

# Bihar Electricity Duty Act, 2018

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### Act 4 of 2018

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Bihar Electricity Duty Act, 2018(Bihar Act 4 of 2018)bhr549[Dated 4.5.2018]An Act to provide for levying a duty on consumption of electrical energy in the State of Bihar and for matters connected therewith or incidental thereto.Preamble: - Whereas due to the enactment of the Electricity Act, 2003 by the Central Government, radical changes have been ushered in the management of generation, transmission and supply of electricity, and new concepts like power trading, exchange of power, open access, delicensing of electricity generation, etc. have been introduced which are not the part of the Bihar Electricity Duty Act; 1948.And Whereas after considering the changes made by the said Electricity Act, the Government of Bihar considers it expedient to make a comprehensive law to provide for the levy of a duty on consumption of electrical energy in the State of Bihar covering all categories of electricity consumers as per the said Electricity Act, by repealing the existing Bihar Electricity Duty Act;Be it enacted by the Legislature of the State of Bihar in the Sixty Ninth Year of the Republic of India as follows:-

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

(1)This Act may be called the Bihar Electricity Duty Act, 2018.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force from the date of its publication in the official gazette.

### 2. Definitions.

(1)In this Act, unless the context requires otherwise,-(a)"Captive generation" means an energy generated from a 'Captive Generating Plant' defined in clause (8) of section-2 of the Electricity Act, 2003 and the rules made thereunder by the Central Government in this behalf ;(b)"Co-generation" means an energy generated in a process, which simultaneously produces two or more forms of useful energy including electricity ;(c)"Commission" means the Bihar Electricity Regulatory Commission constituted by the State Government under section-82 of the Electricity Act ;(d)"consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public

under the Electricity Act, or under any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be, but does not include a person who is supplied with electricity under an agreement between a generating company and a licensee or between licensees;(e)"consumption charges" means the charges levied by the licensee under this Act for the energy consumed by a consumer and the amount charged by a licensee to any other person who supplies such energy to a consumer which shall include the fixed charges such as demand charges, variable charges such as energy charges, fuel adjustment charges and reliability charges, as per the tariff approved by the Commission, but does not include the penal charges or incentives, for delayed or prompt payment, power factor, harmonics, load factor, interest charged thereof and compounding charges on assessment, as the case may be ;(f)"Electrical Inspector" means a person appointed by the State Government under sub-section (1) of section-8 of this Act and sub-section (1) of section-162 of the Electricity Act ;(g)"Electricity Act" means the Electricity Act, 2003 (36 of 2003);(h)"Energy" means electrical energy generated, transmitted, distributed, consumed, traded or wheeled for any purpose;(i)"Generating company" means any company or body corporate or association or a body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;(j)"Government" or "State Government" means the Government of Bihar;(k)"Independent Power Producer (IPP)" means a producer of electrical energy which is not a public utility but which makes electrical energy available for sale to utilities or end users;(l)"Industry" means an industrial undertaking declared as such under any other law for the time being in force in the State of Bihar and includes the industries covered by the various industrial policies declared by the State Government, from time to time;(m)"Inspecting Authority" means an officer appointed by the State Government under sub-section (1) of section- 8 of this Act;(n)"licensee" means a person who has been granted license under section-14 of the Electricity Act, for transmission, distribution, supply, trading in electricity and includes those who hold status of a deemed licensee and also those exempted under section-13 of the Electricity Act ;(o)"Open access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations made by the Commission;(p)"Prescribed" means prescribed by rules made under this Act;(q)"Renewable Energy" means the grid quality electricity generated from Renewable Energy Sources, which are a part of earth's natural environment and can replenish with the passage of time, either through biological reproduction or other naturally recurring processes, such as sunlight, wind, rain, tides, waves, geothermal heat, biomass, biofuels but does not include fossil fuel;(r)"Renewable Energy Sources" means the renewable sources such as Mini, Micro and Small Hydro, Wind, Solar, Biomass including Bagasse or Agricultural Waste, Biofuel, urban or Municipal Solid Waste, Industrial Waste and such other sources recognized or approved by the Ministry of New and Renewable Energy of the Government of India;(s)"Schedule" means the Schedule appended to this Act;(t)"Standby generation" means generation of electricity done in absence of existing licensee's electric supply due to failure or interruption or load shedding or outage taken by electricity supplier on account of maintenance, repairs, but not due to the disconnection of supply in default of payment as per the provisions of section-56 of the Electricity Act ;(u)"Unit" means unit of measurement of energy consumed in Kilowatt per hour (kWh).(2)Words and expressions used in this Act but not defined herein shall have the same meanings as assigned to them under the Electricity Act, 2003.

