

Executive Order no. 913 of 22 June 2023 (Applicable)

Order on guarantees of origin for electricity, gas, district heating and district cooling from renewable energy sources

Unofficial translation of the “Bekendtgørelse om oprindelsesgarantier for elektricitet, gas, fjernvarme og fjernkøling fra vedvarende energikilder” (Notice: This is a translation of the Danish version of the notice. The Danish version will always be the one in force and this translation is not legally binding.)

Pursuant to § 63 a, paragraphs 1, 3, 5 and 8, § 68 a, paragraph 1, § 84, paragraph 9, § 88, § 90, § 92, § 92 a and § 92 b, paragraph 1, of the Danish Electricity Supply Act, cf. Consolidated Act no. 984 of 12 May 2021, as amended by Act no. 883 of 12 May 2021 and Act no. 2605 of 28 December 2021, § 36, paragraph 3, § 44 b, paragraph 1, § 50, § 52 and § 54 of the Danish Gas Supply Act, cf. executive order no. 423 of 19 April 2023, § 25 a, paragraph 1, § 25 b, § 26 a, § 30, paragraph 5 and § 34, paragraph 2, cf. Consolidated Act no. 2068 of 16 November 2021, § 6 b, paragraph 5, § 8 a, Paragraph 1, §§ 8 b and 9, paragraph 2 of the Danish District Cooling Act, cf. Legislative Order No. 221 of 6 March 2023 and § 56 b, paragraph 5 of the Act on the Promotion of renewable energy, cf. Consolidated Act No. 1791 of 2 September 2021, as amended by Act No. 608 of 31 May 2023, is hereby established:

Chapter 1

Scope and definitions

§ 1. This executive order lays down rules on guarantees of origin for energy from renewable energy sources as covered by the Danish Electricity Supply Act, the Danish Gas Supply Act, the Danish Heat Supply Act and the Danish District Cooling Act.

§ 2. For the purposes of this Executive Order definitions are:

1. Guarantee of origin: An electronic document with the only function as to prove to the final customer that a given share or quantity of energy has been produced from renewable energy sources.

2) Energy:

a) Electricity covered by the Danish Electricity Supply Act supplied to the collective electricity grid.

b) Gas covered by the scope of § 2, paragraphs 1 and 2, of the Danish Gas Supply Act.

c) District heating as defined in the Danish Heat Supply Act.

d) District cooling as defined in the Danish District Cooling Act.

3) Renewable energy source: Renewable energy source as covered by the definitions in the Act on the Promotion of renewable energy and the Danish Heat Supply Act.

4) The Authority: The party entrusted with the authority under § 3 in relation to the issue, transfer, cancellation and supervision of guarantees of origin for a given type of energy

5) Aid scheme: Any instrument, scheme or mechanism used by a Member State or group of Member States that promotes the use of energy from renewable sources (RE) either by reducing the cost of that energy, by increasing the price at which it can be sold, or by imposing a renewable energy obligation or otherwise increasing the volume of that form of energy; purchases, including but not limited to investment aid, tax exemptions or reductions, tax refunds, support schemes for RE obligations, including the use of green certificates, and direct price support, including feed-in tariffs and variable or fixed premium payments, are purchased.

6) End customer:

a) A customer purchasing energy for his own consumption.

b) A grid operator receiving electricity produced from renewable energy sources to cover grid losses in its grid area.

Chapter 2

Regulatory authority

§ 3. Energinet is the authority in relation to the issuance, transfer, cancellation and supervision of guarantees of origin of electricity and gas from renewable energy sources covered by the Danish Electricity Supply Act and § 2, paragraphs 1 and 2, second sentence, of the Danish Gas Supply Act. Energinet lays down detailed guidelines on application, issuance and supervision. The guidelines are published on Energinet's website.

