

**Madhya Pradesh Vidyut Pradaya Upakram (Arjan) Adhiniyam,  
1974**

**38 of 1974**

**[07 September 1974]**

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### **Madhya Pradesh Vidyut Pradaya Upakram (Arjan) Adhiniyam, 1974**

**38 of 1974**

**[07 September 1974]**

An Act to provide for the acquisition of certain electricity supply undertakings. Be it enacted by the Madhya Pradesh Legislature in the Twenty-fifth Year of the Republic of India as follows :- 1 Received the assent of the President on the 7th September, 1974; assent first published in the Madhya Pradesh Gazette (Extra-ordinary), dated the 10th September, 1974.

#### CHAPTER 1 PRELIMINARY

#### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Madhya Pradesh Vidyut Pradaya Upakram (Arjan) Adhiniyam, 1974.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force at once.

#### **2. Declaration Of State Policy :-**

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of Article 39 of the Constitution of India.

Explanation.-In this section, State has the same meaning as in Article 12 of the Constitution.

#### **3. Definitions :-**

In this Act, unless the context otherwise requires,-

- (a) "Annual Account" means the account of the undertaking rendered by the licensee in accordance with Section 11 of the Electricity Act;
- (b) "Board" means the Madhya Pradesh Electricity Board constituted under Section 5 of the Electricity Supply Act;
- (c) "Claims Officer" means the Officer appointed by the State

Government as Claims Officer for the purposes of Section 14;

(d) "Document" in relation to an undertaking includes its books, accounts, registers, maps and plans;

(e) "Electricity Act" means the Indian Electricity Act, 1910 (No. 9 of 1910), as applicable to the State of Madhya Pradesh;

(f) "Electricity Supply Act" means the Electricity (Supply) Act, 1948 (No. 54 of 1948), as applicable to the State of Madhya Pradesh;

(g) "Fixed assets" includes works, spare parts, stores, tools, motors and other vehicles, office and other equipments and furniture;

(h) "Licensee" in relation to an undertaking means the respective licensee company under the Electricity Act;

(i) "Special Officer" means the Officer appointed as Special Officer under Section 13;

(j) "Undertaking" means an electricity supply undertaking owned and managed by a licensee and specified in Schedule I;

(k) "Vesting date" means the date of commencement of this Act;

(l) "Works" include electric supply lines and any lands, buildings, machinery, apparatus and any other thing of whatever description required to supply energy to the public and to carry into effect the objects of the licence granted under the Electricity Act;

(m) Words and expressions used herein and not defined shall have the meanings respectively assigned to them in the Electricity Act.

#### **4. Notice For Purchase Of Undertaking Etc., Under Electricity Act And Electricity Supply Act To Lapse :-**

On the commencement of this Act, all notices of purchase of undertakings, if any, given to the licensees under the Electricity Act or the Electricity Supply Act and subsisting prior to such commencement shall lapse and be of no effect and any obligation arising in pursuance of any such notices for the purposes of such undertakings shall cease to exist, anything contained to the contrary in the Electricity Act or the Electricity Supply Act notwithstanding.

#### **CHAPTER 2** **ACQUISITION OF UNDERTAKINGS**

#### **5. Undertaking To Vest In State Government :-**

On the vesting date, all the undertakings shall, by virtue of this Act, stand transferred to, and vested in, the State Government.

#### **6. General Effect Of Vesting Under Section 5 :-**

- (1) The undertaking shall be deemed to include,-
- (a) all fixed assets, rights, powers, authorities and privileges, and all

property, movable and immovable, cash balances, bank balances including deposits therein of whatever nature, reserve funds, securities, investments and all other rights and interests in or arising out of such property as were immediately before the vesting date in the ownership, possession, power or control of the licensee and all documents of whatever nature relating thereto; and

(b) all liabilities and obligations of the licensee accruing on or after the vesting date under any contract entered into bona fide before the vesting date, not being a contract relating to the borrowing and lending of money or to the employment of the staff.

