

DECISION No. 42/2002/QD-BCN OF OCTOBER 9, 2002 PROMULGATING THE REGULATION ON EXAMINATION OF ELECTRICITY SUPPLY AND USE, AND THE HANDLING OF VIOLATIONS OF ELECTRICITY TRADING CONTRACTS

THE MINISTER OF INDUSTRY

Pursuant to the Civil Code of October 28, 1995;

Pursuant to the Government's Decree No.74/CP of November 1, 1995 defining the functions, tasks, powers and organizational apparatus of the Ministry of Industry;

Pursuant to the Government's Decree No.45/2001/CP of August 2, 2001 on electricity activities and use;

Pursuant to the Government's Decree No.17/HDBT of January 16, 1993 of the Council of Ministers detailing the implementation of the Ordinance on Economic Contracts;

At the proposal of the director of the Department for Technical Examination and Supervision of Industrial Safety,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on Examination of Electricity Supply and Use and the Handling of Violations of Electricity Trading Contracts.

Article 2.- This Decision takes implementation effect 15 days after its signing and replaces Decision No.96/NL- GSDN of January 26, 1988 of the Minister of Energy promulgating the Procedures for handling of electricity use violations and Decision No.06/NL- GSDN of January 8, 1990 of the Minister of Energy promulgating the Procedures for handling of electricity supply violations.

All previous regulations contrary to this Decision are hereby annulled.

Article 3.- The provincial/municipal People's Committees, the Managing Board and the general director of Vietnam Electricity Corporation, the heads of the concerned agencies and units shall have to implement this Decision.

For the Minister of Industry
Vice Minister
BUI XUAN KHU

REGULATION ON EXAMINATION OF ELECTRICITY SUPPLY AND USE, AND HANDLING OF VIOLATIONS OF ELECTRICITY TRADING CONTRACTS

(Promulgated together with the Industry Minister's Decision No. 42/2002/QD- BCN of October 9, 2002)

Chapter I

GENERAL PROVISIONS

Article 1.- Regulation scope and objects

This Regulation prescribes the order and procedures of examination of electricity supply and use and handling the violations of electricity trading contracts, applicable to organizations and individuals involved in electricity supply and use.

Article 2.- Right to inspect electricity supply and use

1. The electricity inspectors and electricity examiners of the agencies performing the State management over electricity shall have the right to examine the electricity supply and use.
2. The electricity examiners of the electricity selling enterprises shall have the right to examine the electricity use.

Article 3.- Councils for handling of violations of electricity supply and use

1. The Councils for handling of the violations of electricity supply and use (hereinafter called the Councils for short) shall be set up under decisions of the presidents of the People's Committees of the provinces and centrally-run cities (hereinafter called the provinces) at the proposal of the directors of the provincial/municipal Industry Services.

2. The Councils shall have the responsibility to settle disputes over electricity trading contracts when the two contractual parties have failed to settle their disputes by themselves but it is not necessary to bring them to jurisdiction agencies for settlement and it is agreed upon in the electricity trading contracts to request the Councils to settle disputes, if any. The Councils shall perform the tasks of receiving and processing the dossiers, organizing the examination thereof, requesting examination (if necessary) and making conclusions to handle the violations of electricity trading contracts; settling complaints; transferring dossiers to functional agencies for settlement according to their competence if detecting acts of violation showing signs of administrative violations or criminal offenses.

3. Such a Council shall be composed of:

a) Its president: a leader of the provincial/municipal Industry Services.

b) Its members including:

- The head of the Electricity Management Section of the provincial/municipal Industry Service or an official specialized in electricity of the

provincial/municipal Industry Service, acting as standing member;

- The chief inspector or an electricity inspector of the provincial/municipal Industry Service;

- The representatives of State management agencies in charge of price, measurement, justice bodies, the Society for Standards and Protection of Consumers whose representative is invited by the Council president, to join the council depending on the practical situation of each locality and each specific case.

4. The Council presidents shall use the professional apparatuses of the provincial/municipal Industry Services to assist the Councils and shall be allowed to use the seals of the provincial/municipal Industry Services.

Article 4.- Interpretation of terms and phrases

In this Regulation, the following terms and phrases shall be construed as follows:

1. *Force majeure incidents* mean incidents, which happen objectively and cannot be controlled by the violating parties, are unforeseeable and unavoidable though all necessary possible measures have been applied. The force majeure incidents may be torrential rains, thunderstorms, hurricanes, whirlwinds, floods, thunders and thunderbolts, droughts, earthquakes, wars, sabotage or other cases prescribed by law.

2. *Electricity stealing in the act* means act of stealing electricity, which is detected in the act with clear evidence (scene, material evidences).

Chapter II

ELECTRICITY EXAMINERS

Article 5.- Tasks and powers of the electricity examiners of the Ministry of Industry

The electricity examiners of the Ministry of Industry shall perform the tasks and exercise the powers, which are assigned by competent bodies, including:

1. Examining the observance of the State's regulations on electricity supply and use throughout the country.
2. Examining the task performance by electricity examiners of the provincial/municipal Industry Services and electricity examiners of electricity selling enterprises.
3. Examining the electricity suppliers' observance of the State's regulations on electricity prices, safe and stable electricity, ensuring electricity quantity and quality for electricity buyers.
4. Examining the electricity users' observance of the State's regulations on electricity prices, the lawful, safe, thrifty and efficient use of electricity.
5. Requesting the electricity suppliers or the electricity users to stop operating the equipment which fail to ensure safety and technical standards and immediately switch off all operating electric equipment when detecting the danger of incidents, fires or unsafety to human life.
6. Requesting relevant organizations and individuals to supply necessary information in service of the work of examination and handling.
7. Making records on examination of electricity supply or records on examination of electricity use (hereinafter referred collectively to as examination records) when conducting the examination of organizations and/or individuals that supply or use electricity and transfer them to functional agencies as provided for in Article 31 of this Regulation.
8. Coordinating with relevant agencies in verifying, making records and proposing settlement of, complaints and denunciations about electricity supply and use.