Paragraph 2. The Danish Energy Agency is the authority on the issue, transfer, cancellation and supervision of guarantees of origin for district heating and cooling from renewable energy sources covered by the Danish Heat Supply Act and the Danish District Cooling Act, and for hydrogen covered by § 2, paragraph 2, third sentence, of the Danish Gas Supply Act.

Chapter 3

Application procedure

§ 4. Requests for a guarantee of origin as mentioned in § 3, paragraph 1, must be sent electronically to Energinet according to the guidelines stated on Energinet's website.

§ 5. A request for a guarantee of origin as mentioned in § 3, paragraph 2 must be sent electronically to the Danish Energy Agency using the application form available on the Danish Energy Agency's website.

Paragraph 2. A guarantee of origin may only be issued under paragraph 1 for production at facilities registered in the Danish Energy Agency's register of guarantees of origin, cf. § 7.

Paragraph 3. The request shall contain the following information:

- 1) Name, address and VAT number of the applicant.
- 2) Indication of whether a one-off issue or continuous issue of guarantees of origin is requested.
- 3) First month of issue.
- 4) Plant GSRN number.
- 5) Energy type.
- 6) Name and identification number of the account holder.
- 7) Whether and to what extent the installation has benefited from investment aid and whether and to what extent the production covered by the guarantee of origin has otherwise benefited from a national aid scheme, and the nature of the aid scheme.
- 8) Proof of origin of energy used in energy conversion.
- 9) Amount of input energy used for energy conversion calculated on a monthly basis.

Paragraph 4. The Danish Energy Agency may require that additional information be submitted for use in connection with the issue of guarantees of origin.

§ 6. It is a condition for the issue of guarantees of origin under § 5 that reports have been made as mentioned in § 7, paragraphs 3 and 4.

§ 7. Applications for admission to the Danish Energy Agency's register of guarantees of origin shall be sent electronically to the Danish Energy Agency. The Danish Energy Agency decides whether admission can be made to the Danish Energy Agency's register of guarantees of origin.

Paragraph 2. The request must be submitted on an application form available on the website of the Danish Energy Agency and must contain the following information:

- 1) Name and VAT number of the owner of the unit.
- 2) Name, address, type and capacity of the installation.

- 3) Information as to whether the establishment concerns district heating, cooling or hydrogen covered by § 2, paragraph 2, 3rd sentence, of the Danish Gas Supply Act.
- 4) Information on the energy source from which the energy was produced.
- 5) Information about the district heating network or cooling network to which the installation is connected.
- 6) The date on which the plant was commissioned.
- 7) Principle diagram.

Paragraph 3. For each unit registered in the Danish Energy Agency's register of guarantees of origin, the producer must report metered data from the previous month's production of district heating, cooling or hydrogen covered by § 2, paragraph 2, third sentence, of the Danish Gas Supply Act no later than on the sixth working day of each month.

Paragraph 4. Where several energy forms are used in the same installation, the consumption of each energy form shall be metered or calculated separately so that production may be broken down proportionately according to energy content in the shares for which guarantees of origin may be issued. Documentation of a measurement or calculation must be submitted together with the metered data mentioned in paragraph 3.

Paragraph 5. If documentation for the proportional distribution of energy forms by energy content in accordance with paragraph 4 cannot be provided, the Danish Energy Agency can approve another energy content. Production from several energy sources is thus distributed proportionately according to energy content and taking into account any changes in plant efficiency due to the use of several energy sources. When determining the energy content, the Danish Energy Agency may use default values for energy content published on the Danish Energy Agency's website.

Paragraph 6. The producer must inform the Danish Energy Agency of any changes to the information submitted in paragraphs 2 and 4 immediately after the event in question or from the time when the producer became aware that the situation has occurred or that the situation will occur.

§ 8. The producer may authorise a third party in writing to request the issue of guarantees of origin and take receipt of them. The producer may grant written authority to a third party to request the establishment of the producer's facility in the Danish Energy Agency's register of guarantees of origin pursuant to § 7.

