

BOMBAY ELECTRICITY DUTY ACT, 1958

40 of 1958

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BOMBAY ELECTRICITY DUTY ACT, 1958

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An Act to provide for the levy of a duty on consumption of electrical energy in the State of Bombay. Whereas It is expedient to provide for the levy of duty on consumption of electrical in the State of Bombay. It is hereby enacted in the Ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Electricity Duty Act, 1958 .

(2) It extends to the whole of the¹ [State of Gujarat].

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

1. Subs, by Gujarat Adaptation of Laws Order, 1960.

2. Definitions :-

In this Act, unless the context requires otherwise,-

¹[(a) "consumer" means any person who is supplied with energy on payment of charges or otherwise by a licensee or by any other person

(i) a licensee in relation to energy either generated by himself or supplied by any other licensee,

(ii) any other person in relation to energy generated by himself, and used by such licensee or person for any purpose excluding that of construction, maintenance or operation of his generating, transmitting or distributing system but including office, commercial or residential purpose connected with such system; and the word 'consume' with its grammatical variations and cognate expressions shall be construed accordingly;]

(b) "energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;

²(b b) "Industrial undertaking" means an undertaking engaged predominantly In-

(i) the manufacture or production of goods ³[x x x], or

(ii) any job work which results in the manufacture or production of goods ⁴[x x x], [but does not include-

(A) a service undertaking; and

(B) an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on the premises of the undertaking].

⁵Explanation I.-For the purpose of item (B) of this clause, "premises of the undertaking" includes all premises which are intended for being used for consumption of food or drinks or both.

⁶Explanation II.-For the purposes of this clause and clause (ee), an

undertaking engaged in the manufacture or production of goods and also in any one or more of the activities specified In clause (ee)-

(a) shall be deemed to be-

(i) engaged predominantly in the manufacture or production of goods ⁷[x x x] if the gross annual income of such undertaking from such manufacture or production for the accounting year of such undertaking preceding the period in respect of which the duty Is levied is greater than the gross annual Income of such undertaking for that accounting year from such activity or activities,

(ii) a service undertaking engaged predominantly in any one or more of the activities specified in clause (ee) if the gross annual income of such undertaking from such activity or activities for the accounting year of such undertaking preceding the period in respect of which the duty is levied is greater than the gross annual income of such undertaking for that accounting year from such manufacture or production,

(b) shall, until such gross annual income is available, be deemed to be an undertaking falling under sub-clause (i) or, as the case maybe, sub-clause (Ii) of clause (a), on the basis of the declaration made by the undertaking to such authority as the State Government may, by notification in the Official Gazette, specify; and on the availability and verification of such income, the undertaking shall be treated as if it had always been the undertaking to which sub-clause (i) or, as the case may be, sub-clause (ii) of clause (a) applied, having regard to such income];

(c) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910 (IX of 1910) to supplyenergy and includes any person who has obtained the sanction of the State Government under Section 28 of that Act, the State Government when it is engaged in a business of supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (LIV of 1948):

⁸[(cc) "premises used by an Industrial undertaking for Industrial purpose" means premises used by such undertaking for any purpose other than the purpose of residence, commerce, office, sports, club, library, canteen or such other purpose as the State Government may, by notification in the Official Gazette, specify:]

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

9[(e) "rural area" means-

(i) a gram as defined In clause (II) of S.2 of the Gujarat Panchayats Act, 1962 (Gujarat VI of 1962): or

(ii) an area In regard .to which a notification has been issued under Section 305A of the said Act, the population of which as ascertained at the last preceding census of which the relevant figures have been published does not exceed five thousand:

10[(ee) "service undertaking" means an undertaking which is engaged predominantly in all or any of the following activities, ir-

(i) repairs, renovation, reconditioning, restoration, restitution or preservation,

(ii) cleaning,

11[x x x]

(v) case hardening, carbonising or any other surface treatment,

(vi) electronic data processing,

(vii) such other activity as the State Government may, by notification in the Official Gazette, specify]:

12 [(f) "urban area" means an area which is not a rural area]

