

Andhra Pradesh Electricity Duty Act, 1939

5 of 1939

[21 March 1939]

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PREAMBLE

An Act for the levy of a duty ²(on certain sales and consumption of electrical energy by licenses in the State of Andhra Pradesh³.

Where it is expedient to levy a duty ³(on certain sales and consumption of electrical energy by licenses) in the State of Andhra Pradesh. It is hereby enacted as follows:--

1. For Statement of objects and Reasons, see Fort St. George Gazette, dated 7th February 1939-Part IV, page 40.
2. These words were substituted for the words "on certain sales of electrical energy effected by licensees by section 2 of the Madras Electricity Duty (Amendment) Act, 1945 (Madras Act VIII of 1945) re-enacted permanently by section 2 of, and the First Schedule to the Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act, VII of 1948).
3. Substituted by S. 3 of A.P. Act 8 of 1968.

1. Short title, extent and commencement :-

(1) ¹[This Act be called the Andhra Pradesh Electricity Duty Act, 1939.

(2) It extends to the whole of the ²[(State) of Andhra Pradesh.

(3) It shall come into force on such ³[date as the ²[(State) Government may, by notification in the Official Gazette, appoint.

1. Section 1 substituted by Section 4 of A.P. Act 8 of 1968.

2. Substituted by A.P. Act 8 of 1968.

3. Came into force on the 1st April, 1939.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context-

(a) energy means electrical energy;

¹["(b) Lincensee means-

(i) any person including a company or a local authority licensed under Part II of the Indian Electricity Act, 1910, to supply energy, or any person including a company or a local authority who has obtained the sanction of the State Government under Section 28 of that Act to supply energy;

(ii) the Andhra Pradesh State Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948.

(iii) the National Thermal Power Corporation or any other corporation engaged in the business of supplying energy."

(c) prescribed means prescribed by rules made under this Act.

1. Substituted by A.P. Act 10 of 1985 (w.e.f. 30-10-1984).

3. Levy of a duty in certain sales of electrical energy :-

(1) Save as otherwise provided, in sub-section (2) every licensee in the ¹[(State) of Andhra Pradesh shall pay every month to the ^{1a}(State) Government in the prescribed manner, a duty calculated at the rate of 2[six paise per unit of energy, on and in respect of all sales of energy ³(except sales to the Government of India for consumption by that Government or sales to the Government of India or a railway company operating any railway for consumption in the construction, maintenance or operation of the railway) effected by the licensee during the previous month at a price of more than ⁴(twelve paise) per unit ⁵(and on and in respect to all energy which was consumed by the licensee during the previous months for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking and which, if sold to a private consumer under like conditions, would have fetched a price of more than ⁴(Twelve paise) per unit.

⁶("Provided that no duty under this sub-section shall be payable and in respect of sale of energy effected,-

(a) by the Andhra Pradesh State Electricity Board to any other licensee;

(b) by the National Thermal Power corporation to the Andhra Pradesh state Electricity Board".

⁷[(2) a licensee shall be exempt from duty under sub-section 91) in any month if in the previous month the total sales of energy effected by him to whatever price together with the energy

consumed by him for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking, did not exceed 16,666 units.

Provided that if at the end of any financial year, it is found that in such year the total sales of energy consumed by him for purposes other than those connected with the construction, maintenance and operation of his electrical undertaking, were not less than 2,00,000 units, the licensee shall pay the duty in respect of any month or months comprised in such year in which the total of the sales and of the consumptions as aforesaid did not exceed 16,666 units)

(3) where a licensee holds more than one licence, duty shall calculated and levied under this section separately in respect of each licence.

⁸[(4) Where a licence who is liable to pay duty under this section sells energy to the ⁹[(Government of India for consumption by the Government of to a railway company operating any railway company operating any railway company for consumption

In the construction, maintenance or operation of that railway), the price charged on such shall be less by the amount of the duty than the price charged to other consumers of a substantial quantity of energy provided the price last mentioned is more than 1 (twelve paise per unit).

In this sub-section, the expression price charged to other consumers shall include the duty, if any, recoverable from the consumer under sub-section (1) of section 7.

⁹[Explanation:--The expression railway in this section and in section 9 shall have the meaning assigned to it in clause (20) of Article 366 of the Constitution.]