### 3. Duty on units of energy consumed.

(1) Subject to the provisions of sub-section (2), there shall be levied and paid to the State Government a duty (hereinafter referred to as "Electricity Duty") at the rates specified in the Schedule appended to this Act: (a) on the consumption charges, where energy is supplied by the licensee; or (b) the units of energy consumed by a person, where such energy is produced through - (i) Captive generation; (ii) Co-generation; (iii) Standby generation; (iv) Renewable Energy; or (v) Independent Power Producer (IPP); or (c) Units of energy consumed which are not covered under Clauses (a), and (b), that is, open access or other sources. (2) Electricity duty shall not be levied on the consumption charges or energy consumed, - (i) by the Government of India, or sold to the Government of India, for consumption by that Government; (ii) in the construction, maintenance, or operation of any 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; (iii) for any purpose which the State Government may, by notification, in this behalf declare to be a public purpose and such exemptions may be subject to such conditions and exemptions if any, as may be mentioned in the said notification. (iv) by any licensee, or by any other person engaged in the business of supplying electricity to the public under the Electricity Act, for the purposes directly connected with construction, maintenance, operation of any transmitting and distributing system, including the losses incurred therein; (v) by any generating company for the purposes directly connected with construction, maintenance and operation of generating plant; (vi) Where the energy is generated by any person for the purpose of supplying it for the use of vehicles or vessels excluding Metro and Monorail; (vii) Where the electricity is generated at a voltage not exceeding 100 volts. (3) Notwithstanding anything contained in sub-section (2), in respect of the premises used for residential purposes there shall be levied and paid to the State Government an electricity duty on the consumption charges as per the Schedule appended to this Act.

### 4. Power to exempt electricity duty.

- Subject to such conditions as it may impose, the State Government may, if considers it necessary in the public interest so to do, by notification in the Official Gazette, exempt, prospectively or retrospectively, the electricity duty on the consumption of energy, in the whole or any part of the State, in respect of any class of premises or purposes, in such areas and for such period as may be specified therein, or in respect of energy consumed up to a specified limit, from the payment of the whole or any part of the electricity duty payable as per the Schedules, having regard to - (i) The availability and price of energy prevailing therein and to the state of industrial or agricultural development, educational, medical aid, facilities, social conditions; and (ii) The various policies and need, and conditions of overall development in the areas declared by general or special order, specified in this behalf: Provided that, nothing contained in this Act shall affect any order issued in this regard before the commencement of this Act, and such order shall continue to be in force till the period mentioned therein expires, and where such period is not mentioned, any further order is issued in that respect under the provisions of this Act.

## **5. Power to modify rates of electricity duty.**

- The State Government may, by notification in the Official Gazette , subject to such terms and conditions as may be specified therein, modify the rates of electricity duty in respect of such class of consumers, such type of generation, in such areas and for such period as specified.

