

BENGAL ELECTRICITY DUTY ACT, 1935

10 of 1935

[30th May, 1935]

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SCHEDULE 1 :- RATES OF ELECTRICITY DUTY

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BENGAL ELECTRICITY DUTY ACT, 1935

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An Act to levy a duty on electrical energy consumed in Bengal
WHEREAS it is expedient to levy a duty on electrical energy consumed in Bengal; AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act; It is hereby enacted as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Bengal Electricity Duty Act, 1935.

(2) It extends to the whole of ¹[West Bengal].

(3) It shall come into force on such date as the ²[State Government] may by notification in the ³[Official Gazette], appoint
4 * * * *.

1. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Words "and shall continue in force for three years only" rep. by Ben. Act 4 of 1938.

2. Definitions :-

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

(1) "consumer" means any person, other than a distributing licensee, who is supplied with energy by a licensee ¹[or by the State Government];

(2) "energy" means electrical energy:

²(2a) "energy charge" means the amount charged (whether as energy charge or some other charge) by a licensee for the supply of energy to a consumer before deduction of rebate, if any, allowed by the licensee for payment on or before such date as may be specified by the licensee;

³Explanatory. "Some other charge" shall include demand charge and power factor surcharge.

⁴(2b) "gross charge" means the aggregate amount of energy charge and fuel surcharge, if any, made by the licensee for the supply of energy;

(3) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the ⁵[State Government]

under section 28 of that Act ⁶[and also includes the West Bengal Electricity Board to be constituted under section 5 of the Electricity (Supply) Act, 19481; and

⁷ (3a) "net charge" means the amount of gross charge that remains after deduction therefrom of any rebate referred to in clause (2a) or refund of fuel surcharge, if any;

(4) "prescribed" means prescribed by rules made under this Act.

1. Words ins. by W.B. Act 61 of 1950.

2. Clauses (2a) and (2b) ins. by W.B. Act 4 of 1993.

3. Explan. ins. by W.B. Act 3 of 1999. w.e.f. 1.2.1993.

4. Clauses (2a) and (2b) ins. by W.B. Act 4 of 1993.

5. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

6. Words, figures and brackets ins. by W.B. Act 61 of 1950.

7. Clause (3a) ins. by W.B. Act 4 of 1993.

3. Duty on units of energy consumed :-

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(1) Subject to the rovisions of ²[sub-section (3),] there shall be charged, levied and paid to the State Government a duty (hereinafter referred to as 'electricityduty'), ³[on the net charge for energy consumed or the units of energy consumed, as the case may be,] at the rates specified in the First Schedule :

"Provided that during a period of one year with effect from

(a) the 1st day of June, 1979, no electricity duty ⁴[on the net charge for energy consumed or the units of energy consumed, as the case may be,] shall be payable by a person (other than a licensee) who generates energy from a diesel generating plant, or

(b) the 1st day of April, 1985, no electricity duty ⁴[on the net charge for energy consumed or the units of energy consumed, as the case may be,] shall be payable by a person (other than a licensee) who generates energy from a ⁶[coal-based generating plant, or]

⁷(c) the 1st day of February, 1990, no electricity duty ⁴[on the net charge for energy consumed or the units of energy consumed, as the case may be,] shall be payable by a person (other than a licensee) who generates energy from a waste-gas-based generating

plant, registered under section 7B, for his own consumption for any industrial or manufacturing process (including cold storages and cinema houses), and for such other purposes as the State Government may, by notification in the Official Gazette, specify in this behalf.

9Explanation. For the purposes of this proviso, "own consumption" shall not include any consumption for domestic purposes :

"Provided further that the State Government may, by notification in the Official Gazette, extend the period referred to in the first proviso from time to time but such extension shall not exceed a period of one year at a time :

Provided also that where any electricity duty is charged, levied or paid at the rates specified in any of the clauses of any article of Part C of the First Schedule, such duty may be charged, levied or paid, monthly for a period of three consecutive months on the basis of average monthly consumption during the three months immediately preceding the period as aforesaid, in such manner, in such areas, for such class of consumers and subject to such conditions as may be prescribed.

