

Himachal Pradesh Electricity (Duty) Act, 1975

11 of 1975

[24 May 1975]

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Himachal Pradesh Electricity (Duty) Act, 1975

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An Act to levy duty on the sale or consumption of electric energy in Himachal Pradesh. Amended, repealed or otherwise affected by:-
(i) H.P. Act No. 16 of 1979 assented to by Governor on 26-6-1979 and was published in R.H.P. Extra., dated 3-7-1979 p. 1990 effective w.e.f. 1-4-1979. (ii) H.P. Act No. 13 of 1992 assented to by the Governor on 21-5-1992 and was published in R.H.P. Extra., dated 22-5-1992 in (iii) Ordinance No. 15 of 1993 replaced by President's Act No. 6 of 1993 assented to by the President of India on 3-4-93 published in the Gazette of India (Extra Ordinary) Part-II, Section 1. dated the 3rd April, 1993 and republished in R.H.P., Extra., dated 3-4-93, p. 491-492 effective w.e.f. 25-1-1993. (iv) H.P. Act No. 30 of 2005 assented to by the Governor on the 28th September, 2005 published in R.H.P. Extra., dated 30th September, 2005 at pages 3315-3318. BE it enacted by the

Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India, as follows:- 1 For authoritative Hindi Text see R.H.P., Extra, dated 30-6-86, p. 1277. 2 For statement of Objects and Reasons see R.H.P. Extra, dated 12-4-79, p. 1460. 3 Passed in Hindi by the H. P. Vidhan Sabha and for Statement of Objections and Reasons see R.H.P. Extra., dated 28-3-92, p. 1152 and 1156. 4 For Reasons of the Enactment see R.H.P. Extra., dated 3rd April, 1993 at page 493.

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Himachal Pradesh Electricity (Duty) Act, 1975.
- (2) It extends to the whole of the State of Himachal Pradesh.
- (3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Board" means the Himachal Pradesh State Electricity Board constituted under Chapter III of the Electricity(Supply) Act, 1948 (54 of 1948);
- (b) "consumer" means any person or establishment who uses or consumes energy and includes,-
 - (i) a domestic consumer i.e. a person or an institution occupying a premises ordinarily used for residential purposes and supplied with energy upto 10 K.W. and shall include charitable institutions like orphanages, hospitals, leprosy homes etc. without any limit of energy supplied to them,
 - (ii) a commercial consumer i.e. non-residential premises such as business houses, clubs, offices, schools, hospitals, hostels, street lighting and places of worship etc. for use of lights, refrigerators, heaters, fans etc. and fractional horse power motors provided the load of each appliance or equipment used does not exceed 3 K.W.,
 - (iii) agricultural consumers i.e. a person or an institution using energy for agricultural, horticultural and professions allied and subservient thereto,
 - 1[(iv) industrial consumer i.e. any person or institution using energy for industrial purpose or purposes subservient to industry having supply voltage below 11 KV,
 - (v) industrial consumers i.e. any person or institution using energy for industrial purpose or purposes sub-servient to industry having supply voltage from 11 KV to 33 KV,

- (vi) industrial consumers i.e. any person or institution using energy for industrial purpose or purposes sub-servient to industry having supply voltage above 33 KV, and
- (vii) person(s) generating energy for their own consumption provided the capacity of generation is 5 K.W. or above;]
- (c) "energy" means electric energy;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "unit" in relation to the energy means kilowatt-hour;
- (f) "competent authority" means the authority appointed by the State Government for the purpose of section 7 of this Act; and
- (g) the words and expressions not defined in this Act, but defined in the Indian Electricity Act, 1910 (9 of 1910), have the same meanings assigned to them under that Act.

1 . Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 10.8.2005, p. 2357 &3358.

3. Levy Of Electricity Duty On Consumption Of Energy :-

1[2(1) There shall be levied and paid to the State Government on the energy consumed a duty to be called the "Electricity Duty" in the prescribed manner and computed at the following rates:-

- 3[(i) in case of domestic consumers, at the rate of 6 paise per unit,
(ii) in case of agricultural consumers, at the rate of 18 paise per unit,
(iii) in case of commercial consumers, at the rate of 24 paise per unit,
(iv) in case of industrial consumers having supply voltage below 11 KV , at the rate of 33 paise per unit,
(v) in case of industrial consumers having voltage from 11 KV to 33 KV, at the rate of 35 paise per unit,
(vi) in case of industrial consumers having supply voltage above 33 KV, at the rate of 45 paise per unit, and
(vii) in case of any other category of consumers not covered under clauses (i) to (vi), at the rate of 24 paise per unit:]

Provided that if the energy is partly used for category (i) and partly for category (ii), above, the highest rate of duty applicable will be levied."].

(2) Nothing in sub-section (1) shall apply to the consumption or sale of energy which is,-

- (i) consumed by the State Government; or
- (ii) consumed by or sold to the Government of India for

consumption by that Government; or

(iii) consumed or sold for the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway; or

(iv) consumed by the Board for generating stations, sub-stations, works directly connected with the generation, transmission and distribution of energy.

(3) For the purpose of computing the electricity duty under this section, the consumption shown by the meters starting after the first meter reading date after the commencement of this Act shall be taken into account.