(2) The State Government shall, by force of vesting in it of the undertaking under Section 5, be deemed to have entered into possession of all the property included as aforesaid in the undertaking as from the vesting date and it shall be lawful for any officer duly authorised by the State Government in this behalf to take physical possession of such property and in doing so to use such force to remove obstruction, if any, as he may deem necessary for the purpose.

(3) Every liability of the licensee in respect of any period prior to the vesting date, shall be the liability of such licensee and shall be enforceable against the licensee and not against the State Government or the Board.

(4) For the removal of doubts it is hereby declared that,-

(a) save as otherwise provided elsewhere in this Act, no claim for wages, bonus, rent, taxes, provident fund, pension, gratuity or any other dues in relation to the undertaking in respect of any period prior to the vesting date, shall be unenforceable against the State Government or the Board;

(b) no award, decree or order of any Court, Tribunal or other authority in relation to the undertaking passed after the vesting date but in relation to any matter, claim or dispute which arise before that date, shall be enforceable against the State Government or the Board;

(c) no liability for the contravention before the vesting date, of any provision of law, for the time being in force, shall be enforceable against the State Government or the Board.

(5) In the case of an undertaking which vests in the State Government under this Act, licence granted to it under Part II of the Electricity Act shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the licensee under any agreement to supply electricity entered into before the date shall devolve or shall be deemed to have devolved on the State Government:

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the State Government and in force on the vesting date, the agreement shall be voidable at the

option of the State Government.

## **7. Properties Vested In State Government To Be Freed From Mortgages, Etc. :-**

(1) All property which vests in the State Government under this Chapter shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it and any attachment, injunction or decree or order of any Court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(2) No mortgage, charge, lien or other interest referred to in sub-section (1) shall be enforceable against any property which has vested in the State Government.

## **8. Contracts In Bad Faith May Be Cancelled Or Varied :-**

(1) If the State Government is satisfied, after such enquiry as it may think fit, that any contract or agreement other than a contract of employment entered into at any time on or after the 1st July, 1972, between the licensee or his agents or manager of the undertaking and any other persons, in so far as such contract or agreement relates the undertaking has been entered into bad faith or is detrimental to the interest of the undertaking it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly :

Provided that no contract or agreement shall be cancelled or varied without giving the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the Principal Court of Civil Jurisdiction within the local limits of whose jurisdiction the undertaking is situated for the variation or reversal of such order and thereupon such Court may confirm, modify or reverse such order.

(3) Without prejudice to the right of the State Government to cancel or vary any contract or agreement as provided in sub-section (1), where the State Government is of the opinion that the licensee has on or after 1st July, 1972, disposed of any property whether by way of sale, exchange, gift, lease or otherwise or incurred any expenditure, liability or obligation otherwise than in normal course of events with a view to benefit unduly the licensee or some other person and thereby caused loss to the State Government as succeeding owner of the undertaking, the State Government shall be entitled to claim deduction under Section 12 towards the loss sustained by the State Government.

## **9. Power Of State Government To Direct Vesting Of The Undertaking In Board :-**

(1) Notwithstanding anything contained in Sections 5 and 6, the State Government may, by order in writing direct that the undertaking of the licensee together with all its properties and fixed assets specified in sub-section (1) of Section 6 shall, instead of continuing to vest in the State Government, vest in the Board on such terms and conditions and from such date (not being a date earlier than the vesting date) as may be specified in that direction.

(2) Where an order vesting the undertaking in the Board is made under sub-section (1), all the rights, liabilities and obligations of the State Government in relation to the undertaking shall, on and from the date of such vesting, be deemed to have become the rights, liabilities and obligations, respectively of the Board.

### **CHAPTER 3**

#### **PAYMENT OF AMOUNT**

## **10. Payment Of Amount :-**

(1) The licensee of every undertaking shall be given by the State Government an amount determined in accordance with the provisions of this Chapter, for vesting in it, under Section 5, of the undertaking of the licensee.

(2) The amount payable to the licensee of the undertaking under sub-section (1) shall be the amount arrived at in accordance with the provisions of this Chapter after deducting from the gross amount specified in Section 11, the deductions specified in Section 12.

