

WIJ WILLEM ALEXANDER,
BIJ DE GRATIE GODS,
KONING DER NEDERLANDEN,
PRINS VAN ORANJE-NASSAU,
ENZ. ENZ. ENZ.

Decision

amending the Decree on the stimulation of sustainable energy production and climate transition in connection with improving the cost effectiveness of subsidies for offshore wind energy

On the recommendation of Our Minister for Climate Policy and Green Growth of 8 October 2025, No WJZ/101347621;

Having regard to Article 3 of the Framework Act on subsidies granted by the Ministries of Economic Affairs, of Agriculture, Fisheries, Food Security and Nature, and of Climate Policy and Green Growth [Kaderwet EZ-, LVVN- en KGG-subsidies];

Having heard the Opinion of the Advisory Division of the Council of State (Opinion of , No);

Having regard to detailed report of the Minister for Climate Policy and Green Growth of No WJZ / ;

Have approved and hereby decree the following:

Article I

The Decree on the stimulation of sustainable energy production and climate transition is amended as follows:

A

In Article 5a, 'part (b)' is replaced with 'part (a) or (b)'.

B

After Article 20, the following new article is added and reads:

Article 20a

1. By regulation of Our Minister, for a category of production installations for which there is a reasonable chance that the average cost of renewable electricity will be lower than the average market price of renewable electricity at any time during the period for which the subsidy is granted, a yield limit amount per kWh may be set for determining the subsidy, which may differ by category of production installations.

2. The yield limit amount is higher than the maximum tender amount per kWh referred to in Article 19(2), which has been set for the relevant category of production installations.

3. Our Minister may, by way of derogation from the first paragraph, express the yield limit amount as the product of the tender amount and a factor to be determined by ministerial regulation.

C

In Article 21(2), the phrase 'that applies at the time of application for the subsidy' shall be replaced by 'and the yield limit amount referred to in Article 20a that apply at the time of application for the subsidy'.

D

After Article 23, the following new article is added and reads:

Article 23a

1. By way of derogation from Article 23, the subsidy received by a subsidy recipient producing renewable electricity with a generating installation that belongs to a category of generating installations designated by ministerial order for which a yield limit amount has been set on the basis of Article 20a shall be determined by:

a. the number of kWh eligible for subsidy in each calendar year for which guarantees of origin have been issued demonstrating that the producer has produced and fed into an electricity grid a quantity of renewable electricity with its renewable electricity generating installation in the relevant calendar year, multiplied by:

1. the tender amount, reduced by the sum of the corrections applicable for the calendar year in question, determined on the basis of Article 22(4), if this sum is lower than the tender amount;
2. zero, if the sum of the corrections applicable for the calendar year in question, determined on the basis of Article 22(4), is equal to or higher than the tender amount and lower than or equal to the yield limit amount; or
3. the yield limit amount, reduced by the sum of the corrections applicable for the calendar year in question, determined on the basis of Article 22(4), if this sum exceeds the yield limit amount; and

b. the amounts calculated in accordance with part (a) for each calendar year of the period for which the subsidy is granted to be summed up.

2. If the amount calculated in accordance with the first paragraph, part (b) is negative, the amount shall be zero.

3. Article 23(2), (3), (5) and (6) shall apply accordingly to the calculation referred to in the first paragraph.

E

A paragraph is inserted in Article 59 and reads:

5. Ministerial regulations may stipulate that Our Minister shall reject an application if, in the case of the simultaneous application of various procedures as referred to in Article 14a(1) of the Offshore Wind Energy Act, the applicant has been granted a licence on the basis of a procedure without the granting of any subsidies.

F

In Article 62(6), 'Article 12a' shall be replaced with 'Article 12a, Article 20a' and 'Article 15(3)' shall be replaced with 'Article 15(3), Article 23(3)'.

G

Article 67a(1) is amended as follows:

1. In the preamble, 'on the basis of Article 12a' shall be replaced with 'on the basis of Article 12a or Article 20a'.
2. In part (a), 'referred to in Article 15a(3), in conjunction with Article 15(3)' is replaced by 'referred to in Article 15a(3), in conjunction with Article 15(3) or Article 23a(3), in conjunction with Article 23(3)'.
3. In part (b), 'phase amount or base amount' is replaced by 'phase amount, base amount or tender amount' and 'on the basis of Article 14(5)' is replaced by 'on the basis of Article 14(5) or Article 22(5) respectively'.
4. In the final passage, 'pursuant to Article 15a(1)(a)' is replaced by 'pursuant to Article 15a(1)(a) or Article 23a(1)(a)'.