10Explanation. The expression "month" shall mean a period of not less than 25 days and not more than 35 days and shall be computed in the manner prescribed.

(2)

(a) The special rate of duty referred to in **11**[sub-clause (ii) of clause (b) of article (2)] of Part B of the First Schedule shall not be admissible unless

(i) the cost of energy consumed for purposes of electrolysis or heating in electric furnaces is twenty per cent, or more of the total cost of manufacture by electrolysis or heating in electric furnaces, and

(ii) separate books of account are maintained showing separately the details of the cost of energy consumed for purposes of electrolysis or heating in electric furnaces and the total cost of manufacture by electrolysis or heating in electric furnaces.

(b) An industrial undertaking claiming the benefits of the special rate of duty referred to in **9**[sub-clause (i) of clause (b) of article

(2)] of Part B of the First Schedule shall make an application in writing to an officer specially appointed in this behalf by the State Government by notification in the Official Gazette and thereupon such officer shall, after giving the applicant an opportunity of being heard and after making such enquiry (if any) as he may think fit, make an order,

(i) if he is satisfied that the requirements of this Act and the rules made thereunder have been complied with, allowing the application, or

(ii) if he is not so satisfied, rejecting the application, and such order shall, subject to the provisions of clause (c) , be final.

(c) The State Government may, on application or of its own motion, revise any order made under clause (b).

(3) Electricity duty shall not be leviable ¹³ [on the net charge for energy consumed or the units of energy consumed as recorded in the meter, as the case may be,]

(a) by any Government, except to the extent specified in the Second Schedule;

(b) by, or in respect of, any

(i) local authority,

(ii) railway administration as defined in the Indian Railways Act, 1890.

(iii) institution or class of persons specified in the Second Schedule, except to the extent specified in the Second Schedule;

(c) in any

(i) place of public worship, public burial or burning-ground or other place for the disposal of the dead,

(ii) premises declared by the State Government to be used exclusively for purposes of public charity,

(iii) vessel whether sea-going or inland.

1. Sec. 3 subs, by W.B. Act 16 of 1963. Original sec. 3 was as under : "3. Duty on units of energy consumed. There shall be charged, levied and paid to the Government of Bengal, on the units of energy consumed for the purpose of lights or fans or both, a duty (hereinafter referred to as "electricity duty") at the rates

specified in the First Schedule : Provided that electricity duty shall not be leviable on the units, of energy consumed (a) by Government, except to the extent specified in the Second Schedule; (b) by, or in respect of, any (i) local authority; (ii) railway administration, as defined in the Indian Railways Act, 1890; (iii) tramway company; (iv) mine, as defined in the Indian Mines Act, 1923: (v) industrial undertaking; (vi) institution or class of persons specified in the Second Schedule, except to the extent specified in the Second Schedule; (c) in any (i) place of public worship, public burial or burning-ground or other place for the disposal of the dead; (ii) premises declared by the Local Government to be used exclusively for purposes of public charity; (iii) vessel, whether sea-going or inland."

2. Word, figure and brackets subs, for the words, figures and brackets "subsections (2) and (3)" by W. B. Act 4 of 1993.

3. Words subs, for the words "on the units of energy consumed" by W. B. Act 4 of 1993.

4. Words subs, for the words "on the units of energy consumed" by W. B. Act 4 of 1993.

6. Words subs, for the words "coal-based generating plant," by W. B. Act 6 of 1990.

7. Clause (c) ins. by W.B. Act 6 of 1990.

9. Proviso and Expln. first ins. by W. B. Act 18 of 1979, then subs, by W.B. Act 5 of 1985. Previous proviso and Expln. was as under : "Provided that during a period of one year with effect from the 1st day of June. 1979. no electricity duty on the units of energy consumed shall be payable by a person (other than a licensee) who generates energy from a diesel generating plant registered under section 7B for his own consumption for any industrial or manufacturing process (including cold storages and cinema houses), and for such other purpose as the State Government may, by notification in the Official Gazette, specify in this behalf. Explanation. For the purposes of this proviso, "own consumption" shall not include any consumption for domestic purposes."

