

Act of , amending the Environmental Management Act and the Economic Offences Act with regard to increasing the share of gas from renewable sources in total gas supplies to customers (Green Gas Blending Obligation Act)

DRAFT LAW

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We, Willem-Alexander, by the Grace of God, King of the Netherlands, Prince of Orange-Nassau, etc., etc., etc.

Greetings to all who shall see or hear the following. Be it known:

Whereas We have considered that it is desirable to impose an annual obligation of green gas units on energy suppliers with regard to increasing the share of gas from renewable sources in total gas supplies to customers in order to contribute towards the energy transition;

We therefore, having heard the Advisory Division of the Council of State, and in consultation with the States-General, have agreed and decreed as We hereby agree and decree:

ARTICLE I

The Environmental Management Act shall be amended as follows:

A

In Article 2.2(1), 'Titles 9.7 and 9.8' is replaced by 'Titles 9.7, 9.8 and 9.9'.

B

A title is inserted after Title 9.8, as follows:

Title 9.9 Green gas blending obligation

Section 9.9.1 General

Article 9.9.1.1 Definitions

For the purposes of this Title and the provisions based thereon, the following definitions apply:

customer: consumers of gas as referred to in Article 50(1) of the Environmental Taxes Act and CNG filling station, as referred to in Article 47(1)(s) of the Environmental Taxes Act;

CO₂-equivalent chain emission reduction: the amount of greenhouse gas emission reductions from the production, transport, distribution and use of renewable energy compared to the fossil fuel comparator referred to in Annex VI of the Renewable Energy Directive;

sustainability scheme: voluntary national or international scheme, as referred to in Article 30(4) of the Renewable Energy Directive recognised by the European Commission, or another scheme established by a legal requirement, demonstrating compliance with the sustainability criteria and greenhouse gas emission reduction criteria for the production of gas from renewable sources;

emissions report: emissions report as referred to in Article 16.1(3) to the extent that it concerns a report on emissions in a calendar year as referred to in Article 67 and Annex X of the Emissions Trading Monitoring and Reporting Regulation;

gas: gas as referred to in Article 1.1 of the Energy Act;

gas from renewable sources: gas from renewable sources as referred to in Article 1.1 of the Energy Act;

GGE register: register for green gas units as referred to in Article 9.9.5.1;

green gas unit: green gas unit as referred to in Article 9.9.3.1;

party entering gas from renewable sources: supplier to customers who enters a quantity of gas from renewable sources into the GGE register by or pursuant to Article 9.9.4.1;

entry facility for gas from renewable sources: characteristic of an account in the GGE register that allows the entry of gas from renewable sources in accordance with Article 9.9.4.1;

annual obligation facility for green gas units: characteristic of an account in the GGE register that a supplier to customers has pursuant to Article 9.9.2.2 to comply with its annual obligation of green gas units;

annual obligation of green gas units: number of green gas units owed by the supplier to customers pursuant to Article 9.9.2.1;

supplier to customers: regulated entity as referred to in Article 16.1(1), in so far as it is a legal person which, under the Environmental Taxes Act, is liable to tax on gas, with the exception of the final consumer of the gas, and which provides for supply to customers;

supply to customers: supply of gas through a connection to the consumer as referred to in Article 50(1) of the Environmental Taxes Act, which is used for combustion in the buildings sector and additional sectors referred to in Annex II to the Decree on the trading of emission allowances for the purposes of implementing Directive 2023/959;

mass balance: accounts that faithfully reflect a company's input and outflows and stocks of sustainable raw materials for gas from renewable sources over a given period of time, as part of a sustainability scheme operated by the renewable gas producer;

green gas transfer facility: property of an account in the GGE register that allows the transfer of a green gas unit;

producer of gas from renewable sources: a producer as referred to in Article 1(1) of the Energy Act, established in the Netherlands and maintaining a production installation for the production of gas from renewable sources in the Netherlands or within the Dutch exclusive economic zone;

production installation: an assembly of facilities producing renewable gas, where an assembly of facilities means all means present that are interconnected for the production of renewable gas;

Renewable Energy Directive: Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 2018, 328);

transmission system operator: transmission system operator as referred to in Article 1.1 of the Energy Act;

Emissions Trading Monitoring and Reporting Regulation: Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 2018, 334);

Emissions Trading Verification and Accreditation Regulation: Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 2018, 334);

Article 9.9.1.2 Union database

By ministerial order, rules shall be laid down on the import and use of information by producers of gas from renewable sources and other market participants in the Union database referred to in Article 31bis of the Renewable Energy Directive.