H

Article 68 shall be amended as follows:

1. In the first paragraph, part a, replace 'referred to in Article 15(3) or (4), Article 15a(3) in conjunction with Article 15(3), Article 23(3) or (4)' is replaced by 'referred to in Article 15(3) or (4), Article 15a(3) in conjunction with Article 15(3), Article 23(3) or (4), Article 23a(3) in conjunction with Article 23(3)'.
2. In the third and sixth paragraphs, 'on the basis of Article 12a' is replaced by 'on the basis of Article 12a, Article 20a'.
3. In the fifth paragraph, 'on the basis of Article 15a(2)' is replaced by 'on the basis of Article 15a(2), Article 23a(2)'.

Article II

This Decree shall enter into force on 1 January 2026.

I hereby order this Decree and its associated explanatory notes to be published in the Bulletin of Acts and Decrees.

The Minister for Climate Policy and Green Growth,

EXPLANATORY MEMORANDUM

I. General

1. Background and objective

This amending decree makes changes to the Decree on the stimulation of sustainable energy production and climate transition (hereinafter: SDEK Decree). The reason for this change is the deterioration of the market conditions for offshore wind energy in recent years. Since 2018, the Dutch guiding principle has been to grant licences for offshore wind farms without subsidies wherever possible. This was made possible by a sharp reduction in the cost of wind turbines and their installation, but also by good development conditions from the government, strong competition in the market and a stable and ambitious government policy. However, recent market consultations (January 2025) show that the market for offshore wind energy is currently very challenging. There is a risk that in the upcoming permit granting procedures there will be no single bid on (part of) the lots. According to research from June 2024¹, the reason for this is that the costs of offshore wind farms are 40 % higher in 2025 than in 2020 due to, inter alia, inflation, higher interest rates and tightness in the supply chain. In addition, there is an issue of lower and uncertain revenues due to lagging growth in electricity demand. As a result, many wind farm developers no longer have a viable business case and will not bid for a licence without subsidies.

At the same time, the further deployment of offshore wind energy is desirable from a social perspective. Offshore wind energy contributes to a renewable energy supply and thus to the achievement of the climate goals of the government and the Climate Act. Every 1 GW of offshore wind energy saves 44.2 million tonnes of CO₂ over the lifetime of a wind farm. In addition, it increases the energy independence of the Netherlands and contributes to green economic growth. If the government does not actively contribute to the realisation of offshore wind energy, it will not be achieved at the pace and scale necessary adequately to serve these public interests. There is the issue of market failures. It is, therefore, important that the legislation and regulations, more specifically the SDEK Decree, are suitable for granting permits for offshore wind parks in accordance with the subsidy procedure. This is not the case at the moment. In the case of the last State aid approval of the SDE++ (Stimulating Sustainable Energy Production and Climate Transition) by the European Commission in 2023,² the inclusion of a so-called clawback provision was required by the European Commission. The aim of this is to prevent overcompensation of wind farm developers if the revenues are higher than expected. This was incorporated into the SDEK Decree in 2024 through the introduction of a mechanism that limits excess profits by offsetting them against subsidies that have already been paid out or are still to be paid out at a time of lower market prices. See, to that effect, the amending Decree 'Decree of 6 June 2024 amending the Decree on the stimulation of sustainable energy production and climate transition in connection with improving cost-effectiveness and other amendments Bulletin of Acts and Decrees (Stb. 163). However, this amending decree has made this adjustment possible only for subsidies where granting takes place on a first-come, first-served basis and not for subsidies where allocation takes place in order of ranking. If offshore wind farms were to be supported, the lots would be licensed for this purpose by order of ranking. The reason that this profit cap was not included is that, at that time, it was expected that no support mechanism involving subsidies based on ranking would be necessary for the further roll-out of offshore wind energy or other technologies. It is now clear that this may still be necessary for offshore wind farms. In order to receive State aid approval from the European Commission, it is therefore necessary to extend the mechanism for limiting excess profits to this allocation procedure based on the order of ranking. The decision actually to apply the subsidy procedure must be made per lot, in line with Article 14a of the Offshore Wind Energy Act.

