

The Shillong Electric Supply Undertaking (Acquisition) Act, 1977

MEGHALAYA

India

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Act 10 of 1977

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The Shillong Electric Supply Undertaking (Acquisition) Act, 1977Meghalaya Act 10 of 1977Last Updated 19th February, 2020(As passed by the Assembly)Published in the Gazette of Meghalaya Extraordinary, dated the 26th December, 1977.[Received the assent of the President on the 25th December, 1977].An Act to provide for the acquisition of the Shillong Electric Supply Undertaking for a public purpose.Be it enacted by the Legislature of Meghalaya in the Twenty-eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Shillong Electric Supply Undertaking (Acquisition) Act, 1977.(2)It extends to the whole of the State of Meghalaya.(3)It shall be deemed to have come into force on the 15th day of July, 1977.

2. Definitions and Interpretation.

- In this Act, unless the context otherwise requires-(a)"Annual Account" means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act;(b)"Board" means the Meghalaya State Electricity Board constituted under Section 5 of the Electricity Supply Act;(c)"Document" in relation to the undertaking, includes its books, accounts, registers, maps and plans, and all other documents of whatever nature relating to the undertaking;(d)"Electricity Act" means the Indian Electricity Act, 1910 (Act 9 of 1910);(e)"Electricity Supply Act" means the Electricity (Supply) Act, 1948 (Act 54 of 1948);(f)"Fixed Assets" includes works, spare parts, stores, tools, motor and other vehicles, instruments office and other equipments and furniture;(g)"Government" means the Government of Meghalaya;(h)"Licensee" means the Shillong Hydro Electric Ltd.;(i)"Prescribed" means prescribed by rules made under this Act;(j)"Schedule" means the Schedule appended to this Act;(k)"Undertaking" means the electric

supply undertaking at Shillong owned and managed by the Shillong Hydro Electric Ltd.:(l)"Vesting date" means the date and time on which the undertaking shall vest in the Government under Section 3 of this Act;(m)"Works" includes electric supply lines, any land, buildings, structure, plant, machinery or apparatus required to supply energy and to carry into effect the object of a licence granted under the Electricity Act;(n)Other expressions shall have the meanings respectively assigned to them in the Electricity Act.

3. Power of Government to take over the undertaking.

(1)The undertaking shall be deemed to have been taken over by transferred to and vested in, the Government on and from the 16th day of July, 1977 at 13.00 hours.(2)The Government shall, by force of vesting in it of the undertaking under sub-section (1), be deemed to have entered into possession of all the properties movable and immovable, fixed assets, rights, powers, authorities and privileges of the undertaking from the vesting date.

4. Transfer of undertaking to Board.

- The Government may by an order in writing, transfer the undertaking acquired under this Act to the Board on such terms and conditions, as may be specified therein, and on such transfer the undertaking together with all assets, liabilities, rights and obligations, which by virtue of this Act have vested in the Government shall thereupon vest and devolve on the Board.

5. Vesting of undertaking.

(1)The property, rights, liabilities and obligations specified below in respect of the undertaking shall vest in the Government on the vesting date-(i)all the fixed assets of the licensee and all the documents relating to the undertaking;(ii)all the rights, liabilities and obligations of the licensee under hire-purchase agreements, if any, for the supply of materials or equipment made bona fide before the vesting date;(iii)all the rights, liabilities and obligations of the licensee under any other contract entered into bona fide before the vesting date, not being a contract relating to the borrowing or lending of money, or to the employment of staff;(iv)(a)all cash and bank balances of the licence relatable to the undertaking on the vesting date;(b)all amounts due or accruable or accrued to the licensee in connection with electrical energy supplied or other supplies made or services rendered by the licensee, in the course of operations of the undertaking, upto the vesting date; and(c)all investments, loans, advances or deposits relatable to the operations of the undertaking, made by the licensee and outstanding on the vesting date except loans and advances to the employees of the licensee.(2)All the assets specified in clause (i) of sub-section (1) shall vest in the Government free from any encumbrances, debts, mortgages or similar obligations of the licensee or attaching to the undertaking :Provided that such debts, mortgages or obligations shall attach to the amount payable under this Act for the assets.(3)The licence granted to the undertaking under the Electricity Act shall be deemed to have been terminated on the vesting date and ail the rights, liabilities and obligations of the licensee under any agreement to supply electricity entered into before that date shall devolve or shall be deemed to have devolved on the Government:Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by

