

# The Bengal Electricity Duty Act, 1935

WEST BENGAL

India

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### Act 10 of 1935

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The Bengal Electricity Duty Act, 1935 Bengal Act 10 of 1935 [30th May, 1935.] An Act to levy a duty on electrical energy consumed [\* \* \*] [Words 'for lights and fans' omitted by W.B. Act 21 of 1957.] in Bengal. Whereas it is expedient to levy a duty on electrical energy consumed [\* \* \*] [Words 'for lights and fans' omitted by W.B. Act 21 of 1957.] in Bengal; And Whereas the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act; It is hereby enacted as follows :-

#### 1. Short title, extent and commencement. -

(1) This Act may be called the Bengal Electricity Duty Act, 1935. (2) It extends to the whole of [West Bengal] [Words substituted for the word 'Bengal' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.]. (3) It shall come into force on such date as the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may by notification in the [Official Gazette] [Words substituted for the words 'Calcutta Gazette' by the Government of India (Adaptation of Indian Laws) Order, 1937.], appoint [\* \* \*] [Words 'and shall continue in force for three years only' repealed by Bengal Act 4 of 1938.].

#### 2. Definitions. -

In this Act, unless there is anything repugnant in the subject or context, - (1) "consumer" means any person, other than a distributing licensee, who is supplied with energy by a licensee [or by the State Government] [Words inserted by W.B. Act 61 of 1950.]; (2) "energy" means electrical energy: (2a) [ "energy charge" means the amount charged (whether as energy charge or some other charge) by a licensee for the supply of energy to a consumer before deduction of rebate, if any, allowed by the licensee for payment on or before such date as may be specified by the licensee;] [Clauses (2a) and (2b) inserted by W.B. Act 4 of 1993.][Explanation] [ 'Explanation' inserted by W.B. Act 3 of 1999.

w.e.f. 1.2.1993.]. - "Some other charge" shall include demand charge and power factor surcharge.(2b)[ "gross charge" means the aggregate amount of energy charge and fuel surcharge, if any, made by the licensee for the supply of energy;] [Clauses (2a) and (2b) inserted by W.B. Act 4 of 1993.](3)"licensee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937 and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] under section 28 of that Act [and also includes the West Bengal Electricity Board to be constituted under section 5 of the Electricity (Supply) Act, 1948] [Words, figures and brackets inserted by W.B. Act 61 of 1950.]; and(3a)[ "net charge" means the amount of gross charge that remains after deduction therefrom of any rebate referred to in clause (2 a) or refund of fuel surcharge, if any;] [Clause (3a) inserted by W.B. Act 4 of 1993.](4)"prescribed" means prescribed by rules made under this Act.[3. Duty on units of energy consumed. -] [[Section 3 substituted by W.B. Act 16 of 1963. Original section 3 was as under :-'3. Duty on units of energy consumed. - There shall be charged, levied and paid to the Government of Bengal, on the units of energy consumed for the purpose of lights or fans or both, a duty (hereinafter referred to as 'electricity duty') at the rates specified in the First Schedule :Provided that electricity duty shall not be leviable on the units, of energy consumed-(a)by Government, except to the extent specified in the Second Schedule;(b)by, or in respect of any-(i)local authority;(ii)railway administration, as defined in the Indian Railways Act, 1890;(iii)tramway company;(iv)mine, as defined in the Indian Mines Act, 1923;(v)industrial undertaking;(vi)institution or class of persons specified in the Second Schedule, except to the extent specified in the Second Schedule;(c)in any-(i)place of public worship, public burial or burning-ground or other place for the disposal of the dead;(ii)premises declared by the Local Government to be used exclusively for purposes of public charity;(iii)vessel, whether sea-going or inland.']] (1) Subject to the provisions of [sub-section (3),] [Word, figure and brackets substituted for the words, figures and brackets 'subsections (2) and (3)' by W.B. Act 4 of 1993.] there shall be charged, levied and paid to the State Government a duty (hereinafter referred to as 'electricity duty'), [on the net charge for energy consumed or the units of energy consumed, as the case may be,] [Words substituted for the words 'on the units of energy consumed' by W.B. Act 4 of 1993.] at the rates specified in the First Schedule :[Provided that during a period of one year with effect from] [[Proviso and Explanation first inserted by W.B. Act 18 of 1979, then substituted by W.B. Act 5 of 1985. Previous proviso and Explanation was as under :-'Provided that during a period of one year with effect from the 1st day of June, 1979, no electricity duty on the units of energy consumed shall be payable by a person (other than a licensee) who generates energy from a diesel generating plant registered under section 7B for his own consumption for any industrial or manufacturing process (including cold storages and cinema houses), and for such other purpose as the State Government may by notification in the Official Gazette, specify in this behalf.Explanation. - For the purposes of this proviso, 'own consumption' shall not include any consumption for domestic purposes.']]-(a)the 1st day of June, 1979, no electricity duty [on the net charge for energy consumed or the units of energy consumed, as the case may be,] [Words substituted for the words 'on the units of energy consumed' by W.B. Act 4 of 1993.] shall be payable by a person (other than a licensee) who generates energy from a diesel generating plant, or(b)the 1st day of April, 1985, no electricity duty [on the net charge for energy consumed or the units of energy consumed, as the case may be,]