1. Substituted by Gujarat 20 of 1968.

2. Substituted by Gujarat 7 of 1988.

3. Deleted by Gujarat 7 of 1991.

4. Deleted by Gujarat 7 of 1991.

5. Inserted by Gujarat 7 of 1991.

6. Renumbered by Gujarat 7 of 1991.

7. Deleted by Gujarat 7 of 1991.

8. Inserted by Gujarat 20 of 1968.

9. Clause (e) ins. by Presi. Act 6 of 1976.

10. Substituted by Gujarat 7 of 1988.

11. Items (iii) and (iv) deleted by Gujarat 7 of 1991.

12. Inserted by Presi. Act 6 of 1976.

3. Duty on units of energy consumed :-

1[(1) **2**[Subject to the provisions of sub-sections (2), (2A), (2AA) and (3)1 there shall be levied and paid to the State Government a duty on the consumption of electricity (hereinafter in this Act referred to as "electricity duty") at the rates specified below:-

(a) the electricity duty shall be payable by consumers other than those referred to in sub-clauses (i) and (ii) of clause (a) of Section 2 , at the rates specified in Schedule I to this Act, and

(b) the electricity duty shall be payable by consumers referred to in sub-clause (i) and (ii) of clause (a) of Section 2 , at the rates specified in Schedule II to this Act].

(2) Electricity duty shall not be leviable on the units of energy consumed,-

³[(i) by the Government of Gujarat (save in respect of premises used for residential purposes);

(i-a) by or in respect of any municipal corporation, municipality, local board, notified area committee, cantonment board or panchayat constituted under any law for the time being in force in the State for the purpose of, or in respect of, public street lighting, public water works (including headworks and other auxiliary water supply works and pumps used for the purpose), public gardens including zoos, public museums or system of public sewers or drains]:

⁴[(ii) by a consumer in respect of premises used for residential purposes in a rural area, ⁵[x x x], if the total energy, consumed by him for the said purpose in a year does not

(iii) in respect of a hospital or dispensary which is not maintained for private gain S.3 ⁶[(save in respect of premises used for residential purposes:)]

(iv) where the energy is generated by any person for the purpose of supplying it for the use of vehicles or vessels:

(v) where the energy is generated at a voltage not exceeding 100 volts:

⁷[(v-a) where the energy is generated by any person by solar wind or biomass energy:]

(vi) ⁸(save as provided in clause (viI), in respect of] such industrial or agricultural purposes ⁹[x x x] in such areas and subject to such terms and conditions and for such period as the State Government may, having regard to the need and conditions of industrial and agricultural development in the areas by general or special order

specify in that behalf.

10[(vii) for motive power and lighting in respect of premises used by an industrial undertaking for industrial purpose, until the expiry of the following period, that is to say:-

11[(a) in the case of an industrial undertaking which generates energy either singly or jointly with any other industrial undertaking for its own use or as the case may be, for the use of industrial undertakings which are jointly generating the energy,-

(i) fifteen years from the date of commencement of the Bombay Electricity Duty (Gujarat Amendment) Act, 1983 (Gujarat 17 of 1983) (hereinafter in this sub-section and sub-sections (2A) and (2AA) referred to as "the commencement date") or the date of starting the generation of such energy whichever is later if such generation of energy is by, back pressure turbine or if such generation of energy is obtained by cogeneration:

(ii) ten years from the commencement date or the date of starting the generation of such energy whichever is later if such generation of energy is based on any other process;

(b) in the case of new industrial undertaking established on or after the commencement date, which does not

Provided that no industrial undertaking shall be entitled to exemption from payment of electricity duty under this clause, unless it has obtained a certificate regarding eligibility for such exemption in prescribed form by making an application therefor in prescribed form and within prescribed period to such officer as the State Government may, by notification in the Official Gazette, specify.

Explanation I.- **12**[For the purposes of clause (vii) of this sub-section and sub-section (2-A)]

(i) **13**[x x x]

(ii) "a new industrial undertaking" means any such industrial undertaking which-

(a) is not formed by the splitting up or the reconstruction of a business or undertaking already in existence in the State: or

(b) is not formed by transfer to a new business or undertaking of a

building, machinery or plant previously used in the State for any industrial purpose, of such value in relation to total investments, as the State Government may, by notification in the Official Gazette, specify: or

(c) is not an expansion of the existing business or undertaking in the State.