¹ AFRY (2024), Offshore Wind Energy Market Study – Implications for Tenders IJmuiden Ver Gamma and Nederwiek I

² OJEU C/2023/311, SA.104448

Section 2 deals with measures to improve cost-effectiveness. Section 3 discusses the other, more technical amendments. Sections 4 and 5 concern, respectively, the enforceability and the effects of this amending decree on the regulatory burden. Section 6 addresses the manner in which stakeholders were consulted in the drafting of this amending decree.

2. Amendment of the Decree on the stimulation of sustainable energy production and climate transition to improve cost-effectiveness

2.1 Defining the problem

The SDEK offers the possibility of supporting techniques such as offshore wind energy so that they can be rolled out further. However, this also increases the risk of excess profits. Excess profits are income that is (far) above a reasonable profit margin. This can result, for example, from cost reductions but also from high energy prices. In the EU context, it has been agreed that direct price support schemes, such as the SDEK, must have a mechanism in order to be an additional source of income for Member States in periods of high energy prices. This increases the cost-effectiveness of a support scheme. This is a condition for State aid approval³.

Such a mechanism to limit excess profits was not foreseen in the design of the SDEK. Therefore, for the last State aid approval of the SDE++ scheme in 2024, excess profit limitation was added to the SDEK Decree for subsidies where allocation takes place on a first-come, first-served basis. This is the method currently used within the SDE++ scheme in order to allocate subsidies.

However, subsidies for offshore wind farms are granted on the basis of the ranking procedure set out in the SDEK Decree. The background to this is that, on the basis of the Offshore Wind Energy Act, the Minister may grant permits for the construction and operation of offshore wind farms. This act provides the Minister with the possibility to grant the permit, among other things, through the procedure with subsidy. If this procedure is followed, the Minister shall decide simultaneously on applications for the permit in accordance with the Offshore Wind Energy Act and applications for the subsidy in accordance with the SDEK Decree. The permits for the construction of offshore wind farms concern scarce rights for which developers can submit a competitive bid. It is therefore desirable to be able to assess applications simultaneously and compare them with each other. By granting the permit and subsidy on the basis of order of ranking, the winning application best reflects the social value of the permit. If it were to be assessed on a first-come, first-served basis, the first bid wins, which may lead to a poorer social outcome.

Since 2018, offshore wind farms have been authorised without subsidies. For this reason, the mechanism for limiting excess profits was not added to Section 3.3 of the SDEK Decree for subsidies in order of ranking in the previous amending decree. However, as explained in the reasoning, the market conditions for renewable electricity from offshore wind have deteriorated. As a result, many wind farm developers no longer have a viable business case and will not bid for a licence without subsidies.

2.2 Background and Frameworks European Commission

The Guidelines on State aid for climate, environmental protection and energy 2022⁴ (hereinafter: 2022 Guidelines) of the European Commission provide the framework for assessing whether State aid may be applied. In point 90 of the 2022 Guidelines, the European Commission states that aid may be necessary to ensure that certain investments in climate and energy are made. The following is then imposed as a condition for this aid: *"In such cases, limitations of profitability and/or recoveries linked to possible positive scenarios may be necessary to ensure proportionality"*.

³ Guidelines on State aid for climate, environmental protection and energy 2022: [https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:52022XC0218\(03\)](https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:52022XC0218(03))

⁴ [https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:52022XC0218\(03\)](https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:52022XC0218(03))

As a result, it followed from the European Commission's approval decision for the SDE++ that the SDEK Decree had to be amended so that excess profits achieved are taken into account when determining the level of aid. This has been incorporated into the aforementioned amending decree of 2024 for the allocation procedure based on first-come, first-served basis.

From the way in which the European Commission applied its 2022 Guidelines in approving the SDE++ scheme, it must be concluded that the introduction of the possibility to recover subsidies if electricity prices are high is also necessary for the granting of subsidies on the basis of the order of ranking.

For the present amending decree, this means, first of all, that the mechanism helps to prevent excess profits by making it possible, if the sum of corrections exceeds the tender amount, not to grant a subsidy or to reclaim previously granted advances of subsidies. Secondly, this means that it must be ensured that the aforementioned mechanism will, in any case, apply to production facilities for renewable electricity generated from wind and solar energy.

