

**KARNATAKA ELECTRICITY (TAXATION ON CONSUMPTION)
ACT, 1959**

14 of 1959

[10th September, 1959]

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STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 14 OF 1959] Karnataka Gazette, Extraordinary, dated 4-8-1959
Different rates of taxation on consumption of electricity have been in force since the Reorganisation of States in the several areas of the State and it has been considered necessary to have a uniform tax structure all over the State. This uniform structure could not however be introduced until the tariff structure was made uniform. The State Electricity Board has introduced a uniform tariff structure all over the State with effect from 1st July, 1959. As it was necessary to introduce the uniform tax structure simultaneously

with the introduction of uniform rates, an ordinance was promulgated on 23rd June, 1959. This ordinance is generally on the lines of the Karnataka Electricity (Taxation on Consumption) Act, 1950 as amended by the Karnataka Electricity (Taxation on Consumption) Amendment Act, 1957. The present Bill is intended to replace the Ordinance.

1. Short title, extent and commencement :-

(1) This Act may be called the Karnataka Electricity (Taxation on Consumption) Act, 1959.

(2) It extends to the whole of the State of Karnataka.

(3) The provisions of this Act, except Section 13, shall be deemed to have come into force on the first day of July, 1959.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "Consumer" includes a local authority, company or other person to whom energy is supplied by a licensee on payment of charges or otherwise, and a licensee or other person who consumes energy generated by himself, but does not include a licensee to whom energy is supplied by the State Electricity Board for supply to others; and the word "consume" with its grammatical variations shall be construed accordingly;

Explanation. Where a licensee to whom energy is supplied by the State Electricity Board for supply to others, himself consumes any part of the energy, he shall be deemed to be a consumer in respect of energy so consumed;

(2) "Energy" means electrical energy;

(3) "Licensee" means.

(a) the State Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948 (Central Act LIV of 1948);

(b) any person licensed under Part II of the Indian Electricity Act, 1910 (Central Act LX of 1910), to supply energy and includes any person who has obtained the sanction of the State Government under Section 28 of the said Act; and

(c) the State Government when it is engaged in the business of supplying energy;

(4) "Notification" means a notification published in the Official Gazette;

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

3. Levy of tax on consumption of energy :-

Subject to the provisions of this Act, there shall be levied and paid to the State Government on the units of energy consumed every month, a tax (hereinafter referred to as "electricity tax") calculated at a rate not exceeding twelve paise per unit of energy as may, by notification, be specified by the State Government, and different rates may be specified in respect of different classes of consumers:

Provided that where the units of energy supplied to a consumer for nondomestic purposes are not determined by a meter, but.

(a) the units of energy consumed are determined on the basis of any formula adopted by the licensee, the electricity tax shall be levied and paid on the units of energy determined on the basis of such formula; or

(b) where flat rates are charged by the licensee for the supply of energy to any consumer, the electricity tax shall be levied and paid as follows

4. Payment of electricity tax :-

(1) Every licensee shall collect and pay to the State Government at the time and in the manner prescribed, the electricity tax payable under this Act on the units of energy supplied by him to consumers. The tax so payable shall be a first charge on the amounts recoverable by the supplier 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 the amounts due to him for the energy supplied by him he shall not be liable to pay the tax in respect of the energy so supplied.

(2) A licensee may be granted 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 electricity tax incurred by such licensee:

Provided that the amount of rebate shall not exceed two per cent of the electricity tax collected by the licensee.

(3) Every person, who consumes energy generated by himself, or

who supplies energy to any other person free of charge shall pay, or collect and pay, as the case may be, to the State Government, at the time and in the manner prescribed, the electricity tax payable under Section 3 on the units of energy consumed by himself or supplied to such other person.

(4) When any consumer fails or neglects to pay at the time and in the manner prescribed, the amount of electricity tax 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 under Section 7, after giving not less than seven clear days' notice in writing to such person, cut off supply of energy to such person; and he may, for that purpose, exercise the power conferred on a licensee by subsection (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.

(5) Nothing in this section shall apply.

(i) to any person who generates energy for the purpose of supplying it for the use of vehicles or vessels;

(ii) to the consumption of energy generated by means of generators not exceeding ¹ [ten kilowatts] in capacity.

1. Substituted for the words "five kilowatts" by Act No. 7 of 1998 and shall be deemed to have come into force w.e.f. 24-10-1997.

5. Books of account, etc. :-

Every licensee and every person not being a licensee referred to in sub-section (3) of Section 4 shall 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, ¹ [showing the units of energy consumed by him and the total units of energy supplied by him to consumers, and the amount of tax payable thereon under this Act and such other particulars as may be prescribed.]