14[x x x]

15[(2-A)

(a) Where an industrial undertaking has, by installing an additional generating set, started generation of additional energy for its own use, at any time during ten years before the commencement of the Bombay Electricity Duty (Gujarat Amendment) Act, 1979 (Gujarat 14 of 1979) (hereinafter in this sub-section referred to as "the commencement") electricity duty shall not be leviable on such units of the additional energy so generated as are consumed for motive power and lighting in respect of premises used by the industrial undertaking for industrial purpose, until the expiry of such period after the commencement as would together with the period from the date of starting the generation not exceeding ten years.

16[(b) Where an industrial undertaking by installing generating starts generation of additional energy either singly or jointly with any other industrial undertaking for its own use, or as the case may be, for the use of industrial undertakings which are jointly generating additional energy at any time on or after the commencement date, electricity duty shall not be leviable on such units of additional energy so generated as are consumed for motive power and lighting in respect of premises used by the industrial undertaking for industrial purpose until the expiry of-

(i) fifteen years from the commencement date or the date of starting the generation of such additional energy whichever is later if such generation of additional energy is by back pressure turbine or if such generation of additional energy is obtained by co-generation,

(ii) ten years from the commencement date or the date of starting the generation of such additional energy whichever is later if such generation of additional energy is based on any other process):

Provided that no industrial undertaking shall be entitled to

exemption from payment of electricity duty under this sub-sections unless it has obtained a certificate regarding eligibility for such exemption in prescribed form by making an application thereof in prescribed form and within prescribed period to such officer as the State Government may, by notification in the Official Gazette, specify.

Explanation.-For the purpose of this sub-section-

(a) Where any generating set existing at the time of installation of the additional generating set is at any time not operated either wholly or partly, the total units of energy which the existing generating set is capable of generating shall be excluded from the units of the additional energy generated and consumed:

(b) where any generating set existing at the time of installation of the additional generating set is disposed of, the total units of energy which the existing generating set so disposed of was capable of generating shall be excluded from the units of the additional energy generated and consumed.

⁷[2-AA)

(a) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Amendment) Act, 1983, (Gujarat 17 of 1983) (hereinafter referred to as "the Amending Act") shall

(b) Notwithstanding anything contained in clause (vii) of subsection (2) or sub-section (2-A) as amended by the Amending Act, any existing industrial undertaking which was eligible for exemption under the provisions of clause (vii) of sub-section (2) or sub-section (2-A) before the commencement date but which did not avail of such exemption before the commencement date shall be eligible for such exemption under the said clause (vii) or the said sub-section (2-A) as if the Amending Act was not passed.

Explanation.-For the purpose of this sub-section an existing industrial undertaking means an industrial undertaking which exists on the commencement date and which manufactures or produces goods for sale or use in the manufacture or production of other goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking.I

¹⁸ [(3) The State Government may, by notification in the Official

Gazette, and subject to such terms and conditions as may be specified therein, reduce the rate of duty or remit the duty in respect of-

(a) electro-chemical, electro-lytical, or electro-metallurgical process carried on by an industrial undertaking, or

(b) such class of consumers or such class of premises in such areas and for such period as the State Government may specify in the notification].

1. Subs-Sec. (1) subs. by Gujarat 19 of 1977.
2. Substituted by Gujarat 17 of 1983.
3. Substituted by Gujarat 20 of 1968.
4. Inserted by Presi. Act 6 of 1976.
5. Omitted by Gujarat 17 of 1983.
6. Inserted by Gujarat 20 of 1968.
7. Inserted by Gujarat 17 of 1983.
8. Substituted by Gujarat 33 of 1961.
9. Deleted by Gujarat 20 of 1968.
10. Substituted by Gujarat 20 of 1968.
11. Subs-clauses (a) and (b) subs. by Gujarat 17 of 1983.
12. Subs, by Gujarat 14 of 1979.
13. Deleted by Gujarat 17 of 1983.
14. Deleted by Gujarat 17 of 1983.
15. Inserted by GUJ. 14 of 1979.
16. Substituted by Gujarat 17 of 1983.
18. Substituted by Gujarat 20 of 1968.