(3) Subject to the provisions of Section 14, the amount payable under sub-section (1) shall be payable in cash either in lump sum or in annual instalments as the State Government may fix or in bonds or partly in cash and partly in bonds or in such other manner as may be prescribed.

(4) Where any amount is payable in instalments or otherwise under the provisions of this section, the unpaid amount where its payment has become due, shall carry interest at the current Reserve Bank rate plus one per cent from the vesting date.

## **11. Gross Amount :-**

The gross amount shall be the aggregate value of the amounts specified below :-

(i) the book value of all completed works in beneficial use pertaining to the undertaking and taken over by the State Government (excluding works paid for by consumers) less depreciation calculated in accordance with Schedule II;

- (ii) the book value of all works in progress taken over by the State Government excluding works paid for by consumers or prospective consumers;
- (iii) the book value of all stores including spare parts taken over by the State Government and in the case of used stores and spare parts, if taken over, such sum as may be decided upon by the Special Officer;
- (iv) the book value of all over fixed assets in use on the vesting date and taken over by the State Government less depreciation calculated in accordance with Schedule II;
- (v) the book value of all plants and equipments existing on the vesting date and taken over by the State Government but no longer in use owing to wear and tear or to obsolescence to the extent such value has not been written off in the books of the licensee less depreciation calculated in accordance with Schedule II;
- (vi) the amount of cash balance, whether in Bank or otherwise, and value of securities vesting in the State Government under Sections 5 and 6;
- (vii) the amount due from consumers in respect of every hire purchase agreement less a sum which bears to the difference between the total amount of the instalments and the original cost of the material or equipment, the same proportion as the amount due bears to the total amount of the instalments;
- (viii) any amount paid in advance by the licensee in respect of any contract the benefit of which is to accrue to the State Government or the Board after the vesting date;
- (ix) the amount of solatium equal to 10 per cent of the amount assessed under clauses (i) to (iv) above.

Explanation.-

(1) The book value of any fixed asset mean its original cost and shall comprise;

(i) the purchase price paid by the licensee for the fixed asset including the cost of delivery and all charges properly incurred in erecting and bringing the fixed asset into beneficial use as shown in the book of the undertaking; and

(ii) the cost of supervision actually incurred but not exceeding fifteen per cent of the amount referred to in paragraph (i)

(2) Where any fixed asset or other property is acquired by the licensee after the expiry of the period to which the latest annual accounts relate, the book value of the fixed asset or such property shall be such sum as may be decided upon by the Special Officer.

## **12. Deductions :-**

The deduction referred to in Section 10 shall be as specified below,-

- (a) the amount, if any, that may be paid in advance to the licensee by the State Government or the Board after the vesting date;
- (b) the amount, if any, specified in sub-section (3) of Section 8;
- (c) the amount due, if any, including interest thereon, from the licensee to the Board for energy supplied by the Board before the vesting date and any other charges due from the licensee;
- (d) all amounts including loans and advances and arrears of interest, if any, thereon, due from the licensee to the State Government or to the Board;
- (e) the amount, if any equivalent to the loss sustained by the State Government by reason of any property or rights belonging to the undertaking not having been handed over to the State Government, the amount of such loss being deemed to be the amount by which the market value of such property or the rights exceeds the amount payable therefore under this Act together with any income which might have been realised by the State Government, if the property or rights had been handed over on the vesting date;
- (f) the amount of all loans due from the licensee to any financial institutions constituted by or under the authority of the State Government and arrears of interest, if any, thereon;
- (g) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date, in so far as they have not been paid over by the licensee to the State Government, less the amounts which according to the books of the licensee are due from such consumers to the licensee for energy supplied by him before the date;
- (h) all advances from consumers and prospective consumers and all sums which have been or ought to be set aside to the credit of the consumers fund, in so far as such advances or sums have not been paid over by the licensee to the State Government;
- (i) the amounts remaining in Tariffs and Dividends Control Reserve, Contingencies Reserve and the Development Reserve, in so far as such amounts have not been paid over to the State Government and the amounts remaining in such other reserves, statutory or non-statutory, as were created to discharge such deferred liabilities or obligations of the undertaking as may devolve on the State Government as a result of vesting under this Act;
- (j) the amounts, if any, relating to debts, mortgages or obligations as mentioned in Section 7;
- (k) such sums as are found necessary to meet the obligations of licensee towards its employees under Section 15;
- (l) amount which the licensee may have failed to pay in respect of either the employers contribution or employees contribution realised by the licensee as employer under the Employees Provident Fund Act,