2.3 Amendments to the SDEK Decree to increase cost-effectiveness

2.3.1 Introduction of mechanism to reduce subsidies on excess profits (offsetting excess profits)

The current amendment to the SDEK Decree makes it possible to reduce SDEK subsidies in cases where a SDEK project that has been allocated via the ranking procedure has generated excess profits. This possibility does not apply generically to all categories of production installations of the SDEK, but may be declared applicable to specific categories of production installations by ministerial order. With the mechanism for reducing subsidies in the event of excess profits (hereinafter: offsetting excess profits), the nature of the SDEK as the basis for granting subsidies remains unchanged. This means that recipients of SDEK subsidies to which the new mechanism applies will continue to receive a net subsidy of zero or more. The previous amending decree from 2024 already explained the offsetting of excess profits for subsidies allocated on a first-come, first-served basis. The methodology in this amending decision is almost identical for subsidies awarded in order of ranking, but is again set out below for ease of comprehension. One difference is the replacement of the term 'phase amount' with 'tender amount' and the corresponding references to the articles in the SDEK Decree.

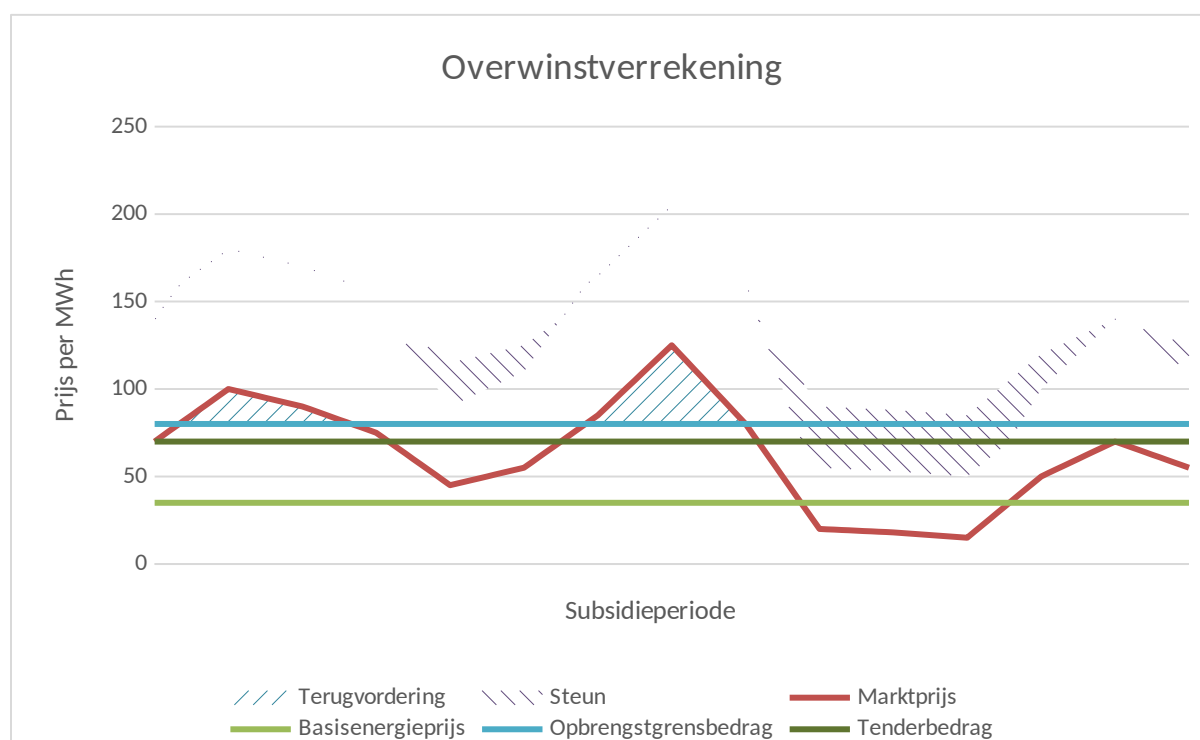


Figure 1 Schematic representation of mechanism for reducing subsidies in the event of excess profits