4. Payment of electricity duty :-

(1) Every licensee shall collect and pay to the State Government at the time and in the manner prescribed the proper electricity duty payable under this Act ¹in respect of energy) supplied by him to consumers. 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 State Government:

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

(2) Every person, not being a licensee, who generates energy and supplies the same to any other person free of charge shall collect and pay to the State Government, at the time and in the manner prescribed, the proper electricity duty payable under this Act ²[in respect of energy] consumed by that other person.

(3) ³[Where any consumer) fails or neglects to pay, at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee, or as the case may be, the person supplying energy free of charge, may, without prejudice to the right of the State Government to recover the amount ⁴[under Section 8 , deduct such amount of electricity duty from the amount, if any, deposited by the consumer with the licensee or such person or] after giving not less than seven clear days notice in writing to ⁵ [such consumer], cut off the supply of energy to [such consumer]; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910 (IX of 1910), for recovery of any charge or sum due in respect of energy supplied by him.

(4) The licensee, or as the case may be, the person supplying energy free of charge shall be entitled to a rebate of such amount as may from time to time be determined by the State Government, regard being had to the cost of collection of the duty incurred by such licensee, or person supplying energy free of charge.

(5) [Every licensee who uses energy and every person, not being a licensee,] who generates energy for his own use shall pay to the State Government at the time and in the manner prescribed the proper electricity duty payable under this Act on the units of energy consumed by him.

1. Subs, by Gujarat 19 of 1977.
2. Substituted by Gujarat 19 of 1977.
3. Substituted by Gujarat 20 of 1968.
4. Substituted by Gujarat 20 of 1968.
5. Substituted by Gujarat 20 of 1968.

5. Licensee etc to keep books of account and submit returns :-

Every licensee, and every person not being a licensee who supplies energy free of charge as mentioned in sub-section (2) of Section 4 , and every other person who is liable to pay electricity duty under sub-section (5) of section 4 shall, save in respect of energy exempt from electricity duty under sub- section (2) of section 3, keep books of account in the prescribed form and submit to the State Government or to the prescribed officer returns in such form and at such times as may be prescribed, showing the units of energy supplied by him to each consumer, or as the case may be, consumed by him and the amount of the duty payable thereon and

recovered or paid by him under section 4.

6. Inspecting Officers :-

(1) The State Government may, by notification in the Official Gazette, appoint any persons as it thinks fit, having the prescribed qualifications to be Inspectors for the purposes of this Act.

(2) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

7. Powers of Inspectors :-

(1) Subject to the provisions of any rules made by the State Government in this behalf, an Inspector may-

(i) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of electricity duty leviable under the Act:

(ii) enter and search any premises where energy is, or is believed to be supplied for the purpose of-

(a) verifying the statements made in the books of account kept, and returns submitted, under Section 5 .

(b) testing the reading of meters,

(c) verifying the particulars required in connection with the levy of electricity duty;

(iii) exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898, (V of 1898).

8. Recoveries :-

Any sum due on account of electricity duty. If not paid at the time and in the manner prescribed shall be deemed to be in arrears, and thereupon such interest not exceeding ¹[24 per cent per annum] which the State Government may by general or special order fix shall be payable on such sum: and the sum together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue

(a) if the sum was payable under sub-section (1) of Section 4 either from the consumer, or subject to the proviso to the said sub-section, from the licensee, at the option of the State Government:

(b) if the sum was payable under sub-section (2) of Section 4 either from the consumer or, from the person supplying energy free of charge, at the option of the State Government:

(c) if the sum was payable under sub-section (5) of Section 4 ² [from the licensee, or as the case may be] from the person who generates energy for his own use.

1. Substituted by Gujarat 4 of 1987.

2. Inserted by Gujarat 20 of 1968.

9. Penalties :-

If any person-

(a) fails to keep books of account or to submit returns in accordance with the provisions of Section 5 and the rules made in that behalf under Section 12 , or

(b) wilfully obstructs an Inspector in the exercise of the powers conferred upon him by or under this Act, he shall, on conviction, be punished with fine which may extend to fifty rupees.

10. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained In this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be proceeded against and

punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b)"director" in relation to a firm means a partner in the firm.

