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**February 2017, GlobalDenmark Translations**

## Consolidated Act on the Environmental Technology Development and Demonstration Programme

This is an Act to consolidate Act no. 130 of 10 February 2015 on the Environmental Technology Development and Demonstration Programme, as amended by section 92 of Act no. 1715 of 27 December 2016 on the Environmental and Food Board of Appeal.

The promulgated legislative act regarding section 19(2) and (6) shall enter into force on 1 February 2017, cf. section 24(1) of Act no. 1715 of 27 December 2016 on the Environmental and Food Board of Appeal.

### Part 1

#### *Purpose*

**1.** The Environmental Technology Development and Demonstration Programme (MUDP) shall promote development and application of eco-efficient solutions addressing prioritised environmental challenges and support growth as well as employment through

- 1) funding for developing, testing and demonstrating new environmental technology and funding for projects that can test new environmental technology at full-scale installations or in connection with new building and construction projects,
- 2) establishing new innovation partnerships that actively promote cooperation between relevant stakeholders,
- 3) launching projects that support international and bilateral cooperation on activities in the area of the environment and innovation and that actively prepare the framework for Danish exports of environmental technology, and
- 4) building and disseminating knowledge within and about the environmental technology sector.

### Part 2

#### *Board and Secretariat*

**2.-(1)** The Environmental Technology Development and Demonstration Programme is managed by an independent board consisting of 1 chairperson and seven other members. The Board shall include members with insight into matters regarding the environment, nature and resources, business and environmental technology. The chairperson shall have a background in business. The chairperson and the other members shall be appointed in their personal capacities by the Minister for the Environment.

**(2)** Four members of the Board shall be appointed following a recommendation from the Minister for Climate, Energy and Building, the Minister for Higher Education and Science, the Minister for Business and Growth and the Minister for Food, Agriculture and Fisheries.

**(3)** The Board shall be appointed for a period of four years with the possibility of being reappointed. In the event that the chairperson or another member of the Board leaves before the end of this period, a replacement may be appointed for less than four years.

**3.-(1)** The Board shall decide on detailed implementation of the activities under the Environmental Technology Development and Demonstration Programme, cf. sections 1, 6, 7 and 12.

**(2)** The Board shall prepare proposals for an overall four-year strategy for implementation of the Environmental Technology Development and Demonstration Programme. The strategy proposed by the Board shall be approved by the Minister.

**(3)** The Board shall prepare an annual proposal for an action plan for detailed implementation of the Programme. The proposal shall be prepared on the basis of the priorities set by the Minister for the Environment of the environmental challenges and the Board's strategy for implementing the Environmental Technology Development and Demonstration Programme, cf. subsection (2). The action plan proposed by the Board shall be approved by the Minister.

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**(4)** The Board may set up one or more panels of experts on specific technical focus areas, including organic building and construction, and may obtain advice on the focus area from the panel(s) of experts on their respective specialist areas.

**4.-(1)** The Minister for the Environment shall provide secretariat assistance for the Board.

**(2)** The Minister shall lay down the rules of procedure of the Board following a recommendation from the Board.

**(3)** The Minister may lay down regulations regarding the Board's access to assign its competences to the chairperson and the Secretariat, including that the chairperson and the secretariat may make decisions on behalf of the Board in minor or urgent matters.

**5.-(1)** The Board shall submit an annual report to the Minister for the Environment on its activities. The Minister shall publish the report from the Board electronically.

### Part 3

#### *Allocation of funding etc.*

##### *Allocation of funding*

**6.-(1)** On the basis of the approved action plan, cf. section 3(3), the Board shall make a decision on application of the funding allocated in the annual Finance Act, and on calls for project applications, cf. however, section 22(3).

**(2)** Simultaneously with calls for project applications, the Board shall publish the criteria included in the assessment of the applications.

**7.-(1)** The Board shall decide on commitments of funding.

**(2)** The board may decide on commitments of funding for:

- 1) Projects aimed at developing, testing and demonstrating new environmental technology solutions, including technical feasibility studies prior to development, testing or demonstration, and projects aimed at building knowledge about or informing about environmental technology possibilities and needs.
- 2) Projects aimed at establishing technological solutions involving environmental protection that exceed national standards and EU standards for environmental protection.
- 3) Projects that support partnerships for eco-innovation.
- 4) Projects aimed at disseminating actions to promote eco-efficient technology and use of environmental technology.
- 5) Danish participation in projects as mentioned in no. 1, where such projects are part of international programmes with international co-funding, and where project selection is assigned to an international selection committee.