## **6. Payment and recovery of electricity duty.**

(1)Every licensee shall collect and pay to the State Government at the time and in the manner prescribed, the proper electricity duty payable under this Act, based on-(i)The consumption charges in respect of energy supplied by him to consumers classified under clause (a) of sub-section (1) of section-3, as per Part-A of the Schedule appended to this Act;(ii)the units of energy consumed in respect of energy supplied by wheeling to the consumers availing open access facility classified under clause (c) of subsection (1) of section-3, as per Part-C of the Schedule appended to this Act and also as per prevailing rates of consumption charges of distribution company or licensee which are mentioned in Part-A of the Schedule appended to this Act.(2)The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied or wheeled by him, and shall be a debt due by him to the State Government.(3)Every person, who falls under clause (b) of sub-section (1) of section-3, who consumes the energy fully or partly for his own use or supplies to any other person or persons, shall pay to the State Government, at the time and in the manner prescribed, the proper electricity duty payable under this Act in respect of the energy consumed by him or by the consumers to whom he has supplied energy, as per Part-B of the Schedule appended to this Act. He may recover the portion of the electricity duty on the energy consumed by the other person or persons to whom he has supplied energy.(4)Every person, not being a licensee or generating company, who falls under clause (c) of sub-section (1) of section-3, consumes energy and utilises fully or partly for his own use or supplies to any other person or persons, shall pay to the State Government, through the licensee, at the time and in the manner prescribed, the proper electricity duty payable under this Act in respect of energy consumed by him or by the consumers to whom he has supplied energy, as per Part-C of the Schedule appended to this Act. He may recover the portion of the electricity duty on the energy consumed by the other person or persons to whom he has supplied the energy :(5)Nothing contained in sub-sections (3) and (4) shall apply if the energy is supplied to the licensee.(6)Where any person fails or neglects to pay, at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee, or as the case may be, the person supplying energy, may, without prejudice to the right of the State Government to recover the amount under section-12, deduct such amount of electricity duty from the amount, if any, on account of deposit or refund due, with the licensee or the person supplying energy, after giving not less than seven clear days' notice in writing to such consumer or person to whom energy is supplied, cut off the supply of energy to such consumer or person, if the dues are not recoverable from the deposit or refund available with him; and he may, for that purpose, exercise the powers conferred on a licensee by sub-section (1) of section-56 of the Electricity Act, for the recovery of any charge or sum due in respect of consumption charges on the energy consumed.(7)The licensee shall be entitled to a rebate of such amount as may be determined by the State Government, from time to time, regard being had to the cost of collection of the duty incurred by such licensee.(8)Notwithstanding anything contained in the foregoing sub-sections, where the State

Government is satisfied that there is a bona fide mistake, on the part of any licensee or a person supplying energy to the consumers or consuming energy for his own use, in paying the proper electricity duty, on account of wrong meter reading or misclassification of consumption falling under any particular Part or clause in the Schedule, the State Government may, at any time, by an order, waive or write-off, with retrospective effect, the recovery of the amount of the electricity duty or any part thereof due at the proper rate and the amount of interest thereof, if any, payable for delayed payment under section-11.

## **7. Licensee, etc to keep book of accounts and submit returns.**

- Every licensee, and every person consuming energy, who falls under sub-section (1) of section-3 shall, save in respect of the energy exempted from the electricity duty under sub-section (2) of section-3, keep books of accounts in the prescribed form and submit to the State Government or to the officer appointed by the State Government in this behalf the returns in such form and at such times as may be prescribed, showing the units of electricity consumed by him, or as the case may be, supplied by him to each consumer, and the amount of the duty payable thereon and recovered or paid by him under section-6.

## **8. Officers under this Act.**

(1) Officers appointed under the Bihar Value Added Tax Act, 2005 and the Bihar Goods and Service Tax Act, 2017 shall be deemed to be appointed for the purposes of this Act. (2) Every officers appointed under this Act shall be deemed to be a public servant within the meaning of section- 21 of the Indian Penal Code.

## **9. Powers of Inspecting Authority.**

(1) Subject to the provisions of any rules made by the State Government in this behalf, an Inspecting authority 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 accounts kept, and returns submitted under section-7; (b) checking, reading and testing of meters; (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 and 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, 1973.