10. Proviso and Expln. ins. by W.B. Act 20 of 1984.

11. Words, figures, letters and brackets subs, for the words, figure, letter and brackets "in clause (2) of article (b)" by W.B. Act 4 of 1993.

13. Words subs, for the words "on the units of energy consumed as recorded in the matter" by W.B. Act 4 of 1993.

3A. Assessment of electricity duty payable by a licensee or a person required to furnish return under section 6 :-

1

(1) If no return in respect of any period is submitted by a licensee or a person required to submit return under section 6 or if the return submitted by such licensee or person appears to the authority prescribed by rules under this Act to be incorrect or

incomplete, such authority shall, after giving such licensee or person, as the case may be, a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of electricity duty payable under this Act by such licensee or person.

(2) The amount of electricity duty assessed under sub-section (1) for a period, less the sum, if any, already paid in respect of the said period, shall be paid by the licensee or the person by such date as may be specified in a notice issued by the authority in this behalf, and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.

(3) No assessment under this section shall be made

(a) after the expiry of four years, from the end of the year comprising the period or periods in respect of which the assessment is made, or

(b) ² [after the 31st day of December, 2002, whichever is later].

Explanation. For the purpose of this section, "year" means the year commencing on the first day of April and ending on the last day of March.

1. Sec. 3A first ins.by W. B. Act 8 of 1983. then subs, by W.B. Act 10 of 1996. Previous sec.SA was as under: "3A.Assessing Authority. The State Government may prescribe an authority or authorities,to assess in the manner prescribed the electricity duty payable under this Act and the rules made thereunder."

2. Words, figures and letters "after the 31st day of December, 2000, whichever is later" first subs, for the words, figures and letters "after the 31st day of December, 1998. whichever is later." by W. B. Act 3 of 1998, then the words, figures and letters within third brackets subs, for the words, figures and letters "after the 31st day of December, 2000. whichever is later" by W. B. Act 3 of 2000. date on which energy was first supplied in the area of supply 25[of the licensee] :

4. Exemption of newly-formed undertakings :-

(1) Notwithstanding anything contained in section 3, electricity duty shall not be leviable on energy supplied by a licensee until the expiry of three years from the

Provided that, if a licensee ceases to supply energy in any area of supply or if his license is revoked, and thereafter another licensee supplies energy in such area, the ¹ [State Government] may in its

discretion, by order, exempt the energy supplied by such other licensee from, the levy of electricity duty for such period as may be specified in the order.

(2) No modification in any area of supply shall operate to extend the period of exemption mentioned in sub-section (1) in respect of the whole or any part of the area as modified.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

5. Payment of electricity duty :-

(1) In the case of energy supplied by a licensee the licensee shall collect and pay to the ¹[State Government] at the prescribed time and in the prescribed manner, the electricity duty payable under section 3 on the ²* * * energy supplied by him to consumers ³* * * * The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the ¹[State Government] :

Provided that the licensee shall not be liable to pay the duty in respect of any energy supplied by him for which he has been unable to recover his dues.

⁵(1A), In the case of energy supplied by the State Government, the consumer shall pay to the State Government at the prescribed time and in the prescribed manner the electricity duty payable under section 3 on the ²* * * energy supplied by the State Government to the consumer ³* * * *

(2) Where any person fails or neglects to pay, at the prescribed time and in the prescribed manner the amount of electricity duty due from him, the licensee ⁸[or the State Government, as the case may be,] may, without prejudice to the right of the ¹[State Government] to recover the amount under section 8. and after giving not less than seven clear days' notice in writing to such person, cut off the supply of energy to such person; and ¹⁰* may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him.