[Words substituted for the words 'on the units of energy consumed' by W.B. Act 4 of 1993.] shall be payable by a person (other than a licensee) who generates energy from a [coal-based generating plant, or] [Words substituted for the words 'coal-based generating plant,' by W.B. Act 6 of 1990.](c)[ Clause (c) inserted by W.B. Act 6 of 1990.] the 1st day of February, 1990, no electricity duty [on the net charge for energy consumed or the units of energy consumed, as the case may be,] [Words substituted for the words 'on the units of energy consumed' by W.B. Act 4 of 1993.] shall be payable by a person (other than a licensee) who generates energy from a waste-gas-based generating plant, registered under section 7B, for his own consumption for any industrial or manufacturing process (including cold storages and cinema houses), and for such other purposes as the State Government may, by notification in the Official Gazette, specify in this behalf. [Explanation. - For the purposes of this proviso, "own consumption" shall not include any consumption for domestic purposes :] [[Proviso and Explanation first inserted by W.B. Act 18 of 1979, then substituted by W.B. Act 5 of 1985. Previous proviso and Explanation was as under :- 'Provided that during a period of one year with effect from the 1st day of June, 1979, no electricity duty on the units of energy consumed shall be payable by a person (other than a licensee) who generates energy from a diesel generating plant registered under section 7B for his own consumption for any industrial or manufacturing process (including cold storages and cinema houses), and for such other purpose as the State Government may by notification in the Official Gazette, specify in this behalf. Explanation. - For the purposes of this proviso, 'own consumption' shall not include any consumption for domestic purposes.']] [Provided further that the State Government may, by notification in the Official Gazette, extend the period referred to in the first proviso from time to time but such extension shall not exceed a period of one year at a time] [Proviso inserted by W.B. Act 18 of 1979.] ; [Provided also that where any electricity duty is charged, levied or paid at the rates specified in any of the clauses of any article of Part C of the First Schedule, such duty may be charged, levied or paid, monthly for a period of three consecutive months on the basis of average monthly consumption during the three months immediately preceding the period as aforesaid, in such manner, in such areas, for such class of consumers and subject to such conditions as may be prescribed] [Proviso and Explanation inserted by W.B. Act 20 of 1984.]. [Explanation. - The expression "month" shall mean a period of not less than 25 days and not more than 35 days and shall be computed in the manner prescribed.] [Proviso and Explanation inserted by W.B. Act 20 of 1984.](2)(a) The special rate of duty referred to in [sub-clause (ii) of clause (b) of article (2)] [Words, figures, letters and brackets substituted for the words, figure, letter and brackets 'in clause (2) of article (b)' by W.B. Act 4 of 1993.] of Part B of the First Schedule shall not be admissible unless-(i) the cost of energy consumed for purposes of electrolysis or heating in electric furnaces is twenty per cent, or more of the total cost of manufacture by electrolysis or heating in electric furnaces, and (ii) separate books of account are maintained showing separately the details of the cost of energy consumed for purposes of electrolysis or heating in electric furnaces and the total cost of manufacture by electrolysis or heating in electric furnaces. (b) An industrial undertaking claiming the benefits of the special rate of duty referred to in [sub-clause (ii) of clause (to) of article (2)] [Words, figures, letters and brackets substituted for the words, figure, letter and brackets 'in clause (2) of article (b)' by W.B. Act 4 of 1993.] of Part B of the First Schedule shall make an application in writing to an officer specially appointed in this behalf by the State Government by notification in the Official Gazette and thereupon such officer shall, after giving the applicant an opportunity of being heard and after making such enquiry (if any) as he may think fit, make an order, -(i) if he is satisfied that the

requirements of this Act and the rules made thereunder have been complied with, allowing the application, or(ii)if he is not so satisfied, rejecting the application, and such order shall, subject to the provisions of clause (c) , be final.(c)The State Government may, on application or of its own motion, revise any order made under clause (b).(3)Electricity duty shall not be leviable [on the net charge for energy consumed or the units of energy consumed as recorded in the meter, as the case may be,] [Words substituted for the words 'on the units of energy consumed as recorded in the matter' by W.B. Act 4 of 1993.](a)by any Government, except to the extent specified in the Second Schedule;(b)by, or in respect of, any-(i)local authority,(ii)railway administration as defined in the Indian Railways Act. 1890.(iii)institution or class of persons specified in the Second Schedule,except to the extent specified in the Second Schedule;(c)in any-(i)place of public worship, public burial or burning-ground or other place for the disposal of the dead,(ii)premises declared by the State Government to be used exclusively for purposes of public charity,(iii)vessel whether sea-going or inland.

**3A. [ Assessment of electricity duty payable by a licensee or a person required to furnish return under section 6. - (1) If no return in respect of any period is submitted by a licensee or a person required to submit return under section 6 or if the return submitted by such licensee or person appears to the authority prescribed by rules under this Act to be incorrect or incomplete, such authority shall, after giving such licensee or person, as the case may be, a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of electricity duty payable under this Act by such licensee or person.**

(2)The amount of electricity duty assessed under sub-section (1) for a period, less the sum, if any, already paid in respect of the said period, shall be paid by the licensee or the person by such date as may be specified in a notice issued by the authority in this behalf, and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.(3)No assessment under this section shall be made-(a)after the expiry of four years, from the end of the year comprising the period or periods in respect of which the assessment is made, or](b)[after the 31st day of December, 2002. whichever is later] [Words, figures and letters 'after the 31st day of December, 2000, whichever is later' first substituted for the words, figures and letters 'after the 31st day of December, 1998, whichever is later.' by W.B. Act 3 of 1998, then the words, figures and letters within third brackets substituted for the words, figures and letters 'after the 31st day of December, 2000, whichever is later' by W.B. Act 3 of 2000.].Explanation. - For the purpose of this section, "year" means the year commencing on the first day of April and ending on the last day of March.