the Government and in force on the vesting date, the agreement shall be voidable at the option of the Government :Provided further that on and from the vesting date the consumers will be governed by the Tariff for supply of electricity and the general conditions of supply of the Board.(4)On and from the vesting date, it shall be lawful for the Government or their authorised representative, after removing obstruction, if any, to take physical possession of all the property, movable and immovable including fixed assets and documents of the undertaking.(5)All the liabilities and obligations other than those vesting in the Government under sub-sections (1) and (3), shall continue to be the liabilities and obligations of the licensee, after the vesting date.Explanation. - All liabilities and obligations in respect of staff, taxes, provident fund, Employees State Insurance Industrial disputes and all other matters upto and including the vesting date, shall continue to be the liabilities and obligations of the licensee, after the vesting date.

6. Gross amount payable to Licensee.

(1)The gross amount payable to the licensee shall be the aggregate value of the amounts specified below :-(i)the book value of all completed works in beneficial use pertaining to the undertaking and taken over by the Government (excluding works paid for by consumers) less depreciation calculated in accordance with the Schedule;(ii)the book value of all works in progress taken over by the Government, excluding works paid for by consumers or prospective consumers;(iii)the book value of all stores including spare parts taken over by the Government and in the case of used stores and spare parts, if taken over, such sum as may be decided upon by the Government;(iv)the book value of all other fixed assets in use on the vesting date and taken over by the Government less depreciation calculated in accordance with the Schedule;(v)the book value of all plants and equipments existing on the vesting date, if taken over by the Government, but no longer in use owing to wear and tear or to obsolescence, to the extent such value has not been written off in the books of the licensee less depreciation calculated in accordance with the Schedule;(vi)the amount due from consumers in respect of every hire-purchase agreement referred to in clause (ii) of sub-section (1) of Section 5, less a sum which bears to the difference between the total amount of the instalments and the original cost of the materials or equipment, the same proportion as the amount due bears to the total amount of the instalments;(vii)any amount paid actually by the licensee in respect of every contract referred to in clause (iii) of sub- section (1) of Section 5;(viii)the amount of cash and bank balances taken over by the Government under sub-clause (a) of clause (iv) of sub-section (1) of Section 5;(ix)the value of the items taken over by the Government under sub-clauses (b) and (c) of clause (iv) of sub-section (1) of Section 5, less bad debts or unrealisable amounts, as the case may be.Explanation. - The book value of any fixed asset means its original cost and shall comprise :-(i)the purchase price paid by the licensee for the asset, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking;(ii)the cost of supervision, if any, actually incurred and charged to the value of the assets in the books of the undertaking, but not exceeding fifteen per cent of the amount referred to in paragraph (i) :Provided that before deciding the amount under this sub-section, the licensee shall be given an opportunity by the Government of being heard, after giving him a notice of at least 15 days therefor.(2)In addition a sum equal to 10 per cent of the amounts assessed under clauses (i) to (iv) of sub-section (1) shall be paid to the licensee by the Government.(3)When any asset has been acquired by the licensee after the expiry of the period to which the latest annual

accounts relate the book value of the asset shall be such as may be decided upon by the Government: Provided that before deciding the book value of any such asset, the licensee shall be given an opportunity by the Government of being heard, after giving him a notice of at least 15 days therefor.

