

# Punjab Electricity (Duty) Act, 2005

PUNJAB

India

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### Act 9 of 2005

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Punjab Electricity (Duty) Act, 2005 Punjab Act No. 9 of 2005 Statement of Objects and Reasons - The Punjab Electricity (Duty) Act, 1958 contained references to the Indian Electricity Act, 1910 (9 of 1910) and the Electricity (Supply) Act, 1948 (54 of 1948). However, the repeal of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 and the enactment of the Electricity Act, 2003 by the Government of India has necessitated the repeal of the existing Punjab Electricity (Duty) Act, 1958 (Act 10 of 1958) and the enactment of a new Act for levy and collection of Electricity Duty in the State of Punjab. Additional Financial Burden is being under taken by the State on account of the requirement to provide subsidy to different classes of electricity consumers under Sections 65 of the Electricity Act, 2003 and for investment in infrastructure and social services in the State. In order to mobilize resources for meeting these responsibilities, the levy and collection of Duty on Electricity needs to be rationalized. Hence the present Bill. Published by Punjab Government Gazette (Extraordinary), dated March 28, 2005, Page 666. Department of Legal and Legislative Affairs, Punjab, Notification, dated the 10th May, 2005 No. 14-Legislative/2005. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 5th May, 2005, and is hereby published for general information :- An act to consolidate and rationalize the law relating to levy and collection of duty on electricity and for the matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Punjab in the Fifty-sixth Year of the Republic of India as follows :-

### 1. Short title and commencement.

(1) This Act may be called the Punjab Electricity (Duty) Act, 2005. (2) It shall come into force at once.

### 2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Board" means the Punjab State Electricity Board constituted under sub-section (1) of Section 5 of the repealed Electricity (Supply) Act, 1948 (Act 54 of 1948); (b) "Inspecting Officer" means a person appointed as such by the State Government

under sub-section (1) of Section 7;(c)"prescribed" means prescribed by rules made under this Act;(d)"section" means section of this Act;(e)"State Government" means the Government of the State of Punjab; and(f)the words and expressions "consumer", "distribution licensee", "electricity", "electricity trader", "generating company", "licensee", "open access" and "supply" and any other words and expressions used in this Act, but not defined, shall have their respective meanings as assigned to them in the Electricity Act, 2003.

### **3. Duty to be paid by consumers.**

(1)There shall be levied and paid to the State Government on the electricity supplied by the Board or any licensee or electricity trader or generating company to a consumer, a duty to be called the electricity duty, at such rate, not exceeding twenty five per cent ad volorem, as the State Government may from time to time by notification, specify :Provided that the State Government may specify different rates for different categories of consumers.(2)It shall be the duty of the Board or the licensee supplying electricity for consumption to collect the electricity duty from all the consumers in its area of supply in such form and pay the same to the State Government in such manner, as may be prescribed.(3)The State Government shall have the first charge on the electricity duty so collected, and neither the Board nor any licensee shall, without the previous sanction of the State Government, utilize this duty to reimburse itself for any amount, which the State Government may owe to the Board or the licensee.(4)The Board or the licensee, as the case may be, shall also pay the electricity duty on the electricity, supplied for its own consumption.

### **4. Computing of electricity duty.**

(1)For computing the electricity duty, the amount of electricity consumed, shall be ascertained in such manner, as may be prescribed.(2)The electricity duty under Section 3, shall be calculated on the rate at which electricity is supplied by the Board or any licensee or electricity trader or generating company to a consumer :Provided that for the purpose of computing electricity duty in the case of consumers, getting the supply through open access from any generating company or electricity trader, as the case may be, the rate shall be deemed to be the same, as is being charged from other consumers of the same categories by the distribution company, supplying electricity in that area.(3)For the purpose of computing the electricity duty, the consumption shown by the meter, starting after the first meter reading date, after the issuance of the notification under sub-section (1) of Section 3, shall be taken into account.

### **5. Exemptions to Government of India.**

- Nothing in Section 3 shall apply to the consumption or sale of electricity, which is -(a)consumed by the Government of India or sold to the Government of India for consumption by that Government; or(b)consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway.

## **6. Records and returns.**

(1) If the State Government so directs by a general or special order, the Board or a licensee or a person supplying, purchasing, generating or transmitting electricity, shall maintain such records, in such form and manner, as may be prescribed showing -(a) the units of electricity generated, transmitted, or received for own consumption or for supply to any consumer or licensee; (b) the units of electricity supplied to any consumer or consumed by it or him; (c) the amount of the electricity duty payable thereon and the electricity duty paid or recovered by him under this Act; and (d) such other particulars, as may be prescribed. (2) The Board, the licensee, or the person generating or purchasing electricity, who has been directed under sub-section (1) to maintain records, shall submit such returns, in such form and manner and to such authority, as may be prescribed.

## **7. Inspecting Officer.**

(1) The State Government may, by notification in the Official Gazette, appoint Inspecting Officers to inspect records maintained under Section 6. (2) The Inspecting Officers shall perform such duties and exercise such powers, as may be prescribed for the purpose of carrying into effect the provisions of this Act and the rules made thereunder. (3) Every Inspecting Officer appointed under this section, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.