Article 6.- Tasks and powers of the electricity examiners of the provincial/municipal Industry Services

The electricity examiners of the provincial/municipal Industry Services shall perform tasks and exercise powers, which are assigned by competent agencies, including:

1. Examining the observance of the State's regulations on electricity supply and use in areas under their respective management.
2. Examining the performance of tasks by electricity examiners of electricity selling enterprises operating in the provinces.
3. Examining the electricity suppliers' observance of the State's regulations on electricity prices, safe and stable electricity supply, ensuring electricity quantity and quality for the electricity buyers.
4. Examining the electricity users' observance of the State's regulations on electricity prices, lawful, safe, thrifty and efficient use of electricity.
5. Requesting the electricity suppliers or users to stop operating the equipment which fail to ensure safety and technical standards and immediately switch off the operating electric equipment upon detecting the danger of incidents, fires or unsafety to human life.
6. Requesting relevant organizations and individuals to supply necessary information in service of the work of examination and handling.
7. Making records of examination when examining electricity- supplying or - using organizations and individuals and transferring the examination records to functional bodies according to the provisions in Article 31 of this Regulation.
8. Coordinating with relevant agencies in verifying, making records of and proposing the settlement of, complaints and denunciations about electricity supply and/or use.

Article 7.- Tasks and powers of the electricity examiners of electricity-selling enterprises

The electricity examiners of electricity-selling enterprises shall perform the tasks and exercise the powers, which are assigned by directors of the enterprises, including:

1. Examining the performance of electricity trading contracts and the use of electricity by organizations and individuals within the scope of their business management.

2. Examining the electricity buyers' observance of the reduction of the current electricity output to the limited output according to the electricity sellers' notices or upon the occurrence of force majeure incidents on the electric system.
3. Requesting the electricity buyers to strictly observe the prescribed regimes and policies on electricity use.
4. Requesting the electricity buyers to stop operating the equipment which fail to ensure safety and technical standards and immediately switch off all operating electric equipment upon detection of danger of incidents, fires or unsafety to human life.
5. Requesting the electricity buyers to supply necessary information in service of the examination work.
6. Making records of examination when examining electricity-using organizations and/or individuals and transferring the examination records to functional bodies according to the provisions in Article 31 of this Regulation.

Article 8.- Criteria of electricity examiners

1. The criteria of electricity examiners of the State management agencies in charge of electricity:

- a) Having university or higher degree in electricity;
- b) Having worked in the field of State management over electricity or performed the job of technical management or electricity business for five years or more;
- c) Having been fostered with knowledge on the State management, on legislation on electricity supply and use;
- d) Firmly grasping the technical process and standards on electricity, electricity safety, the regulations on examination of electricity supply and use. Being capable of conducting study, detection, analysis, synthesis and proposing settlement measures according to functions of the examination work;
- e) Having good health, good morality, high sense of responsibility, being honest, fair and just and objective.

2. Criteria of electricity examiners of the electricity-selling enterprises:

- a) Having intermediate or higher degree in electricity;
- b) Having worked in the field of electricity grid management, distribution and electricity business for three years or more;
- c) Firmly grasping the standards, process, technical norms, electricity safety as well as current regulations on electricity supply and use. Being capable of conducting study, detection, analysis, synthesis and proposing settlement measures according to the function of the examination work;
- d) Having good health, good morality, high sense of responsibility, being honest, fair and objective.

Article 9.- Fostering, testing and examining electricity examiners

1. The Department for Technical Examination and Supervision of Industrial Safety shall organize the fostering, testing and examining electricity examiners of the Industry Ministry, provincial/municipal Industry Services, Vietnam Electricity Corporation, regional electricity-selling enterprises, report such to the Minister of Industry for decision on the recognition so as to effect the granting of examiner's cards according to the provisions in Article 11 of this Regulation.

2. The provincial/municipal Industry Services shall organize the fostering, testing and examining electricity examiners of electricity-selling enterprises in their respective provincial/municipal areas and report such to the presidents of the provincial/municipal People's Committees for decision on the recognition so that the electricity-selling enterprises grant electricity examiner's cards according to the provisions in Article 11 of this Regulation.

Depending on the conditions of their respective localities, the directors of the provincial/municipal Industry Services shall use their professional apparatuses or invite fully qualified and capable experts to foster, test and examine electricity examiners.

3. The examination and test shall be carried out periodically once every three years; the electricity examiners shall be granted cards only after they meet the examination and test requirements.

Article 10.- Competence to grant examiner's cards

1. The examiner's cards of examiners of the Ministry and provincial/municipal Services of Industry shall be granted by the Minister of Industry at the proposal of the director of the Department for Technical Examination and Supervision of Industrial Safety.

2. In order to unify and enhance the effect of management of the contingent of electricity examiners of the electricity-selling enterprises and to ensure the legitimate rights and interests of citizens as well as social order and safety:

- a) The Minister of Industry shall decide to recognize the electricity examiners of Vietnam Electricity Corporation and the electricity-selling enterprises according to regions, zones at the proposal of the director of the Department for Technical Examination and Supervision of Industrial Safety. Based on the decisions of the Minister of Industry, the general director of Vietnam Electricity Corporation shall grant cards to electricity examiners of the Corporation and the electricity-selling enterprises in regions and zones managed by the Corporation; the directors of the electricity-selling enterprises in regions and zones not managed by Vietnam Electricity Corporation shall grant cards to electricity examiners under their respective management.

- b) The provincial-level People's Committee presidents shall decide to recognize the electricity examiners of the electricity-selling enterprises within their respective provinces at the proposals of the provincial Services of Industry. Based on the decisions of the provincial-level People's Committee presidents, the directors of the electricity-selling enterprises shall grant cards to their electricity examiners.