Chapter 4

General provisions

§ 9. A guarantee of origin is of the standard size of 1 MWh and contains the following information:

- 1) Whether the guarantee of origin relates to:
 - a) electricity,
 - b) gas, including hydrogen;
 - c) district heating; or
 - d) district cooling.
- 2) The energy source from which the energy is produced and the start and end dates of production.
- 3) The guarantee of origin relates to energy produced from renewable sources with reference to the Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources.
- 4) The name, location, type and capacity of the installation where the energy was generated.

5) Whether and to what extent the installation has benefited from investment aid and whether and to what extent the production covered by the guarantee of origin has otherwise benefited from a national aid scheme, and the nature of the aid scheme;

6) The date on which the plant was commissioned.

7) Issuer, date and country of issue and unique identification number.

Paragraph 2. Only one guarantee of origin is issued for each megawatt hour of energy produced. The guarantee of origin is deposited into the account of the applicant in the digital system, cf. § 18.

§ 10. A guarantee of origin can be freely transferred between account holders in the digital system as mentioned in § 18.

§ 11. Any use of a guarantee of origin shall take place within 12 months of the calendar month in which the production of the energy in question took place.

Paragraph 2. A guarantee of origin is cancelled once it has been used, cf. paragraph 3.

Paragraph 3. A guarantee of origin is considered to be used when the energy supplier supplies an equivalent quantity of energy of the same type as is stated in the guarantee of origin to a final customer with information that the energy originates from a renewable energy source. In the case of a grid company receiving electricity produced from renewable energy sources to cover grid losses in the grid company's grid area, the quantities supplied are the quantities calculated by the Energinet in accordance with its market regulations for the grid loss metering point of the grid area in question at the first grid loss correction settlement three months after a month of operation.

Paragraph 4. The energy supplier, cf. paragraph 3, must ensure that a guarantee of origin used is cancelled.

Paragraph 5. Guarantees of origin for electricity and gas, including hydrogen covered by § 2, paragraphs 1 and 2, 1st and 2nd sentence, of the Danish Gas Supply Act (Lov om gasforsyning) shall be cancelled in accordance with guidelines laid down by Energinet.

Paragraph 6. A guarantee of origin that is not cancelled expires no later than 18 months after the production of the energy unit.

Paragraph 7. Guarantees of origin are only issued for physically metered renewable energy production, cf. § 13, paragraph 3, however.

§ 12. Where a producer is granted financial support from a new or open support scheme, the market value of the guarantee of origin for the same production shall be appropriately taken into account in the relevant support scheme.

Paragraph 2. It shall be presumed that the market value of the guarantee of origin has been appropriately taken into account in any of the following cases:

(a) where financial support is provided through a competitive procedure or a tradable green certification system,

(b) where the market value of guarantees of origin is administratively taken into account at the level of financial support, or

(c) where guarantees of origin are not issued directly to the producer but to a supplier or consumer who buys the energy from renewable sources either in a competitive environment or in a long-term re power purchase agreement.

Chapter 5

Documentation requirements for guarantees of origin

§ 13. For facilities that convert energy forms, a guarantee of origin may be issued for the share of the measured converted energy production corresponding to the share of renewable energy consumed in the unit, subject to paragraphs 2-4. The share of renewable energy consumed in the plant is documented by cancelling a guarantee of origin for energy consumed in the plant.

Paragraph 2. The consumption of renewable energy sources in installations that convert energy forms is not covered by the documentation requirement in paragraph 1.

Paragraph 3. For the purposes of this Executive Order, waste incineration plants consider 55% of electricity production and 55% of heat production to originate from renewable energy sources, cf. paragraph 4, however.

Paragraph 4. Waste incineration plants measuring the fossil share of the emitted CO₂ are not covered by paragraph 3 and can be issued guarantees of origin for electricity and heating for the measured share of non-fossil energy consumed in the plant. The measured CO₂ emissions must be based on the principles laid down in Commission Implementing Regulation (EU) 2018/2066.