1952 (No. 19 of 1952) or the Employees State Insurance Act, 1948 (No. 34 of 1948) in respect of persons employed in connection with the undertaking immediately before the vesting date;

(m) all sums due to any employee towards wages or salary, bonus or any other payment in respect of service rendered to the licensees and any compensation payable to any worker under any provisions of Chapter V-A of the Industrial Disputes Act, 1947 (No. 14 of 1947);

(n) all sums due to any employee in respect of provident fund, pension fund or gratuity fund or any other fund established for the welfare of the employees of the licensees;

(o) sums due in respect of any compensation or liability under the Workmens Compensation Act, 1923 (No. 8 of 1923) in respect of the death or disablement of any employee of the licensee unless such licensee has under such contract with the insurer as mentioned in Section 15 of the said Act, rights capable of being transferred to and vested in the workmen;

(p) the amounts, if any, relating to taxes, duties, cesses, rates or any amount of like nature due from the licensee to the State Government and other local bodies;

(q) amounts which are already due from or become due from the licensees in respect of their transactions up to and inclusive of the vesting date under the Income Tax Act, 1961 (No. 43 of 1961), the Excess Profits Tax Act, 1940 (No. 15 of 1940), the Business Profits Tax Act, 1947 (No. 21 of 1947), the Indian Income Tax Act, 1922 (No. 11 of 1922), the Wealth Tax Act, 1957 (No. 27 of 1957), the Expenditure Tax Act, 1957 (No. 29 of 1957), the Gift Tax Act, 1958 (No. 18 of 1958), the Super Profits Tax Act, 1963 (No. 14 of 1963), and the Companies (Profits) Sur Tax Act, 1964 (No. 7 of 1964);

(r) such sums as are found necessary to meet other liabilities and obligations of the licensee which are found to be legitimately due from the licensee where such liabilities and obligations are likely to devolve on the State Government as a result of vesting under this Act.

### **13. Appointment Of Special Officer And His Powers :-**

(1) The State Government shall appoint, by order in writing, a person having adequate knowledge and experience in matters relating to valuation and accounts as Special Officer to assess the amount payable to the licensee under Section 10.

(2) The Special Officer shall determine and assess the gross amount and deductions, as specified in Sections 11 and 12 and shall determine and assess the amount payable to the licensee by deducting the total amount of deductions from the gross amount:

Provided that the deductions towards amounts specified in clauses (p)

and (q) of Section 12 shall be as specified by the competent authorities under the various enactments governing such taxes, duties, cess, rates or any other amount.

(3) The Special Officer shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely,-

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witness.

(4) Any investigation before the Special Officer shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and the Special Officer shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (No. 2 of 1974).

(5) Before proceeding to determine and assess the amount payable to the licensee under the section, the Special Officer shall call upon the licensee and the State Government to produce before him on or before the date specified by him in this behalf all the material which they believe to be relevant for such determination and assessment.

(6) In case, during the course of the determination and assessment of the amount payable under this section, any dispute or disputes arise as to the matter whether any fixed assets or other property vest in the State Government under this Act or as to whether any fixed assets or other property formed part of the undertaking within the meaning of this Act or as regards to what extent, if any, the quantum of damages intimated to the Special Officer under Section 8 is justified, the Special Officer shall prepare separate lists of disputed and undisputed items and shall make separate valuations accordingly; leaving the parties to get the dispute or disputes as regards the disputed items decided through arbitration as provided under Section 23 and shall, thereafter, determine and assess the amount payable to the licensee under this section in accordance with the award of the arbitrator.