7. Deductions from the gross amount.

- The Government shall be entitled to deduct the following sums from the gross amount payable under this Act to the licensee :-(a)the amount, if any, already paid in advance;(b)the amount, if any specified in Section 8;(c)the amount payable, due, or accrued, if any, including interest and/or surcharge thereon, from the licensee to the Board, for energy supplied by the Board before the vesting date;(d)all amount and arrears of interest, if any, thereon, due from the licensee to the Government;(e)the amount, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the amount of such loss being deemed to be the amount by which the market value of such property or rights exceeds the amount payable therefor, under this Act, together with any income which might have been realised by the Government if the property or rights had been handed over on the vesting date;(f)the amount of all loans due from the licensee to any financial institutions constituted by or under the authority of the Government and arrears of interest, if any, thereon;(g)all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date in so far as they have not been paid over by the licensee to the Government;(h)all advances from consumers and prospective consumers, and all sums which have been or ought to be set aside to the credit of the consumer's fund, in so far as such advances or sums have not been paid over by the licensee to the Government;(i)the amounts remaining in Tariffs and Dividends Control Reserve, Contingencies Reserve, Provident Fund and Staff Gratuity Fund accounts and the Development reserve, in so far as such amounts have not been paid over by the licensee to the Government;(j)the amount, if any, as specified in sub-sections (2) and (3) of Section 10;(k)the amount, if any, relating to debts, mortgages or obligations as mentioned in proviso to sub-section (2) of Section 5 : Provided that before making any deduction under this section, the licensee shall be given a notice to show cause against such deduction, within a period of fifteen days from the date of receipt of such notice.

8. Effect of transactions not bona fide.

- Where the Government are of opinion that the licensee has on or before the 1st January, 1975, disposed of any fixed asset whether by way of sale, exchange, gift, lease or otherwise, or incurred any expenditure, liability or obligation otherwise than in the normal course of events, with a view to benefit unduly the licensee or some other person and thereby caused loss to the Government as succeeding owners of the undertaking the Government shall be entitled to deduct from the amount payable to the licensee under this Act, an amount which they consider to be the loss sustained by them : Provided that before making such deduction, the licensee shall be given a notice within nine months of the vesting date to show cause against such deduction, within a period of fifteen days from the date of receipt of such notice.

9. Manner of payment of net amount.

(1)The Government shall appoint, by order in writing a person having adequate knowledge and experience in matters relating to accounts, as Special Officer to assess the net amount payable under this Act by the Government to the licensee, after making the deductions mentioned in Section 7.(2)The Special Officer may call for the assistance of such Officers and staff of the Government or Board or the undertaking as he may deem fit, in assessing the net amount payable.(3)The net amount due to the licensee under this Act shall be paid by the Government to the licensee within one year from the vesting date :Provided that this period may be suitably extended by the Government if the licensee fails to furnish or delays the furnishing of accounts, information, particulars or documents as mentioned in Section 11.(4)The net amount payable shall bear simple interest at the rates of one per centum over the average of the Reserve Bank rates between the vesting date and the date of payment or tender of payment:Provided that no interest shall be payable during any extension of time granted under the proviso to sub-section (3).(5)Where the gross amount payable to the licensee is equal to or less than the total amount to be deducted under Section 7, no payment shall be made to the licensee by the Government.

10. Provisions for existing staff of license.

(1)Every person who was employed in connection with the affairs of the undertaking as its employee immediately before the vesting date, other than directors or advisers, shall become on the vesting date an employee of the Government and thereafter an employee of the Board on the date of transfer of the undertaking to the Board under Section 4, and shall hold his service on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking had not been transferred to and vested in the Government or the Board, as the case may be, and continue to do so unless and until his employment under the Government or the Board, as the case may be, is terminated after giving him three calendar months' notice in writing or paying him three months' pay in lieu of such notice, as the case may be, or until his remuneration, terms or conditions are duly altered by the Government or the Board as the case may be.(2)If the licensee fails to pay such an employee his dues arising or accrued on or before the vesting date, the Government or the Board, as the case may be, may pay him the said dues and the amount so paid shall be deducted from the amount payable by the Government to the licensee.(3)In case the Government or the Board, as the case may be, retrench any such employee within a period of one year from the vesting date, the amount payable to such an employee on retrenchment shall be deducted from the amount payable by the Government to the licensee.(4)For the persons who immediately before the vesting date were the trustees for any pension, provident, gratuity or other like fund constituted for employees of the licensee, these may be substituted as trustees, such persons as the Government may, by general or special order, specify.(5)Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Act 14 of 1947), or in any other law for the time being in force, the transfer of the services of any employee from the licensee to the Government or from the Government to the Board, shall not entitle such employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any Court, tribunal or other authority.(6)If any question arises as to whether or not any person was employed in connection with the affairs of the undertaking as its employee immediately before the vesting

date, or whether or not the services of any persons have been transferred to the Government or Board under this Act, it shall be decided by an officer authorised for this purpose by the Government and an appeal shall lie against his decision to the Government whose decision shall be final.

