the public consultation process under sections 95 and 96, personal data may be processed and published in line with the applicable data protection legislation.

(7) To discharge the duties under sections 94 to 96, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology may consult or otherwise involve experts, delegated companies or bodies, while acting in an expedient and financially prudent way.

(8) The integrated network plan shall cover a ten-year period, shall be first published by 30 June 2023, shall then be updated every five years, and shall be published on the website of the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology.

(9) Open permit procedures are not affected by this Federal Act if a preliminary procedure under section 4 Environmental Impact Assessment Act 2000 or a permit procedure under sections 5 et sqq. Environmental Impact Assessment Act 2000 had already been initiated and if a strategic environmental assessment, directly applying Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, OJ L 197/30, 21.07.2001, to the relevant elements, had already been initiated or concluded at the time this provision comes into force.

Strategic environmental assessment and public consultation

Section 95. (1) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall assess all significant environmental impacts of the measures contained in the integrated network plan, shall consult the bodies referenced in para. 3, and shall then draw up an environmental assessment report in line with annex 1 part 2. Such report shall describe and appraise the significant environmental impacts expected of the realisation of the integrated network plan and identify possible alternative routes towards the same goals and within the same geographical scope as the integrated network plan.

(2) The environmental assessment report shall contain all information listed in annex 1 part 2 that can reasonably be expected to be provided, and it shall take into consideration recent expertise, state-of-the-art assessment methodologies, the contents and level of detail of the integrated network plan, its weight in the decision process, and the degree to which certain aspects can best be assessed while avoiding repetitive assessment at different stages of the process. Before the environmental assessment report is drawn up, the federal and provincial authorities and bodies whose environment-related tasks are affected by the integrated network plan shall be identified. The bodies referenced in para. 3 count as affected bodies in this sense. The scope and level of detail of the environmental assessment report on the integrated network plan and the list of other planning instruments to be checked for cumulative effects are subject to a four-week consultation with the affected authorities and bodies.

(3) The bodies that have extended rights in the assessment of the significant environmental impacts are the authorities whose environment-related tasks are affected by the integrated network plan, the ombudspersons for the environment of the affected federal provinces pursuant to section 2 para. 4 Environmental Impact Assessment Act 2000, recognised environmental organisations under section 19 para. 1 item 7 Environmental Impact Assessment Act 2000, and ombudspersons for the economic location under section 2 para. 6 Environmental Impact Assessment Act 2000.

(4) The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall publish the draft integrated network plan and the relating environmental assessment report on the website of the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology; there shall be an adequate publication alert and an alert on that website. The alert shall invite all authorities whose environment-related tasks are impacted by the integrated network plan, all other environmental bodies under para. 3, and any interested persons to submit their written opinions to the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology within eight weeks. The draft integrated network plan and the relating environmental assessment report shall be submitted to the Energy Advisory Council (section 20 E-Control Act) for an opinion. Both the environmental assessment report and the opinions received during this consultation phase shall be taken into consideration when finalising the integrated network plan.

(2) Once the strategic environmental assessment has been concluded, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall publish a summary of the assessment of the significant environmental impacts that has taken place, the environmental assessment report, and the integrated network plan on the website of the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology. The summary shall explain

1. how environmental considerations have been reflected in the integrated network plan;
2. how the environmental assessment report, the opinions received, and the results of any cross-border consultations pursuant to section 96 have been taken into account;
3. the reasoning upon which the plan is based and the alternatives that have been considered;
4. the scheme foreseen for monitoring the significant environmental impacts of the integrated network plan.

(6) Based on the environmental assessment report, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall define measures for monitoring the

integrated network plan's significant environmental impacts, so that any unexpected negative impacts can be identified early on, and appropriate mitigation measures can be taken where necessary. The monitoring results shall be taken into account in the next iteration of the integrated network plan.

(7) If there are only small changes to the integrated network plan, the factors in annex 1 part 1 shall be applied to evaluate whether these changes are likely to have significant environmental impacts. If this is the case, a new strategic environmental assessment shall take place.

(8) If no environmental assessment takes place, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall publish the results of the evaluation under para. 7, including the reasons for deciding not to conduct an environmental assessment, on the website of the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology.

(9) Costs incurred in carrying out the tasks under paras 1 through 8 are not refunded.