Article 11.- Order and procedures for granting and withdrawal of cards of electricity examiners

1. The order and procedures for granting of electricity examiner's cards:

- a) The heads of the units with function to examine the electricity supply and use shall recruit the electricity examiners of their units according to the criteria prescribed in Article 8 and have the responsibility to manage the recruited persons;

b) The units with function of examining the electricity supply and use shall sum up the lists of electricity examiners and the dossiers of requesting the recruitment thereof and send to various agencies, concretely as follows:

- The dossiers on electricity examiners of the provincial/municipal Industry Services, Vietnam Electricity Corporation and the electricity-selling enterprises in regions and zones to the Department for Technical Examination and Supervision of Industrial Safety.
- The dossiers on electricity examiners of the electricity-selling enterprises in a province shall be sent to the provincial Industry Service.

c) The dossiers on electricity examiners shall include:

- The written request for granting of electricity examiner's card of the head of the unit with function to examine the electricity supply and use;
- The valid copy of graduation paper;
- The certificate of satisfaction of the requirements of the electricity examiner's examination;
- The curriculum vitae with remarks and evaluation of the unit head.

2. The procedures for withdrawal of electricity examiner's cards:

a) The electricity examiner's card shall be withdrawn in the following cases:

- The electricity examiner's card has expired.
- The electricity examiners have been transferred to other jobs or to other localities.
- The electricity examiners have committed serious errors in the examination of electricity supply and use.

b) Those who have their electricity examiner's cards withdrawn are obliged to return their cards to the heads of their immediate managing units for transfer to the card-issuing agencies. Where the electricity examiners have committed serious errors in the work of examination of electricity supply and use, the heads of their immediate managing agencies have the right to suspend their work and temporarily seize their cards and at the same time propose in writing the card-issuing agencies or enterprises to consider and withdraw their cards.

c) Electricity examiner's card-issuing agencies and enterprises are entitled to withdraw the issued cards and notify the concerned agencies of the lists of electricity examiner's cards which have already been withdrawn or already expired. Where enterprises withdraw the cards, they must report such to the agencies which have issued decisions to recognize the electricity examiners.

Article 12.- Card form and use duration of electricity examiner's cards

1. The electricity examiner's card sizes 75 mm x 100 mm, which is prescribed in Appendix 1 to this Regulation and valid for three years.
2. The electricity examiners of the State management agencies shall use cards in pink.
3. The electricity examiners of the electricity-selling enterprises shall use cards in yellow.

Article 13.- The legal responsibility of electricity examiners

The electricity examiners shall be accountable before law for their acts in performing the examination tasks. If electricity examiners violate law provisions, they, depending on the seriousness of their violations, may have their cards withdrawn under the provisions in Article 11 of this Regulation, be disciplined, administratively handled or examined for penal liability; if they cause damage, they must pay compensation therefor according to law provisions.

Article 14.- Responsibilities of the Department for Technical Examination and Supervision of Industrial Safety and the provincial/municipal Industry Services

1. The Department for Technical Examination and Supervision of Industrial Safety is the advisory body assisting the Minister of Industry in providing uniform professional guidance to the force of electricity examiners, including:

a) Organizing the examination and supervision of the observance of regulations on electricity supply and use examination and handling violations of electricity-trading contracts by State management agencies in charge of electricity in localities and electricity-trading enterprises;

b) Organizing the professional fosterings, tests and examinations for electricity examiners who have been granted cards by the Industry Ministry;

c) Receiving dossiers of request for granting of cards and withdrawing electricity examiner's cards according to the provisions in Article 11 of this Regulation; examining and supervising the granting and withdrawal of electricity examiner's cards by localities and enterprises.

2. The provincial/municipal Industry Services shall act as advisory bodies assisting the provincial/municipal People's Committees in providing professional guidance on the work of electricity supply and use examination in the localities, including:

a) Organizing the examination and supervision of the observance of regulations on electricity supply and use examination and handling violations of electricity trading contracts by electricity-selling enterprises in the provinces;

b) Organizing professional fosterings, tests and examination for electricity examiners for enterprises to grant cards as prescribed;

c) Receiving dossiers on electricity examiners of electricity-selling enterprises and submitting them to the provincial People's Committee presidents for decision on recognition so that the enterprises grant electricity examiner's cards as provided for in Article 11 of this Regulation. Examining and supervising the card granting and withdrawal by electricity-selling enterprises in the localities.

Chapter III

ACTS OF VIOLATION IN ELECTRICITY SUPPLY AND USE

Article 15.- Acts of violating electricity-trading contracts

1. Acts of contractual violation by electricity sellers include:

- a) Delaying the electricity supply according to time limits agreed upon in the signed electricity trading contracts;
- b) Failing to ensure the electricity quality, the stability in electricity supply under the signed contracts, except for force majeure cases;
- c) Subjectively causing incidents on power grids, thus directly leading to the damage of electric equipment of the electricity buyers;
- d) Wrongly inscribing the electricity numbers, wrongly inscribing the invoices, selling electricity not at the prescribed prices;
- e) Delaying the payment of compensations for damage caused by themselves to the electricity buyers as agreed upon in the contracts;
- f) Violating other agreements in the electricity-trading contracts.

