

The Indian Electricity (Haryana Amendment) Act, 1987

HARYANA

India

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Act 17 of 1992

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The Indian Electricity (Haryana Amendment) Act, 1987 Haryana Act No. 17 of 1992 Statement of Object and Reasons. - To curb the offence of theft of electric power by industrial and other consumers of the Electricity Board in the State of Haryana, it is necessary that the offence under section 39 (Theft of Energy) and section 40 (Maliciously wasting energy or injuring works of the Board) may be made cognizable. As there is a possibility of such offences being sometimes committed by the consumers in connivance with the departmental or other persons having technical knowledge, the abetment of the offence of theft of electricity also needs to be made punishable. A State amendment in the Indian Electricity Act, 1910 is necessary. The proposed amendment to Section 7-A of the Indian Electricity Act, 1910 will avoid extra financial burden on H.S.E.B. which is already facing a financial crisis and is otherwise in the public interest. Haryana State Electricity Board will be saving about Rs. two hundred lakhs in this way. The proposed amendment will also enable the Courts to try said offences in a summary manner and will eliminate the lengthy procedure of complaint cases as under the current provisions of the Indian Electricity Act, 1910. The above circumstances have necessitated that the proposed amendments be made in the said Act retrospectively through the enactment of this Bill. Published vide Haryana Government Gazetted (Extra.) dated 25.11.1986 (Aghn. 4, 1908 Saka) page 1354. Report of the Select Committee on the Indian Electricity (Haryana Amendment Bill, 1986). - 1. The Select Committee to report on the Indian Electricity (Haryana Amendment) Bill, 1986, was appointed by the Haryana Legislative Assembly on the 2nd December, 1986, with a direction to submit its report thereon. 2. The Committee held only one sitting. 3. The meeting of the Committee was held on the 29th December, 1986 for considering the Indian Electricity (Haryana Amendment) Bill, 1986. The Committee at this meeting was associated with the Joint Secretary, Irrigation and Power Electricity Board, Chandigarh, Under Secretary (Law), Haryana State Electricity Board, Chandigarh and Deputy Legal Remembrancer, Haryana, Law and Legislative Department, Chandigarh to clarify any points that may arise during the course of discussion/consideration of the Bill. 4. After considering the Bill clause by clause in the meeting held on the 29th December, 1986 the Committee suggested the following changes therein :- Published vide Haryana Government Gazetted (Extra.) dated 23.2.1987

(Phgn. 4, 1908 Saka) page 270. Enacting Formula In the Enacting Formula of the Bill for the word "Thirty-seventh" the words "Thirty-eight" be substituted. Clause I In clause 1 for the figure "1986" substitute "1987" Clause 2 to 5. - Approved. Clause 6. deleted Existing Clause 7 (renumbered clause 6). - Approved Existing Clause 8 (renumbered clause 7). - Approved Existing Clause 9 (renumbered clause 8). - Approved Existing Clause 10 (renumbered clause 9). - Approved Existing Clause 11 (renumbered clause 10). - Approved Existing Clause 12 (renumbered clause 11). - Approved Received the assent of the President of India on the 27th August, 1992, and was published in the Haryana Gazette, (Extra.), Legislature Supplement, Part I, dated September 29, 1992/Asvina 7, 1914. An Act to amend the Indian Electricity Act, 1910, in its application to the State of Haryana. Be it enacted by the Legislature of the State of Haryana in the Thirty-eighth Year of the Republic of India as follows :-

1. Short title.

- This Act may be called the Indian Electricity (Haryana Amendment) Act, 1987.

2. Amendment of Section 5 of Central Act 9 of 1910.

- In sub-section (2) of Section 5 of the Indian Electricity Act, 1910 (hereinafter referred to as the Principal Act), for the words "provisions of sub-sections (1) and (2) of the Section 7-A or as the case may be, sub-section (3) of that Section", the words 'provisions of Sections 7 and 7-A' shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1960.

3. Amendment of Section 6 of Central Act 9 of 1910.

- In sub-section (7) of Section 6 of the principal Act, the words "of sub-section (4)" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1960.