Cross-border consultation of strategic environmental assessment

Section 96. (1) Where

1. an integrated network plan is likely to have significant impacts (cf. annex 1 part 1) on another country's environment; or

2. a country that is likely to be significantly affected by an integrated network plan requests so, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall send the draft integrated network plan and the relating environmental assessment report to that country by the time they are published. The recipient country shall be given an adequate period of time within which to declare whether it wants to participate in the environmental assessment.

(2) The recipient country shall be given an adequate period of time within which to collect opinions from its affected authorities and public. Where necessary, the expected cross-border environmental impacts of the integrated network plan and the foreseen mitigation measures shall be consulted upon. An adequate time frame for these consultations shall be agreed upon with the recipient country. Once published, the integrated network plan and the summary pursuant to section 95 para. 5 shall be sent to the recipient country.

(3) Where other countries are drawing up energy-related plans or programmes, and where this involves them sending the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology draft plans or programmes, or environmental assessment reports, she shall inform the provincial governors of the federal provinces whose environment could be significantly impacted (cf. annex 1 part 1). The competent authorities shall conduct a public consultation in line with section 95 para. 4. Any opinions received shall be submitted to the originating country; if necessary, the other country shall be consulted.

(4) The term 'country' is used in paras 1 to 3 to mean either a member state of the European Union or a state that has acceded to the Agreement on the European Economic Area.

Title 10

Other provisions

Purchase obligation for renewable electricity

Section 97. (1) Renewable electricity plant operators that

1. can provide proof that three electricity traders registered in Austria have rejected signing a purchase agreement for electricity generated in a plant that receives support under this Federal Act, even though that agreement reflected market conditions; or

2. operate a plant with a maximum capacity of less than 500 kW

may address the regulatory authority so that the plant be assigned to a trader.

(2) Electricity traders that reject purchase agreements shall issue a written rejection.

(3) Plants can only be assigned to traders that operate in line with the applicable federal and provincial legislation.

(4) The regulatory authority shall apply factual, objective, non-discriminatory, transparent criteria and shall choose an electricity trader within one week. Further details shall be laid down in the general terms and conditions of the imbalance settlement responsible.

(5) The chosen electricity trader must sign a power purchase agreement at the general market price pursuant to section 12.

(6) Purchase agreements under para. 5 expire after one year and can only be concluded once per plant.

(7) A trader that already has a purchase agreement under para. 5 may not be assigned another plant under this provision.

Penal provisions

Section 98. (1) Unless an act is subject to more severe punishment under different administrative penal provisions, whosoever fails to comply with their obligation to furnish information and grant access to records and documents pursuant section 8 commits an administrative offence and shall be fined up to 20,000 Euro.

(2) Unless an act is subject to more severe punishment under different administrative penal provisions, whosoever fails to comply with their obligations under section 74 paras 1 or 3, section 75 paras 3 or 6, or section 76 paras 3 or 6 commits an administrative offence and shall be fined up to 75,000 Euro.

(3) Unless an act is subject to more severe punishment under different administrative penal provisions, whosoever

1. fails to comply with their obligation pursuant to section 11 para. 8;
2. fails to register in the GO database pursuant to section 81 and 82 in spite of having been reminded by the regulatory authority;
3. fails to request guarantees of origin pursuant to section 81 para. 3;
4. fails to report readings under section 82 para. 4;
5. fails to comply with their obligation pursuant to section 89

commits an administrative offence and shall be fined up to 10,000 Euro.

(4) Fines imposed under this Federal Act shall be deposited into the account opened by the RSME pursuant to section 77.

Jurisdiction

Section 99. Disputes between the RSME and support awardees, bidders or applicants are subject to the jurisdiction of the courts of law.

Title 10

Transitional provisions and entry into force

General transitional provisions

Section 100. (1) Applications for feed-in tariffs for wind power plants, hydropower plants, biomass-fuelled power plants with maximum capacities under 0.5 MW_{el}, and for biogas-fuelled power plants that were based on the Green Electricity Act 2012 and are listed with the green power settlement agent at the time title 2 part 1 of this Federal Act comes into force are considered applications under title 2 part 1 chapter 3 of this Federal Act.

(2) The RSME may request any further necessary documentation from applicants pursuant to para. 1; applicants shall then comply with such requests within two months, failing which their applications are considered withdrawn.