(3) The licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the ¹¹[State Government] on the amount of the duty collected and paid by him under sub-section (1).

(4) In the case of energy other than energy supplied by a licensee ¹²[or the State Government] the person who generated ¹³[or supplied] such energy shall pay to the ⁷ [State Government] at the prescribed time and in the prescribed manner the electricity duty payable under section 3 on units of such energy.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words "units of om. by W.B. Act 4 of 1993.

3. Words "for the purpose of lights and fans" om. by W.B. Act 21 of 1957.

5. Sub-sec. (1A) ins. by W.B. Act 61 of 1950.

8. Words ins. by W.B. Act 61 of 1950.

10. Word "he" om. by W.B. Act 61 of 1950.

11. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

12. Words ins. by W.B. Act 61 of 1950.

13. Words ins. by W.B. Act 30 of 1953.

5A. Interest payable by licensee :-

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(1) Where a licensee fails to make payment to the State Government by the prescribed date electricity duty collected by him under section 5, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month immediately following the prescribed date upto the month preceding the month of full payment of such duty, or upto the month prior to the month of assessment of electricity duty under section 3A and the rules made thereunder, whichever is earlier, upon so much amount of the duty payable by him as remains unpaid at the end of each such month of default.

(2) Where a licensee fails to make payment of any electricity duty due from him after assessment under section 3A by the date specified in the notice, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the

first day of such month immediately following the date specified in the notice upto the month preceding the month of full payment of the duty or upto the month immediately preceding the month of commencement of proceedings for recovery under section 8, whichever is earlier, upon so much of the amount of electricity duty due from him according to such notice as remains unpaid at the end of each such month of default.

(3) A licensee liable to pay interest under sub-section (1) or sub-section (2), as the case may be, shall pay to the State Government such interest in such manner and by such date as may be prescribed.

(4) Interest under sub-section (1) shall be payable in respect of payment of duties by the licensee, the prescribed date of which under section 5 is the date subsequent to, and interest under sub-section (2) shall be payable in respect of assessment for which a notice of demand under section 3A is issued after, the date of coming into force of section 3 of the West Bengal Finance Act, 1995.

(5) Where the authority prescribed by the State Government under section 3A to make assessment has reason to believe that a licensee has failed to pay interest payable by, or due from, him under sub-section (1) or sub-section (2), by the prescribed date or that the amount of interest paid by him is not correct, such authority shall determine the amount of interest in such manner as may be prescribed: the amount of interest so determined shall be collected from the licensee in such manner as may be prescribed.

1. Secs. 5A and 5B ins. by W.B. Act 3 of 1995.

5B. Interest payable by the State Government :-

¹ The State Government shall, in the prescribed manner, pay a simple interest at the rate of two per centum for each English calendar month of delay in making refund to a licensee the amount of electricity duty paid in excess which arises from an order under section 7C passed on appeal by the prescribed authority on or after the coming into force of section 3 of the West Bengal Finance Act, 1995, from the first day of the English calendar month next following the expiry of three months from the date of such order upto the month preceding the month in which refund is made, upon the amount of duty refundable to him according to such order.

1. Secs. 5A and 5B ins. by W. B. Act 3 of 1995.

6. Obligation to keep books of account and submit returns

:-

Every licensee, and every person liable to pay such duty under sub-section (4) of section 5 shall, unless he is exempt from payment of electricity duty ¹[under sub-section (3) of section 3] keep books of account in the prescribed form and submit to the ²[State Government] or to the prescribed officer returns in the prescribed form at the prescribed times, showing the units of energy ³ [, and the gross charge, fuel surcharge and net charge for energy,] supplied, generated or consumed by him, as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 5.