## **10. Assessment of duty.**

(1) If the prescribed authority is satisfied without requiring the presence of the assesses for production by him of any evidence that the return furnished in respect of any period is correct and complete, he shall assess the amount of the duty due from the assesses on the basis of such

return.(2)(a)If the prescribed authority is not satisfied without requiring the presence of the assesses for production of evidence that the return furnished in respect of any period is correct and complete or where any question arises as to the Part or clause in the Schedules under which category consumption of energy falls, or where the energy is consumed for different utilization purposes, what portion of consumption shall be governed by such Part or clause, he shall serve on such assesses a notice in the prescribed manner requiring him, on a date, time and at a place to be specified therein, either to attend in person or to produce or cause to be produced any evidence on which the assessee may rely in support of such a return.(b)On the date specified in the notice or as soon afterwards, as may be, the prescribed authority, after hearing such evidence as the assessee may produce and such other evidence as the prescribed authority may require on specific point, shall assess the amount of duty due from the assessee.(3)If an assessee having furnished return in respect of a period fails to comply with all the terms of the notice under sub-section (2) or if the accounts and other evidence produced by him are, in the opinion of the prescribed authority, incorrect, incomplete or unreliable, either wholly or partly, the said authority shall assess, to the best of its judgment, the amount of duty, if any, due from the assessee.(4)If the assessee fails to file returns in respect of any period, the prescribed authority shall, after giving the assessee reasonable opportunity of being heard, assess, to the best of his judgment the amount of duty, if any, due from the assessee.(5)If upon information or otherwise, the prescribed authority is satisfied that reasonable grounds exist to believe that any assessee or any person other than a assessee has been liable to pay duty in respect of any period, and has nevertheless willfully failed to apply for registration, the prescribed authority shall, after giving the assessee reasonable opportunity of being heard, assess to the best of its judgment the amount of duty, if any, due from an assessee or any other person in respect of such period and all subsequent period and the prescribed authority shall direct that the assessee or any other person, to pay by way of penalty in addition to duty so assessed, a sum of fifty rupees for every day of the period during which the licensee or any other person failed to apply for registration or an amount equal to the amount of duty assessed, whichever is less; Provided that no proceeding for such assessment shall be initiated except before expiry of four years form expiry of the period to which it relates; Provided further that a proceeding initiated under this sub-section shall be concluded within a period of two years from the date of initiation.

## **11. Appeals to appellate Authority.**

(1)Any licensee or other person objecting to an order of assessment with or without penalty passed under this Act, or the rules made thereunder may, within the prescribed period and in the prescribed manner, prefer appeal to the prescribed authority against such order of assessment or penalty or both : Provided that no appeal shall be entertained by such authority unless it is satisfied that twenty per centum of the duty assessed or such amount of duty as the appellant may admit to be due from him, whichever is greater has been paid.(2)Every appeal under this section shall be filed, in such form and the manner, as may be prescribed, within forty-five days of the receipt of the notice of demand but where the appellate authority is satisfied that the appellant had sufficient reason for not preferring the appeal within time, it may condone the delay.(3)Subject to such rules as may be prescribed, the appellate authority may, in disposing of an appeal under sub-section (1)-(a)confirm, reduce, enhance or annul the assessment or penalty, or both; or(b)set aside the assessment or penalty, or both, and direct the assessing authority to make a fresh assessment after

making such further inquiry as may be directed by the appellate authority.(4)Subject to such rules as may be prescribed and for reasons to be recorded in writing the prescribed authority may, upon application or of its own motion, revise any order passed under this Act or the rules made thereunder:Provided that no order of assessment shall be revised upon application of the assessee, unless an order under sub-section (2) has been previously passed in respect of such order:Provided further that where the prescribed authority revises any order on its own motion, no proceeding for such revision shall be initiated at any time before the expiry of two years from the date of the said order.(5)Subject to such rules as may be prescribed, any order passed under this Act or the rules made thereunder may be reviewed by the authority passing it or by its successor-in-office.