(7) Any party aggrieved by the determination and assessment made by the Special Officer, of amount found payable to the licensee under this section or by the valuations made by the Special Officer of disputed and undisputed items, shall have a right to file an appeal to the Board of Revenue of Madhya Pradesh within 60 days of receiving intimation as

regards such determination and assessment or valuation from the Special Officer. The decision of the Board of Revenue shall be final and conclusive. For removal of doubts it is made clear that the matters which are required to be referred to arbitrator under sub-section (6), shall not form subject matter of such appeal.

#### **14. Determination Of Claims :-**

(1) Every person having a claim against the licensee in respect of an amount not covered under Section 12 shall prefer such claim before the Claims Officer within ninety days from the date specified by the State Government, by notification, in this behalf, to be met out of the amount payable to the licensee under Section 10 :

Provided that if the Claims Officer is satisfied that the claimant was prevented by sufficient cause from preferring the said claim within the period specified, he may entertain the claim within a further period of thirty days but not thereafter.

(2) Every claim under sub-section (1) shall be preferred in such form and shall be accompanied by such documents and other proof in support of the claim as may be prescribed and shall be verified in the manner provided for verification of plaints under the Code of Civil Procedure, 1908 (V of 1908).

(3) The provisions of sub-sections (3) and (4) of Section 13 shall apply to Claims Officer as they apply to Special Officer.

(4) Every claimant who fails to file his claim within the time specified under sub-section (1) shall not be entitled to receive any amount from the State Government towards his claim from out of the amount payable to the licensee under this Act.

(5) The Claims Officer shall, after such investigation as may, in his opinion, be necessary and after giving the licensee an opportunity of refusing the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(6) Any person aggrieved by the order of the Claims Officer may prefer an appeal within such period and in such manner and to such authority as may be prescribed and the decision of such authority thereon shall be final.

(7) Where the total amount of claims admitted by the Claims Officer does not exceed the total amount payable to the licensee under Section 10 every such admitted claim shall be paid in full and the balance, if any, shall be payable to licensee but where such amount is insufficient to meet in full the total amount of the admitted claims, all such claims shall be payable in equal proportions.

(8) Nothing in this section shall prejudice the right of any claimant to

recover by due process of law the amount of his claim remaining unpaid and for this purpose the period from the vesting date to the date of passing of the final order as regards his claim by the Claims Officer under this Act shall, notwithstanding anything contained in the Limitation Act, 1963 (No. 36 of 1963) be excluded for the purpose of computing the period of limitation under that Act.

#### CHAPTER 4

#### PROVISIONS RELATING TO EMPLOYEES OF UNDERTAKINGS

### **15. As To Existing Staff Of Licensee :-**

(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (No.14 of 1947) and has been immediately before the vesting date in the employment of the licensee shall become on and from the vesting date an employee of the State Government or the Board, as the case may be, and shall hold office or service on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking had not been transferred to and vested in the State Government or the Board, as the case may be, and continue to do so unless and until his employment under the Government or the Board, as the case may be, is terminated or until his remuneration, terms and conditions of employment are duly altered by the State Government or the Board, as the case may be :

Provided that the State Government may appoint an Officer to review the genuineness of all appointments made or increments of wages given to the workmen within the preceding one year of the vesting date. If the appointment made or the increments given were not genuine, the State Government or the Board, as the case may be, may terminate the services of such employees or cancel the increments :

Provided further that any person aggrieved by the decision of the Reviewing Officer may appeal against his decision to the State Government or the Board, whose decision shall be final.

(2) The State Government or the Board, as the case may be, may appoint a committee for the purpose of fitment of the workmen taking over from the licensees in the scales of pay of the Board having regard to the qualifications, experience, existing pay of the workmen and the wage structure of comparable workmen in the Board.