(3) Applications that are listed with the green power settlement agent at the time the provisions of this Federal Act outside section 103 para. 2 come into force are considered withdrawn; this does not apply to applications for fixed feed-in tariffs for wind power plants, hydropower plants, biomass-fuelled power plants with maximum capacities under 0.5 MW_{el}, biogas-fuelled power plants, and applications for investment aid under section 24 in conjunction with sections 25, 26, 27 or 27a Green Electricity Act 2012. Applications for investment aid under section 24 in conjunction with sections 25, 26, 27 or 27a Green Electricity Act 2012 that are listed with the green power settlement agent at the time the provisions of this

Federal Act outside section 103 para. 2 come into force are considered withdrawn by 31 December 2023 at the latest.

(4) The ordinance on the renewables contribution for 2021 by the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, FLG II no 623/2020, remains in effect until the end of 31 December 2021 as ordinance based on section 75 para. 2. Any amendments to that ordinance shall comply with the provisions of this Federal Act.

(5) In the year when the provisions referenced in section 103 para. 2 enter into force, the annual auction and FCFS volumes decrease by one quarter for every quarter of the year that has already passed. This does not apply to the FCFS volume for wind power plants under section 48 para. 2. By way of derogation from section 31 para. 2, PV auctions shall be held at least once every year. By way of derogation from section 41 para. 2, wind auctions may be held once every year.

(6) In the year when the provisions outside section 103 para. 2 enter into force, the annual support funds decrease by one quarter for every quarter of the year that has already passed; by way of derogation from section 56 para. 5, section 60 para. 5, and section 61 para. 6, support rounds for PV plants, repurposing of existing biogas-fuelled plants and construction of renewable gas plants shall be opened at least once a year.

(7) Persons who are exempt from paying the flat-rate renewables charge per metering point under section 46 para. 1 Green Electricity Act 2012, FLG I no 75/2011, as amended in FLG I no 150/2021, or from paying the renewables contribution under section 49 para. 1 Green Electricity Act 2012, FLG I no 75/2011, as amended in FLG no 150/2021, are exempt from paying the renewable electricity flat rate, the renewable electricity contribution and the renewable gas contribution for the period covered by their original exemption. The provisions under section 72 paras 2 to 5 and 8 apply mutatis mutandis to such persons.

(8) Leftover funds under section 27 Green Electricity Act 2012 shall be transferred to the investment aid funds for hydropower under section 56a para. 1a.

Execution

Section 102. Execution of this Federal Act is entrusted to

1. **(constitutional provision)** the federal government for sections 1 and 103;
2. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, for section 6 para. 3, section 33 paras 2 and 4, section 35 para. 2, section 36 para. 2, section 43, section 46 para. 4, section 50 paras 1 and 2, section 51 para. 2, section 54 para. 4, section 58 para. 1, and section 63 para. 1;
3. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, for section 6a para. 1, section 7 paras 3a, 4 and 6, section 31 para. 2, section 41 para. 2, section 43a para. 2, section 44a para. 2, section 44b para. 2, section 73 paras 1a and 7, section 75 paras 1a and 2, section 76 para. 2, section 78 para. 2, and section 81 para 5;
4. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Agriculture, Regions and Tourism, the Federal Minister for Digital and Economic Affairs, and the Federal Minister of Social Affairs, Health, Care and Consumer Protection, for section 18 para. 1, section 38, section 44d, and section 47 para. 1;
- 4a. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, together with the Federal Minister for Digital and Economic Affairs, and the Federal Minister for Agriculture, Regions and Tourism, for section 49 para. 2;
5. the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology for all other provisions.

Entry into force

Section 103. (1) **(constitutional provision)** Unless otherwise provided, the provisions of this Federal Act enter into force on the day following promulgation.

(2) Title 2 part 1 of this Federal Act, with the exception of section 12, and section 98 para. 3 item 1 enter into force on the first day of the month after approval or non-prohibition by the European Commission

pursuant to Article 108(3) TFEU. The Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall notify this day through the Federal Law Gazette.

(3) (constitutional provision) Section 1 as amended by FLG I no. 7/2022 enters into force on the day following promulgation.