## **12. Appeal to appellate Tribunal.**

(1)Subject to such rules as may be made by the State Government, any of the authorities mentioned in section-8 or dealer or any other person aggrieved by an order made by the Deputy Commissioner or Joint Commissioner under section-11 or the Commissioner under section-13, may, prefer an appeal to the Tribunal.(2)Where an appeal is preferred by a dealer, such appeal shall not be entertained by the Tribunal unless such dealer or any other person has deposited in manner specified by the Tribunal, twenty percent of the amount in dispute:Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount required to be deposited under this section.Explanation. - For the purpose of this sub-section, the expression 'amount in dispute' shall mean the sum remaining after deducting from the tax assessed, the amount of tax deposited by the dealer in respect of the year to which the dispute relates.(3)Every application for appeal under this section shall be filed within ninety days of the communication of the order which is sought to be appealed, but where the Tribunal is satisfied that the applicant had sufficient cause for not applying within time, it may condone the delay.(4)No order [\*Ed. - sic-under] this section shall be passed without giving the applicant as also the authority whose order is sought to be appealed or their representative a reasonable opportunity of being heard.(5)On receipt of an appeal under sub-section (1), the Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.(6)The Tribunal shall send the copy of every order made by it to the parties to the appeal and to the concerned authority against whose order the appeal had been preferred.(7)The appeal filed before the Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

## **13. Revisionary powers of Commissioner.**

- The Commissioner may, suo motu, call for and examine the record of any proceeding recorded by any officer or person subordinate to him under this Act and if he considers that any order passed therein is erroneous or it is prejudicial to the interest of revenue, pass such order as he deems fit after giving the dealer or the person concerned an opportunity of being heard.

## **14. Review.**

- Subject to such rules as may be made by the State Government under this Act, any authority appointed under section-8 or the Tribunal may review any order passed by it, if such review is, in the opinion of the said authority or the Tribunal, as the case may be, necessary on account of a mistake which is apparent from the record: Provided that no such review, if it has the effect of enhancing the tax, interest or penalty or of reducing a refund shall be made unless the said authority or the Tribunal, as the case may be, has given the dealer, or the person concerned a reasonable opportunity of being heard.

## **15. Appeal before High Court.**

(1) An appeal shall lie to the High Court from every order passed by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law. (2) The Commissioner or a dealer aggrieved by any order passed by the Tribunal, - (i) under the Bihar Electricity Duty Act, 1948, (Bihar Act 36 of 1948) as it stood before its repeal by Section-23, on or after the date of commencement of this Act; or (ii) under this Act, may file an appeal to the High Court, and such appeal under this section shall be filed within ninety days from the date of the communication to the dealer or the Commissioner on any question of law arising out of such order. (3) Where the High is satisfied that a substantial question of law is involved in any case, it shall formulate the question. (4) The appeal shall be heard only on the question so formulated and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question. Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the High Court to hear for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question. (5) (a) The High Court shall decide the substantial question of law so formulated or involved and deliver such judgment thereon containing the grounds on which such decision is founded and may award such costs as it deems fit. (b) The High Court may determine any issue which - (i) has not been determined by the Tribunal, or (ii) has been wrongly determined by the Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1). (6) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, (5 of 1908) relating to appeals to High Court, shall as far as may be, apply in the case of appeals under this section.

## **16. Case before high Court to be heard by not less than two Judges.**

(1) When an appeal has been filed before the High Court under section-15, it shall be heard by a bench of not less than two Judge of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges. (2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon the point only by one or more of other Judges of the High Court and such point shall be decided according to the opinion of the majority of Judges who have heard the case including those who first heard it.