1. Words, figures and brackets subs, for the words, figures and brackets "under proviso to section 3" by W.B. Act 16 of 1963.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

3. Words ins. by W.B. Act 4 of 1993.

7. Inspecting officers :-

(1) The ¹[State Government] may, by notification in the ² [Official Gazette], appoint inspecting officers to inspect the books of account required by section 6 to be kept. Such officers 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.

(2) Every officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

7A. Provision of meters :-

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2(1) Every person who does not maintain separate meters for

recording different kinds of consumption of electrical energy for the purposes of calculating the different rates of duty which are payable by him in terms of the provisions of the First Schedule shall be liable to pay electricity duty at the highest of the applicable rates.

2 {2) If on application made by any person in this behalf the State Government or such other authority as the State Government may prescribe in this behalf, having regard to the fact that the cost of maintenance of separate meters is disproportionate to the amount of electricity duty payable by such person or otherwise, is satisfied that the application of the provisions of sub-section (1) to such person would cause undue hardship to him, it may, by written order for reasons to be recorded in writing, exempt such person from the provisions of sub-section (1) and direct that the amount of electricity duty payable, or the units of electrical energy for which electricity duty is payable, by such person shall be assessed in such manner as may be prescribed.

1. Sec. 7A ins. by W.B. Act 40 of 1975.

2. Sec. 7A renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 5 of 1977.

7B. Registration :-

1

(1) Every person, other than a licensee or the State Government, who has installed or will install a generating plant for generation of energy for his own consumption, shall, for the purpose of registration of such plant, make an application to such officer as the State Government may appoint in this behalf. The application shall be made in such manner and in such form and on payment of such fee as may be prescribed. The officer appointed in this behalf may, on receipt of an application for grant of a certificate of registration and after such enquiry as he considers necessary, grant to the applicant a certificate of registration for such plant for such period and on such condition or conditions as may be prescribed. Such registration number shall be quoted in all books of account and returns required to be kept or submitted under section 6.

(2) The registration granted under sub-section (1) shall be renewed in such manner, within such period and on payment of such fee as may be prescribed.

(3) The officer appointed under sub-section (1) may, on application

being made to him for this purpose, cancel the certificate of registration. The registration shall be liable to be cancelled for violation of any of the conditions subject to which the certificate of registration was granted. No certificate of registration shall be cancelled without giving the the person concerned an opportunity of being heard.

(4) If any person to whom the provisions of sub-section

(1) apply

(a) sells or otherwise disposes of. discontinues or changes his name or place of business, or

(b) changes the nature of his consumption of energy which is specified in his application for registration, he shall, within the prescribed time and in the prescribed manner, inform the officer appointed under sub-section (1) about such sale, disposal, discontinuance or change, and in case of death of the person, his legal representative shall in like manner inform the said officer.

1. Sec. 7B ins. by W.B. Act 18 of 1979.

7C. Appeal :-

1

(1) Any person may in the prescribed manner appeal to the prescribed authority against any order of assessment of electricity duty or any other order passed under this Act or the rules made thereunder within sixty days or such further period as may be allowed by the prescribed authority for reasons shown to his satisfaction from the date of receipt of a notice of demand issued after such order of assessment or the date of communication of such other order, as the case may be :

Provided that no appeal against an assessment of electricity duty shall be entertained by the prescribed authority unless he is satisfied that such amount of the electricity duty as the appellant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be prescribed, the prescribed authority, in disposing of any appeal under sub-section (1), may

(a) confirm, modify or annul the assessment of electricity duty or any other order, as the case may be; or

(b) set aside the assessment of electricity duty or any other order, as the case may be, and direct the authority concerned to make a fresh assessment or pass a fresh order after such further inquiry as may be directed.