Overwinstverrekening	Excess profit offsetting
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Prijs per MWh	Price per MWh
Subsidieperiode	Subsidy period
Terugvordering	Recovery
Steun	Aid
Marktprijs	Market price
Basisenergieprijs	Basic energy price
Opbrengstgrensbedrag	Yield limit amount
Tenderbedrag	Tender amount

Figure 1 shows a schematic representation of excess profit offsetting. The 2024 amending decree introduced the concept of 'yield limit amount'. The current amending decree extends the scope of this to subsidy allocation by order of ranking. Figure 1 shows the sum of corrections to the electricity price (or, where applicable, the basic electricity price), the value of guarantees of origin, other corrections and, where applicable, the value of tradable emission allowances from the Emission Trading System (hereinafter: ETS) Where the sum of the corrections correcting the tender amount exceeds the yield limit amount, the difference between the sum of the corrections and the yield limit amount shall be considered as excess profit.

The yield limit amount is always higher than the tender amount, may vary per category of production installations, and applies to the entire subsidy period. In theory, all income above the tender amount could be considered surplus profit. The reason for not doing so in advance is because projects may face unforeseen cost increases or lower-than-expected full-load hours that increase the average cost per unit of renewable energy produced. Therefore, in order to avoid that the new mechanism leads to under stimulation of such projects, a yield limit amount is introduced. Because of the above, it stands to reason that the yield limit amount is not much higher than the tender amount. The exact amount of the yield limit amount is determined by ministerial order. Instead of an amount per kilowatt hour, the yield limit amount may also be determined as the product of the factor set by the relevant ministerial order and the tender amount. The possibility of defining the yield limit amount by means of a factor on the tender amount is desirable because the exact tender amount for which the parties submit a bid is unclear in advance. A factor then offers the possibility of allowing the government to share more proportionally in any excess profits.

In particular, excess profit offsetting affects the determination of the amount of the subsidy and the established advances. In the case of excess profit offsetting in the case of producers of renewable electricity, the total amount of the subsidy over the duration is roughly determined by multiplying, for each year of the period over which the subsidy is granted, the amount of electricity produced by the difference between the tender amount and the sum of corrections, and taking the total sum of these. For categories of production installations to which excess profit offsetting applies, if the sum of the corrections exceeds the tender amount, the sum of the corrections must be compared with the yield limit amount. If the sum of the corrections is lower than the yield limit amount, the subsidy for that calendar year will be zero. If the sum of the corrections exceeds the yield limit amount, the subsidy amount for that calendar year shall be the amount of energy produced multiplied by the difference between the yield limit amount and the sum of the corrections. In such cases, therefore, a negative subsidy amount applies for that calendar year. The total subsidy amount is calculated by taking the total sum of subsidy amounts per calendar year. In this way, years in which excess profits are achieved result in a reduction in the total subsidy amount. If the sum over all calendar years is negative, the total subsidy amount is set at zero.

With regard to the granting of advances, excess profits offsetting mainly affects the manner in which advances are determined. The way in which provisional advances are calculated remains virtually unchanged. As described in the previous paragraph, the excess profits offsetting may prevent, for a given calendar year, the advance as determined after the end of the calendar year from being negative. In that case, the Minister for Climate Policy and Green Growth (hereinafter: the Minister) shall reclaim this excess advance payment up to the net total amount received by the subsidy recipient. This means that the amount recovered will never exceed the amount of advances previously received by the recipient of the subsidy. If, after recovery, there is still an excess advance payment remaining, the Minister shall offset this amount against advances to be paid in subsequent years.

Table 1 Excess profits offsetting calculation example

Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Actual production	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Basic electricity price on the basis of Article 19	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35
Tender amount on the basis of Articles 19 and 20	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70
Yield limit amount on the basis of Article 20a	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80
Provisional sum of corrections on the basis of Article 22(5) (including basic electricity price)	70	70	100	90	75	45	55	85	125	80	35	35	35	50	70
Sum of corrections on the basis of Article 22(4) (including basic electricity price)	70	100	90	75	45	55	85	125	80	35	35	35	50	70	55
Sum of monthly amounts on the basis of Article 68(1)	0	0	0	0	0	250	150	0	0	0	350	350	3500	2000	0
Offsetting: deduction or additional payment	0	0	0	0	0	-500	0	0	0	0	-500	0	0	0	0
Net amount of advances received before recovery (sum as defined in Article 68(3))	0	0	0	0	0	200	250	500	0	0	300	650	1000	1050	8500
Fixed advance	0	-2000	-1000	0	250	150	-500	-4500	0	350	350	350	2000	0	1500
Recovery on the basis of Article 68(3)	0	0	0	0	0	100	200	500	0	0	0	0	1500	2000	0
Balance of advances to be offset on the basis of Article 68(4)	0	-2000	-3000	-3000	-500	0	0	-4000	-4000	-500	0	0	0	0	1500
Amount of subsidy determined on the basis of Article 23a															10000