**(3)** In determining whether funding is to be granted, the Board shall assess whether support for the project will have an incentive effect, it shall assess the environmental and resource potential of the project, the commercial potential of the project, the news value of the project, the scientific quality of the project and the quality of the project description, and it shall assess the extent to which the consequences of the project are compatible with other relevant social concerns.

**8.** Commitment of funding pursuant to section 7 may be granted to projects carried out by

- 1) private businesses and public enterprises,
- 2) private individuals,
- 3) independent institutions,
- 4) public and private research organisations,
- 5) sector organisations and similar organisations,
- 6) associations and
- 7) groups or consortia of the stakeholders mentioned in nos. 1-6.

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**9.** Funding shall be subject to the condition that the project has not been commenced before a commitment of funding is granted.

**10.-(1)** The Minister for the Environment shall lay down more detailed regulations regarding terms and conditions for funding, including regulations regarding

- 1) the form and content of applications,
- 2) award of project funding, including maximum funding rates,
- 3) accounts and audits regarding projects to which a commitment of funding is granted,
- 4) publication of the results of projects to which a commitment of funding is granted, and
- 5) payment of funding pursuant to this Act.

**(2)** The Minister may lay down regulations regarding allocation of funding for projects that obtain funding pursuant to other legislation, including that funding pursuant to this Act may not be granted to such projects.

**11.** The Board shall not be entitled to claim intellectual property rights obtained on the basis of activities to which funding has been granted.

### *Establishment of partnerships etc.*

**12.-(1)** On the basis of the approved action plan, cf. section 3(3), cf. however, section 22(4), and within the framework of the funding laid down for this in the annual Finance Act, the board shall decide on

- 1) establishment of innovation partnerships, cf. section 1, no. 2,
- 2) support for international and bilateral cooperation in the area of the environment and innovation, cf. section 1, no. 3, and
- 3) knowledge building, cf. section 1, no. 4.

**(2)** As part of the administration and development of the Environmental Technology Development and Demonstration Programme, the Board may pay the costs of evaluating the Programme and its results, as well as the costs of disseminating the results of the Programme.

## Part 4

### *Cancellation and repayment of funding*

**13.-(1)** Funding pursuant to this Act shall be cancelled partially or totally in the event that

- 1) the beneficiary has provided incorrect or misleading information or withheld information of significance in connection with the decision on funding or during the project,
- 2) the terms for funding are not complied with, or
- 3) the beneficiary fails to comply with its duties pursuant to this Act or regulations laid down pursuant to this Act.

**(2)** The Minister for the Environment shall decide on matters regarding cancellation of funding pursuant to subsection (1), and may in this respect decide that paid funding shall be partially or fully repaid.

**(3)** In the event that paid funding is to be repaid partially or fully, the amount due shall be paid by no later than 14 days later than the decision. If the amount due is not repaid on time, interest shall be added to the amount after the due date at the interest rate laid down in section 5 of the Interest in connection with Delayed Payment etc. Act. However, the added interest shall be at least DKK 50. DKK 100 shall be paid for reminders after the first demand.

## Part 5

### *Digital communication*

**14.-(1)** The Minister for the Environment may lay down regulations stipulating that written communication to the Board of the Environmental Technology Development and Demonstration Programme and the Minister

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concerning matters falling within the scope of this Act or regulations issued pursuant to this Act shall take place digitally.

**(2)** The Minister may lay down more detailed regulations regarding written digital communication, including the use of specific IT systems, specific digital formats and digital signatures or similar.

**(3)** A digital notification shall be considered to have reached its destination when it is accessible to the addressee of the notification.

**(4)** The Minister may lay down regulations stipulating that written communication to government authorities to which the Minister has assigned powers or tasks pursuant to section 18 concerning matters falling within the scope of this Act or regulations issued pursuant to this Act shall take place digitally.

### Part 6

#### *Information obligation, supervision etc.*

##### *Information obligation*

**15.-(1)** Throughout the project, the beneficiary shall inform the Minister for the Environment if the conditions for allocation of funding are no longer being met.