Article 9.9.1.3 Information obligation

The transmission system operator shall, by 30 April of any calendar year, on request, report to the board of the emission authority the total deliveries of gas through the transmission system and distribution systems for the immediately preceding calendar year.

Article 9.9.1.4 Exempting categories of suppliers to customers

By general administrative order, categories of suppliers to customers may be designated to which some or all of the provisions included in this Title relating to the supplier to customers do not apply.

Section 9.9.2 Annual obligation of green gas units

Article 9.9.2.1 The annual obligation of green gas units

1. The supplier to customers shall owe, in any calendar year, the number of green gas units corresponding to its share of the amount of greenhouse gas emission reduction in the chain to the customer to be determined by general administrative order for the previous calendar year. The share referred to in the previous sentence shall be calculated on the basis of the market share of the supplier to customers in total deliveries to customers by the suppliers to customers jointly, in the previous calendar year.

2. By general administrative order, as referred to in paragraph 1, requirements shall be laid down for the application of that paragraph as regards the method of calculating the number of green gas units owed by the supplier to customers and the determination of the amount of greenhouse gas emission reduction in the chain to the customer.

Article 9.9.2.2 Determination of market share and supplies to customers

1. In determining the market share referred to in Article 9.9.2.1(1), use shall be made of the supply to customers included in the emissions report issued by the supplier to customers pursuant to Article 75p of the Emissions Trading Monitoring and Reporting Regulation and Article 16.39ae.

2. The determination of supplies to customers for any calendar year, as referred to in Article 9.9.2.1(1), shall use the information provided on total deliveries through the transmission system and distribution systems and the information on the annual emissions of the reporting period in the emission reports issued, referred to in Article 16.1(3), and in Article 67 and Annex X of the Emissions Trading Monitoring and Reporting Regulation for the relevant calendar years, with the reference date of 1 May.

3. If a supplier to customers has not issued the emissions report referred to in the first paragraph, the board of the emission authority shall determine the market share of that supplier to customers after the application of Article 16.39ae(3), in conjunction with Article 16.16(1).

Article 9.9.2.3 The emissions report

1. The emissions report referred to in the Article 9.9.2.2(1) is the emissions report to be provided by the energy supplier to customers pursuant to Article 16.39ae(1), which complies with the requirements laid down in the Emissions Trading Monitoring and Reporting Regulation for regulated entities and the requirements laid down in the Emissions Trading Verification and Accreditation Regulation.

2. Articles 16.39ab(3), 16.39ae(3), and the ministerial regulations adopted pursuant to Articles 16.39af(3) and 16.39ag, shall apply mutatis mutandis to the emissions report.

Article 9.9.2.4 Account with annual obligation facility

The supplier to customers has an account with an annual obligation facility of green gas units in the GGE register.

Article 9.9.2.5 Informing of the annual obligation of green gas units

1. The board of the emission authority shall inform the suppliers to customers who have issued the emissions report referred to in Article 9.9.2.4(1)(b), before 1 June of any calendar year, of the amount of the annual green gas obligation referred to in Article 9.9.2.1 of the calendar year immediately preceding that calendar year.

2. If a supplier to customers has not issued the emissions report referred to in the first paragraph as referred to in Article 9.9.2.2(3), the board of the emission authority shall inform the relevant suppliers to customers of the amount of the annual obligation of green gas units, after the application of that article.

Article 9.9.2.6 Exemption from the annual obligation of green gas units

1. A supplier to customers who has issued the emissions report referred to in Article 9.9.2.4(1)(b) may obtain an exemption for all or part of the annual obligation of green gas units in return for a fee.

2. The supplier to customers shall owe a fee set by or pursuant to a general administrative order as referred to in paragraph 1 per unit of green gas for which exemption is obtained, in accordance with the rules to be laid down by or pursuant to that general administrative order.

3. The supplier to customers shall inform the board of the emission authority by 1 July of any calendar year immediately following the previous calendar year on the part of the annual obligation of green gas units for which the supplier to customers wishes to obtain exemption.

4. The rules to be laid down by or pursuant to the general administrative order referred to in paragraph 2 shall in any event concern:

- a. the maximum proportion of the required green gas units referred to in Article 9.9.2.1(1), for which exemption can be obtained;
- b. rules on the time limit and the manner in which the request for exemption is notified to the board of the emission authority;
- c. rules on the time limit and the manner in which the fee is paid.