#### **4. Exemption of newly-formed undertakings. -**

(1)Notwithstanding anything contained in section 3, electricity duty shall not be leviable on energy supplied by a licensee until the expiry of three years from the date on which energy was first supplied in the area of supply [of the licensee] [Words substituted for the words 'specified in his

license' by W.B. Act 61 of 1950.] :Provided that, if a licensee ceases to supply energy in any area of supply or if his license is revoked, and thereafter another licensee supplies energy in such area, the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may in its discretion, by order, exempt the energy supplied by such other licensee from, the levy of electricity duty for such period as may be specified in the order.(2)No modification in any area of supply shall operate to extend the period of exemption mentioned in sub-section (1) in respect of the whole or any part of the area as modified.

## 5. Payment of electricity duty. -

(1)In the case of energy supplied by a licensee the licensee shall collect and pay to the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] at the prescribed time and in the prescribed manner, the electricity duty payable under section 3 on the [\* \* \*] [Words 'units of omitted by W.B. Act 4 of 1993.] energy supplied by him to consumers [\* \* \*] [Words 'for the purpose of lights and fans' omitted by W.B. Act 21 of 1957.]. The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] :Provided that the licensee shall not be liable to pay the duty in respect of any energy supplied by him for which he has been unable to recover his dues.(1A)[ ] [Sub-section (1A) inserted by W.B. Act 61 of 1950.] In the case of energy supplied by the State Government, the consumer shall pay to the State Government at the prescribed time and in the prescribed manner the electricity duty payable under section 3 on the [\* \* \*] [Words 'units of omitted by W.B. Act 4 of 1993.] energy supplied by the State Government to the consumer [\* \* \*] [Words 'for the purpose of lights and fans' omitted by W.B. Act 21 of 1957.](2)Where any person fails or neglects to pay, at the prescribed time and in the prescribed manner the amount of electricity duty due from him, the licensee [or the State Government, as the case may be,] [Words inserted by W.B. Act 61 of 1950.] may, without prejudice to the right of the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] to recover the amount under section 8, and after giving not less than seven clear days notice in writing to such person, cut off the supply of energy to such person; and [\*] [Word 'he' omitted by W.B. Act 61 of 1950.] may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him.(3)The licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] on the amount of the duty collected and

paid by him under sub-section (1). (4) In the case of energy other than energy supplied by a licensee [or the State Government] [Words inserted by W.B. Act 61 of 1950.] the person who generated [or supplied] [Words inserted by W.B. Act 30 of 1953.] such energy shall pay to the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] at the prescribed time and in the prescribed manner the electricity duty payable under section 3 on units of such energy.

**5A. [ Interest payable by licensee. - (1) Where a licensee fails to make payment to the State Government by the prescribed date electricity duty collected by him under section 5, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month immediately following the prescribed date upto the month preceding the month of full payment of such duty, or upto the month prior to the month of assessment of electricity duty under section 3A and the rules made thereunder, whichever is earlier, upon so much amount of the duty payable by him as remains unpaid at the end of each such month of default.**

(2) Where a licensee fails to make payment of any electricity duty due from him after assessment under section 3A by the date specified in the notice, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month immediately following the date specified in the notice upto the 'month preceding the month of full payment of the duty or upto the month immediately preceding the month of commencement of proceedings for recovery under section 8, whichever is earlier, upon so much of the amount of electricity duty due from him according to such notice as remains unpaid at the end of each such month of default. (3) A licensee liable to pay interest under sub-section (1) or sub-section (2), as the case may be, shall pay to the State Government such interest in such manner and by such date as may be prescribed. (4) Interest under sub-section (1) shall be payable in respect of payment of duties by the licensee, the prescribed date of which under section 5 is the date subsequent to, and interest under sub-section (2) shall be payable in respect of assessment for which a notice of demand under section 3A is issued after, the date of coming into force of section 3 of the West Bengal Finance Act, 1995. (5) Where the authority prescribed by the State Government under section 3A to make assessment has reason to believe that a licensee has failed to pay interest payable by or due from, him under sub-section (1) or sub-section (2), by the prescribed date or that the amount of interest paid by him is not correct, such authority shall determine the amount of interest in such manner as may be prescribed: the amount of interest so determined shall be collected from the licensee in such manner as may be prescribed.] [Sections 5A and 5B inserted by W.B. Act 3 of 1995.]

**5B. [ Interest payable by the State Government. - The State Government shall, in the prescribed manner, pay a simple interest at the rate of two per centum for each English calendar month of delay in making refund to a licensee the amount of electricity duty paid in excess which arises from an order under**

**section 7C passed on appeal by the prescribed authority on or after the coming into force of section 3 of the West Bengal Finance Act, 1995, from the first day of the English calendar month next following the expiry of three months from the date of such order upto the month preceding the month in which refund is made, upon the amount of duty refundable to him according to such order.] [Sections 5A and 5B inserted by W.B. Act 3 of 1995.]**

## **6. Obligation to keep books of account and submit returns. -**

Every licensee, and every person liable to pay such duty under sub-section (4) of section 5 shall, unless he is exempt from payment of electricity duty [under sub-section (3) of section 3] [Words, figures and brackets substituted for the words, figures and brackets 'under proviso to section 3' by W.B. Act 16 of 1963.] keep books of account in the prescribed form and submit to the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] or to the prescribed officer returns in the prescribed form at the prescribed times, showing the units of energy [, and the gross charge, fuel surcharge and net charge for energy,] [Words inserted by W.B. Act 4 of 1993.] supplied, generated or consumed by him, as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 5.

