Madhya Pradesh Vidyut Shulk Adhiniyam, 2012

MADHYA PRADESH India

Madhya Pradesh Vidyut Shulk Adhiniyam, 2012

Act 17 of 2012

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Madhya Pradesh Vidyut Shulk Adhiniyam, 2012(M.P. Act No. 17 of 2012)Last Updated 20th December, 2019[Received the assent of the Governor on the 20th April, 2012; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 25th April, 2012.]An Act to provide for the levy of a duty on sale or consumption of electricity in the State of Madhya Pradesh.Be it enacted by the Madhya Pradesh Legislature in the sixty third year of the Republic of India as follows:-

1. Short title extent and commencement.

(1) This Act, may be called the Madhya Pradesh Vidyut Shulk Adhiniyam, 2012.(2) It extends to the whole of Madhya Pradesh.(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

(1)In this Act, unless the context otherwise requires,-(a)"Captive generating Plant" means a power plant set up by any person to generate electricity primarily for his own use and includes a power plaint set up by any cooperative society or association of persons for generating electricity primarily for use of members of such cooperative society or association;(b)"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 this Act or 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;(c)"Distribution Licensee" means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;(d)"Electrical Inspector" means a person appointment as such by the State Government under sub-section (1) of Section 162 of the Electricity Act, 2003 (No. 36 of 2003) and also includes Chief Electrical Inspector;(e)"electrical undertaking" means any undertaking engaged in the business of supplying electricity in any area in Madhya Pradesh and includes an undertaking engaged in the business of

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supplying electricity in bulk to another distributor of electricity; (f) electricity means electrical energy generated, transmitted, supplied, traded or consumed for any purpose;(g)"electricity trader" means a person who has been granted a licence to undertake trading in electricity under Section 12 of the Electricity Act, 2003 (No. 36 of 2003);(h)"franchisee" means a person authorized by a distribution licensee to distribute electricity on his behalf in a particular area within his area of supply;(i)"Generating company" means any company or body corporate or association or body or individuals, whether incorporated' or not, or artificial judicial person, which owns or operates or maintains a generating station in Madhya Pradesh:(j)"Generating station" or "station" means any station for generating electricity, including any building and plant with stepup transformer, switch-gear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; and site intended to be used for generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-section;(k)"Inspector" means a person appointed as such by the State Government under sub-section (1) of Section 9;(1)"licensee" means a person who has been granted a license under section 14 of the Electricity Act, 2003 (No. 36 of 2003);(m)"local authority" means any Nagar Parishad, Municipal Council, Municipal Corporation, Panchayat constituted at the village, intermediate and district levels or other authority legally entitled to, or entrusted by the State Government with, the control or management of any area;(n)"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 specified by the Madhya Pradesh Electricity Regulatory Commission;(o)"person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial judicial persons;(p)"prescribed" means prescribed by rules made by the State Government under this Act;(q)"producer" means, subject to such rules as may be made by the State Government for registration of generators, a person who generates electricity at a voltage exceeding hundred volts and, in the event of generation of electricity by a hire of generator, the owner of generator shall be deemed to be the produce.(2) Any expression used but not defined in this Act and defined in the Electricity Act, 2003 (No. 36 of 2003) shall have the meaning assigned to it in that Act.

3. Levy of duty on sale or consumption of electricity.

(1)Subject to the exceptions specified in section 4, every Distribution Licensee/franchisee shall pay every of month to the State Government at the prescribed time and in the prescribed manner a duty calculated at the rates specified in Part-A of the Schedule on the units of electricity sold or supplied to consumers.(2)Every consumer consuming electricity obtained through open access from outside the state shall pay every month to the State Government at the prescribed time and in the prescribed manner a duty calculated at the rates specified in Part-B of the Schedule on the units of electricity consumed by him.(3)Every Generating Company, Captive Generating Plant and produce shall pay every month to the State Government at the prescribed time and in the prescribed manner a duty calculated at the rates specified in Part-C of the Schedule on the units of electricity consumed by himself or sold to consumers within the State of Madhya Pradesh; Provided that no duty shall be payable in respect of electricity sold/supplied or consumed by any Generating Company in which

the Government of Madhya Pradesh has at least fifty one percent equity.