5. If the full payment to compensate for the exemption has not been paid within the time limit set in accordance with the fourth paragraph, no exemption has been obtained for that part of the green gas units and no account shall be taken of the reduction of the annual obligation of green gas units of suppliers to customers referred to in paragraph 9.9.2.7(3).

Article 9.9.2.7 Compliance with the annual obligation of green gas units

1. On 1 August of any calendar year:

- a. the supplier to customers has at least the number of green gas units on its account; and
- b. the board of the emission authority shall deduct from the account of the supplier to customers the number of gas units corresponding to the annual obligation of green gas units of that supplier to customers for the calendar year immediately preceding that date.

2. Where, before the date referred to in the first paragraph, Articles 16.16 and 16.17 in conjunction with 16.39ae(3) have been applied with regard to the emissions report, which has led to an increase or reduction of the annual obligation of green gas units from one or more suppliers to customers for the calendar year in question, the board of the emission authority shall deduct the number of green gas units from the account of the supplier to customers, taking into account that increase or reduction.

3. If a supplier to customers has not issued the emissions report referred to in the first paragraph as referred to in Article 9.9.2.2(3), the board of the emission authority shall deduct from the account of the supplier to customers the number of green gas units corresponding to the annual obligation of green gas units imposed on that supplier to customers within 1 month of the application of Article 9.9.2.2(3).

4. If the application of Article 9.9.2.6(1) results in a reduction of the annual obligation of green gas units of a supplier to customers for the calendar year in question, the board of the emission authority shall deduct the number of green gas units corresponding to that reduction from the account of the supplier to customers.

5. If, as a result of the application of paragraph 1 or 2, the number of green gas units in the account of the supplier to customers is less than one, the supplier to customers shall make up the shortfall within 3 calendar months.

Section 9.9.3 Green gas units

Article 9.9.3.1 Green gas unit

1. A green gas unit represents a contribution to the annual obligation of green gas units of 1 kg of CO₂-equivalent chain reduction.

2. A green gas unit may only be kept in the GGE register referred to in Article 9.9.5.1.

Article 9.9.3.2 Transfer

A green gas unit is susceptible to transfer if the transferring party and the recipient party each have an account in their name in the GGE register.

Article 9.9.3.3 Transfer restrictions

1. Transfer of one or more green gas units cannot lead to a number of green gas units in an account that is less than zero.

2. Transfer of one or more unit(s) of green gas is not permitted if the number of green gas units in an account is less than one.

Article 9.9.3.4 Delivery of green gas unit

1. The delivery required for the transfer of a green gas unit shall be carried out by:
a. deducting the green gas unit from the account in the name of the party transferring the unit in the register; and

b. crediting to the account in the name of the party acquiring the green gas unit in the register.

2. Paragraph 1 shall apply mutatis mutandis to any transition other than a transfer.

3. Any transition other than a transfer only takes effect vis-à-vis third parties once the transfer has been registered in the GGE register.

Article 9.9.3.5 Nullity or annulment of the contract

1. The nullity or annulment of the contract giving rise to the transfer, or lack of competence of the transferor, after the delivery referred to in Article 9.9.3.5(1) has no effect on the validity of the transfer.

2. Any reservation relating to the transfer is worked out at the time the transfer is made.

Article 9.9.3.6 Derogation of the Civil Code

1. By way of derogation from Article 228 of Book 3 of the Civil Code, no right of pledge may be established on a green gas unit.

2. No usufruct right may be established on a green gas unit.

3. A green gas unit is not susceptible to seizure.

Section 9.9.4 Entering gas from renewable sources

Article 9.9.4.1 Entering gas from renewable sources

1. A party entering may enter gas from renewable sources in the GGE register until 1 May of any calendar year, if the gas from renewable sources:

- a. was produced with a production installation established in the Netherlands;
- b. was fed into the Dutch distribution network or transmission network;
- c. was delivered to customers in the calendar year immediately preceding that date;
- d. complies with Article 9.9.4.2.

2. Rules may be laid down by or pursuant to a general administrative order in respect of the party entering, the conditions to be met by gas from renewable sources, and the manner in which the party entering proves that those conditions have been met.

Article 9.9.4.2 Requirements for gas from renewable sources

The gas from renewable sources to be entered shall comply with:

- a. the sustainability and greenhouse gas emission reduction criteria established by or pursuant to a general administrative order;
- b. the other requirements laid down by or pursuant to a general administrative order.

Article 9.9.4.3 Means of meeting the requirements for gas from renewable sources

1. The information to be entered in the accounts shall be determined by ministerial order.
2. The information referred to in paragraph 1 shall be kept by the party entering for at least 7 years following the calendar year in which the entry was made.