## **7. Inspecting officers. -**

(1)The [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may, by notification in the [Official Gazette] [Words substituted for the words 'Calcutta Gazette' by the Government of India (Adaptation of Indian Laws) Order, 1937.], appoint inspecting officers to inspect the books of account required by section 6 to be kept. Such 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.(2)Every officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**7A. [ Provision of meters] [Section 7A inserted by W.B. Act 40 of 1975]. - [(1) Every person who does not maintain separate meters for recording different kinds of consumption of electrical energy for the purposes of calculating the different rates of duty which are payable by him in terms of the provisions of the First Schedule shall be liable to pay electricity duty at the highest of the applicable rates.] [section 7A renumbered as sub-section (1) of that section and sub-section (2) inserted by W.B. Act 5 of 1977.]**

(2)[ If on application made by any person in this behalf the State Government or such other authority as the State Government may prescribe in this behalf, having regard to the fact that the cost of maintenance of separate meters is disproportionate to the amount of electricity duty payable by such person or otherwise, is satisfied that the application of the provisions of sub-section (1) to such person would cause undue hardship to him, it may, by written order for reasons to be recorded in writing, exempt such person from the provisions of sub-section (1) and direct that the amount of electricity duty payable, or the units of electrical energy for which electricity duty is payable, by such person shall be assessed in such manner as may be prescribed.] [section 7A renumbered as sub-section (1) of that section and sub-section (2) inserted by W.B. Act 5 of 1977.]

**7B. [ Registration. - (1) Every person, other than a licensee or the State Government, who has installed or will install a generating plant for generation of energy for his own consumption, shall, for the purpose of registration of such plant, make an application to such officer as the State Government may appoint in this behalf. The application shall be made in such manner and in such form and on payment of such fee as may be prescribed. The officer appointed in this behalf may, on receipt of an application for grant of a certificate of registration and after such enquiry as he considers necessary, grant to the applicant a certificate of registration for such plant for such period and on such condition or conditions as may be prescribed. Such registration number shall be quoted in all books of account and returns required to be kept or submitted under section 6.**

(2)The registration granted under sub-section (1) shall be renewed in such manner, within such period and on payment of such fee as may be prescribed.(3)The officer appointed under sub-section (1) may, on application being made to him for this purpose, cancel the certificate of registration. The registration shall be liable to be cancelled for violation of any of the conditions subject to which the certificate of registration was granted. No certificate of registration shall be cancelled without giving the the person concerned an opportunity of being heard.(4)If any person to whom the provisions of sub-section (1) apply-(a)sells or otherwise disposes of, discontinues or changes his name or place of business, or(b)changes the nature of his consumption of energy which is specified in his application for registration,he shall, within the prescribed time and in the prescribed manner, inform the officer appointed under sub-section (1) about such sale, disposal, discontinuance or change, and in case of death of the person, his legal representative shall in like manner inform the said officer.] [section 7B inserted by W.B. Act 18 of 1979.]

**7C. [ Appeal. - (1) Any person may in the prescribed manner appeal to the prescribed authority against any order of assessment of electricity duty or any other order passed under this Act or the rules made thereunder within sixty days or such further period as may be allowed by the prescribed authority for reasons shown to his satisfaction from the date of receipt of a**



**notice of demand issued after such order of assessment or the date of communication of such other order, as the case may be :**

Provided that no appeal against an assessment of electricity duty shall be entertained by the prescribed authority unless he is satisfied that such amount of the electricity duty as the appellant may admit to be due from him has been paid.(2)Subject to such rules of procedure as may be prescribed, the prescribed authority, in disposing of any appeal under sub-section (1), may-(a)confirm, modify or annul the assessment of electricity duty or any other order, as the case may be; or(b)set aside the assessment of electricity duty or any other order, as the case may be, and direct the authority concerned to make a fresh assessment or pass a fresh order after such further inquiry as may be directed.]

**7D. [ Revision by Appellate and Revisional Board. - (1) Any licensee or person objecting to an order passed under section 7C may apply for revision of such order to the West Bengal Commercial Taxes Appellate and Revisional Board constituted under section 6 of the West Bengal Sales Tax Act, 1994 (hereinafter referred to as the Appellate and Revisional Board) within sixty days of the date on which such order is communicated to him or within such further period as may be allowed by the Appellate and Revisional Board for reasons shown to its satisfaction.**

(2)The provisions of section 6 referred to in sub-section (1) and the rules and the regulations made thereunder shall apply mutatis mutandis in the matter of submission of application for revision made under this section and disposal thereof.] [Section 7D inserted by W.B. Act 10 of 1996.]

**8. Recoveries. -**

Any sum due on account of electricity duty [or interest] [Words inserted by W.B. Act 10 of 1996.], if not paid at the prescribed time and in the prescribed manner shall be recoverable, as a public demand-(a)in the case of energy supplied by a licensee, at the discretion of the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.], either from the consumer, or, subject to the proviso to sub-section (1) of section 5, from the licensee; [\*] [Word 'and' omitted by W.B. Act 61 of 1950.](aa)[ in the case of energy supplied by the State Government, from the consumer;] [Clause (aa) inserted by W.B. Act 61 of 1950.](b)in the case of other energy, from the person liable to pay such duty under sub-section (4) of section 5; and(c)[ in the case of interest, from the licensee liable to pay such interest under section 5A.] [Clause (c) inserted by W.B. Act 10 of 1996.]