2. Acts of contractual violation by the electricity buyers, including:

- a) Delaying the performance of already signed contracts for cases of electricity wholesale for resale to other electricity-using organizations and/or individuals;
- b) Using electricity for wrong purposes at prices higher than the prices agreed upon in the contracts;
- c) Causing electricity grid incidents or damage to the equipment of the electricity sellers;
- d) Refusing to reduce power when so requested by the electricity sellers upon the occurrence of force majeure incidents;
- e) Using electricity beyond the capacities registered in the additional charge diagrams inscribed in the electricity- trading contracts at peak hours;
- f) Delaying the payment of electricity charges according to the provisions in Clauses 5 and 6 of Article 39 of Decree No.45/2001/ND-CP of August 2, 2001 of the Government on electricity activities and use without plausible reasons;
- g) Delaying the payment of compensations for damage caused by themselves to the electricity sellers as agreed upon in the contracts;
- h) Failing to immediately notify the electricity sellers of damage to electricity meters or doubtful inaccurate operation thereof which lead to wrong calculation on invoices, thus causing losses to the electricity sellers;
- i) Stealing electricity in all forms;
- j) Violating other agreements in the electricity-trading contracts.

Article 16.- All acts of administrative violation and criminal offenses in electricity supply and use shall be handled according to law provisions.

Chapter IV

EXAMINATION AND MAKING RECORDS ON EXAMINATION OF ELECTRICITY SUPPLY AND USE

Article 17.- Forms of examination of electricity supply and use

- 1. The examination of electricity supply and use against organizations and individuals shall be conducted in forms of regular and irregular examinations.
- 2. Regular examination means form of examination notified in advance to the electricity-supplying or -using organizations or individuals. The regular examination shall take place for no more than once a year for the same content against an organization or individual that supplies or uses electricity.
- 3. Irregular examination means form of examination not notified in advance and conducted upon the request of the competent State management bodies or enterprises.

When conducting irregular examination of electricity use, the examiners are only allowed to enter people's houses to examine matters related to the use of electricity such as electricity safety, the electricity using purposes, electricity stealing and the provisions of the electricity-trading contracts. If the examination is carried out between 10 p.m. and 6 a.m. of the following day, the examiners must coordinate with the local police or local administration and must conduct the examinations strictly according to law provisions.

Article 18.- Procedures for examination of electricity supply and use

- 1. Only competent persons defined in Article 2 of this Regulation can conduct examinations and make examination records within the scope of their management.
- 2. The examining party must consist of at least two persons. The person in charge must produce the electricity examiner's card or electricity inspector's card and notify the examined party of the examination contents. The electricity supply and/or use examination must comply with the provisions of law and the agreements in the electricity-trading contracts.
- 3. The examination must be conducted in the presence of the examined party. Where the examined party is absent, the electricity examiners or inspectors must invite two witnesses with full civil act capacity to witness the examination.
- 4. When detecting acts of stealing electricity in the scene, the electricity examiners are allowed to apply necessary measures to protect the scene before producing their electricity examiner's cards and must bear responsibility before law for their deeds.
- 5. The electricity examiners must make records on examination and inscribe fully the examined contents according to set form in Appendix 2 or Appendix 3 to this Regulation. Within two working days at most, the records must be handed to the electricity sellers or the State management agencies in charge of electricity for settlement according to competence.

Article 19.- Examination records

- 1. An examination record shall be made in three copies according to set form and be numbered ordinally for management; the examining party shall keep two copies and the examined party shall keep one. All used records, including wrongly inscribed and non-used ones, must be

managed and fully kept according to regulations.

2. Upon detecting acts of violating the electricity supply or use, the records thereon must describe clearly, fully and accurately each act of violation.

3. The examination records must be inscribed clearly with the full names of persons participating in the examination, the persons of the examined party. If the examined party disagrees with the contents inscribed in the examination records, they shall be entitled to write their opinions at the end of the records.

4. The examination records must be signed by the electricity examiners, the persons of the examined party and the witnesses (if any). Where the examined party refuses to sign the records, the record makers shall inscribe in the records the reasons therefor, and these records are still legally valid for handling.

Article 20.- Contents of records on electricity supply examination

The electricity supply examination records must be inscribed fully with the examined contents, including:

1. The electricity quality:

a) Voltage:

The voltage is determined by voltage-measuring device directly or indirectly, which is expertized and lead-sealed or affixed with expertise stamps by functional organization. The voltage is determined on the secondary side of the transformer supplying electricity to the buyers or at positions mutually agreed upon by the two sides in the contracts.

b) Frequency:

Frequency is determined by standard frequency measuring devices expertized and lead-sealed or affixed with expertise stamps by functional agencies.

2. The electric energy-measuring or-counting system: electricity meters, voltmeters, ampere meters, wire network diagrams, the intactness of lead seals of the electric energy-measuring or-counting system; records on installation and/or removal of electricity meters, electricity energy-measuring or-counting devices as well as other relevant documents.

3. The technical conditions of electricity grids including electric equipment, conducting wires, porcelain beams, transformers and other relevant devices.

4. Responsibility for management of electricity corridor safety.

5. Electricity-trading contracts: The implementation of terms inscribed in the contracts such as electricity prices, resistance capacity trading, electricity supply time, electricity sellers' obligations.

6. The observance of regulations on order and procedures for cessation of electricity supply.

Article 21.- Contents of electricity use examination records.

The electricity use examination records must be inscribed fully with main examined contents, including:

1. Voltage:

The voltage is determined directly or indirectly by voltage measuring devices expertised and lead-sealed or affixed with expertise stamps by functional bodies. The voltage is determined on the secondary side of the transformer supplying electricity to the buyers or at positions mutually agreed upon in the electricity trading contracts by the two parties.

2. Capacity:

Capacity is determined by way of directly measuring the instant capacity value. Devices used for measuring capacity must be expertised and lead-sealed or affixed with expertise stamps by functional bodies.

The peak nighttime capacity shall be measured thrice at the time of examination, then taking the biggest capacity value of one of the three measuring times.

3. Electric energy-measuring or - counting system: electricity meters, voltmeters, ampere meters, wire network diagrams, the intactness of lead seals of the electric energy- measuring or- counting system; records on installation and/or dismantlement of voltmeters and/or electric energy-measuring or - counting equipment as well as other relevant documents.