§ 14. In connection with the conversion of electricity supplied from electricity-generating plants which are directly connected to water electrolysis plants, a guarantee of origin may be issued for the measured hydrogen production in the water electrolysis plant, provided that

- 1) the electricity supplied originates from renewable energy sources; and
- 2) Certified metering equipment documents that electricity consumed in the water electrolysis plant is not supplied from the public electricity supply grid.

Paragraph 2. In connection with the conversion of electricity supplied from the public electricity supply grid to hydrogen production in water electrolysis plants, a guarantee of origin may be issued for the share of hydrogen production documented by guarantees of origin that are

- 1) issued in the bidding zone in which the hydroelectric electrolysis plant is located or in a neighbouring bidding zone thereof; and
- 2) issued no later than three months before hydrogen production in the hydrolysis plant.

Paragraph 3. Water electrolysis plants may be issued with a guarantee of origin for hydrogen production using electricity from both an installation covered by paragraph 1 and an electricity supply grid covered by paragraph 2, if the electricity supplied complies with the documentation requirements set out in paragraph 1 or paragraph 2.

§ 15. In connection with conversion of energy from the gas system, guarantees of origin can be issued for electricity, heating and hydrogen for the part of the energy produced that is documented as renewable energy by cancellation of guarantees of origin for renewable gas supplied into the gas system.

Paragraph 2. In connection with the production of gaseous hydrogen-based fuels that are injected into the gas system, a guarantee of origin can be issued for the part of the produced energy that corresponds to the share of renewable hydrogen documented in accordance with § 14.

§ 16. Guarantees of origin for heating and cooling can only be used to document the consumption of renewable energy in a district heating or cooling network that has the same identity as the district heating or cooling network where the guarantee of origin was issued. Paragraph 2. For the purpose of identifying district heating or cooling networks, cf. paragraph 1, the Danish Energy Agency's energy producer count is used.

§ 17. By 15 April each year, the owner of a water electrolysis plant which is registered in the Danish Energy Agency's register of guarantees of origin must report the following information to the Danish Energy Agency about the previous year's hydrogen production covered by § 2, paragraph 2, third sentence, of the Danish Gas Supply Act:

- 1) All hourly volume or mass measurements of hydrogen, including simultaneous measurements of temperature and pressure in connection with volume measurements.
- 2) Hydrogen concentrations, calibrations, inspections, repairs and other conditions that may affect the volume of hydrogen produced.
3. Frequency of measurement and method of analysis used to verify compliance with hydrogen concentration requirements.

4. Indication of the type of measuring equipment used to measure mass, volume or hydrogen concentration.
- 5) Documentation of inspection and calibration of measuring equipment used as recommended by the manufacturer or stated in product specifications.

Chapter 6

Digitisation

§ 18. The issuance, transfer and cancellation of guarantees of origin shall be carried out using the digital system and in the format provided by the Authority.

Paragraph 2. The authority may make it a condition that when creating as an account holder in the digital system as referred to in paragraph 1, security is provided for expenses imposed on the account holder pursuant to § 23.

Chapter 7

Monitoring of guarantees of origin

§ 19. The Authority supervises guarantees of origin issued as well as their transfers and cancellations. In this context, the Authority shall monitor the correctness and reliability of guarantees of origin and the transparency and design of the guarantee of origin system in such a way as to minimise the risk of fraud.

Paragraph 2. A person applying for or having received guarantees of origin relating to district heating, cooling or hydrogen covered by § 2, paragraph 2, paragraph 3, of the Danish Gas Supply Act shall, on request, provide the Danish Energy Agency with any information which the Danish Energy Agency deems necessary with regard to guarantees of origin.

Paragraph 3. As part of the supervision of guarantees of origin, the Authority shall initiate random checks.

Paragraph 4. As part of the supervision of guarantees of origin, the Authority shall ensure that illegal acts are regularised.

§ 20. For the types of energy covered by standard 'CEN – EN 16325', the supervisory authority shall ensure that the guarantee of origin system complies with the standard.