## **17. Applicability of interest in case of delayed payment.**

(1) Any sum due on account of electricity duty, if not paid to the State Government at the time and in the manner prescribed, shall be deemed to be an arrear, and thereupon, interest on such sum shall be payable at the rate of one and half percent per month for the first three months immediately after the time such sum has become due, and thereafter at the rate of two percent per month till such sum is paid; and the sum together with any interest thereupon, shall be recoverable either through a special mode of recovery or as an arrear of land revenue-(i) if the sum was payable under sub-section (1) of section-6, either from the consumer, or, subject to the proviso to sub-section (2), from the licensee or any person who holds or may subsequently hold any money for or on account of the licensee at the option of the State Government or any officer authorized by the State Government in this behalf ;(ii) if the sum was payable under sub-section (3) of section-6, either from the consumer or from the person supplying energy and consuming fully or partly for his own use, or any person from whom any money is due or may become due to the licensee, as the case may be, supplying to other person, at the option of the State Government or any officer authorized by the State Government in this behalf.(2) Where the consumer or, as the case may be, the licensee or a person other than the licensee, or generating company who falls under sub-section (3) or sub-section (4) of section-6, is liable to pay electricity duty, penalty and interest, and if he makes payment of the amount which is less than the aggregate of the amount of electricity duty, penalty and interest, the amount so paid shall be first adjusted towards the amount of interest, thereafter the balance if any, towards the amount of penalty and thereafter the balance if any, towards the amount of electricity duty.(3) The State Government may, by general or special order, refund the whole or any part of electricity duty collected from the consumer who is eligible for exemption of electricity duty under the Act or various schemes of the Government.

## **18. Special mode of recovery.**

(1) Notwithstanding anything contained in the Act or any law or contract to the contrary, the authority prescribed for assessment and recovery of duty may, at any time by notice in writing (a copy of which shall also be given to the licensee or to the person liable to pay duty) under this Act direct-(a) any person who holds or may subsequently hold any money for or on account of the licensee or the person liable to pay duty, or(b) any person from whom any money is due or may become due to the licensee or the person liable to pay duty who has failed to pay upto the date fixed in the notice of demand the amount of duty or penalty or surcharge payable according to the said notice of demand served upon such licensee or person or in respect of which the date of payment has not been extended by any competent authority, to pay into the Government treasury, in the same manner as have been prescribed for payment of duty either forthwith or upon the money becoming due so much of the money as is sufficient to pay the amount due from the licensee or the person liable to pay duty.(2) The authority issuing a notice under sub-section (1) may, at any time, amend or revoke any such notice or extend the time for making payment in pursuance of the notice.(3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the licensee or the person concerned and the receipt from the Government treasury shall constitute a good and sufficient discharge of the liability of that person to the licensee or the person concerned to the extent of

amount specified in the receipt.(4)Any person if not discharging the liability after service of notice under sub-section (1) on him shall be personally liable to the State Government for the amount of duty or penalty and surcharge.(5)If amount for which any person becomes liable personally to the State Government under sub-section (4), remains unpaid, it shall be recoverable as an arrear of land revenue from him.(6)If any person contravenes any of the provisions of sub-section (4) of this section the prescribed authority shall after giving an opportunity of being heard by an order in writing direct that such person shall pay by way of penalty a sum not exceeding twice the amount payable under sub-section (1).

## **19. Offences and Penalties.**

(1)If any person,-(a)fails to keep books of accounts or to submit returns in accordance with the provisions of section-7 and the rules made in that behalf under section-15; or(b)contravenes any rule made under this Act; or(c)willfully obstructs the Inspecting authority in the exercise of the powers conferred upon him by or under this Act, he shall, on conviction, be punished with fine which may extend to ten thousand rupees.(2)No complaint in respect of the offence committed under sub-section (1) shall be entertained unless it is filed by the Inspecting authority.

## **20. Offences by Companies.**

(1)Where an offence under this Act has been committed by a company, every person who at the time, when the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section,-(a)"company" means a body corporate and includes firm, association of persons or body of individuals whether incorporated or not; and(b)"director" in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

## **21. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against any officer under this Act for anything which is, in good faith done or intended to be done under this Act.