**(2)** Throughout the project, the beneficiary shall, at the request of the Minister, declare whether the conditions for allocation of funding are still being met.

##### *Supervision etc.*

**16.** The Minister for the Environment shall supervise compliance with this Act and the regulations laid down pursuant to this Act.

**17.-(1)** The supervisory authority, or persons authorised by the supervisory authority, shall, at all times, on proof of identity and without a court order, have access to premises owned or run by a natural or legal person who has been granted commitment of funding pursuant to this Act. Similarly, the supervisory authority shall have access to accounts, records, papers, etc., including material stored electronically in order to obtain information for use in carrying out assignments pursuant to this Act or regulations laid down pursuant to this Act.

**(2)** Any person who has been granted a commitment of funding shall, at the request of the supervisory authority, provide the necessary guidance and assistance in connection with carrying out supervision, and the material referred to in subsection (1) shall be provided or submitted to the supervisory authority at the request of the supervisory authority.

**(3)** If necessary, the Police shall provide the necessary assistance to carry out the supervision referred to in subsection (1).

**(4)** After consultation with the Minister for Justice, the Minister for the Environment may lay down more detailed regulations regarding the assistance referred to in subsection (3).

**(5)** The Minister for the Environment may lay down more detailed regulations regarding supervision of the projects to which funding is granted pursuant to this Act.

### Part 7

#### *Administrative provisions*

**18.-(1)** The Minister for the Environment may assign powers pursuant to this Act to a government authority under the Ministry.

**(2)** The Minister may lay down regulations stipulating that it shall not be possible to appeal decisions made in accordance with the powers assigned pursuant to subsection (1).

**(3)** The Minister may assign to the Board powers to make decisions on cancellation or repayment of funding pursuant to section 13.

### Part 8

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*Appeals and legal proceedings*

**19.-(1)** Decisions by the Board pursuant to this Act or regulations laid down pursuant to this Act may not be brought before another administrative authority, cf. however subsection (2).

**(2)** Appeals against legal issues in connection with decisions pursuant to sections 7-9 and section 13(1) and (2) of this Act, or pursuant to regulations laid down pursuant to this Act, may be brought before the Environmental and Food Board of Appeal which will process the case in the layman division, cf. section 3(1), no. 9 of the Act on the Environmental and Food Board of Appeal.

**(3)** Decisions as referred to in subsection (2) may be appealed by the addressee of the decision.

**(4)** An appeal to the Environmental and Food Board of Appeal shall be submitted in writing to the authority that made the decision. If the authority wishes to uphold its decision, the authority shall, as soon as possible and generally no later than three weeks after the deadline for lodging appeals, forward the appeal to the Environmental and Food Board of Appeal.

When forwarding the appeal, the appeal shall be accompanied by the decision under decision, the documents included in the assessment of the case, and a statement from the authority, including the authority's comments on the case and the objections stated.

**(5)** When forwarding the appeal to the Environmental and Food Board of Appeal, the authority shall, at the same time, forward a copy of its statement to the addressee of the decision with a deadline for submission of comments to the Environmental and Food Board of Appeal of three weeks after receipt.

**(6)** An appeal to the Environmental and Food Board of Appeal pursuant to subsection (4) shall be submitted using the online self-service, cf. however section 21(2)-(4) of the Act on the Environmental and Food Board of Appeal. Subsequent communication about the appeals case shall also be through the online self-service. An appeal shall be deemed to have been submitted when it is available to the authority.

**(7)** The online self-service shall be used by the authority when forwarding the appeal and for subsequent communication about the appeals case with the Environmental and Food Board of Appeal. This shall also apply for cases in which an appeal has not been submitted using the online self-service, but which the Environmental and Food Board of Appeal has decided not to dismiss.

**(8)** If the appeal is not submitted using the online self-service, the authority shall forward the appeal to the Environmental and Food Board of Appeal as quickly as possible. In such cases, subsection (4), 2nd and 3rd clauses and subsection (5) shall not apply.

**(9)** Appeals pursuant to subsection (2) shall be submitted within four weeks after the decision was notified to the addressee. If the decision is made public, the deadline for appeal shall be calculated from the date of publication.