(4) The entries in the list of contents regarding section 37, section 38, the heading of subchapter 4, section 43a, sub-chapter 5, and section 48, as well as section 5 para. 1 item 30a, section 7 paras 1 and 3a, section 11 paras 3 and 3a, section 12 paras 2 and 3, section 14 paras 2, 3 and 3a, section 18 para. 1, section 20 items 1 and 7, section 22 para. 4, section 24 para. 1 item 8, section 31 para. 3, the numbering of section 33, section 33 para. 3 item 2, section 35 para. 2, section 36 para. 3, the heading of sub-chapter 4, section 40 para. 1, section 41 paras 1 and 3, section 43, section 43a and its headings, section 44a to 44f and their headings, the headline of sub-chapter 5, section 45 items 1 and 5, section 46 para. 5, section 47 para. 2 item 4, section 48 and its heading, section 49 para. 2, section 50 paras 1 and 2, section 51 para. 2, and section 100 para. 5 as amended by FLG I no 7/2022 enter into force on 1 January 2022, retroactively. The entry in the list of contents regarding section 103a, as well as section 5 para. 1 items 15 and 16, section 6 para. 2, section 56a paras 1a, 3 and 4, section 57 para. 3, section 62 para. 3, section 63 para. 1 item 4, section 71 para. 3, section 72 para. 2, para. 3 item 6, paras 5 and 6, section 72a paras 2, 3 and 4, section 73 paras 1, 1a and 2, section 74 para. 4, section 75 paras 1 and 1a, section 79 para. 4, section 89 para. 1, section 91 para. 1, para. 3 item 3 and para. 5, section 100 para. 8, and section 102 as amended by FLG I no 7/2022 enter into force on the day following promulgation.

Entry into force of the amendment in FLG I no 181/2021

§ 103a. (constitutional provision) Section 1 and section 71 enter into force on the day following promulgation.

Annex 1

Strategic environmental assessment

Part 1, significance of environmental impacts

The following factors shall be taken into consideration when determining whether plans or programmes are likely to have significant environmental impacts:

1. Features of the plan or programme, in particular:
 - (a) the degree to which the plan or programme defines projects or other activities by virtue of its location, type, size, operational characteristics or use of resources;
 - (b) the bearing of the plan or programme on other plans or programmes, including those in the same planning hierarchy;
 - (c) the environmental significance of the plan or programme, in particular its suitability to promote sustainable development;
 - (d) the environmental problems relevant for the plan or programme;
 - (e) the degree to which the plan or programme contributes to the realisation of Union environmental legislation (e.g. on waste or water rules).
2. Features of the impacts and the areas likely to be affected, in particular:
 - (a) the probability, duration, frequency, and reversibility of the impacts;
 - (b) the impacts' cumulative character;
 - (c) the impacts' cross-border relevance;
 - (d) health and environmental risks (e.g. in the case of incidents);
 - (e) the severity and size of the impacts (geographical area and number of persons likely to be affected);
 - (f) the distinction and sensitivity of the area likely to be affected, based on
 - (aa) its outstanding natural quality or cultural heritage;
 - (bb) environmental quality standards that would be violated or thresholds that would be passed;
 - (cc) intensive land use that would follow;

(g) impacts on areas or landscapes that are protected at national, Union or international level.

Part 2, environmental assessment report

The environmental assessment report under section 95 shall contain

1. a summary of the contents and priority goals of the integrated network plan and its interrelations with other relevant plans and programmes;
2. a description of the natural environment at the time of planning and its likely development without the integrated network plan;
3. the environmental characteristics of the areas likely to be significantly affected;
4. all existing environmental problems relevant for the plan, in particular in areas of exceptional natural relevance, such as the areas identified in line with Directive 2009/147/EC or Directive 92/43/EEC;
5. the relevant environmental protection goals at Union or Member State level and how these goals and environmental considerations have been taken into consideration in the plan;
6. the likely significant environmental impacts and their consequences for biodiversity, population, settlement development, health, fauna, flora, soil, water, air, climate, material assets, cultural heritage including historical buildings and archaeological finds, and landscape, as well as the interrelations between these;
7. the measures planned to avoid, limit and offset the plan's significant negative environmental impacts;
8. a summary of the reasons for selecting the alternatives that were assessed, and a description of how the environmental assessment was conducted, including any difficulties encountered in putting the information together (such as technical gaps or a lack of expertise);
9. a description of the monitoring measures envisaged to oversee the implementation of the plan;
10. a non-technical abstract of the above-listed information;
11. a description and assessment of the reasonable alternatives and their environmental impacts, in particular a trend scenario and two plausible alternative scenarios, which provide a basis for developing and appraising alternatives for elements of the plan.