**8A. [ Special mode of recovery. - (1) Notwithstanding any proceeding being initiated under section 8 for recovery of any amount of electricity duty, the authority prescribed under section 3A (hereinafter referred to as the said authority) may, at any time or from time to time, by notice in the prescribed form, require any person from whom money is due or may become due to a defaulter or any person who holds or may subsequently hold money for, or on account of, such defaulter, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due from such defaulter in respect of the arrears of such electricity duty and interest, if any, or the whole of the money when such money is equal or less than that amount.**

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for, or on account of, the defaulter jointly with any other person, and for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal. (3) A copy of the notice shall be forwarded to the defaulter at his last address known to the said authority and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority. (4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary. (5) Any claim respecting any money, which is due or to become due or is being held or may subsequently be held and in relation to which a notice under this section has been issued, arising after the date of such notice, shall be void as against any demand contained in such notice. (6) Where a person to whom a notice sent under this section proves to the satisfaction of the said authority that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for, or on account of, the defaulter or that the money demanded or any part thereof is not likely to be due to the defaulter or be held for, or on account of, the defaulter, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be. (7) The said authority may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice. (8) The Government Treasury or the Reserve Bank of India shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying the amount shall be fully discharged from his liability to the defaulter to the extent of the amount so paid. (9) Any person discharging any liability to the defaulter after receipt of a notice under this section shall be personally liable to the said authority to the extent of his own liability to the defaulter so discharged or to the extent of the liability of such

defaulter any amount due under this Act, whichever is less.(10)If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a defaulter in respect of the amount specified in the notice, and further proceedings may be taken against him for the recovery of the amount as if it were an arrear due from him, and the notice shall have the same effect as attachment of a debt.(11)The said authority may apply to the court in whose custody there is money belonging to the defaulter for payment to him of the entire amount of such money or, if it is more than the amount of electricity duty or interest due, an amount sufficient to discharge the liability of the amount of electricity duty or interest :Provided that any dues exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any payment required to be made under this section.Explanation. - For the purposes of this section, 'defaulter" means a licensee or a person who fails to make full payment of the amount of electricity duty due from him on assessment under section 3A or the amount of interest due from a licensee on determination under section 5A.] [Section 8A inserted by W.B. Act 10 of 1996.]

## **9. Penalties. -**

If any person required by section 6 to keep books of account or to submit returns fails to keep such books in the prescribed form, or to submit such returns in the prescribed form at the prescribed times or if any person intentionally obstructs an inspector appointed under section 7 in the exercise of his powers and duties under this Act and the rules made thereunder he shall be liable on conviction before a Magistrate, to a fine not exceeding [one thousand] [Words substituted for the word 'fifty' by W.B. Act 21 of 1957.] rupees.

## **10. Exemption of small generating plants. -**

This Act shall not apply to energy generated by a plant having a capacity not exceeding two and a half kilowatts.

## **11. Power to make rules. -**

[(1)The State Government may make rules, with prospective or retrospective effect, to carry out the purposes of this Act.(2)In particular, 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 time and manner of payment of the electricity duty under section 5;(b)the form of the books of account to be kept, the times at which, the form in which and the officer to whom, the returns required by section 6 shall be submitted;(c)the duties and powers of inspecting officers;] [\* \*] [Word 'and' omitted by W.B. Act 5 of 1977.](cc)[ the manner of assessment of electricity duty referred to in subsection (2) of section 7A;] [Clause (cc) inserted by W.B. Act 5 of 1977.](ccc)[ the manner in which, the form in which and the fee on payment of which application for grant of a certificate of registration shall be made and the period for which and the condition or conditions subject to which registration of certificate shall be granted under sub-section (1), the manner in which, the period within which and the fee on payment of which certificate of registration shall be renewed under sub-section (2), and the time within which and the manner in which the officer appointed under sub-section (1) shall be informed

under sub-section (4), of section 7B.] [Clause (ccc) inserted by W.B. Act 18 of 1979.](d)any other matter [which may be or is required to be prescribed or] [Words inserted by W.B. Act 16 of 1963.] for which there is no provision or insufficient provision in this Act and provision is, in the opinion of the Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the [State Government] [word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.], necessary for giving effect to the provisions of this Act.(3)In making a rule under sub-section (1) or sub-section (2) the [State Government] [Words 'Provincial Government' first substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937 and thereafter the word 'State' substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may provide that breach of it shall be punishable with a fine not exceeding [one thousand] [Words substituted for the word 'fifty' by W.B. Act 21 of 1957.] rupees.[The First Schedule] [First Schedule substituted by W.B. Act 4 of 1993. It was earlier as under:-][See section 3.]Rates Of Electricity DutyA. For energy other than energy supplied by a licensee or the State Government.

In the case of energy, other than energysupplied by a licensee or the State Government, generated by aperson liable to pay electricity duty under sub-section (4) ofsection 5	5 paise for each unit of energy consumed.
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B. For industrial purposes.(1)Low and medium voltage energy:Where low or medium voltage energy supplied by a licensee is consumed by a consumer in any premises in connection with industrial or manufacturing process including cold storage, and consumption of energy during the month to which the calculation of duty relates-

(i) does not exceed five hundred units	2.5per centumof net charge for energyconsumed;
(ii) exceeds five hundred units but does notexceed one thousand units	5.0per centumof net charge for energyconsumed;
(iii) exceeds one thousand units	7.5per centumof net charge for energyconsumed;

(2)High voltage energy:

(a) Except in cases falling under clause (b), where highvoltage energy supplied by a licensee is consumed by a consumerin any premises in connection with industrial or manufacturingprocess including cold storage	7.5per centumof net charge for energy consumed;
(b) where energy is consumed for the purposes of—	5.0per centumof net charge for energy consumed;
(i) a cottage industry or asmall-scale industry, by any undertaking not being a factory asdefined in the Factories Act, 1948, or	(ii) electrolysis or heating inelectric furnaces, by any industrial undertaking, and  - separatemeters or sub-meters are installed for indicating the quantity ofenergy so consumed.