The calculation example in Table 1 serves to illustrate the effect of the excess profits offsetting. A fictitious producer of renewable electricity receives a subsidy for a period of fifteen years and produces a constant quantity of 100 in that year. The progression in this example is the same as that in Figure 1. Below is an explanation of the progression up to and including year 7. In year 1, the sum of corrections is equal to the tender amount and lower than the yield limit amount. No advance payment will be made. In year 2, the sum of corrections exceeds the yield limit amount and €2,000 in excess profits to be offset are recorded. This is reflected in a fixed advance of - €2,000. As no payments have been made to the recipient of the subsidy so far, no recovery will take place. This amount will be offset from any advances still to be paid. Excess profits are also recorded in year 3, bringing the balance of outstanding advances to - €3,000. In year 5, the sum of corrections falls below the submission amount and a positive advance payment of €2,500 is determined. This does not lead to an advance payment, but it ensures that the balance of advances to be settled increases from - €3,000 to - €500. For year 6, the provisional advance would be €2,500, but will decrease to €2,000 due to a negative balance. There are no longer any excess profits to be offset at that point. The fixed advance in that year amounts to €1,500, and the difference of €1,000 between the provisional and fixed advance is recovered. In year 7, the market price rises again above the yield limit and the fixed advance is - €500. The difference between the fixed advance and the provisional advance, €2,000, shall be recovered.

2.3.2 Definition and margin for lower-level legislation

This amending decree stipulates that the amount of the yield limit amount shall be determined by ministerial order in accordance with the system set out in the SDEK Decree.

3. Other adjustments to the Decree on the stimulation of sustainable energy production and climate transition

Two omissions are rectified in Parts A and E. The need to do so is described below.

3.1. Order of utilisation of subsidy in the case of two decisions

On the basis of Article 3(2) of the SDEK Decree, subsidies may still be granted in two situations, even if it concerns an existing production installation or if an investment obligation has been entered into for a production installation that does not yet exist. Article 5a stipulated for Article 3(2)(b) that, if two or more decisions have been issued for the same production installation and the same type of renewable energy or CO₂ reduction, the eligible production of the earlier issued decision or decisions must first be fully utilised before the later decision may be implemented. However, this situation may also arise in the application of Article 3(2)(a). An example is that a decision has already been granted for geothermal energy and a second decision for an additional geothermal well is being added, because together they form the same production installation. In that situation too, the intention is that the eligible production from the earlier decision should be used first and, only then, that from the later decision. This was previously also regulated, but was incorrectly deleted due to an omission in the amendment to the SDEK Decree in 2024. This omission is rectified by the present decision.

3.2 Rejection of applications for subsidy when applying multiple permit-granting procedures for renewable electricity from offshore wind

There may be a situation where there is uncertainty as to whether subsidies are needed for renewable electricity from offshore wind farms. In that case, on the basis of Article 14a(2) of the Offshore Wind Energy Act, the Minister has the power to open two or more permit granting procedures at the same time. This amending decision provides that in such a case the application for a grant may be rejected if the authorisation has already been granted on the basis of another procedure. In this way, it is prevented that a project can obtain a subsidy without the necessary permit. It also prevents unnecessary subsidies from being granted if an offshore wind farm has a viable business case even without subsidies. It shall be determined by ministerial order whether this possibility applies to the permit granting procedures.

4. Feasibility and enforceability

Netherlands Enterprise Agency (RVO.nl)

This amending decree was drawn up in close cooperation with the RVO. The RVO indicates that it is able to implement the changes made to the SDEK Decree.