1. Substituted by A.P. Act 8 of 1968.

- 1a. Substituted by A.P. Section 5 of Act 8 of 1968.
2. Substituted by A.P. Act 20 of 1985 and again by AP Act 1 of 1994 w.e.f. 1-12-1993.
3. Substituted by the Adaptation (Amendment) Order 1950.
4. Substituted by A.P. Act 20 of 1985.
5. Inserted by Mad. Act 8 of 1945.
6. Proviso added by A.P. Act 10 of 1985 w.e.f. 30-10-1984
7. Substituted by Act 10 of 1985.
8. Sub Section (4) and explanation added by Mad. Act 11 of 1943.
9. Explanation substituted by Adaptation (Amendment) Order 1950.

3A. Power to exempt :-

Notwithstanding anything contained in this Act, the government may, in public interest, by notification, setting out the grounds therefore, exempt, either permanently or for a specified period, a licensee from payment of the whole or part of the duty payable under Section 3, Subject to such terms and condition as may be specified in the said notification.

4. Obligation of licenses to keep books of account and to submit returns :-

Every licensee shall:--

- (a) keep books of account in the prescribed form and
- (b) submit returns showing the units of energy supplied and the amount of the duty payable in respect thereof, to such officer, in such form and at such times as maybe prescribed.

5. Inspecting Officers :-

(1) The State Government may, by notification in the ¹[Andhra Pradesh Gazette, appoint Inspecting Officers to inspect the books

of accounts required to be kept by licenses under clause (a) of section 4.

(2) Officers so appointed shall perform such duties and exercise such powers as may be prescribed, for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

Every such officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

1. Section 3-A inserted by A.P. Act 21 of 1996 (W.e.f. 30-5-1994).

6. Recovery of duty :-

Any duty due under this Act which remains unpaid, shall be recoverable as an arrear of land revenue, or by deduction from amounts payable by the State Government to the licensee.

7. Licensee to reimburse himself from consumer in certain cases :-

Any licensee may with the previous sanction of the State Government and subject to such conditions as they may impose, recover from any person or class of persons to whom energy is sold at a price of more than ¹[two annas per unit, the duty which falls to be paid by the licensee in respect of the energy so sold or any part of it, as may be determined by the State Government.

Explanation:--²[Save as provided in sub-section (4) of section 3, the duty recoverable from any person under this sub-section shall not be deemed to be part of the price charged for the energy by the licensees.

(2) The licensee may, for the purpose of sub-section (1), exercise the power conferred on licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for the recovery of any charge or sum due in respect of energy supplied by him.

1. [Twelve paise]
2. Substituted by Mad. Act 11 of 1943.

8. Penalties :-

If any licensee.-

(a) fails to keep books of account or submit returns as required by section 4, or

(b) intentionally obstructs an Inspecting Officer appointed under section 5 in the performance of his duties or the exercise of his powers under this Act and the rules made thereunder he shall be punished with fine which may extend to fifty rupees.

9. Power to make Rules :-

¹[The State Government may, by notification published in the A.P. Gazette make rules for carrying 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.

²[(b) ³(refunds to the Government of India and Railway companies operating railways), when the price paid by them is found to exceed the limit specified in sub-section (4) of section 3];

(c) the form of the books of account required to be kept under clause (a) of section 4;

(d) the times at which, the forms in which, and the officers to who, the returns required by the clause (b) of section 4 should be

submitted;

(e) the duties and powers of Inspecting officers appointed under section 5; and

(f) any other matter for which there is no provision or insufficient provision in this Act and for which provision is in the opinion of the State Government, necessary for giving effect to the purpose of this Act.

(3) 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 fine not exceeding fifty rupees.

4"(4) Every rule made under this Act shall immediately after it is made be laid before each House of the State Legislature if it is in session, and if it is not in session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration to the session in which it is so laid or the session immediately following both House agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette have effect only in such modified form or shall stand annulled, as the case may be; so however that any such modification or annulment shall without prejudice to the validity of anything previously done under that rule.

1. Substituted by A.P. Act 8 of 1968.

2. The original clauses (b) to (e) relettered as clauses (c) to (f) by Mad. Act 11 of 1943.

3. New Clause (b) inserted by ibid and substituted by Adoption (Amendment) Act 1950.

4. Substituted by section 8 (ii) of A.P. Act 8 of 1968.

10. Saving :-

¹[This Act shall, have effect subject to the provisions of Article 288 of the Constitution].

1. Added by Adaptation (Amendment) Order 1950.