4. Substitution of Section 7-A of Central Act 9 of 1910.

- For Section 7-A of the principal Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1960 and any proceedings pending before any court or before the arbitrator or umpire shall cease and of no effect namely :- "7-A. Determination of purchase money. - (1) Where an undertaking of a licensee is sold under sub-section (1) of Section 5 or is purchased under Section 6, the purchase-money therefor shall be determined as hereinafter provided. (2) The gross purchase-money to such licensee shall be the aggregate value of the amount specified below :- (i) the book value of all completed works in beneficial use pertaining to the undertaking and taken over by the Haryana State Electricity Board, the State Government or local authority, as the case may be (excluding works constructed at the costs of local bodies for street light and works paid for by consumers), less depreciation calculated in accordance with Sixth Schedule read with the Seventh Schedule to the Electricity (Supply) Act, 1948; (ii) the book value of all works in progress taken over excluding works paid for the consumers or protective consumers; (iii) the book value of all stores, including spare parts taken over, and in the

case of used stores and spare parts, if taken over, such sum as may be decided upon by the Special Officer;(iv)the book value of all other fixed assets in use on the date of vesting (hereinafter referred to as the vesting date) and taken over under Section 7 less depreciation calculated in accordance with the schedules referred to in clause (i);(v)the book value of all plants and equipments existing on the vesting date if taken over, but no longer in use owing to wear and tear or to obsolescence, to the extent such value has not been written off in the books of the licensee, less depreciation calculated in accordance with the schedule referred to in clause (i).Explanation. - The book value of any fixed asset means its original cost, and shall comprise -(a)the purchase price paid in good faith by the licensee for the asset, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking; and(b)the cost of supervision actually incurred, but not exceeding fifteen per cent of the amount referred to in paragraph (a) :Provided that before deciding the amounts under this sub-section, the licensee shall be given an opportunity by the Special Officer, of being heard, after giving him a notice of at least 15 days therefor.(3)A sum equal to 10 per cent of the amounts assessed under clauses (i) to (v) of sub-section (2) shall be paid to the licensee in respect of the compulsory purchase under Section 6.(4)When any asset is acquired by the licensee after the expiry of the period to which the latest annual accounts relate, the book value of the asset shall be such as may be decided upon by the Special Officer;Provided that before deciding the book value of any such asset, the licensee shall be given an opportunity by the Special Officer of being heard, after giving him a notice of at least 15 days therefor.(5)The purchaser shall be entitled to deduct the following sums from the gross purchase money under the foregoing sub-section -(a)the amount, if any, already paid in advance;(b)where the purchaser is the Haryana State Electricity Board, the amount due, if any, including interest thereon, from the licensee to the Board, for energy supplied by the Board before the vesting date;(c)all amounts and arrears of interest, if any thereon due from the licensee to the State Government or the Haryana State Electricity Board;(d)the amount, if any, equivalent to the loss sustained by the purchaser by reason of property or rights belonging to the undertaking not having been handed over to the purchaser, the amount of such loss being deemed to be the amount by which the market value of such property or rights exceeds the amount payable therefor under this section, together with any income which might have been realised by the purchaser, if the property or rights had been handed over on the vesting date;(e)all sums paid by the consumers by way of security deposit and arrears of interest due thereon on the vesting date; in so far as they have not been paid over by the licensee to the purchaser, less the amounts which according to the books of the licensee are due from the respective consumers to the licensee for energy supplied by him before that date;(f)all advances from consumers and prospective consumers, and sums which have been or ought to be set aside to the credit of the consumers, insofar as such advances or sums have not been paid over by the licensee to the purchaser;(g)the amounts remaining in Tariffs and Dividends Control Reserve, Contingencies Reserve and the Development Reserve, insofar as such amounts have not been paid over by the licensee to the purchaser.(6)The State Government shall appoint, by order in writing, a person having adequate knowledge and experience in matter relating to accounts, to be the Special Officer to assess the net purchase-money under this section to the licensee, after making the deductions mentioned in this section.(7)(a)The Special Officer may call for the assistance of such officers and staff of the State Government or the Haryana State Electricity Board or the licensee, as he may deem fit, in assessing the net purchase-money.(b)The Special Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central