11. Protection on action taken in good faith :-

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

12. Power to make rules :-

(1) The State Government may make rules not inconsistent with the provisions of this Act, for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, ¹[such rules may-

(a-1) prescribe, under the proviso to clause (vii) of sub-section (2) of Section 3 , the form of certificate regarding eligibility, the form of application for obtaining such certificate and the period within which such application shall be made]:

(a) prescribe the time and manner of payment of the electricity duty under Section 4 :

(b) prescribe the form of the books of account to be kept, and the times at which, the form in which and the officers to whom the returns required by Section 5 shall be submitted;

(c) prescribe the qualifications of Inspectors under Section 6 ;

(d) prescribe the rules, if any, subject to which the Inspectors may exercise the powers under Section 7 ;

²[(e) prescribed the procedure for securing any concession or exemption under the Act:

(f) prescribed the procedure for referring questions to the authority specified under ³[Part II ²of Schedule I or, as the case may be, of Schedule III and for filing an appeal to the State Government against the decision of such authority:

(g) prescribe the procedure and the period of limitation for claiming refund of the amount of electricity duty paid in excess of the amount payable under this Act by the consumer;

(h) provide for installation and the reading of meters and sub-meters;)

⁵[(i)] provide for giving effect to the provisions of this Act.

(3) The making of rules under this section shall be subject to the condition of previous publication.

⁶ (4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modifications so made by the Legislature shall be published in the Official Gazette, and shall thereupon take effect.

1. Substituted by Gujarat 20 of 1968.

2. Clauses (e), (f), (g) and (h) were ins. by Gujarat 20 of 1968.

3. Substituted by Gujarat 19 of 1977.

5. Re-numbered by Gujarat 20 of 1968

6. Subs-Secs. (4) and (5) ins. by Gujarat 20 of 1968.

13. Savings :-

For the avoidance of doubt, it is hereby declared that nothing in this Act shall be taken to impose or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is-

(a) consumed by the Government of India or sold to the Government of India for consumption by that Government, or

(b) consumed in the construction, maintenance or operation of any railway of the Government of India, or sold to that Government for consumption in the construction, maintenance or operation of any railway.

14. Repeals and Savings :-

On the commencement of this Act the following provisions shall stand repealed, namely:-

(i) Part II of the Bombay Finance Act, 1932 (Bom. II of 1932):

(ii) The Central Provinces and Berar Electricity Duty Act, 1949 (C.P. and Berar Act X of 1949);

(iii) The Saurashtra Electricity Duty Act, 1956 (Sau. Act VIII of 1956):

Provided that such repeal shall not affect-

(a) the previous operation of any law so repealed or anything duly suffered thereunder: or

(b) any right, privilege, obligation, or liability acquired, accrued or incurred under any law so repealed: or

(c) any penalty or punishment incurred in respect of any offence committed against any law so repealed: or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid:

Provided further that, subject to the preceding proviso, rates of duty or of interest prescribed, or rules or forms framed, under the

15. Consequential :-

In the Bombay Finance Act, 1932, in the long title and in the preamble, the words "to provide for the levy of a duty on consumption of electrical energy" shall be deleted.

SCHEDULE 1

Rates of duty payable by consumers other than those referred to in section 2(a)(i) and (ii)]

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Nature of consumption		Rates of duty
1		2
PART- 1		
(1)	For energy consumed by a consumer in respect	
	of premises used for residential purposes	
	or educational purposes-	
	(a) in rural areas	20 per cent of
		consumption charges.
	(b) in urban areas-	
	(i) where the total consumption per	25 per cent of
	month does not exceed 40 units	consumption
		charges.

	(ii) where the total consumption per	40 per cent of
	month exceeds 40 units	consumption
		charges.

SCHEDULE 2

SCHEDULE

- [See Section 3(1B)] [Rules of duty payable by consumers referred to in section 2(a)(i) and (ii)]

Nature of consumption		Rates of duty
1		2
PART-1		
(1)	For energy consumed by a consumer in	
	respect of premises used for residential	
	purposes or educational purposes	
	(a) in rural areas	10 paise per unit.
	(b) in urban areas	20 paise per unit.