Article 9.9.4.4 Green gas units to be credited

1. The board of the emission authority shall credit for 1 kg of CO₂-equivalent chain reduction entered in the GGE register one green gas unit in the account of the party entering.
2. The quantity of gas from renewable sources shall be rounded down to 1 kg.
3. By or pursuant to general administrative order, rules shall be laid down on calculating the CO₂-equivalent chain emission reduction and the way in which green gas units are credited to the account of the party entering.

Article 9.9.4.5 Disclosure of green gas units

1. The board of the emission authority shall publish an overview of the number of available green gas units every year, at times to be determined by ministerial order.
2. Detailed rules on the publication referred to in paragraph 1 shall be laid down by ministerial order.

Article 9.9.4.6 Time of crediting green gas units

For gas from renewable sources produced, fed and entered in the GGE register between 1 January and 1 August of any calendar year, the board of the emission authority shall, after 1 August of that calendar year, credit the green gas units to the account of the party entering.

Article 9.9.4.7 Suspending or refusing to credit green gas units

1. The board of the emission authority may suspend or refuse to credit green gas units if it suspects abuse or fraud, or has other reasons to believe that the requirements laid down in or pursuant to this section are not being met.
2. Detailed rules on suspension or refusal referred to in paragraph 1 may be laid down by or pursuant to a general administrative order.

Article 9.9.4.8 Ex-officio determination of gas from renewable sources entered

1. If, in the opinion of the board of the emission authority, the requirements laid down in or pursuant to this section for entry in the GGE register for gas from renewable sources complying with Article 9.9.4.2 have not been met, the board may determine that quantity and the characteristics of that quantity ex officio up to 5 years after the calendar year of entry into accounts.

2. If the determination referred to in paragraph 1 results in the party entering having received too many green gas units for the gas produced and fed from renewable sources, the number of green gas units received in excess by the party entering shall be deducted from the account of that party entering.

3. If the determination referred to in paragraph 1 results in the party entering having received too few green gas units for the gas produced and fed from renewable sources, the number of green gas units which that party entering received too few of shall be credited to the account of that party entering. The board of the emission authority shall take into account Article 9.9.5.6.

4. Detailed rules on the application of paragraphs 1, 2 and 3 may be laid down by general administrative order.

5. If, as a result of the application of paragraph 2, the number of green gas units in the account of the party entering is less than one, it shall make up the shortfall within 3 calendar months.

Article 9.9.4.9 Disclosure of gas from renewable sources entered

1. Every year, the emission authority shall publish an overview showing the nature and origin of the gas from renewable sources recorded and the sustainability scheme used for each party entering gas from renewable sources. Article 5.1(1) and (2) of the Open Government Act shall apply mutatis mutandis.

2. Detailed rules shall be laid down by general administrative order on the content and manner of publication of the overview referred to in paragraph 1.

Section 9.9.5 GGE register

Article 9.9.5.1 The GGE register

1. There is an electronic GGE register.
2. The GGE register shall be managed by the emission authority.
3. The GGE register shall consist of the accounts referred to in Article 9.9.5.3.

Article 9.9.5.2 Rules on the GGE register

1. Rules on the operation, organisation, availability and security of the register shall be laid down by ministerial order.

2. The board of the emission authority may lay down conditions for the use of the GGE register.

Article 9.9.5.3 Account and facilities in the GGE register

1. At the request of the supplier, the board of the emission authority shall open to customers in its name an account with entry facility for green gas units, annual obligation facility for green gas units and green gas transfer facility.

2. Rules on the opening, maintenance and management of the account shall be laid down by ministerial order.

Article 9.9.5.4 Refusal to open an account and fraud and abuse in holding an account

1. The board of the emission authority may, where it has reason to believe that fraud or abuse has occurred or that the requirements laid down in or pursuant to this Title for holding an account in the GGE register or for the use of that account are not met:

- a. refuse to open an account;
- b. block an account or facility of that account;
- c. close an account.

2. The board of the emission authority may, at the request of the account holder, close an account.

3. Detailed rules on the application of paragraph 1 shall be laid down by general administrative order, and rules may be laid down on the application of paragraph 2.

4. The green gas units in a cancelled account lapse by operation of law.

Article 9.9.5.5 Fee for an account

1. It may be laid down by ministerial order that a fee is payable for the opening and maintenance of an account, in accordance with the rules to be laid down by that regulation.
2. In the order referred to in paragraph 1:
 - a. the amount of the fee shall not exceed what is necessary to cover the costs to be borne by the emission authority in carrying out the work for which the fee is due; and
 - b. rules on the manner in which the fee is paid shall be laid down.