(3) The State Government or the Board, as the case may be, may employ any person who is not a workman within the meaning of Industrial Disputes Act, 1947 (No. 14 of 1947) who may be considered suitable and necessary and the salary of such person may be determined on the basis of the salary paid by the licensee to such person on the 1st January, 1971, keeping in view the organisational

pattern and the wage structure for comparable workload and responsibility existing in the State Government or the Board, as the case may be. The normal increments earned by such employees during the period of three years prior to 1st January, 1971, may be added to the salary, provided that such addition of increments does not up-set the pay scales of the Board.

(4) Save as otherwise provided in sub-sections (1) and (3), the services of every person employed by the licensee before the vesting date shall stand terminated on and from the vesting date.

(5) Nothing in the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960) or any other law for the time being in force shall apply in respect of termination of services by virtue of the provisions of sub-section (4).

(6) Notwithstanding anything contained in the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960) or in any other law for the time being in force, the transfer of the services of any employee to the State Government or to the Board by reason of the provisions of this Act, shall not entitle any such employee to any compensation under that Act or other law and no such claim shall be entertained by any Court, Tribunal or other authority.

(7) For removal of doubt it is hereby declared that nothing in sub-section (6) shall be construed to effect the right of any employee to claim compensation from the licensee under Section 25-FF of the Industrial Disputes Act, 1947 (No. 14 of 1947).

(8) Every person to whom sub-sections (1) and (3) apply shall be entitled to claim from the licensee the benefits which accrued to him immediately prior to the vesting date in accordance with terms and conditions of his service under the licensee and any other claim that is due to him from the licensee.

## **16. Provident, Superannuation, Welfare And Other Funds :-**

Where the licensee has established a provident, superannuation, welfare or any other fund for the benefit of its employees and constituted a trust in respect thereof, the moneys relatable to the employees, whose services have become transferred, by or under this Act, to the State Government or the Board, shall out of the moneys standing on the vesting date to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vested in, the State Government or the Board, as the case may be, free from any such trust.

### **CHAPTER 5** **MISCELLANEOUS**

## **17. Effect On Other Laws And Effect Of Other Laws :-**

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Act or any decree or order of Court, Tribunal or other Authority.

(2) No provisions of the Electricity Act, the Electricity Supply Act, or any other Act for the time being in force and of any rule made under any of those Acts or of any instrument including licence having effect by virtue of any of those Acts or any rules made thereunder, shall, in so far as it is inconsistent with any of the provisions of this Act, have any effect.

(3) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to and not in derogation of, the Electricity Act and the Electricity Supply Act.

### **18. Duty Of Licensee To Furnish Inventory Of Property Vesting In State Government And Other Information :-**

(1) The licensee shall within forty-five days from the vesting date or such further period as the State Government may allow in this behalf prepare and furnish to the State Government a complete inventory in such form as may be prescribed of all the properties vested in the State Government under Section 5 and specified in Section 6.

(2) The licensee shall also write up the accounts of his undertaking up to the vesting date, get them audited and submit them to the State Government or the Board within four months from the said date or such further period as the State Government or the Board, may allow in this behalf.

(3) The licensee shall also within such time as may be specified by the State Government or the Board furnish to them such documents, information and other particulars as may be required by the State Government or the Board.

(4) Where the documents aforesaid have been taken possession of by the State Government or the Board, the licensee or any person authorised by him in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

(5) If the State Government or the Board, after making such enquiry as it may deem fit, is satisfied that the inventory furnished by the licensee is not correct, it may modify the inventory.

(6) The State Government or the Board shall submit a copy of the inventory received by it under sub-section (1) and a copy of the inventory as modified by it before the Special Officer.

## **19. Penalties :-**

(1) Any person, who,-

(a) having in his possession, custody or control any property forming part of the undertaking wrongfully withholds such property from the State Government or the Board; or

(b) wrongfully obtains possession of any property forming part of the undertaking which has vested in the State Government or the Board under this Act; or

(c) wilfully withholds or fails to furnish to the State Government or the Board as required by sub-section (3) of Section 18 any document which may be in his possession, custody or control; or

(d) wilfully fails to furnish an inventory as required under Section 18; or

(e) when required to furnish such inventory furnishes any particulars therein which are false and which he either knows or believes to be false, or does not believe to be true;

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

Provided that the Court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the Court, any property or cash wrongfully withheld or obtained or any document wilfully withheld or not furnished.