[Explanation. - Notwithstanding anything contained in Part A or Part C, where energy is consumed in any premises for lights and fans and for any other purposes in connection with industrial or manufacturing process, including cold storage, electrolysis or heating in electric furnaces, carried on therein, and the quantity of energy consumed for lights and fans is not separately indicated by meters or sub-meters, such quantity of energy consumed for lights and fans or for any other purposes shall be deemed to have been consumed for industrial purposes and the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be, of this part: Provided that in respect of energy consumed in residences situated in such premises, the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be, of Part C of this Schedule.] [['Explanation' substituted by W.B. Act 3 of 1999. The same was earlier as under :-

'Explanation. - In this Part, where energy is consumed in any premises for lights and fans and for any other purposes in connection with industrial or manufacturing process, including cold storage, electrolysis or heating in electric furnaces, carried on therein, and the quantity of energy consumed for lights and fans is not separately indicated by meters or sub-meters, such quantity of energy consumed for lights and fans or for any other purposes shall be deemed to have been consumed for industrial purposes, and notwithstanding anything contained in Part A or Part C. the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be of this Part.']]C. Where a common rate is charged by a licensee for supply of energy for lights, fans and all other purposes except the purposes referred to in Part B.(1)Low and medium voltage energy:In the case where a common rate is charged for supply of low or medium voltage energy for lights, fans and all other purposes, except the purposes in connection with industrial or manufacturing process referred to in article (1) of Part B, in any premises, and-(a)where such common rate is charged for low or medium voltage energy supplied by a licensee for commercial purposes to a consumer whose consumption of such energy during the month to which the calculation of duty relates-

(i) does not exceed twenty-five units	nil;
(ii) exceeds twenty-five units but does not exceed sixty units	2.5per centumof net charge for energyconsumed;
(iii) exceeds sixty units but does not exceedone hundred units	5.0per centumof net charge for energyconsumed;
(iv) exceeds one hundred units but does not exceed one hundred and fifty units	7.5per centumof net charge for energyconsumed;
(v) exceeds one hundred and fifty units but does not exceed five hundred units	10.0per centumof net charge for energyconsumed;
(vi) exceeds five hundred units	12.5per centumof net charge for energyconsumed;

(b)where such common rate is charged for low or medium voltage energy supplied by a licensee for any purposes, other than the commercial purposes referred to in clause (a), to a consumer whose consumption of such energy during the month to which the calculation of duty relates-

(i) does not exceed twenty-five units	nil;
(ii) exceeds twenty-five units but does not exceed sixty units	2.5per centumof net charge for energyconsumed;
(iii) exceeds sixty units but does not exceedone hundred units	5.0per centumof net charge for energyconsumed;

- (iv) exceeds one hundred units. 7.5per centumof net charge for energyconsumed;
- (2)High voltage energy:In the cases where a common rate is charged for high voltage energy supplied by a licensee to a consumer for purposes, other than the purposes in connection with industrial or manufacturing process referred to in article (2) of Part B, in any premises, and-
- (a) where such common rate is charged for highvoltage energy for 12.5per centumof net charge for energyconsumed;
- (b) where such common rate is charged for highvoltage energy for purposes, other than the commercial purposesreferred to in clause 10.0per centumof net charge for energyconsumed;
- (a), to a consumer
- (3)In respect of all premises where the supply of energy by a licensee is unmetered for-
- |   |                 |
|---|-----------------|
|   | Paise per month |
| every lamp of less than 30 watts  | 20;             |
| every lamp of 30 watts or more but less than 40watts                                | 29;             |
| every lamp of 40 watts or more but less than 60watts                                | 37;             |
| every lamp of 60 watts or more but not exceeding100 watts                           | 50; and         |
| for every additional 15 watts or fractionthereof in excess of 100 watts in any lamp | 10.             |
- Explanation I. - For the purposes of this Part, where the electricity duty is charged, levied or paid in accordance with the provisions contained in the third proviso to sub-section (1) of section 3, the expression "consumption of energy" shall mean the consumption of energy as arrived at on the basis of average monthly consumption in accordance with the said proviso.Explanation II. - For the purposes of this Schedule,-(i)the expression "low or medium voltage energy" means any energy supplied, the voltage of which does not exceed 650 volts under normal conditions, subject to the percentage variation allowed under the Indian Electricity Rules, 1956;(ii)the expression "high voltage energy" means any energy supplied, the voltage of which exceeds 650 volts under normal conditions, subject to the percentage variation allowed under the Indian Electricity Rules, 1956.[[Sub-section (1) substituted by W.B. Act 5 of 1977. Previous sub-Section (1) was as under:-'(1) The Slate Government may make rules to carry out the purposes of this Act.']]
- First Schedule substituted by W.B. Act 4 of 1993. It was earlier as under:-The First Schedule[See section 3.]Rates Of Electricity DutyA. For lights and fans.(1) In respect of all premises in the urban area not falling under article (2)-(a) when the net charge of the licensee for the supply of energy for the purposes of lights or fans or both does not exceed 25 paise for each unit of energy consumed as follows, namely :-in the case of a consumer whose consumption of energy during the month to which the calculation of duty relates. -(i) does not exceed 25 units ... - Nil;(ii) exceeds 25 units but does not exceed 60 units ... - 5 paise for each unit of energy consumed;(iii) exceeds 60 units ... - 11 paise for each unit of energy consumed;(b) in other cases including persons referred to in sub-section (4) of section 5 ... - 5 paise for each unit of energy consumed.(1A) In respect of all premises in the rural area not falling under article (2)-(a) when the net charge of the licensee for the supply of energy for the purposes of lights or fans or both does not exceed 25 paise for each unit of energy consumed as follows, namely:-in the case of a consumer whose consumption of energy during three consecutive months to which the calculation of duty relates. -(i) does not exceed 60 units ... - Nil;(ii) exceeds 60 units but does not exceed 180 units ... - 5 paise for each unit of energy