1. Sec. 7C ins. by W. B. Act 8 of 1983.

7D. Revision by Appellate and Revisional Board :-

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(1) Any licensee or person objecting to an order passed under section 7C may apply for revision of such order to the West Bengal Commercial Taxes Appellate and Revisional Board constituted under section 6 of the West Bengal Sales Tax Act, 1994 (hereinafter referred to as the Appellate and Revisional Board) within sixty days of the date on which such order is communicated to him or within such further period as may be allowed by the Appellate and Revisional Board for reasons shown to its satisfaction.

(2) The provisions of section 6 referred to in sub-section (1) and the rules and the regulations made thereunder shall apply mutatis mutandis in the matter of submission of application for revision made under this section and disposal thereof.

1. Sec. 7D ins. by W. B. Act 10 of 1996.

8. Recoveries :-

Any sum due on account of electricity duty [or interest], if not paid at the prescribed time and in the prescribed manner shall be recoverable, as a public demand

(a) in the case of energy supplied by a licensee, at the discretion of the ¹[State Government], either from the consumer, or, subject to the proviso to sub-section (1) of section 5, from the licensee; ²*

³(aa) in the case of energy supplied by the State Government, from the consumer;

(b) in the case of other energy, from the person liable to pay such duty under sub-section (4) of section 5; and

⁴ (c) in the case of interest, from the licensee liable to pay such interest under section 5A.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the

word "Provincial" by the Adaptation of Laws Order. 1950.

2. Word "and" om. by W. B. Act 61 of 1950.

3. Clause (aa) ins. by W. B. Act 61 of 1950.

4. Clause (c) ins. by W. B. Act 10 of 1996.

8A. Special mode of recovery :-

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(1) Notwithstanding any proceeding being initiated under section 8 for recovery of any amount of electricity duty, the authority prescribed under section 3A (hereinafter referred to as the said authority) may, at any time or from time to time, by notice in the prescribed form, require any person from whom money is due or may become due to a defaulter or any person who holds or may subsequently hold money for, or on account of, such defaulter, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due from such defaulter in respect of the arrears of such electricity duty and interest, if any, or the whole of the money when such money is equal or less than that amount.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for, or on account of, the defaulter jointly with any other person, and for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the defaulter at his last address known to the said authority and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim respecting any money, which is due or to become

due or is being held or may subsequently be held and in relation to which a notice under this section has been issued, arising after the date of such notice, shall be void as against any demand contained in such notice.

(6) Where a person to whom a notice sent under this section proves to the satisfaction of the said authority that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for, or on account of, the defaulter or that the money demanded or any part thereof is not likely to be due to the defaulter or be held for, or on account of, the defaulter, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be,

(7) The said authority may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Government Treasury or the Reserve Bank of India shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying the amount shall be fully discharged from his liability to the defaulter to the extent of the amount so paid.

(9) Any person discharging any liability to the defaulter after receipt of a notice under this section shall be personally liable to the said authority to the extent of his own liability to the defaulter so discharged or to the extent of the liability of such defaulter any amount due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a defaulter in respect of the amount specified in the notice, and further proceedings may be taken against him for the recovery of the amount as if it were an arrear due from him, and the notice shall have the same effect as attachment of a debt.

(11) The said authority may apply to the court in whose custody there is money belonging to the defaulter for payment to him of the entire amount of such money or, if it is more than the amount of electricity duty or interest due, an amount sufficient to discharge the liability of the amount of electricity duty or interest :

Provided that any dues exempt from attachment in execution of a

decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any payment required to be made under this section.

Explanation. For the purposes of this section, "defaulter" means a licensee or a person who fails to make full payment of the amount of electricity duty due from him on assessment under section 3A or the amount of interest due from a licensee on determination under section 5A.

1. Sec. 8A ins. by W. B. Act 10 of 1996.

9. Penalties :-

If any person required by section 6 to keep books of account or to submit returns fails to keep such books in the prescribed form or to submit such returns in the prescribed form at the prescribed times or if any person intentionally obstructs an inspector appointed under section 7 in the exercise of his powers and duties under this Act and the rules made thereunder he shall be liable on conviction before a Magistrate, to a fine not exceeding ¹ [one thousand] rupees.