Article 9.9.5.6 Saving green gas units

1. Part of the number of green gas units on 1 August of any calendar year in the account of a supplier to customers, after the board of the emission authority has applied Article 9.9.2.7(1)(b), shall be saved, and shall remain in the account of the supplier to customers for a subsequent calendar year.
2. By general administrative order, rules shall be laid down on the part, referred to in paragraph 1, of the green gas units which is saved and their entry in the GGE register.
3. Green gas units that are not saved shall lapse by operation of law.

Section 9.9.6 Compliance with sustainability and greenhouse gas emission reduction criteria and greenhouse gas emission reduction thresholds for gas from renewable sources

Article 9.9.6.1 Sustainability requirements for raw materials

1. The producer of gas from renewable sources shall determine and control:
 - a. the nature and quantity of the sustainable raw material it receives for the production of the gas from renewable sources;
 - b. the appropriate ratio between the nature and quantity of sustainable raw material used and the amount of gas from renewable sources it produces;and shall keep proper accounts on this.
2. Rules concerning paragraph 1 shall be laid down by ministerial order.

Article 9.9.6.2 Mass balance

1. A company certified according to a sustainability scheme shall carry out a mass balance on sustainable raw material and gas from renewable sources.
2. By ministerial order, companies may be exempted from the requirement in paragraph 1 and detailed rules on the mass balance referred to in paragraph 1 shall be laid down.

Article 9.9.6.3 Supervision of the certification sustainability or greenhouse gas emission reduction criteria

1. The board of the emission authority shall supervise a certification body to carry out independent audits on behalf of the sustainability scheme for the purposes of compliance with sustainability or greenhouse gas emission reduction criteria for raw materials for gas from renewable sources and gas from renewable sources.
2. The board of the emission authority shall, without delay, inform the sustainability scheme of any non-compliance identified with the sustainability and greenhouse gas emission reduction criteria.

C

In Article 18.2f(2), 'Titles 9.7 and 9.8' is replaced by 'Titles 9.7, 9.8 and 9.9'.

D

An article is inserted after Article 18.6b, reading as follows:

Article 18.6c

In the event of infringement of the provisions of or pursuant to 9.9.1.2, 9.9.1.3, 9.9.2.3, 9.9.2.7(1)(a) and (4), 9.9.4.8(5), 9.6.6.1 or 9.9.6.2, the board of the emission authority may impose an order subject to periodic penalty payments.

E

An article is inserted after Article 18.16s, reading as follows:

Article 18.16t

1. In the event of infringement of the provisions of or pursuant to Articles 9.9.1.2, 9.9.2.3, 9.9.2.7(1)(a) and (5), 9.9.4.1 to 9.9.4.3, 9.9.4.8(5), 9.9.6.1 or 9.9.6.2, the board of the emission authority may impose an administrative fine on the offender.

2. The administrative fine to be imposed on the basis of the articles referred to in paragraph 1 shall not exceed the amount laid down for the sixth category referred to in Article 23(4) of the Criminal Code or, if it is greater, 10 % of the turnover of the company or, if the infringement has been committed by an association of companies, of the combined turnover of the companies forming part of the association in the financial year preceding the decision imposing the administrative fine.

3. Article 18.16e(5) shall apply accordingly.

4. Where a party entering gas from renewable sources has committed three or more infringements of Articles 9.9.4.1 to 9.9.4.3, 9.9.4.8(5), 9.9.6.1 and 9.9.6.2, the board of the emission authority may decide that the party entering gas from renewable sources cannot, for a period to be determined by the board, record gas from renewable sources in accordance with Article 9.9.4.1.

ARTICLE II

The Economic Offences Act shall be amended as follows:

In Article 1a, 1° of the Economic Offences Act, in the sentence relating to the Environment Management Act, '9.9.1.2, 9.9.2.3, 9.9.2.7(1)(a) and (5), 9.9.4.1 to 9.9.4.3, 9.9.4.8(5), 9.9.6.1 or 9.9.6.2' is added after '9.7.4.13'.

ARTICLE III

The articles of this Act shall enter into force on a date to be determined by Royal Decree.

ARTICLE IV

This Act shall be cited as: Green Gas Blending Obligation Act.

I hereby order that this Act be published in the Official Gazette and that all Ministries, authorities, commissions and officials concerned ensure its proper implementation.

Issued by

The Minister for Climate and Energy Policy,