1 Substituted for clause (iv) and existing clause (v) renumbered as clause (vii) vide Act No. 30 of 2005.

2 Heading of section 3 Substituted vide Act No. 13 of 1992

3 Sub-section (1) Substituted vide Act No. 16 of 1979 effective w.e.f. 1-4-79 and subsequently Substituted Vide President", Act No. 6 of 1993 w.e.f. 25-1-93.

4. Collection And Payment Of Electricity Duty :-

The electricity duty shall be collected and paid to the State Government by the Board or a person who generates energy for his own consumption 1[or person who supplies energy to a consumer,] as the case may be.

1 Substituted for Clause (i) to (v) vide Act No. 30 of 2005.

5. Records And Returns :-

(1) If the State Government so directs by a general or special order, the Board or a person generating energy for his own consumption 1[or person who supplies energy to a consumer] shall maintain such record in such form and manner as may be prescribed showing,-

(a) the units of energy generated for supply to the consumer (s) or for self consumption;

(b) the units of energy supplied to the consumer (s) or consumed by it;

(c) the amount of the duty payable thereon and the duty paid or recovered under this Act; and

(d) such other particulars as may be prescribed.

(2) The Board, or a person generating energy for his own consumption who has been directed under sub-section (1) to maintain a record shall submit such returns in such form and

manner and to such authority as may be prescribed.

(3) The amount of energy shall, for purposes of clauses (a) and (b) of sub-section (1), be ascertained in such manner as may be prescribed.

1 Added vide Act No. 13 of 1992.

6. Inspecting Officers :-

(1) The State Government may, by notification in the Official Gazette, appoint Inspecting Officers¹ to inspect records maintained under section 5.

(2) The Inspecting 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.

(3) Every Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

1 R.H.P., dated the 26th July, 1975, p. 831.

7. Penal Duty To Be Paid In Certain Cases :-

(1) If in the opinion of the competent authority the Board, or the person generating energy for his own consumption ¹[or a person who supplies energy to a consumer,] as the case may be, evades or attempts to evade the payment of duty, whether by maintaining false records, submitting false returns, concealing the energy supplied or by any other means the Board or such person shall pay by way of penalty in addition to the duty payable under this Act, a sum not exceeding four times the amount of the duty to be determined by the competent authority:

Provided that no action under this sub-section shall be taken without affording a reasonable opportunity of being heard to the Board or such person.

(2) An appeal shall lie against an order passed under sub-section (1) to such authority¹, within such period and on payment of such fees, as may be prescribed.

(3) An order passed on appeal under sub-section (2) shall be final and binding.

(4) An order for the payment of any penalty made under this section shall be without prejudice to any prosecution instituted or which may be instituted for an offence under this Act.

1 The words "or a person who supplies energy to a consumer" added vide Act No. 13 of 1992.

8. Recovery Of Duty :-

Any duty under this Act or penalty imposed under section 7 which remains unpaid, whether by a consumer to the Board or by the Board or a person generating energy for his own consumption 1[or a person who supplies energy to a consumer] to the State Government, shall be recoverable as an arrear of land revenue or by deduction from amounts payable by the State Government to the Board or such person.

1 R.H.P., dated the 26th July, 1975, p. 831. 2 The words "or a person who supplies energy to a consumer" added vide Act No. 13 of 1992.

9. Power To Disconnect Supply For Non-Payment Of Duty :-

Where a consumer fails to pay the electricity duty to the Board authorised to collect the duty from the consumer(s) under section 4 the Board may exercise the power conferred on a licensee under sub-section (1) of section 24 of the Indian Electricity Act, 1910 (9 of 1910), for the recovery of any charge or sum due in respect of energy supplied by it.

10. Penalties :-

If any person,-

(a) required by section 5 to keep record or to submit returns fails to keep or submit the same in the prescribed form or manner or submits a return which is false; or

(b) intentionally obstructs an Inspecting Officer appointed under section 6 in the exercise of his powers and duties under this Act and the rules made thereunder; or

(c) contravenes any other provision of this Act or the rules made thereunder;

he shall be liable, on conviction, to a fine not exceeding one thousand rupees.

11. Power To Revise The Rate Of Electricity Duty :-

The State Government may, by notification, revise the rates of electricity duty in respect of consumer(s) as given under section 3 provided that such revised rates shall not exceed the rates mentioned in section 3 by more than 50%.

11A. Power To Exempt :-

1[The State Government may in public interest by notification exempt any consumer or person from the payment of the whole or part of the Electricity Duty for such period and subject to such terms and conditions as may be specified in such notification].

1 Sec. 11-A added vide President Act No. 6 of 1993.

12. Power To Make Rules :-

(1) The State Government may by notification make 1rules 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, such rules may provide for,-

(a) the manner of payment of the duty under section 3;

(b) the manner of collection and payment to the State Government of the electricity duty by the Board or person(s) generating energy for their own consumption 2[or a person who supplies energy to a consumer];

(c) the time and manner of payment of the electricity duty by consumers;

(d) the powers and duties to be exercised and performed by Inspecting Officers; and

(e) any other matter for which, in the opinion of the State Government, rules are necessary for giving effect to the provisions of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1 The Rules framed vide Not. No. MPP-A(4)-4/75, dated the 2nd July, 1975(Appended).

2 Added vide Act No. 13 of 1992.

13. Repeal And Savings :-

The Punjab Electricity (Duty) Act, 1958 (10 of 1958), in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), is hereby repealed:

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day in which such thing was done, action taken, rules made or notification issued.