consumed;(iii) exceeds 180 units ... - 11 paise for each unit of energy consumed;(b) in other cases including persons referred to in sub section (4) of section 5 ... - 5 paise for each unit of energy consumed.(2) In respect of all premises where the supply of energy by a licensee is unmetered for-Paise per mensem.every lamp of less than 30 watts - ... - 20every lamp of 30 watts or more but less than 40 - ... - 29every lamp of 40 watts or more but less than 60 - ... - 37every lamp of 60 watts or more but not exceeding 100 - ... - 59and for every additional 15 watts or fraction thereof in excess of 100 in any lamp - ... - 10Explanation. - In this Part, the expression-(a) 'net charge' means the amount of charge that remains after deduction from the charge of the licensee for the supply of energy any rebate allowed by the licensee for prompt payment and fuel surcharge;(b) 'urban area' means an area to which the Cantonments Act, 1924, or the Cooch Behar Town Committee Act, 1903, or the Bengal Municipal Act, 1932, or the Calcutta Municipal Act, 1951, or the Chandernagore Municipal Act, 1955, or the Howrah Municipal Act, 1965, applies or an area declared as a notified area under section 93A of the Bengal Municipal Act, 1932;(c) 'rural area' means an area other than an urban area.B. For any other purpose.(a) Except in cases falling under article (b) or article (c), where energy is consumed in any premises-(i) otherwise than in connection with any industrial or manufacturing process, for every unit of energy or fraction thereof so consumed..... - 8 paise(ii) in connection with any industrial or manufacturing process including cold storage, for every two units of energy or fraction thereof so consumed ..... - 7 paise(b) For every three units of energy or fraction thereof consumed for purposes of-(1) a cottage industry or a small-scale industry, by any undertaking not being a factory as defined in the Factories Act, 1948, or(2) electrolysis or heating in electric furnaces, by any industrial undertaking,where separate meters or sub-meters are installed for indicating the quantity of energy so consumed .. - 7 paise.(c) For energy consumed in any premises for lights and fans and for any other purpose in connection with industrial or manufacturing process including cold storage carried on therein, in cases where the quantity of energy consumed for lights and fans is not separately indicated by meters or submeters, the rate specified under clause (ii) of article (a) and a surcharge of twenty per cent, of the duty payable for the total quantity of energy consumed in accordance with such rate.C. Where a common rate is charged by a licensee for supply of energy for lights, fans and all other non-industrial and non-manufacturing processes.Notwithstanding anything contained in Parts A and B, where a common rate is charged by a licensee for supply of energy for lights, fans and all other nonindustrial and non-manufacturing processes-(1) in respect of all premises in the urban area-(a) where such common rate charged is for supply of energy for commercial purposes and is 85 paise or more as gross charge, or for supply of energy for other than commercial purposes and is 60 paise or more as gross charge, for each unit of energy consumed by a consumer for supply of energy for lights, fans and all other non-industrial and non-manufacturing processes, whose consumption of energy during the month to which the calculation of duty relates. -(i) does not exceed twenty-five units ... - Nil,(ii) exceeds twenty-five units but does not exceed sixty units ... - 5 paise for each unit of energy consumed.(iii) exceeds sixty units ... - 10 paise for each unit of energy consumed;(b) where such common rate charged is for supply of energy for commercial purposes and is less than 85 paise as gross charge, or for supply of energy for other than commercial purposes and is less than 60 paise as gross charge, for each unit of energy consumed by a consumer for supply of energy for lights, fans and all other non-industrial and non-manufacturing processes, whose consumption of energy during the month to which the calculation of duty relates. -(i) does not exceed twenty-five units ... - Nil.(ii) exceeds twenty-five units ... - 5 paise for each unit of energy consumed.(2) in

respect of all premises in the rural area-(a) where such common rate charged is for supply of energy for commercial purposes and is 85 paise or more as gross charge, or for supply of energy for other than commercial purposes and is 60 paise or more as gross charge, for each unit of energy consumed by a consumer for supply of energy for lights, fans and all other non-industrial and non-manufacturing processes, whose consumption of energy during three consecutive months to which the calculation of duty relates. -(i) does not exceed seventy-five units ... - Nil.(ii) exceeds seventy-five units but does not exceed one hundred and eighty units - 5 paise for each unit of energy consumed.(iii) exceeds one hundred and eighty units - 10 paise for each unit of energy consumed;(b) where such common rate charged is for supply of energy for commercial purposes and is less than 85 paise as gross charge, or for supply of energy for other than commercial purposes and is less than 60 paise as gross charge, for each unit of energy consumed by a consumer for supply of energy for lights, fans and all other non-industrial and non-manufacturing processes, whose consumption of energy during three consecutive months to which the calculation of duty relates. -(i) does not exceed sixty units ... - Nil,(ii) exceeds sixty units ... - 5 paise for each unit of energy consumed.Explanation I. - In this Part, the expressions-(a) 'gross charge' means the amount of charge at gross rate including fuel surcharge, if any. before deduction from the charge of the licensee for the supply of energy of any rebate allowed by the licensee for prompt payment;(b) 'urban area' and 'rural area' shall have the meaning respectively assigned to them in Part A.Explanation II. - Where electricity duty is charged, levied or paid in accordance with the provisions contained in the third proviso to sub-section (1) of section 3. the expressions 'consumption of energy' and 'energy consumed', appearing in this Part, shall respectively mean consumption of energy and energy consumed as arrived at on the basis of average monthly consumption in accordance with the said proviso.'.