1. Substituted for the words "showing the units of energy consumed by him or supplied by him to each consumer, as the case may be, and the amount of tax payable thereon and recovered or paid by him under this Act, or showing such other particulars as may be prescribed" by Act No. 5 of 1982 and shall be deemed to have come into force w.e.f. 29-12-1981.

6. Inspecting Officers :-

(1) The State Government may, by notification appoint Inspecting Officers to inspect the prescribed books of account kept 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 (Central Act XLV of 1860), and the Prevention of Corruption Act, 1947 (Central Act II of 1947).

7. Recoveries :-

Any sum due on account of electricity tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon such interest not exceeding twenty-four 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.

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

(ii) if the sum was payable under sub-section (3) of Section 4, either from the consumer or from the person supplying energy free of charge, at the option of the State Government, or from the person who generates energy for his own consumption.

8. Power of State Government to notify exemptions and reductions of tax :-

The State Government may, by notification, make an exemption or reduction in rate in respect of the tax payable under this Act.

(i) on energy supplied or consumed for any specified purpose; or

(ii) by any class of consumers.

8A. Dispensing with the performance of certain contracts :-

¹ [Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any Court or in any contract or instrument having force by virtue of any such law, but subject to Section 8.

(a) the performance of any contract by the State Government or the licensee in so far as it provides for reimbursement or indemnification in favour of the consumer, of or for any amount levied on or collected from him as tax under this Act shall be and shall be deemed always to have been dispensed with and any amount due or payable by the State Government or the licensee to a consumer by way of such reimbursement or indemnification under the contract, including the amount of interest, if any, shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or proceeding against the State Government or the licensee for the recovery of any amount by way of such reimbursement or indemnification including interest, if any;

(c) all suits and proceedings (including appeals, revisions, attachments or execution proceedings) pending on the said date against the State Government or the licensee for the recovery of any such amount shall abate :

Provided that nothing in this section shall entitle the State Government licensee for refund of any amount already paid by way of reimbursement or indemnification before the commencement of the Karnataka Electricity (Taxation on Consumption) (Amendment) Act, 1990.]

1. Section 8-A inserted by Act No. ,13 of 1990 and shall be deemed to have been inserted w.e.f. 21-11-1980.

9. Penalties :-

(1) If any person liable under Section 5 to keep books of account or submit returns fails to keep or submit the same in the manner prescribed or obstructs an Inspector in the exercise of his powers and duties under this Act, or contravenes any rule made under Section 10, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2)

(a) Where an offence under sub-section (1) 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 deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided

that nothing contained in this clause shall render any such person liable to any punishment provided in the aforesaid sub-section 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.

(b) Notwithstanding anything contained in clause (a) where an offence under sub-section (1) 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 of the company, such director, manager/secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this sub-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 of the firm.

10. Power to make rules :-

(1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules.

(a) prescribing the time and manner of payment of the electricity tax under Sections 3 and 4;

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

(c) prescribing the powers and duties of Inspecting Officers; and

(d) providing for 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 provisions of this Act.

11. Rules and Notifications to be laid before State Legislature :-

Every rule made under Section 10 and every notification issued

under Section 8 or 14 shall be laid as soon as may be after it is made or issued before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if, before the expiry of the said period, either House of the State Legislature directs any modification in such rule or notification or directs that such rule or notification shall not have effect, and if the modification or direction is agreed to, by the other house the said rule or notification as the case may be, shall thereafter have effect only in such modified form, or be of no effect, as the case may be.

12. Repeal and savings :-

The Karnataka Electricity (Taxation on Consumption) Act, 1950 (Karnataka Act XX of 1950), as in force in the Karnataka Area, Part II of the Bombay Finance Act, 1932 (Bombay Act II of 1932) as in force in the Bombay Area and the Madras Electricity Duty Act, 1939 (Madras Act V of 1939), as in force in the Madras Area, shall stand repealed:

Provided that such repeal shall not affect.

- (a) the previous operation of the said enactments or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability, acquired, accrued or incurred under the said enactments; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or
- (d) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid: and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

13. Repeal of Karnataka Ordinance No. 2 of 1959 and savings :-

The Karnataka Electricity (Taxation on Consumption) Ordinance, 1959, is hereby repealed; Notwithstanding such repeal.

- (i) any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance;
- (ii) any penalty, forfeiture or punishment incurred in respect of any

offence committed against the said Ordinance; and

(iii) any appointment, notification order, rule or form, made or issued or anything done or any action whatsoever taken under the said Ordinance; shall be deemed to have been acquired, accrued or incurred, or made, issued, done or taken under this Act at the relevant time.

14. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments repealed by Section 12, the State Government, may, by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the enactments repealed by Section 12), the State Government may, by notification make such provisions, not inconsistent with the purposes of this Act as appear to it to be necessary or expedient for removing the difficulty.