## 22. Power to make rules.

(1)The State Government may, by notification in the Official Gazette , make rules to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may,-(a)prescribe the time and manner of payment of electricity duty, for-(i)due date of payment of electricity duty ;(ii)payment of electricity duty by installments ;(iii)the circumstances in which and conditions subject to which and the period for which deferment of payment of electricity duty may be allowed under section-6 ;(b)prescribe the procedure for securing any concession or exemption under the Act ;(c)prescribe the form of the books of accounts to be kept, and the time at which, the form in which and the officers to whom the returns required by section-7 to be submitted ;(d)prescribe the functions of Inspecting authority under sub-section (1) of section-8 ;(e)prescribe the rules, if any, subject to which the Inspecting authority may exercise the powers under sub-section (1) of section-9;(f)prescribe the procedure for installation and the checking, reading and testing of meters ;(g)prescribe the procedure for referring question to the authority, and for filing an appeal or revision to the State Government against the orders passed by such authority ;(h)prescribe the procedure and the period of limitation for claiming refund of the amount of electricity duty paid in excess of the amount payable by the consumer under this Act ;(i)fee for supply of copies of any documents under this Act ;(j)to provide for giving effect to the provisions of this Act.(3)Every rule made under this Act and every notification issued under the Act. shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of fourteen 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 session or sessions immediately following, both Houses agree in making any modification in any rule or both Houses agree that rule should not be made, and notify their decision to that effect in the Official Gazette , the rule shall, from the date of publication of such notification, 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.

## 23. Repeal and savings.

- the Bihar Electricity Duty Act, 1948, stand repealed:Provided that, the repeal shall not affect,-(a)anything done or any action taken or purported to have been done or taken including any rule, notification, order or notice made or issued under the law so repealed ; or(b)any appointment, confirmation or declaration made or any authorization or exemption granted or any document or instrument executed and any direction given under the law so repealed ; or(c)any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed ; or(d)any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty may be imposed as if this Act had not been enacted :Provided further that, subject to the preceding proviso, rates of duty or interest prescribed, rules or forms framed under the provisions of the Bihar Electricity Duty Act, and any appointment of Inspecting authority made under any of the repealed provisions shall be deemed to have been prescribed, framed or made under the corresponding provisions of this Act, shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

## 24. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty : Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

## Schedule

Part-A (See sections-3 and 6)

Sl. No	Tariff-Category of electricity bill.	Purpose of utilization of electricity supplied to various categories of Consumers.	Rate
1	Part A-Residential	As per the Tariff Schedule of the Bihar Electricity Regulatory Commission-Residential-Individual BPL (Below Poverty Line) ; Residential-Individual non-BPL; Residential-common facilities within complex like lights, water, lift, recreation or community hall, club, gymnasium, swimming pool, etc. ; Residential-students' hostels, working women's or men's hostels ; Residential-Hostels or Homes for destitute, physically or mentally challenged, Old-age, Orphanages, Rescue Homes, Asylum, Dharamshala ; Religious place of worship ; Telephone booths run by physically challenged persons ; Categorized under Residential but for social cause; Any other premises not covered above.	At such rate or rates not exceeding twenty percent. Of the consumption charges, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify.
2	Part B-Commercial	As per the Tariff Schedule of the Bihar Electricity Regulatory Commission-Business or Commercial Establishments-Corporate or Administrative Offices or Shops or Shopping Malls or Showrooms, Banks, ATMs, etc. ; Common facilities in Business or Commercial Establishments like lighting, lifts, security, firefighting, water pumping; Community Centers-Marriage, Community, Seminar, Exhibition, Meeting or Town Halls ; Public entertainment- Cinemas, Theatre, Studios, Multiplexes, Leisure or Recreation places, etc. ; Hospitality -Hotels, Guest - Houses, Tourism Centers, Restaurants, Ice-cream Parlors, Coffee Shops, Fast Food Centers or stalls, etc. ; Communication -Telephone	At such rate or rates not exceeding thirty percent. of the consumption charges, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify.