Act V of 1908), when trying a suit, in respect of the following matters :-(i)enforcing the attendance of any person and examining him on oath;(ii)compelling the production of documents; and(iii)issuing commissions for the examination of witnesses.(c)The Special Officer shall, also have such further powers as may be specified by the State Government by notification in the Official Gazette.(8)Where the gross purchase-money is -(a)equal to the total amount to be deducted under this Section, no payment shall be made to the licensee by the purchaser;(b)less than the total amount to be deducted under this section, the difference between the gross purchase-money so payable and the total amount to be deducted shall on a certificate of the Special Officer be recoverable as arrears of land revenue.(9)Where any amounts not belonging to it have been deducted by the purchaser under clause (c), clause (e), clause (f) or clause (g) of sub-section (5) or recovered under sub-section (8), the liability of the licensee towards the State Government or other bodies or consumers or prospective consumers, as the case may be, shall to the extent of the deduction and recoveries so made, stand discharged and the purchaser shall in substitution of the licensee become liable towards them to that extent :".

5. Amendment of Section 20 of Central Act 9 of 1910.

- In Section 20 of the principal Act, -(i)in sub-section (2), for the words "and after giving not less than twenty-four hours notice in writing to the occupier", the words "at any time but in case of residential premises between sunrise and sunset and after informing the occupier of his intention" shall be substituted;(ii)in sub-section (2), the following proviso shall be added, namely :-"Provided that sufficient notice shall in case of residential premises only be given to enable the inmates of any apartment appropriated to females to withdraw to some part of the premises where their privacy may be preserved."

6. Substitution of Section 39 of Central Act 9 of 1910.

- For Section 39 of the principal Act, the following section shall be substituted, namely :-"39. Theft of energy. - (1) Whoever dishonestly abstracts, consumes or uses any energy shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees, or with both and the existence of artificial means, for such abstraction, consumption or use shall be prima facie evidence of such dishonest abstraction, consumption or use.(2)If any person, having been convicted of an offence punishable under sub-section (1), is again guilty of an offence punishable under that sub-section he shall be punishable with imprisonment for the second or subsequent offence for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine.

39.

-A. Abetment. - Whoever abets an offence punishable under Section 39, shall be punished with the punishment provided for the offence."

7. Amendment of Section 44 of Central Act 9 of 1910.

(1)Section 44 of the principal Act shall be renumbered as sub-section (1) thereof and in sub- section (1) as so renumbered, -(i)after clause (a), the following clause shall be inserted, namely :-(aa) unauthorisedly reconnects with any electric supply line or other works, being the property of the licensee, through which energy may be supplied, when the said electric supply line or other work has been cut or disconnected; or";(ii)for the words "shall be punishable with fine which may extend to five hundred rupees", the words "shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both" shall be substituted;(iii)after the words "such connection as is referred to in clause (a)", the words "or such reconnection as is referred to in clause (aa)" shall be inserted;(iv)the words "and that the meter, indicator door apparatus, is under the custody or control of the consumer, whether it is his property or not" shall be omitted;(v)for the words " that such connection, communication, alteration, prevention or improper use", the words "that such connection reconnection, communication, alteration, prevention or improper use" shall be substituted.(2)After sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :-(2) If any person, having been convicted of an offence punishable under sub- section (1), is again guilty of an offence punishable under that sub-section, he shall be punishable with imprisonment for the second or subsequent offence for a term which shall not be less than three months but which may extend to five years and shall also be liable to fine."

8. Insertion of Section 44-A in Central Act 9 of 1910.

- After Section 44 of the principal Act, the following section shall be inserted namely :-"44-A. Abetment. - Whoever abets an offence punishable under Section 44 shall be punished with the punishment provided for the offence."

9. Amendment of Section 49 of Central Act 9 of 1910.

- In Section 49 of the principal Act, for the words and figures "Sections 39, 40, 44, 45 and 46", the words, figures and letters "Sections, 39, 39-A, 40, 44, 44-A, 45 and 46" shall be substituted.

10. Insertion of Sections 50-A and 50-B in Central Act 9 of 1910.

- After Section 50 of the principal Act, the following section shall be inserted, namely :-"50-A. Certain offences to be cognizable. - Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 or Section 50, offences under Sections 39, 39-A, 44 and 44-A shall be cognizable and non-bailable.

50.

-B. Summary trial. - Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, any Judicial Magistrate of the First Class, may, if he thinks fit, try and offence

under this Act, summarily, in accordance with the procedure contained in the said Code."

11. Repeal.

- The Indian Electricity (Haryana Amendment) Act Ordinance, 1986, (Haryana Ordinance No. 7 of 1986), is hereby repealed.