**20.-(1)** Legal proceedings to challenge decisions made pursuant to this Act or regulations laid down pursuant to this Act shall be filed within six months after the decision is communicated to the addressee. If the decision is made public, the deadline for bringing an action shall be calculated from the date of publication.

**(2)** For legal proceedings regarding matters concerning the environment covered by this Act, the court shall ensure that the costs of the case are not exorbitant for the parties concerned.

Part 9

*Penalties*

**21.-(1)** Unless a more severe penalty is due under other legislation, fines shall be imposed on any person who

1) provides incorrect or misleading information or withholds information of significance in connection with decisions made pursuant to this Act, or otherwise provides incorrect or misleading information or withholds information that said person is obligated to provide pursuant to section 15,

2) utilises funding pursuant to this Act in contravention to the terms and conditions for utilising such funding,

3) fails to supply or submit the documentation or provide the information that said person is obligated to supply or submit pursuant to section 17,

4) fails to provide the supervisory authority with access to enterprises etc. that have been granted a commitment of funding pursuant to this Act, cf. section 17, or

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5) fails to provide the supervisory authority with guidance and assistance in connection with carrying out supervision pursuant to section 17(2).

**(2)** Regulations laid down pursuant to section 10 and section 17(5) may stipulate a fine for violation of the regulations or terms laid down pursuant to the regulations.

**(3)** Companies etc. (legal persons) may be subject to criminal liability according to the provisions in chapter 5 of the Criminal Code.

### Part 10

#### *Entry into force etc.*

**22.-(1)** This Act shall enter into force on 15 February 2015, cf. however, subsection (2).

**(2)** The Minister for the Environment shall determine the date of entry into force of section 3(1)-(3), and section 19(6), (7), 2nd clause, and subsection (8). The Minister may also stipulate that the provisions are to enter into force on different dates.

**(3)** In 2015, the Board shall make a decision on application of the funding laid down in the annual Finance Act, solely on the basis of priorities set by the Minister for the Environment for environmental challenges and calls for project applications in 2015.

**(4)** In 2015, the Board shall make a decision on application of the allocation laid down in the 2015 Finance Act for the activities referred to in section 12(1), nos. 1-3, solely on the basis of priorities set by the Minister for the Environment for environmental challenges.

**(5)** This Act shall not apply to calls for project applications and announcements of calls for applications in 2015. For calls for project applications and announcements of calls for applications in 2015, the regulations in Statutory Order no. 456 of 25 April 2013 from the Minister for the Environment on funding for eco-efficient technology shall apply.

**(6)** This Act shall not apply to applications for funding received before 1 January 2015 and to commitments of funding granted pursuant to the regulations in Statutory Order no. 456 of 25 April 2013 from the Minister for the Environment on funding for eco-efficient technology. For such applications and commitments of funding, the regulations in the Statutory Order no. 456 of 25 April 2013 from the Minister for the Environment on funding for eco-efficient technology shall apply.

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

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Act no. 1715 of 27 December 2016 on the Environmental and Food Board of Appeal<sup>1)</sup> contains the following entry into force and transitional provision:

### **24.-(1)**

**(1)** This Act shall enter into force on 1 February 2017.

**(2)** (Omitted)

**(3)** The Ministry of Business and Growth may, after consulting the Minister for the Environment and Food, lay down transitional regulations.

**(4)** Act on the Environmental Board of Appeal, cf. Consolidated Act no. 1205 of 28 September 2016, shall be repealed.

**(5)** Regulations which have been laid down pursuant to regulations hitherto in force shall remain in force until they are repealed or replaced by regulations laid down under the authority of this Act. Violation of the regulations shall be punishable according to the regulations hitherto in force.

**(6)** Appeals pending in the Environmental Board of Appeal or the Complaints Centre for Food, Agriculture and Fisheries that have not been finalised at the entry into force of this Act, shall be finalised and decided by the Environmental and Food Board of Appeal according to the regulations in this Act. However, this shall not apply to

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pending appeals to the Environmental Board of Appeal which shall be finalised and decided by the Spatial Planning Board of Appeal, cf. the Spatial Planning Board of Appeal Act, at entry into force of this Act.

**(7)** (Omitted)

*The Danish EPA, 26 January 2017*

Claus Torp

/ Peter Østergård Have