	Exchanges, Mobile Towers, Satellite Antennas, PublicCall Centers or Booths, TV or Radio Stations, Internet or CyberCafes, etc. ;Serviceoriented- Beauty Parlors, Saloons, Service or Repair Centers,Laundries, Garages, Tailoring, Call Centers, etc. ;Institutes-Educational, Training ;Healthactivities- Sports Clubs, Health Clubs, Gymnasium, SwimmingPools, etc. ;Construction -New or Renovation of Buildings, Structures, Infrastructures,Roads, Aerodromes, Tunnels, Utilities, etc. ;ExternalIlluminations of Monumental or Heritage or Historical Buildings,structures, places, etc. ;Science andResearch - Research and Development Centers, Laboratories,Aquacultures, Fisheries, Sericulture, Cattle Breeding,Insemination ;Aquaculture,Sericulture, Fisheries ;Hospitals,Clinics, Dispensaries, Pathological Laboratories or DiagnosticCenters or Radiological Imaging Centers, etc. ;InformationTechnology (IT)-Software Development, Data Processing, etc. notrecognized under Industry category and not having such statusgiven by the Government ;Premises rentedor leased by the consumer along with electricity as an UtilityService ;Categorizedunder Commercial but for social cause ;Any other establishment not covered above.	
3	Part C-Agricultural As per the TariffSchedule of the Bihar Electricity Regulatory Commission-Pumping;Poultry;High-Tech GreenHouses, Tissue Cultures, Mushrooms, etc. ;Floriculture,Horticulture, Nurseries, Plantations;Cane Crusher,Fodder cutter etc. for agricultural process and self-use but notapplicable to oil mill, flourmill, etc. ;Cold-storages,Precooling;Categorizedunder Agricultural but for social cause ;Any other agricultural activity not coveredabove.	At such rate or rates not exceeding twenty percent. Of the consumption charges, as the State Government may,either prospectively or retrospectively, by Notification in theOfficial Gazette, specify.
4	Part D-Temporary As per the TariffSchedule of the Bihar Electricity Regulatory Commission-Religieuselectrical installation provided with temporary electric supply;Categorizedunder 'Temporary' but for social cause ;Any electrical installation other thanreligious, provided with temporary electric supply.	At such rate or rates not exceeding thirty percent. of the consumption charges, as the

		State Government may, by notification in the Official Gazette, specify. At such rate or rates not exceeding thirty percent. of the consumption charges, as the State Government may, by notification in the Official Gazette, specify.
5	Part E-Advertisements And Hoardings	As per the Tariff Schedule of the Bihar Electricity Regulatory Commission - Advertising Advertisement or Sign Boards, Hoardings, etc.
6	Part F-Industrial	As per the Tariff Schedule of the Bihar Electricity Regulatory Commission-Flour Mill, Dal Mill, Rice Mill, Poha Mill, Masala Mills, Saw Mills, Power Looms including other allied activities like, Warping, Doubling, Twisting, etc. ; Ice Factory, Ice-cream Manufacturing Units, Milk Processing or Chilling Plants (Dairy) ; Engineering workshops, Engineering Goods Manufacturing units, Printing Press, Transformer repairing workshops ; Mining, Quarry and Stone Crushing units; Garment Manufacturing Units ; LPG or CNG bottling plants, etc. ; Sewage Water Treatment Plants or Common Effluent Treatment Plants, owned, operated, managed, by the Association situated within the industrial area only; Information Technology (IT) - IT Parks, Software Development, Data Processing, etc., recognized under the 'Industry' category and having such status given by the State Government ; Categorized under 'Industrial' but for social cause ; Category or categories as classified by the Department of Industries of the Government of Bihar under 'Industrial Policy'; Any other industry not covered above.
7	Part H-Mono And Metro Rail	As per the Tariff Schedule of the Bihar Electricity Regulatory Commission.
		At such rate or rates not exceeding twenty percent. of the consumption

charges, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify.

Part-B (See sections-3 and 6)

Consumption of power produced from	Utilization purposes	Rate
Captive Power, Power from Co-Generation, Stand by Generation, Power from Renewable Energy, Independent Power Producer (IPP).	Self-use Supply to other person or persons.	At such rate or rates not exceeding one hundred fifty paise per unit, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify. Prevailing rates of Distribution Company or Licensee as per Schedule A, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify.

Part-C (See sections-3 and 6)

Sr. No.	Generation Category	Utilization purposes	Rate
1	Open access	(i) Self-use	Prevailing rates of Distribution Company or Licensee as per Schedule A, as the State Government may, either prospectively or retrospectively, by notification in the Official Gazette, specify.
2	Other	(ii) Supply to other person or persons.	