

The Orissa Electricity (Duty) Act, 1961

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Act 14 of 1961

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The Orissa Electricity (Duty) Act, 1961Orissa Act 14 of 1961Statement of Objects and Reasons. - Additional resources have to be found by the State Government to maintain and further expand the development activities during the Third Five-Year Plan. For this purpose the possible sources of taxation have been investigated by the State Taxation Enquiry Committee and they have recommended that the rate of electricity prevalent in the State can admit of a levy of electricity duty on the energy consumed. They had suggested different rates for different categories of loads. After careful consideration of the recommendations of the committee the State Government propose to levy duty at the rate of 15 per cent on the rates applicable to different categories of consumption. The bill seeks to achieve the aforesaid purpose. Published vide Orissa Gazette Extraordinary No. 726/14.10.1961. For Statement of Objects and Reasons see Orissa Gazette Extraordinary No. 647/19.9.1961; and for Report of the Select Committee, see Orissa Gazette Extraordinary No. 683 of 1961. An Act to levy a duty on the consumption of electrical energy on the State of Orissa. Be it enacted by the legislature of the State of Orissa in the Twelfth Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Electricity (Duty) Act, 1961. (2) It shall extend to the whole of the State of Orissa. (3) It shall [come into force] [Came into force w.e.f. 16.10.1961 vide Orissa Gazette Extraordinary No. 727/1961.] on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context-(a) "appointed authority" means-(i) in the case of electricity undertaking engaged in the business of Supplying energy owned or managed by the Central Government or a Board, such officer or authority as the State Government may, with the concurrence of the Central Government or the Board, as the case may be, appoint in this behalf; and (ii) in any other case such officer or authority as the State Government

may appoint in this behalf;(b)"Board" means a Board constituted under Chapter III of the Electricity (Supply) Act, 1948 ;(c)"consumer" means a person, other than a licensee, who is supplied with energy -(i)by a licensee,(ii)by a Board, or(iii)by the State Government or Central Government, and includes a consumer belonging to any of the classes specified in [* * *] [Came into force w.e.f. 16.10.1961 vide Orissa Gazette Extraordinary No. 727/1961.] Section 3;(d)"energy" means electrical energy;(e)"licensee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy [* * *] [Omitted vide Orissa Act No. 9 of 1986.];(e-1) "maximum demand" shall have the same meaning as assigned under the Electricity (Supply) Act, 1948;(f)"prescribed" means prescribed by rules made under this Act;(g)["unit" means 1 kilowatt hour of energy.] [Substituted vide Orissa Act No. 9 of 1986.]

3. Electricity duty on energy supplied to consumers.

- [(1) There shall be levied and paid to the State Government with effect from the 1st day of April, 1992, a duty (hereinafter referred to as the electricity duty), at such rate, not exceeding twenty-five paise per unit as the State Government may, by notification from time to time, specify on the energy consumed by -(a)a consumer;(b)a consumer in respect of energy supplied to him, free of cost, by a licensee or Board, or by any person or licensee other than the Board who generates such energy;(c)a licensee or Board in its own premises;(d)any person, not being a licensee or Board, who generates such energy for his own use or consumption :Provided that-(i)different rates of electricity duty may be levied for different categories of consumer or consumption ; and(ii)where energy consumed is billed by the Board on the basis of evaluated energy consumption-(a)on minimum charges,(b)in case of defective meters, and(c)in case of unmetered supply,there shall be paid electricity duty on the same number of units as is arrived at by the Board for the purpose of payment of energy charges and at the rate applicable to the category to which the consumer belongs as specified by Notification issued under Sub-section (1).(2)All Notifications that may be issued by the State Government from time to time under Sub-section (1) shall, as soon as may be after they are issued, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the notifications shall thereafter have effect only in such modified form, so however, that such modifications shall be without prejudice to the validity of any electricity duty levied or collected under the Notifications.(3)There shall also be levied for and paid to the State Government a duty [at the rate applicable to the category to which the consumer belongs as specified by Notification issued under Sub-section (1)] [Substituted vide Orissa Gazette Extraordinary No. 589/22.4.1992-Notification No. 6375-Legislative/22.4.1992.] on the energy imported from outside the State and supplied by the Board or a licensee to a consumer by any special arrangement.(4)Notwithstanding anything contained in the foregoing Sub-sections, no duty shall be levied or paid in respect of energy generated by a plant having a capacity not exceeding ten KVA.(5)The State Government may, by notification, subject to such condition, as they may impose, exempt any industry which has started production at any time after the 31st day of July, 1980 from payment of electricity duty to such extent and for such period as may be specified in the notification.]

4. Consumers to pay electricity duty.

- [The amount of electricity duty levied under Section 3 on the energy consumer or any other person shall be payable by, and be collected and recovered from the consumer or such person in the manner hereinafter provided.] [Substituted vide Orissa Act No. 9 of 1986.]