4. The technical conditions of electricity grids, including the conditions of electric equipment, conducting wires, porcelain beams, transformer stations and enclosed technical dossiers.

5. The situation of violation of regulations on electricity corridor safety.

6. The implementation of agreements reached in electricity-trading contracts regarding the electricity using purposes, resistance capacity trading, electricity charge payment, additional charge diagrams, the number of households using the same electricity meter and the electricity buyers' obligations to implement law provisions on electricity supply and use.

7. For cases of stealing electricity, the records thereon shall be made according to the following contents:

a) Recording clearly acts of stealing;

b) Drawing illustrations of electricity stealing (illegal hook-up, de-effecting voltmeters) together with other material evidences such as photos, video tapes (if any), enclosed with the records thereon;

c) Parameters relevant to calculation and handling of electricity use violations;

d) If the examining parties have to temporarily seize the means used for stealing electricity, they shall have to seal off such means (the sealing

papers must be signed by the examining parties and the examined parties);

e) Depending on the nature and seriousness of specific electricity use violation acts, the examining parties must apply measures to keep intact the scenes, request the electricity users to redress their violations or request the electricity sellers to switch off electricity so as to dismantle means used for stealthy hook-up, and re-connect electricity supply wires.

Article 22.- Examination of electric energy-measuring or -counting system

The examination of electric energy-measuring or -counting system (electricity meters, voltmeters, ampere meters, wire network diagrams) shall be carried out according to the following regulations:

1. In cases of detecting that the electricity buyers or sellers have committed acts of damaging or falsifying the electric energy- measuring or counting system, the examining parties shall have to clearly inscribe the violation acts and conclusions in the examination records.
2. If the electric energy-measuring or-counting systems are out of order or suspected of abnormal operation and the examining parties deem it necessary to dismantle the electric energy- measuring or - counting devices for examination, the removal of such devices must be carried out strictly according to the following regulations:
 - a) Notifying the electricity sellers of the examining parties request for removal of the electric energy-measuring or - counting systems so that the former shall know and appoint people to do that;
 - b) The examination records must describe in detail the status quo and abnormal manifestations of the electric energy-measuring or- counting systems and the reasons for dismantling them;
 - c) The seized electricity-measuring or counting devices as well as lead seals must be kept intact, packed and sealed off (the seal papers must be signed by the examining party, the electricity buyers and sellers). The examining parties shall have to hand over the record on dismantlement and installation of electricity meters and electricity-measuring or-counting devices to the representatives of the examined parties, and the records must clearly state the time and venue for the parties to come together and witness the examination for verification.
3. The expertise for verification of electricity-measuring or- counting devices must be witnessed by the examined parties and recorded in writing.
4. Where the lead seals must be cut off, such must necessarily be recorded in writing to the witness of the electricity buyers and sellers. If the examined parties disagree with the expertise conclusions, the measuring or counting devices must be sealed off (the sealing papers must be signed by the examining party as well as the electricity buyers and sellers before they are carried to competent State bodies for settlement according to regulations.
5. The methods of determining the electricity output when the electricity meters are lost, operate inaccurately or cease operating shall comply with the provisions in Article 40 of the Government's Decree No.45/2001/ND-CP of August 2, 2001 on electricity activities and use.

Chapter V

HANDLING VIOLATIONS OF ELECTRICITY TRADING CONTRACTS

Article 23.- The order for handling violations of electricity-trading contracts

1. After receiving the examination records, the electricity buyers and sellers shall have to reach agreement on the payment of compensations, fines for violations as committed in the contracts.
2. Within seven days as from the time of receiving the examination records, if the two parties fail to reach agreement on fine amounts, compensation money, each party may send dossiers to the Council if the contracts contain the agreement to request the Council to settle such cases;

Within ten days at most as from the time of receiving the complete dossiers, the Council president shall organize the conciliation between the two parties or issue decisions to request the handling.

3. If either party disagrees with the conclusions of the Council, each party may initiate a lawsuit at courts or arbitration bodies.
4. In the course of implementation, if signs of administrative violations are detected, the violated parties or the Council shall forwards the dossiers to the Electricity Inspectorate under the provincial/municipal Industry Services for settlement; if elements constituting criminal offenses are detected, the dossiers shall be transferred to the investigating agencies for settlement according to the provisions of law.

Article 24.- Principles for handling violations of electricity trading contracts

1. The levels of damage compensation and contractual violation fine must be agreed upon in the electricity- trading contracts.
2. The contract- violating party must pay to the violated party the fine for contractual breaches and compensations for damage, if any, caused directly by their violating acts.
3. In an electricity-trading contract, a type of contractual violation act shall be subject to only a type of fine imposed by the violated party. If violations of many types are committed simultaneously, the violating party shall be subject to the highest fine amount according to the fining level agreed upon by the parties in the contracts. Where the contracts fail to inscribe the fine level, the fine bracket prescribed in this Regulation shall apply. Where the fine levels have not yet been prescribed in this document, the fine levels shall comply with the law provisions on contracts.
4. The methods of determining the contractual breach value, the damage compensation levels, the fine level for each violation act are prescribed in Articles 25, 26, 27 and 28 of this Regulation; if other damage arises, the two parties shall negotiate by themselves.
5. Where acts of violating the electricity-trading contracts have not yet been specified in this Regulation, they shall be handled according to law provisions.
6. The time limit for payment of damage compensations shall be thirty days at most, as from the date of accepting the request for damage compensations, the date the Council makes the conclusions or the date of issuing decisions by courts or arbitration bodies; if past the above-prescribed time limit, the violating party shall have to bear interests for delayed payment on the compensation amounts as provided for by law.

Within 15 days as from the date of receiving the paper claiming the fines for violation, the violating party shall have to pay the contractual violation

finest to the violated party; if past such time limit, the violating party shall have to bear the interests for delayed payment on the fine amounts as provided for by law.