(2) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the State Government or of an officer authorised by that Government in this behalf.

## **20. Offences By Company :-**

(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 deemed to be guilty of the offence and 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, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any 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 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 section,-

(a) "company" means any 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.

## **21. Protection Of Action Taken In Good Faith :-**

(1) No suit, prosecution or other legal proceeding shall lie against the State Government or the Board or any of its officers or other employees or the Special Officer or the Claims Officer for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceedings shall lie against the State Government or the Board or any of its officers or other employees or the Special Officer or the Claims Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

## **22. Bar Of Jurisdiction Of Civil Courts :-**

No Civil Court shall have jurisdiction in respect of any matter in relation to which the Special Officer, the Claims Officer or arbitrator or any officer authorised by the State Government or the Board is empowered by or under this Act to exercise any power, and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

## **23. Arbitration :-**

(1) All disputes required to be referred to arbitration by this Act shall be determined by an arbitrator appointed by the State Government, who shall be a sitting or retired District or High Court Judge. The award of the arbitrator shall be final and conclusive.

(2) The arbitrator shall follow such procedure in the proceedings before him and follow such principles in apportioning the cost of proceedings as may be prescribed.

(3) Save as provided in this section and any rules made thereunder, nothing in any law for the time being in force shall apply to the arbitration under this section.

(4) The State Government may make rules for the purposes of carrying into effect the provisions of this section.

## **24. Power To Make Rules :-**

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

(2) Rules made under this section shall be laid on the table of the Legislative Assembly.

## **25. Power To Remove Difficulty :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act remove the difficulty and, as occasion may require do anything which appears to it necessary for the purpose of removing the difficulty.

### **SCHEDULE 1**

#### **SCHEDULE I**

[See Section 3 (j)]

#### **NAMES OF ELECTRICITY SUPPLY UNDERTAKINGS**

1. The Jabulpore Electric Supply Undertaking owned and managed by the Jabulpore Electric Supply Company Limited.
2. The Saugor Electricity Supply Undertaking owned and managed by the Saugor Electricity Supply Company Limited.
3. The Dewas Senior Electric Supply Undertaking owned and managed by the Dewas Senior Electrical Supply Company (Pvt.) Limited.

### **SCHEDULE 2**

#### **SCHEDULE II**

[See Section 11]

For purposes of determining the gross amount under Section 11, the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book value of each asset by the number of years of life of the set as specified in the table below. For the year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the licenses last completed financial year till the vesting date, the depreciation shall be calculated prorata. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

TABLE

Description of asset	A. Land owned under full title.	B. Land held under lease —	(a) for investment in the land.	(b) for the cost of clearing site.	C. Assets purchased new—	
(i) Hydro-electric	(ii) Steam-electric	(iii) Diesel-electric	(b) Cooling towers and circulating water systems.	(c) Hydraulic works forming part of a hydro-electric system including —		

One hundred.							
Forty.							
(i) Offices and show rooms	(ii) Containing thermo-electric generating plant.	(iii) Containing hydroelectric generating plant	(iv) Temporary erections such as wooden	(iv-a) Roads other than kacha roads.	(v) Others	(e) Transformers, transformer kiosks, sub-station equipment and other fixed apparatus (including Plant foundations) —	
Thirty-five.							
Twenty-five.							
Twenty							
Twenty							
Fifteen.							
Thirty-five.							
Ten							
Forty							
Sixty.							
Thirty-five.							
Thirty							
Twenty-five.							
Twenty							
Fifteen							
Seven							
Twenty							
Fifteen							
Seven							
Twenty							
Ten							
Fifteen							
Fifteen							
Seven							
Twenty							

Fifteen							
Twenty							
Such reasonable period as the State Government determines in each case having regard to the nature, age and condition of the asset at the time of its acquisition by the licensee.							