1. Words subs, for the word "fifty" by W.B. Act 21 of 1957.

10. Exemption of small generating plants :-

This Act shall not apply to energy generated by a plant having a capacity not exceeding two and a half kilowatts.

11. Power to make rules :-

¹(1) The State Government may make rules, with prospective or retrospective effect, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

(a) the time and manner of payment of the electricity duty under section 5;

(b) the form of the books of account to be kept, the times at which, the form in which and the officer to whom, the returns required by section 6 shall be submitted;

(c) the duties and powers of inspecting officers; *

²(cc) the manner of assessment of electricity duty referred to in

subsection (2) of section 7A;

3(ccc) the manner in which, the form in which and the fee on payment of which application for grant of a certificate of registration shall be made and the period for which and the condition or conditions subject to which registration of certificate shall be granted under sub-section (1), the manner in which, the period within which and the fee on payment of which certificate of registration shall be renewed under sub-section (2), and the time within which and the manner in which the officer appointed under sub-section (1) shall be informed under sub-section (4), of section 7B.

(d) any other matter **4**[which may be or is required to be prescribed or] for which there is no provision or insufficient provision in this Act and provision is, in the opinion of the **5** (State Government)], necessary for giving effect to the provisions of this Act.

(3) In making a rule under sub-section (1) or sub-section (2) the [State Government] may provide that breach of it shall be punishable with a fine not exceeding S8]one thousand] rupees.

1. Sub-section (1) subs, by W.B. Act 5 of 1977. Previous sub-sec. (1) was as under: "(1) The State Government may make rules to carry out the purposes of this Act." ;

2. Clause (cc) ins. by W. B. Act 5 of 1977.

3. Clause (ccc) ins. by W. B. Act 18 of 1979.

4. Words ins. by W. B. Act 16 of 1963.

5. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

SCHEDULE 1

RATES OF ELECTRICITY DUTY

THE FIRST SCHEDULE

[See section 3.]

RATES OF ELECTRICITY DUTY

A.

For energy other thart energy supplied by a licensee or the State Government.

In the case of energy, other than energy 5 paise for each supplied by a

licensee or the State unit of energy comment, Govern generated by a person liable to pay, sumed. electricity duty under sub-section (4) of section 5

B. For industrial purposes.

(1) Low and medium voltage energy:

Where low or medium voltage energy supplied by a licensee is consumed by a consumer in any premises in connection with industrial or manufacturing process including cold storage, and consumption of energy during the month to which the calculation of duty relates

(i)	does not exceed five hundred units	2.5 per centum of net charge for energy consumed;
(ii)	Exceeds five hundred units but Does not exceed one thousand units	5.0 per centum of net charge for energy consumed;
(iii)	Exceeds one thousand units	7.5 per centum of net charge for energy consumed;

(2) High voltage energy:

(a)	Except in cases falling under clause (b), where high voltage energy supplied by a licensee is consumed by a consumer in any premises in connection with industrial or manufacturing process including cold storage	7.5 per centum of net charge for energy consumed;
(b)	where energy is consumed for the purposes of	5.0 per centum of net charge for energy consumed;
	(i) a cottage industry or a small-scale industry, by any under- taking not being a factory as defined in the Factories Act, 1948, or	
	(ii) electrolysis or heating in electric furnaces, by any industrial undertaking, and separate meters or sub-meters are installed for indicating the quantity of energy so consumed.	

SCHEDULE 2
SCHEDULE

SCHEDULE 3

[See section 3(3).]

EXEMPTIONS

(1)[Any Government], save in respect of premises used for residential purposes.

(2) a railway administration, save in respect of premises used for residential purposes.

(3) a local authority, save in respect of premises used for residential purposes.

(7) a hospital or dispensary which is not maintained for private gain.

(8) any consumer using not more than 64[twenty-five units] in any one month.