4. Exceptions.

- Notwithstanding anything contained in Section 3, no duty shall be payable in respect of electricity:-(i)sold or supplied to the Government of India for consumption by that Government:(ii)sold or supplied to the Government of India or a railway company for consumption in the construction, maintenance or operation of any railway administered by the Government of India;(iii)sold or supplied to the State Government for consumption by that Government;(iv)sold or supplied to any local authority for consumption in public street lamp or lamps in any market places or other places of public resort maintained by such authority;(v)sold to or used by an agriculturist for consumption in pumping of water for irrigation of his land or in chaff cutting or in crushing or treating the produce of his land;(vi)sold to sewage treatment plants of urban and rural local bodies;(vii)sold to public water schemes of urban and rural local bodies.

5. Power to exempt.

- Where the State Government is of opinion that-(i)in order to encourage the establishment of any particular industry or class of industries in the State; or(ii)having regard to the particular circumstances of any industry or class of industries; or(iii)in order to extend facilities to such persons or class of persons and for such purposes as the State Government may, by notification specify;it is necessary or expedient to do so in public interest, it may by notification and subject to such conditions, if any, as it may specify in the notification,-(a)exempt from payment of duty in whole or in part to-(i)any Distribution Licensee or franchisee in respect of electricity sold or supplied to such industry for the purposes thereof;(ii)any Captive Generating Plant in respect of the electricity consumed y such industry owning the Captive Generating Plant;(iii)any Distribution Licensee or franchisee in respect of electricity sold or supplied for consumption by persons or class of persons and for purposes specified in the notification;(iv)any open access consumer obtaining and consuming electricity from outside the State of Madhya Pradesh.(b)cancel any such notification.

Reimbursement of duty from consumer by distribution licensee or Franchisee.

- Notwithstanding anything to the contrary in the Electricity Act, 2003 (No. 36 of 2003), a Distribution Licensee of Franchisee may, subject to such limitations and conditions and in such manner as may be prescribed, recover from a consumer by way of surcharge the whole or part of the duty payable by such Distribution Licensee of Franchisee under Section 3 in respect of consumption of electricity.

7. Recovery of duty and interest.

(1) The amount of duty due and remaining unpaid shall carry interest at such rate and in such circumstances as may be prescribed. (2) Without prejudice to any other mode of recovery available to

the State Government, any duty falling due for payment and the interest accruing thereon, if any, may be recovered in the same manner as an arrear of land revenue.

8. Keeping of accounts and records and furnishing returns.

- Every Distribution Licensee or Franchisee and every producer, Captive Generating Plant, Generating Company and consumer obtaining electricity through open access shall keep in such form books, account and records and furnish such returns at such times and to such authorities as may be prescribed.

9. Appointment.

(1)The State Government may, be general or special order, appoint any officer to be Inspector for the purposes of this Act.(2)Every Inspector so appointed shall perform the duties and exercise powers for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.(3)Every such Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

10. Settlement of disputes.

- If any dispute arises between consumer and distribution licensee of electricity or the producer or others, it shall be referred to the Electrical Inspector for settlement. Appeal of such settlement shall be referred to the State Government.

11. Penalties.

- If any Franchisee, Produce, Captive Generating Plant, Generating company or consumer who is required to do so under Section 8,-(a)fails to keep any books, accounts or records or to furnish returns in accordance with any rule framed under Section 8,-(b)intentionally obstructs an Inspector in the performance of his duties or the exercise of his powers under this Act or the rules made thereunder, he shall be punishable with a fine which may extend to five thousand rupees.

12. Power of State Government to amend Schedule.

(1)The State Government may, by notification, amend the Schedule and thereupon the said Schedule shall stand amended accordingly; Provided that no notification, by which the rate of duty is enhanced, shall be issued without giving in the Madhya Pradesh Gazette such previous notice as the State Government may consider reasonable of its intention to issue such notification. (2) Every notification issued under this section shall, as soon as may be after it is issued, be laid on the table of the Legislative Assembly and the provisions of Section 24-A of the Madhya Pradesh General Clauses Act, 1957 (No. 3 of 1958) shall apply thereto as they apply to a rule.

13. Power to make rules.

(1)The State Government may make rules to carry out all or any of the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may provide for-(a)the time and manner of payment of duty under Section 3;(b)the limitations and conditions subject to which the whole or part of the duty payable in respect of each consumer may be recovered by the Distribution Licensee or Franchisee and the manner of such recovery under Section 6;(c)the rate of and the circumstances in which interest may be charged under sub-section (1) of Section 7;(d)the forms in which books and accounts may be kept, returns furnished and the times at which and the authorities to which such returns may be furnished under Section 8;(e)the manner in which the generators are to be registered and the fee payable for such registration or renewal thereof;(f)any other matter for which, no provision has been made in the Act and for which provision is, in the opinion of the State Government, necessary.(3)Every rule made under this Section shall, as soon as may be after it is made, be laid before the State Legislative Assembly.(4)In making a rule under sub-section (1) or sub-section (2), the State Government may provide that a breach thereof shall be punishable with a fine not exceeding five thousand rupees.