## **8. Penal duty to be paid in certain cases.**

(1) If in the opinion of the Inspecting Officer, the Board or the licensee or the electricity trader or the generating company or the consumer, as the case may be, evades or attempts to evade the payment of duty, whether by maintaining false records or by submitting false returns or by concealing the energy consumed or by any other means, the Board, the licensee, the electricity trader, the generating company or the consumer, shall pay by way of penalty, in addition to the duty payable under this Act, a sum not exceeding four times the amount of the electricity duty as may be determined by the Inspecting Officer by passing an order in this regard : Provided that no penalty under this sub-section shall be imposed without affording a reasonable opportunity of being heard to the Board, the licensee, the electricity trader, the generating company or the consumer. (2) An appeal shall lie against an order passed under sub-section (1) to such authority, within such period and on payment of such fee, as may be prescribed. (3) An order passed in appeal under sub-section (2), shall be final. (4) An order for the payment of any penalty made under this section, shall be without prejudice to any prosecution and other penalty, which may be instituted or imposed, as the case may be, under this Act.

## **9. Recovery of duty.**

(1) Any electricity duty, due under this Act or penalty imposed under Section 8, which remains unpaid, whether by a consumer to the Board or to the distributing licensee, or by the Board or the distributing licensee to the State Government, shall be recoverable as an arrear of land revenue or by

deduction from the amounts payable by the State Government to the Board or the distributing licensee or such consumer.(2)When any sum of electricity duty or penalty has fallen, due, but has not been paid, the Inspecting Officer may, subject to the provisions of the rules made in this behalf under this Act, make an application to the Collector to recover the sum due as if it were an arrear of land revenue.(3)An application made under sub-section (2), shall state -(i)the name and description of the defaulter;(ii)the amount of arrear of which recovery is required; and(iii)the circumstances, which have made the application necessary.(4)On receipt of the application, the Collector shall proceed to recover the amount as arrear of land revenue under the Punjab Land Revenue Act, 1887.(5)Notwithstanding anything contained in any law for the time being in force, the moveable and immovable property of the Board or any licensee, shall not be liable to be taken in execution of a decree or order of any Court, until the electricity duty payable by the Board or the licensee or the electricity trader or the generating company, as the case may be, to the State Government, has been paid.Explanation. - The expression 'Collector' shall have the same meaning as assigned to it under the Punjab Land Revenue Act, 1887 (Act No. 17 of 1887).

## **10. Power to disconnect supply for non-payment of duty.**

- Where a consumer fails to pay the electricity duty, due from him in respect of the electricity supplied to him, the Board or the distribution licensee, supplying electricity to him, as the case may be, after giving not less than fifteen days notice in writing, cut off the electricity supply to such person, until the entire electricity duty is paid.

## **11. Penalties.**

- If any person, -(a)required under Section 6 to maintain records or to submit returns, fails to keep or submit the same in the prescribed form or manner or submits a return which is false; or(b)intentionally obstructs an Inspecting Officer in the exercise of his powers and duties under this Act and the rules made thereunder; or(c)contravenes the provisions of any rule made under this Act,he shall be liable to pay fine, not exceeding one lakh rupees, as may be determined by the prescribed authority.

## **12. Power to exempt.**

- The State Government may, in public interest by notification in the Official Gazette, exempt any licensee, consumer or person from the payment of the whole or part of the electricity duty for such period and subject to such conditions, as may be specified in such notification.

## **13. Power to make rules.**

(1)State Government may, by notification, in the Official Gazette, make rules for carrying into effect the provisions of this Act.(2)In particulars, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)the manner of collection and payment of electricity duty under Section 3;(b)the manner of ascertaining the amount

of electricity duty on the electricity, consumed under Section 4;(c)the form and manner in which record shall be maintained under sub-section (1) of Section 6;(d)prescription of particulars under clause (d) of sub-section (1) of Section 6;(e)the manner of submitting the returns and the authority to whom these are to be submitted under sub-section (2) of Section 6;(f)the powers and duties to be exercised and performed by the Inspecting Officer under sub-section (2) of Section 7;(g)the authority to whom appeal shall lie, the period within which appeal shall lie and the fee for filing such appeal under sub-section (2) of Section 8;(h)the prescription of form, manner and authority under Section 11; and(i)any other matter required to be prescribed or which may be prescribed by or under this Act.(3)Every rule made under this section, shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have, effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

#### **14. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty :Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

#### **15. Repeal and saving of Punjab Act 10 of 1958.**

(1)The Punjab Electricity (Duty) Act, 1958 (Punjab Act 10 of 1958), is hereby repealed.(2)Notwithstanding such repeal, -(a)anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;(b)the electricity duty levied under the Punjab Electricity (Duty) Act, 1958, shall continue to be enforced and collected till the notification under Section 3 of this Act, is issued; and(c)the Punjab Electricity (Duty) Rules, 1958, made under Section 13 of the Punjab Electricity (Duty) Act, 1958, shall continue to have effect until those rules are rescinded or modified, as the case may be.

#### **16. Repeal and saving of Punjab Ordinance 3 of 2005.**

(1)The Punjab Electricity (Duty) Ordinance, 2005 (Punjab Ordinance 3 of 2005), is also hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under this Act.(3)For the purpose of computing the electricity duty, the consumption shown by the meter, starting after the first meter reading date, after the issuance of the notification under sub-section (1) of Section 3,

shall be taken into account.