The Second Schedule([See section 3(3).]) [Third brackets, words and figures substituted for the brackets, words, and figure '(See proviso to section 3.)' by W.B. Act 40 of 1975.]Exemptions(1)[Any Government] [Words substituted for the words 'The Government' by the Government of India (Adaptation of Indian Laws) Order, 1937.], save in respect of premises used for residential purposes.(2)a railway administration, save in respect of premises used for residential purposes.(3)a local authority, save in respect of premises used for residential purposes.[\* \* \* \*] [Items (4), (5) and (6) omitted by W.B. Act 21 of 1957.](7)a hospital or dispensary which is not maintained for private gain.(8)any consumer using not more than [twenty-five units] [Words substituted for the words 'fifteen units' by W.B. Act 25 of 1969.] in any one month.(9)any consumer, being a landlord, or other person who supplies energy to one-roomed or two-roomed shops or tenements in any one building, in respect of the energy supplied to any such shop or tenement in which not more than [twenty-five units] [Words substituted for the words 'fifteen units' by W.B. Act 25 of 1969.] of energy have been used in any one month.(10)[ any consumer in a rural area using not more than 60 units in any three consecutive months.] [Item (10) inserted by W.B. Act 29 of 1974.](11)[ any person being a licensee or a private generator in respect of electrical energy consumed in the process of generation, transformation or distribution of electricity or for consumption in the case of a licensee, at his administrative office.] [Item (11) with 'Explanation (a2)' inserted by W.B. Act 40 of 1975.][Explanation (a2). - Exemption (8) applies to a consumer who has more than one meter to record his consumption for different purposes if his total consumption in respect of all these meters does not exceed 25 units.] [Item (11) with 'Explanation (a2)' inserted by W.B. Act 40 of 1975.](12)[any consumer in respect of energy consumed for irrigation for agricultural purposes.]



[Item (12) inserted by W.B. Act 18 of 1979.](13)[ a newly set up industrial unit, save in respect of premises used for residential purposes, for a period of five years from the date of first commercial production.] [Item (13) inserted by W.B. Act 5 of 1993.][Explanation. - A sick industrial unit or a closed industrial unit, after being rehabilitated or revived, shall be deemed to be a newly set up industrial unit..] ['Explanation' inserted by W.B. Act 3 of 1999, w.e.f. 1.4.1993.](14)[ an expanded portion of an existing industrial unit established in a premises by way of expansion, save in respect of premises used for the residential purposes, for a period of five years from the date of first commercial production in the expanded portion of such unit.] [Item (14) inserted by W.B. Act 3 of 1995.][\* \* \* \* \*] ['Explanation (1)' omitted by W.B. Act 21 of 1957.][Explanation (2). - For the purposes of exemption (8) in the premises referred to in Article (2) of the First Schedule every 10 watts shall be deemed to consume one and a half units in a month.Explanation (3). - For the purposes of exemption (9), whether more than [twenty-five units] [Words substituted for the words 'fifteen units' by W.B. Act 25 of 1969.] of energy have been used in any one month in any shop or tenement for which there is no meter or sub-meter shall be determined by dividing the total number of units supplied during that month to such shops or tenements in the building by the number of such shops or tenements therein.[Explanation (4). - For the purposes of exemption (10), the expression "rural area" means an area other than an area to which the Cantonments Act, 1924, or the Cooch Behar Town Committee Act, 1903, or the Bengal Municipal Act, 1932, or the Chandernagore Municipal Act, 1955, or the Howrah Municipal Corporation Act. 1980, or the Calcutta Municipal Corporation Act, 1980, applies or an area declared as a notified area under section 93A of the Bengal Municipal Act, 1932.] ['Explanation (4)' first inserted by W.B. Act 29 of 1974, then substituted by W.B. Act 4 of 1993. The same was earlier as under:-'Explanation (4). - For the purposes of exemption (10), the expression 'rural area' means an area other than an urban area as defined in Part A of the First Schedule.']][Explanation (5). - For the purposes of exemption (13), the expression "a newly set up industrial unit" means an industrial unit which is established and commissioned by its owner for the manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1993. under any scheme approved by the State Government.] [Explanation (5) inserted by W.B. Act 5 of 1993.][Explanation (6). - For the purposes of exemption (14),-(i)the expression "existing industrial unit" shall mean an industrial unit which exists in West Bengal immediately before it starts commercial production for the first time in its expanded portion on or after the commencement of section 3 of the West Bengal Finance Act. 1995;](ii)the expression "expanded portion" shall mean such portion of an existing industrial unit which is set up for commercial production after creation of additional capacity either in the existing premises or in any other premises in West Bengal.[Explanation (6) inserted by W.B. Act 3 of 1995.][Section 7C inserted by W.B. Act 8 of 1983.] [[Section 3A first inserted by W.B. Act 8 of 1983, then substituted by W.B. Act 10 of 1996. Previous section 3A was as under:-'3A. Assessing Authority. - The State Government may prescribe an authority or authorities to assess in the manner prescribed the electricity duty payable under this Act and the rules made thereunder.']]