Paragraph 2. The standard "CEN – EN 16325" is not published in 'Lovtidende', but is promulgated when the standard is available for inspection by the Danish Energy Agency.

Chapter 8

Foreign guarantees of origin

§ 21. The Authority recognises guarantees of origin issued in EU member states pursuant to rules implementing the Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources as evidence that that amount of energy has been produced from renewable sources.

Paragraph 2. Where there are reasonable doubts as to the accuracy, reliability or correctness of a guarantee of origin, the competent authority shall refuse to recognise the guarantee of origin as evidence, cf. paragraph 1.

Paragraph 3. If Energinet cannot recognise a guarantee of origin issued by other EU member states for electricity or gas, Energinet shall inform the Danish Energy Agency of the refusal and the reasons therefor. The Danish Energy Agency will then inform the European Commission of the refusal and the reasons for it.

Paragraph 4. If the Danish Energy Agency cannot recognise a guarantee of origin relating to district heating, cooling or hydrogen covered by § 2, paragraph 2, 3rd sentence, of the Danish

Gas Supply Act issued in other countries in the EU, the Danish Energy Agency must notify the European Commission of the refusal and the reasons for it.

§ 22. Guarantees of origin issued by third countries may be recognised only if:

- 1) the Union has concluded an agreement with that third country on the mutual recognition of guarantees of origin issued in the Union and compatible guarantees of origin schemes established in that third country; and
- 2) energy is imported and exported directly from and to the third country concerned.

Chapter 9

Fees

§ 23. In order to cover necessary costs relating to the issue, transfer and cancellation of a guarantee of origin, the authority may charge a fee to the applicant. Fees may also be levied to cover necessary costs related to the supervision of guarantees of origin.

Paragraph 2. The fees referred to in paragraph 1 shall be set on the basis of fixed and variable costs resulting from tasks related to the issue, transfer, cancellation and supervision of guarantees of origin. The fees are established on the basis of an advance budget and are adjusted once a year. The fees shall be published on the Authority's website.

Chapter 10

Right of appeal and penalty

§ 24. Appeals against decisions made by the Authority concerning the generation of electricity, gas and district heating can be lodged with the Energy Board of Appeal. Appeals against decisions of the authority regarding district cooling can be lodged with the Energy Board of Appeal under the provisions of the Danish District Cooling Act.

Paragraph 2. Appeals under paragraph 1 must be submitted in writing within 4 weeks of the decision being notified.

§ 25. Unless a more severe penalty has been imposed under other legislation, any person who supplies incorrect information for the issue, transfer, cancellation and supervision of guarantees of origin or who fails to provide the information thereon which he is obliged to provide under § 19, paragraph 2 shall be punished with a fine.

Paragraph 2. Criminal liability may be imposed on companies etc. (legal persons) pursuant to the rules in Part 5 of the Danish Criminal Code (Straffeloven).

Chapter 11

Entry into force

§ 26. The Executive Order enters into force on July 1, 2023.

Paragraph 2. Executive Order no. 1216 of 7 June 2021 on guarantees of origin for electricity, gas, district heating and cooling from renewable energy sources is repealed.

Paragraph 3. Guarantees of origin issued in accordance with the rules previously in force may be used for the period for which they have been issued, but only until 12 months after the calendar month of production. § 7 and Chapters 6 and 7 shall apply mutatis mutandis to the guarantees of origin mentioned in paragraph 1.

Paragraph 4. Guarantees of origin issued in EU member states pursuant to rules implementing Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources may be used as documentation as referred to in § 21 for the period for which they have been issued, but only until 12 months after the calendar month in which production has taken place.

Paragraph 5. Requests for the issue of guarantees of origin for RES electricity pursuant to the current rules submitted before 1 July 2023 as well as appeals to the Danish Energy Board of Appeal against decisions made pursuant to the same rules will be processed according to the rules applicable so far.