11. Inventory of assets and information.

(1)The licensee shall, within ninety days from the vesting date or such further time as may be granted by the Government prepare and hand over to the Government a complete inventory of all property including fixed assets belonging to the undertaking along with the book value, year of purchase and all relevant documents.(2)The licensee shall also write up the accounts of the undertaking up to the vesting date, get them audited and submit them to the Government within four months from that date or such further time as may be granted by the Government.(3)The licensee shall also, within such time as may be specified by the Government, furnish to them such information and particulars as may be required by the Government in regard to documents relating to the undertaking.(4)The licensee shall not destroy any document relating to the undertaking and shall hand over to the Government on vesting date all such documents as are necessary for ascertaining the assets of the undertaking, the rights, liabilities and obligations attaching thereto and for determining the amount payable or deductible in respect of the undertaking under this Act.(5)Where the documents aforesaid have been taken possession of by the Government, the licensee or any person authorised by him in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

12. Power of entry.

- Any employee of the Government or the Board authorised in this behalf by general or special order by the Government, or the special officer appointed under Section 9 may, at any time after giving the licensee reasonable notice, enter upon any land or premises in his possession and make any survey, examination or investigation preliminary or incidental to the purposes of this Act.

13. Penalties.

(1)Whoever, being required to furnish any information or make any statement under this Act, furnishes any information or makes any statement which he knows to be false, or whoever wilfully fails to hand over to the Government or obstructs in taking over by the Government of any property, including fixed asset or documents belonging to the undertaking or wilfully suppresses or damages or destroys such property, fixed asset or document, which is to be taken over by the Government, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both, and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence continues.(2)Whoever fails, without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder, or any direction or order issued in pursuance thereof, shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to five thousand rupees and in the case of continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence

continues.(3)No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorised by them in this behalf.

14. Offences by Corporation.

- Where a person committing any offence punishable under this Act is a company or an association or a body of persons, the Manager, Secretary, agent or other principal officer managing the affairs of the company, association or body shall be deemed to be guilty of such offence.

15. Protection of action.

- No suit, prosecution or other legal proceeding shall lie against the Government or the Board or any employees of the Government or the Board or the Special Officer appointed under Section 9 or any other person authorised or acting under the direction of the Government or the Board or aiding or assisting the Government or the Board or an employee of the Government or the Board, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

16. Bar to jurisdiction of Court.

- Notwithstanding anything contained in any other law for the time being in force, no Court or tribunal shall call in question any other notification/or any other act done or purported to have been done under this Act.

17. Effect of other Laws.

- No provision of the Electricity Act, the Electricity Supply Act, or any other Act, for the time being in force and of any rule made under any of those Acts or of any instrument including licence having effect by virtue of any of those Acts or any rule made thereunder, shall in so far as it is inconsistent with any of the provisions of this Act, have any effect.

18. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the difficulty:Provided that no such order shall be made after the expiry of two years from the vesting date.

19. Arbitration.

(1)Where any dispute arises in respect of any of the matters specified below, it shall be determined by an arbitrator appointed by the Government:-(a)Whether any property belonging, or any right, liability or obligation attaching to the undertaking, vests in the Government;(b)Whether any fixed

asset forms part of the undertaking;(c)Whether any contract including any contract or agreement referred to in clauses (ii) and (iii) of sub-section (1) of Section 5 has been entered into bona fide or not;(d)Whether any agreement to supply electricity entered into by the licensee prior to the vesting date is of the nature referred to in the first proviso to sub-section (3) of Section 5;(e)Any other dispute that may arise regarding the gross or net amount payable to the licensee under this Act.(2)Subject to the provision of this section, the provisions of the Arbitration Act, 1940 (Act 10 of 1940), shall apply to all arbitration under this Act.