5. Regulatory burden

For the addition of excess profit offsetting to the allocation procedure in order of ranking, the regulatory burden effects on potential recipients of SDEK subsidies, such as wind farm developers, are limited. Potential recipients of SDEK subsidies must take note of the new rules for allocation in order of ranking. The amount itself recovered in connection with the excess profit offsetting is not part of the regulatory burden costs. Recipients of SDEK subsidies do not need to submit any additional information in connection with excess profit offsetting and will be automatically notified by the RVO in the event of a recovery or offsetting. The ministerial order adopted at a later date is also relevant for the determination of excess profit offsetting. In order to determine the costs of taking note of this amendment, it is assumed that on average 5 persons per interested party must take note of it. For each tender, we assume an average of 15 interested parties.

The Dutch Advisory Board on Regulatory Burden (ATR) did not select the dossier for a formal opinion, as it has no significant impact on regulatory burden.

Actions	Cost	
Familiarisation with new regulations (Excess profit offsetting) (15*5*77 euros)	€	5775

6. Consultation

In a market consultation with wind farm developers in January 2025, detailed consideration was given to this amending decree and, in particular, to the introduction of an excess profit limitation when wind farms were to be licensed again through a procedure with subsidies in accordance with the Offshore Wind Act. The questions about, among other things, the desirability and functioning of the yield limit amount were shared in writing with and explained in a plenary digital meeting in December 2024 to all the wind farm developers that are interested or already operate within the Dutch offshore wind energy sector. The parties indicated that they agreed with the considerations for introducing an excess profit limitation and would ideally like to see a fair distribution of risk between the government and the developer. The system of limiting excess profits has already been extensively tested in the previous amendment decree, which concerned its introduction for the distribution of subsidies on a first-come, first-served basis. In this regard, it is expected that an Internet consultation will not lead to an amendment of the draft decree and it has been decided as regards the draft decree to consult only with parties involved in the development of offshore wind energy.

7. Technical requirements

A draft of this amending decree was notified to the European Commission in compliance with Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification) (OJ L 241, 2015). It includes technical specifications or other requirements relating to tax or financial measures. A standstill period does not apply here by virtue of Article 7(4) of Directive 2015/1535.

II. EXPLANATORY NOTES BY ARTICLE

Article I

B, C, D, F, G en H

These parts make it possible to use the yield limit amount when calculating the subsidy in the case of subsidies being granted in order of ranking for renewable electricity as set out in Section 3.3 of the SDEK Decree.

On the basis of the new Article 20a, the Minister may set a yield limit amount, which may be an absolute amount or the product of a factor and the tender amount. The new Article 20a relates to subsidies for producers with production installations that belong to a category designated by ministerial order for which a yield limit amount has been set. This Article determines the manner in which the subsidy amount is determined for the designated categories of production facilities. Compared to the subsidy amount calculated on the basis of Article 20, the new article takes into account situations in which the sum of the corrections determined on the basis of Article 22 exceeds the amount submitted and exceeds the yield limit amount. This makes it possible to arrive at negative amounts for individual calendar years. When determining the total subsidy amount, these negative amounts are factored in for calendar years in which a positive subsidy is in fact granted. If the total sum calculated on the basis of the new articles is negative, the subsidy amount will be zero. The other paragraphs of Article 22 shall apply accordingly to the new articles, with the exception of the paragraphs regarding the inclusion of overproduction if more has been produced than expected in a year (backward banking). This means that for categories of production installations for which a yield limit amount has been set, it is possible to carry underproduction forward to later calendar years, but not to carry overproduction (forward banking). This was chosen in order to keep the determination of the subsidy level for these categories of production facilities viable.

E

The following paragraph is inserted in Article 59. This paragraph regulates the following: If, on the basis of the Offshore Wind Energy Act, two permit granting procedures are opened at the same time, including a procedure with subsidy and a procedure without subsidy, then an application for subsidy will be rejected if the permit has been granted on the basis of the procedure without subsidy. This prevents a decision regarding a subsidy from being granted unnecessarily.

Article II

This Article provides that this amending decree shall enter into force on 1 January 2026. This is in accordance with the cabinet policy of fixed moments of change. The reasonable period between publication of the decision and its entry into force has not been met, but this is justified in view of the interests of producers which wish to generate offshore wind energy in the future and the importance of achieving the climate targets set out in the Climate Act.

The Minister for Climate Policy and Green Growth,