7. The management and use of fines for violations of electricity-selling contracts shall comply with the guidance of the Ministry of Industry and the Ministry of Finance on management and use of fines in electricity activities and use.

Article 25.- Handling acts of violating daily-life electricity trading contracts

The handling of acts of violating daily-life electricity trading contracts shall be based on the agreements in such contracts signed between the electricity buyers and sellers.

1. Where the electricity buyers commit acts of stealing electricity in any form, they shall be handled as follows:

- a) The electricity buyers shall have to pay compensations for damage caused to the electricity sellers, being equal to the value of the lost electricity output caused by acts of electricity stealing. The methods of calculating compensations are prescribed in Article 28 of this Regulation.
- b) The electricity buyers shall have to pay to the electricity sellers the fine amount for contractual violations, being equal to 5% of the compensation for the damage caused by acts of electricity stealing.

2. Delaying or failing to pay damage compensations to the violated party:

Within fifteen days after receiving the request for damage compensations, if the violating parties do not reply nor accept such request, the violated party may transfer dossiers to the Council or court for settlement.

Article 26.- Handling acts of violating economic contracts by the electricity sellers:

1. Delaying the electricity supply according to the time limit agreed upon in the signed electricity-trading contracts:

- a) Paying damage compensations directly to the electricity buyers, being equal to the necessary expenditure amounts paid by the electricity buyers due to the acts of violation;

b) Levels of fine for contractual violation:

A fine being equal to 2% of the value of the contract shall be imposed for the first 10 days; the additional 1% for every 10 subsequent days until the total fine amount reaches 8% of the value of the violated economic contract for the first 10 days; in case of total failure to perform the signed economic contracts, a fine of up to 12% of the contractual value shall be imposed.

The value of violated contracts shall be determined as equal to the value of the electricity volume agreed upon in the contracts, calculated from the time committed to supply electricity till the time the electricity is supplied. The value of violated contracts shall be calculated on the basis of the registered capacity, the time of using electricity in the day, the electricity prices inscribed in the electricity trading contracts and the number of delayed days counted from the time of committing to supply electricity to the time the electricity is supplied, according to the following formula:

$$T = A \times g \times n$$

In which:

- T : The value of the contractual violation (VND).

- A: The daily electricity volume determined on the basis of parameters registered in the electricity- trading contract (the registered capacity multiplies by the use duration in the day).

- g: The electricity price inscribed in the electricity-trading contracts (VND/kWh).

- n: The number of delayed days.

2. Acts of failing to ensure the electricity quality already inscribed in the contracts, causing damage to the electricity buyers (excluding force majeure incidents):

- a) Damage compensation paid directly to the electricity buyers, being equal to the value of compensation for damage of the equipment caused by violation acts;

b) Fine for contractual violation being equal to 10% of the damage compensation amount.

3. Subjectively causing electricity grid incidents, directly leading to the damage of equipment of the electricity buyers:

- a) Direct damage compensation being equal to the value of compensation for the damage of the equipment on the basis of agreement reached with the electricity buyers;

b) Fine for contractual violation, being equal to between 10% and 12% of the damage compensation amount.

4. Falsely inscribing the electricity numbers, making wrong calculations in the invoices

- a) In case of causing losses to the electricity buyers: The electricity sellers shall have to refund to the electricity buyers the electricity volume value inscribed in excess or the electricity money amounts calculated in excess;

b) In case of causing losses to the electricity sellers: The electricity sellers shall have to negotiate with the electricity buyers on the value and mode of payment of money for the electricity volume not recorded or the electricity charge amount calculated inadequately to the electricity sellers;

c) Fine for contractual breaches, being equal to 5% of the refunded money amount.

5. Sale at prices other than the prescribed prices

- a) In case of causing losses to the electricity buyers: The electricity sellers shall have to refund to the electricity buyers the electricity charge amounts calculated in excess;

In case of causing losses to the electricity sellers: The electricity buyers shall have to refund to the electricity sellers the electricity charge amount not calculated.

In case of failure to clearly determine the time for application of wrong prices, the duration of one year shall be counted.

b) Fine for contractual breaches, being equal to 5% of the refunded charge amount.

6. Delaying or failing to compensate the electricity buyers for their own faults:

Within 15 days after receiving the compensation demand, if the electricity sellers fail to reply or accept such demand, the electricity buyers may transfer violation dossiers to the Council, courts or arbitration bodies for settlement.

7. The violation of other agreements in the electricity- trading contracts shall be handled according to law provisions on economic contracts.

Article 27.- Handling acts of violating economic contracts by electricity buyers

1. Delaying the performance of the contracts signed with the electricity sellers in case of buying wholesale electricity for resale to electricity-using organizations and/or individuals:

a) Directly paying compensations for the losses caused to the electricity sellers, being equal to the necessary amounts paid by the electricity sellers due to violation acts;

b) Fine levels for contractual breaches:

The fine for contractual breaches being equal 2% of the value of the violated economic contracts shall be imposed for the first 10 days and the additional 1% for every subsequent 10 days until the total fine amount reaches 8% of the value of the violated economic contracts for the first 10 days; in case of total failure to perform the signed economic contracts, a fine level of up to 12% of the contractual value shall be imposed.

The value violated economic contracts shall be determined as equal to the value of the electricity volume agreed upon in the contracts, calculated from the time committed to perform the contracts till the time the contracts are performed. The contractual violation value shall be calculated on the basis of the registered capacity, the electricity using duration in the day, the electricity prices inscribed in the electricity trading contracts and the number of delayed days counting from the time committed to perform the contracts till the time the contracts are performed, according to the following formula:

$$T = A \times g \times n$$

In which:

- T: The value of the violated contract (VND);

- A: The daily electricity volume determined on the basis of parameters registered in the electricity-trading contracts (the registered capacity multiplies by the use duration in the day);

- g: The electricity price inscribed in the electricity-trading contracts (VND/kWh);

- n: The number of delayed days.