20. Power to make rules.

- The Government may make rules to carry out the purposes of this Act.

21. Repeal and Savings.

(1)The Shillong Electric Supply Undertaking (Acquisition) Ordinance, 1977 is hereby repealed.(2)Notwithstanding such repeal, any action taken or purported to have been taken or anything done or purported to have been done including taking over possession of the property of the undertaking under the Ordinance so repealed shall be deemed to have been taken or done under the corresponding provisions of this Act by or on behalf of the Government or the Board.

Schedule

[See Section 6(1)]For purposes of determining the amount payable under Section 6(1), the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book value of the each asset by the number of years of life of the asset as specified in the table below running in each case from the beginning of the year of account next following that in which the particular asset became available for use in the business. For the period after the licensee's last completed financial year till the vesting date, the depreciation shall be calculated pro-rata. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

Description of asset	Number of years of life of asset	
(1)	(2)	
A.	Land owned under full title	Infinity.
B.	Land held under lease-	
	(a)	for investment in the land
		The period of the lease, or the period remaining unexpired on the assignment of

		the lease.
		The period of the lease remaining unexpired at the date of clearing the site.
	(b) for cost of clearing site	
C.	Assets purchased new-	
	(a) Plant and machinery in generating stations, including plant foundations-	
	(i) Hydro electric	Thirty five.
	(ii) Steam electric	Twenty five.
	(iii) Diesel electric	Fifteen.
	(b) Cooling towers and circulating water systems	Thirty.
	(c) Hydraulic works forming part of a hydro-electric system including-	
	(i) dam, spillways, weirs, canals, reinforced concrete flumes and syphons.	One hundred.
	(ii) reinforced concrete pipe line and surge tanks steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and other hydraulic works.	Forty.
	(d) Building and civil engineering works of a permanent character, not mentioned above-	
	(i) Office and showrooms	Fifty.
	(ii) Containing thermoelectric generating plant	Thirty.
	(iii) Containing hydroelectric generating plant	Thirty five.
	(iv) Temporary erections such as wooden structures.	Five.
	(v) Roads other than katcha roads.	One hundred.
	(vi) Others.	Fifty.
	(e) Transformers, transformers kiosks, sub-station equipment and other fixed apparatus (including plan foundation)-	
	(i) Transformers (including foundation) having a rating of	Thirty five.

	100kilovolt amperes and over)	
	(ii) Others	Twenty five.
(f)	Switchgear, including cable connections	Twenty.
(g)	Lightening arrestors-	
	(i) Station type	Twenty.
	(ii) Pole type	Fifteen.
	(iii) Synchronous condensers	Thirty five.
(h)	Batteries	Ten.
(i)	(i) Underground cables including joint boxes and disconnectingboxes.	Forty.
	(ii) Cable duct system.	Six.
(j)	Overhead lines including support-	
	(i) Lines on fabricated steel support-operating at nominalvoltages higher than 66 kilovolts.	Thirty five.
	(ii) Lines on steel supports-operating at nominal voltageshigher than 13.2 kilovolts but not exceeding 66 kilovolts.	Thirty.
	(iii) Lines on steel or reinforced concrete supports.	Twenty five.
	(iv) Lines on treated wood supports.	Twenty.
(k)	Meters	Fifteen.
(l)	Self-propelled vehicles	Seven.
(m)	Static-machine tools	Twenty.
(n)	Air conditioning plant-	
	(i) Static	Fifteen.
	(ii) Portable	Seven.
(o)	(i) Office furniture and fittings	Twenty.
	(ii) Office equipment	Ten.
	(iii) Internal wiring including fittings and apparatus.	Fifteen.
	(iv) Street-light fittings	Fifteen.
(p)	Apparatus let on hire-	
	(i) Other than meters	Seven.
	(ii) Meters	Twenty.
(q)	Communications equipment-	
	(i) Radio and high frequency carrier system.	Fifteen.

	(ii) Telephone lines and telephone.	Twenty.
D.	Assets purchased second hand and assets not otherwise provided for in this table.	Such reasonable period as Government determines in each case having regard to the nature of the asset at the time of its acquisition by the licensee.