14. Protection of action taken in good faith.

- no suit, prosecution or other legal proceeding shall lie against any officer or person empowered to exercise powers or to perform duties under this Act for anything in good faith done or intended to be done under this Act or the rules made thereunder.

15. Repeal and saving.

(1)Save as otherwise provided in this Act, the Madhya Pradesh Electricity Duty Act, 1949 (No. 10 of 1049) is hereby repealed.(2)Notwithstanding such repeal-(a)any thing done or any action taken or purposed to have been done or taken including any rule, notification, inspection, order or notice made or issued or any licence, permission or exemption granted or any direction given under the repealed Act shall, in so for as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;(b)rules made under the repealed Act shall have effect until the rules under Section 13 are made;(c)all directives issued before the commencement of this Act by the State Government under the repealed Act shall continue to apply until directions are issued under this Act.

Schedule

[See Section 3 (1)]Part-A Electricity sold/supplied for the purposes as shown below:-

S.	O
No.	Consumer Category

Consumed Electricity (in unit) Rate of duty in percentage of tariff per unitof electricity per month

(1)	(2)	(3)	(4)	
1.	Domestic consumer	Upto 100 units	9 percent	
		In excess of 100 units upto 200 units	12 percent	
		in excess of 200 units.	15 percent	
2.	non Domestic consumer	Upto 50 units	9 percent	
		In excess of 50 units	15 percent	
3.	Mines (other than captive mines of cementindustries.)		40 percent	
4.	Cement industries (including its captive mines)		15 percent	
5.	LT Industries		9 percent	
6.	Stone Crusher upto 150 HP		9 percent	
7.	Mini Steel Plant, Rolling Mills and Sponge IronPlant.		9 percent	
8.	Power-Looms, Flour Mills, Oil expeller, thresherand similar other machinery used for agricultural processing.		9 percent	
9.	Textile mills, weaving mills and spinning mills		9 percent	
10.	H. T. Industrial and Non Industrial includingshopping mall. Stone Crusher having load above 150 HP and situated outside & adjacent to the mines		15 percent	
Provided that if electricity sold or supplied for consumption for any one purpose is use				

Provided that if electricity sold or supplied for consumption for any one purpose is used either wholly or partially, without the consent of distribution Licensee or Franchisee, as the case may be, for consumption or any other purpose for which a higher rate of duty is chargeable the entire electricity sold or supplied shall be charged at the highest rate applicable. Part-B [See Section 3 (2)]

11. For consumption of electricity obtained throughopen access from outside the State.

The rate of duty shall be calculated as if theelectricity is supplied by Distribution Licensee.

Part- C [See Section 3 (3)]

Electricity sold or supplied by

Generating company, Producer and Captive
Generating Plant to State ownedDistribution and
Trading Licensee.

5 paise per unit

Electricity sold or supplied by

13. Generating company, producer and Captive Generating Plant to any otherconsumer in the State.

The rate of duty shall be same as if theelectricity is supplied by the Distribution Licensee to that consumer. For the electricity consumed by CaptiveGenerating Plants, Producers or Generating Companies for their auxiliary consumption and for their own consumption.

15 percent of the tariff which would have been applicable if the electricity is supplied by DistributionLicensee.

Explanation. - For the purposes of this Schedule-(a)"month" means such period as may be prescribed and till such period is prescribed, the billing month;(b)"mine" means a mine to which the Mines Act, 1952 (No. 35 of 1952) applies and incudes the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transporting the mineral;(c)The electricity duty shall be calculated on the basis of actual percentage of tariff in a month and fraction of 50 paise and above will be rounded off to the next higher rupee and the fraction of less than 50 paise will be ignored;(d)"tariff" means the rate of electricity per unit as may be determined from time to time by the Madhya Pradesh Electricity Regulatory Commission of the various categories of consumption;(e)"category of consumer" means the category of consumer as defined in tariff order determined by the Madhya Pradesh Electricity Regulatory Commission.