2. Using electricity for wrong purposes at prices higher than the prices agreed upon in the contracts:

a) Paying damage compensation to the electricity sellers, being equal to the price difference amount during the time of violating the electricity use purpose. In case of failure to determine clearly the time of applying wrong prices, the duration of one year shall be counted;

b) A contractual violation fine being equal to 5% of the damage compensation amount, for cases of first-time violation;

c) A contractual violation fine being equal to 10% of the damage compensation amount, for cases of violation for the second time on.

3. Causing incidents to electricity grids or damaging equipment of the electricity sellers:

a) Paying direct compensation equal to the value of compensation for the damage of equipment on the basis of agreement reached with the electricity sellers;

b) A contractual violation fine of between 10% and 12% of the damage compensation amount.

4. For acts of using electricity beyond the registered capacity in the additional charge diagrams inscribed in the electricity-trading contracts at peak hours:

a) The electricity buyers shall have to pay damage compensation to the electricity sellers, being equal to 10% of the value of the violated contract;

b) The electricity buyers shall have to pay contractual violation fine being equal to 12% of the value of the violated contract to the electricity sellers.

The value of the violated contract shall be determined according to the following formula:

$$T = A \times g \text{ (VND)}$$

In which:

- T is the value of the violated contract (VND);

- g is the electricity sale price at evening peak hours (VND/kWh).

- A is the electricity volume violated during the peak hours (kWh), which is calculated as follows: A is determined as equal to the volume violated during the peak hours (DP) multiplying by the number of evening peak hours (4 hours) of the violation days in the month.

c) If the electricity buyers deliberately violate the contracts, the electricity sellers may stop supplying electricity until the end of the peak hours.

5. Failing to reduce capacity at the request of the electricity sellers due to force majeure incidents:

a) Pecuniary fine at level agreed upon in the electricity-trading contracts by the two parties;

b) If the electricity buyers deliberately commit violations, the electricity sellers may stop supplying electricity until they strictly abide by the capacity reduction.

6. Delayed payment of electricity charges:

To comply with the provisions in Article 39 of the Government's Decree No.45/2001/ND-CP of August 2, 2001 on electricity activities and use.

7. Delay in compensation payment to the electricity sellers for their own faults:

Within 15 days after receiving the damage compensation demand, if the electricity buyers fail to reply or to accept such demand, the electricity sellers may transfer the violation dossiers to the Council, economic courts or arbitration bodies for settlement.

8. Electricity stealing in all forms:

a) The electricity buyers shall have to pay compensations to the electricity sellers, being equal to the value of electricity volume lost due to acts of electricity stealing. The methods of calculating electricity volume for compensations are prescribed in Article 28 of this Regulation;

b) The electricity buyers shall have to pay to the electricity sellers the contractual violation fine amount equal to 12% of the damage compensation amount.

9. Failing to immediately notify the electricity sellers of the damage to electricity measuring/counting systems or their doubtful inaccurate operation, thus leading to wrong invoice calculation and causing losses to the electricity sellers.

The electricity buyers shall have to refund the deficit electricity money amount to the electricity sellers.

10. The violation of other agreements in the electricity-trading contracts shall be handled according law provisions on economic contracts.

Article 28.- Methods of determining compensation electricity volume and compensation money for acts of electricity stealing.

1. The compensation electricity volume shall be determined according to the following formula:

$$ABT = ASN - AHD \text{ (kWh)}$$

ABT: The total compensation electricity volume (kWh);

ASD: The total electricity volume consumed by equipment in the violation duration (kWh);

AHD: The total electricity volume reflected on the electricity money payment invoice in the violation duration (kWh).

2. The compensation money shall be determined according to the following formula:

$$T = ABT \times g \text{ (VND)}$$

T: The compensation money (VND);

ABT: The compensation electricity volume (kWh);

g: The electricity price (at normal hours) at the corresponding time in the duration of calculation of compensation, including VAT. For violations of daily-life electricity- trading contracts, the electricity price for calculation shall be the progressive daily-life electricity price at the highest level (VND/kWh).

3. The total electricity volume consumed by equipment shall be determined according to the following formula:

$$ASD = (P_1 \times t_1 + P_2 \times t_2 + \dots + P_n \times t_n) \times n \text{ (kWh)}.$$

ASD: The total electricity volume consumed by equipment (kWh);

P₁, P₂..., P_n: The volume consumed by each equipment (kW);

t₁, t₂..., t_n: The use duration in the day of each equipment (h/day);

n: The number of days calculated for compensation (days).

a) The consumption volume of the equipment is the highest volume calculated according to one of the following methods:

- The total volume measured at the time of examination;

- The highest volume in the registered additional charge diagram registered in the electricity-trading contract;

- The capacity of the equipment on the list of equipment capacity registered in the electricity-trading contracts (for economic contracts);

- The total volume of electricity-consuming equipment inscribed in the examination record (the capacity inscribed on equipment labels by manufacturers can be used).

b) The use duration in the day of each equipment (t) shall be determined on the basis of the examination records; if the use duration can not be determined in the examination records, Appendix 5 to this Regulation shall apply;

c) The number of days calculated for compensation (n) shall be determined as follows:

- It is counted from the date of committing acts of electricity use violation to the time of detection thereof (minus the number of hours when electricity is switched off, holidays, the number of hours of power blackout due to incidents and total cessation of production for repair);

- Where the number of compensation-calculating days is not determined specifically, it shall be counted from the date of the latest electricity use examination to the time of detection, but not exceed 12 months (minus the number of hours when electricity is switched off, holidays, the number of hours of electricity blackout due to incidents and total cessation of production for repair);

- For organizations and individuals using daily-life electricity, the daily electricity volume can be calculated as equal to the consumed electricity output average of three periods with highest bills in the year.