5. Collection of electricity duty.

(1)The electricity duty shall be collected from the consumer and paid to the State Government-(a)where the energy is supplied by the licensee;(b)where the energy is supplied by or on behalf of the State Government or the Central Government or Board, by the appointing authority concerned; and(c)where the energy is generated by a person other than a licensee or the Board, by such person :Provided that the licensee or the appointed authority shall not be liable to pay duty in respect of energy supplied by it for which it has not been able to recover its dues :Provided further that where the amount of electricity duty collected by a licensee from a consumer or the amount of such duty payable by the person specified in Clause (c) is not paid to the State Government within the prescribed period the licensee or such person shall be liable to pay interest at the rate of [eighteen per cent] [Substituted vide Orissa Act No. 9 of 1986.] per annum on the amount of the electricity duty remaining so unpaid until the payment thereof is made.(2)The duty and the interest, if any, so payable shall be a first charge on the amount recoverable by the licensee or appointed authority for the energy supplied by him and shall be a debt due by him to the State Government.(3)Where any consumer 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 appointed authority, as the case may be, entitled to collect such dues may, without prejudice to the right of the State Government to recover the amount under Section 10, exercise the powers conferred on a licensee under Sub-section (1) of Section 24 of the Indian Electricity Act, 1910 as if the duty was a charge or sum due in respect of energy supplied to such consumer.

6. Records and returns.

(1)If the State Government so direct by a general or special order a licensee or any appointed authority or the person generating energy for his own use or consumption shall maintain such record in such manner and form as may be prescribed showing-(i)the unit of energy generated or received by it for supply to the consumers;(ii)the unit of energy supplied to the consumers or consumed by him;(iii)the amount of duty payable thereon and the duty recovered or paid by him under Section 5;(iv)the amount of interest, if any, paid by the licensee under Section 5; and(v)such other particulars as may be prescribed.(2)Every licensee and every appointed authority and every person generating energy for his own use or consumption, who has been directed under Sub-section (1) to maintain a record shall submit such returns in such form and manner as may be prescribed.(3)The amount of energy shall, for purposes of Clauses (i) and (ii) of Sub-section (1), be ascertained in such manner as may be prescribed.

7. Inspecting officers.

(1)The State Government may, by notification in the Official Gazette, appoint any person as they think fit having the prescribed qualifications to be Inspector for the purposes of this Act.(2)Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

8. Disputes between the licensee and the consumer.

(1)[The Chief Electrical Officer] [Substituted vide Orissa Act No. 9 of 1986.] or such other officer not below the rank of an Assistant Engineer or an Assistant Electrical Inspector as may be authorised by the State Government in that behalf shall have the power to decide all disputes relating to the liability for payment of the electricity duty or exemption therefrom.(2)Subject to the decision in appeal before such authority as may be constituted by the State Government in that behalf by a notified order, preferred within three months from the date of the order under Sub-section (1) such order shall be final.

9. Power of Inspectors.

(1)Subject to the provisions of any rules made by the State Government in this behalf an inspector may -(i)require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of electricity duty leviable under this Act ;(ii)enter and search any premises where energy is, or is believed to be supplied for the purpose of-(a)verifying the statements made in the books of account kept, and returns submitted, under Section 6;(b)[checking of the readings of the meters, and testing the meters, metering equipments and connection thereof;] [Substituted vide Orissa Act No. 9 of 1986.](c)verifying the particulars required in connection with the levy of electricity duty;(iii)exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made thereunder.(2)All searches made under Sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

10. Electricity duty recoverable as arrear of land revenue.

- Any sum due on account of electricity duty and interest, if any, not paid within the prescribed time and in the prescribed manner, shall be recoverable by the State Government as an arrear of land revenue-(a)in the case of energy supplied by a licensee, at the discretion of the State Government either from the consumer or, subject to the first proviso to Sub-section (1) of Section 5 from the licensee; and(b)in the case of other energy, from the person liable to pay such duty under this Act.

11. Penalties.

- If any person-(a)required by Section 6 to keep record or to submit returns fails to keep or submit the same in the prescribed manner or form; or(b)intentionally obstructs an inspecting officer

appointed under Section 7 in the exercise of his powers and duties under this Act and the rules made thereunder;(c)contravenes any rules made under this Act, he shall be guilty of an offence triable by a Magistrate of the first class and on conviction shall be liable to punishment with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

12. Power to make rules.

(1)The State Government may make rules for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for-(a)the manner of calculating the duty including marginal adjustments under Section 3;(b)the manner of collection and payment to the State Government of the electricity duty by the licensees and the appointing authorities;(c)the time and manner of payment of the electricity duty by consumers; and(d)any other matter for which provision is, in the opinion of the State Government, necessary to be made for giving effect to the provisions of this Act.

13. Removal of doubts.

- For the avoidance of doubt, it is hereby declared that nothing in this Act shall be taken to impose, or authorise the imposition of, a tax on the consumption or sale of electricity produced by a Government or other persons which is-(a)consumed by the State Government or by the Government of India or sold to the Government of India for consumption by that Government; or(b)consumed in the construction, maintenance of operations of any railway of the Government of India, or sold to that Government for consumption in the construction, maintenance of operation of any railway.

14. Power to remove difficulty.

- If any difficulty arises in giving affect to the provisions of the Act, the State Government shall have power, as occasion may arise, by order to do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them necessary for the purpose of removing the difficulty.