Article 29.- Stopping the electricity supply due to violation of electricity use

The cessation of electricity supply due to violation of electricity use shall be effected by the electricity sellers according to the regulations on order and procedures for electricity supply cessation, issued together with Decision No.52/2001/QĐ-BCN of November 12, 2001 of the Minister of Industry.

Chapter VI

MANAGEMENT OF DOSSIERS AND PROOFS ON ELECTRICITY SUPPLY AND USE VIOLATIONS, REPORTING REGIME

Article 30.- Dossiers and proofs on electricity supply and use violations

1. The dossiers and proofs on electricity supply violations shall include:

- a) The records on electricity supply examination;
- b) Means used for violations and proofs (if any);
- c) The written calculation of compensation money and fines for acts of violating law provisions on electricity supply;
- d) Other relevant papers, documents and material evidences.

2. The dossiers and proofs on electricity use violations shall include:

- a) The written records on electricity use examination;
- b) Means used for violations and proofs (if any);
- c) The written records on examination of electricity measuring or counting devices (if any), written records on expertise of electricity-measuring or counting devices;
- d) The electricity-stealing diagram (hook-up, de-effecting electricity-measuring or counting devices), photos, video tapes describing acts of electricity use violation (if any);
- e) The written calculation of compensation money, fines for acts of violating law provisions on electricity use;
- f) The removed electricity-measuring or- counting devices (if any);
- g) Other relevant papers, documents and material evidences.

Article 31.- Order for receiving, archiving dossiers on handling of electricity supply and use violations

1. The examination written records and violation proofs made by the electricity examiners of the electricity sellers:

- a) Where the electricity buyers do not breach the electricity-trading contracts, the examination records shall be kept by the electricity sellers;
- b) Where the electricity buyers breach the electricity-trading contracts, the examination records and violation vouchers shall be kept by the electricity sellers for handling;
- c) Where the electricity users commit acts of administrative violation, a copy of the examination record and the violation proofs shall be transferred to agencies competent to sanction administrative violations for handling and archival.

2. The examination written records and violation proofs shall be made by the electricity examiners of the State management bodies in charge of electricity, who have examined the electricity supply or use:

- a) Where the electricity buyers or sellers do not breach the electricity-trading contracts, the examination written records shall be kept at the offices of the State management bodies in charge of electricity;
- b) Where the electricity buyers or sellers breach the electricity-trading contracts, a copy of the examination written record and material evidences of the violations shall be transferred to the violated party for handling and archival. If the two parties cannot settle matters by themselves and agree in the contracts to request the Council to settle, either party shall transfer the dossiers to the Council for settlement and archival.
- c) Where the electricity suppliers or users commit acts of administrative violation, a copy of the examination written record and evidences of the violations shall be transferred to the agencies competent to sanction administrative violations for handling and archival.

3. The examination written records are wrongly inscribed or disregarded and returned to the agencies which have provided the written records.

4. If acts of electricity supply or use violation show signs of criminal offenses, the victim or the Council shall carry out the procedures for transferring the cases to investigating bodies for handling according to law provisions.

Article 32.- Management of dossiers on electricity supply and/or use violations

1. Agencies and organizations which are competent to examine electricity supply and use shall have to distribute and manage dossiers, manage the examination record- receiving and handing books, the statistical books on examination written records, the books for monitoring the dossiers transferred to the Council, investigating agencies, courts, arbitration bodies. The books on management of dossiers on electricity supply and use violations must be page-numbered and stamped with overlapping seals.

2. The violation dossier delivery and reception must be signed for receipt by the deliverer and the receiver. The dossier-receiving books must be

page-numbered and ordinally numbered, inscribed with day, month, year and stamped with overlapping seals.

3. The agencies or organizations which handle them last shall have to archive the dossiers on electricity supply and use violations. The duration for management of dossiers on electricity supply and use violations shall comply with the provisions of law.

Article 33.- Reporting regime

1. The Department for Technical Examination and Supervision of Industrial Safety shall receive and synthesize extraordinary, quarterly and annual reports on examination work, the handling of electricity supply and use violations of provincial/municipal Industry Services, Vietnam Electricity Corporation and electricity-selling enterprises in regions and zones for report thereon to the Minister of Industry.

2. The provincial/municipal Industry Services shall have to send their extraordinary, quarterly and annual reports on the examination work, the handling of electricity supply and use violations to the Ministry of Industry (The Department for Technical Examination and Supervision of Industrial Safety).

3. Vietnam Electricity Corporation, the electricity-selling enterprises in regions and zones shall have to send their extraordinary, quarterly and annual reports on electricity use examination to the Ministry of Industry.

4. The electricity-selling enterprises in provinces shall have to send their extraordinary, periodical and annual reports on electricity use examination to the provincial/municipal Industry Services, and in case of necessity, directly to the Department for Technical Examination and Supervision of Industrial Safety.

Chapter VII

COMMENDATION AND DISCIPLINE

Article 34.- Organizations and individuals that record achievements in examination and handling of electricity supply and use violations shall be commended and/or rewarded. Persons competent to examine and handle violations in electricity supply and use, who commit acts of harassment for bribes, tolerating, colluding with or covering up violation acts, delaying the handling of violation, handling them inaccurately or ultra vires, shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability; if causing material damage, they must pay compensation therefor according to law provisions.

Chapter VIII

IMPLEMENTATION ORGANIZATION

Article 35.- The Department for Technical Examination and Supervision of Industrial Safety and the provincial/municipal Industry Services shall have to disseminate, guide and inspect the implementation of this Regulation.

Article 36.- Organizations and individuals involved in electricity supply and use must strictly observe this Regulation. If any problems arise in the course of implementation, they should be reported in time to the competent State management bodies for settlement.

For the Minister of Industry
Vice Minister
BUI XUAN KHU

THE MINISTRY OF INDUSTRY

Bui Xuan Khu