

Madras Electricity Duty Act, 1939

05 of 1939

[21 March 1939]

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PREAMBLE

An Act for the levy of a duty ²(on certain sales and consumption of electrical energy by licensees) in the Province of Madras.

Whereas it is expedient to levy a duty ²(on certain sales and consumption of electrical energy by licensees) in the Province of Madras; It is hereby enacted as follows :--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 7th February 1939--Part IV, page 40.

The Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

2. These words were substituted for the words "on certain sales of electrical energy effected by licensees " by section 2 of the Madras Electricity Duty (Amendment) Act, 1945 (Madras Act VIII of 1945), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-en acting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948),

1. Short title, extent and commencement :-

(1) This Act may be called the Madras Electricity Duty Act, 1939.

(2) It extends to the whole of the ¹(State) of Madras.

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

1. This word was substituted for the word " Province" by the Adaptation Order of 1950.

2. Came into force on the 1st April 1939.

3. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

2. Definitions :-

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

(a) energy means electrical energy;

(b) licensee means any person including a company or a local authority licensed under Part II of the Indian Electricity Act, 1910 (Central Act X of 1910), to supply energy, or any person including a company or a local authority who has obtained the sanction of the ¹(State) Government under section 28 of that Act to supply energy; and

(c) prescribed means prescribed by rules made under this Act.

1. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

3. Levy of a duty on certain sales of electrical energy :-

(1) Save as otherwise provided in sub-section (2), every licensee in

the ¹(State) of Madras shall pay every month to the ²(State) Government in the prescribed manner, a duty calculated at the rate of six pies per unit of energy, on and in respect of all sales of energy, ³(except sales to the Government of India for consumption by that Government or sales to the Government of India or a railway company operating any railway for consumption in the construction, maintenance or operation of the railway) effected by the licensee during the previous month, at a price of more than two annas per unit ⁴[and on and in respect of energy which was consumed by the licensee during the previous month for purposes other than these connected with the construction, maintenance and operation of his electrical undertaking and which, if sold to a private consumer under like conditions, would have fetched a price of more than two annas per unit].

⁵[(2) A licensee shall be exempt from duty under subsection (1) in any month if in the previous month the total sales of energy effected by him at whatever price together with the energy consumed by him for purposes other than these connected with the construction, maintenance and operation of his electrical undertaking, did not exceed 16,666 units :

Provided that if at the end of any financial year, it is found that in such year the total sales of energy effected by the licensee at whatever price together with the energy consumed by him for purposes other than these connected with the construction, maintenance and operation of his electrical undertaking, were not less than 200,000 units, the licensee shall pay the duty in respect of any month or months comprised in such year in which the total of the sales and of the consumption as aforesaid did not exceed 16,666 units.]

(3) Where a licensee holds more than one licence, duty shall be calculated and levied under this section separately in respect of each licence.

⁶[(4) Where a licensee who is liable to pay duty under this section sells energy to the ⁷(Government of India for consumption by that

Government or to a railway company operating any railway for consumption in the construction, maintenance or operation of that railway), the price charged on such sales shall be less by the amount of the duty than the price charged to other consumers of a substantial quantity of energy, provided, the price last mentioned is more than two annas per unit).

In this sub-section, the expression price charged to other consumers shall include the duty, if any, recoverable from the consumer under sub-section (1) of section 7.

8(Explanation.--The expression " railway " in this section and in section 9 shall have the meaning assigned to it in clause (20) of article 366 of the Constitution).

1. This word was substituted for the word " Province " by the Adaptation Order of 1950.

2. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

3. These words were substituted by the Adaptation (Amendment) Order of 1950 for the words and brackets " (except sales to the Central Government for consumption by that Government or to the Federal Railway Authority or a railway company operating a Federal Railway for consumption in the construction, maintenance or operation of a Federal Railway) " which were inserted by section 2 and deemed to have formed part of the main Act from its commencement by section 3 of the Madras Electricity Duty (Amendment) Act, 1941 (Madras Act III of 1941) re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948).

4. These words were added by section 3 (i) of the Madras Electricity Duty (Amendment) Act, 1945 (Madras Act VIII of 1945) re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948).

5. This sub-section was substituted for original sub-section (2) by section 3 (ii), *ibid*.

6. This sub-section and Explanation were added by section 2 of the

Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943) re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948). This amendment shall be deemed to have formed part of the principal Act from its commencement.

7. These words were substituted for the words " Central Government for consumption by that Government or to the Federal Railway Authority or a railway company operating a Federal Railway for consumption in the construction, maintenance or operation of a Federal Railway" by the Adaptation (Amendment) Order, 1950.

8. This Explanation was substituted for the original Explanation by the Adaptation (Amendment) Order of 1950.

4. Obligation of licensees to keep books of account and to submit returns :-

Every licensee shall--

(a) keep books of account in the prescribed form; and

(b) submit returns showing the units of energy supplied and the amount of the duty payable in respect thereof, to such officer, in such form, and at such times as may be prescribed.

5. Inspecting Officers :-

(1) The ¹(State) Government may, by notification in the Official Gazette, appoint Inspecting Officers to inspect the books of account required to be kept by licensees under clause (a) of section 4.

(2) Officers so appointed 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 such officer shall be deemed to be a public servant within the meaning of section 21 of the Indian penal Code (Central Act XLV of 1860).

1. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

6. Recovery of duty :-

Any duty due under this Act which remains unpaid, shall be recoverable as an arrear of land revenue, or by deduction from amounts payable by the ¹(State) Government to the licensee.

1. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

7. Licensee to reimburse himself from consumer in certain cases :-

(1) Any licensee may, with the previous sanction of the ¹(State) Government and subject to such conditions as they may impose, recover from any person or class of persons to whom energy is sold at a price of more than two annas per unit, the duty which falls to be paid by the licensee in respect of the energy so sold or any part of it, as may be determined by the ¹(State) Government.

Explanation.--²[Save as provided in sub-section (4) of section 3, the duty] recoverable from any person under this sub-section shall not be deemed to be part of the price charged for the energy by the licensee.

(2) The licensee may, for the purpose of sub-section (1), exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910 (Central Act X of 1910), for the recovery of any charge or sum due in respect of energy supplied by him.

1. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

2. These words were substituted for the words " The duty " by section 3 of the Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943), re-enacted permanently with specified

modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948). This amendment should be deemed to have formed part of the principal Act from its commencement.

8. Penalties :-

If any licensee--

(a) fails to keep books of account or to submit returns as required by section 4, or

(b) intentionally obstructs an Inspecting Officer appointed under section 5 in the performance of his duties or the exercise of his powers under this Act and the rules made thereunder he shall be punished with fine which may extend to fifty rupees.

9. Power to make rules :-

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

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

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

²[(b) ³(refunds to the Government of India and railway companies operating railways), when the price paid by them is found to exceed the limit specified in sub-section (4) of section 3];

²[(c)] the form of the books of account required to be kept under clause (a) of section 4;

²[(d)] the times at which, the forms in which, and the officers to whom, the returns required by clause (b) of section 4 should be

submitted;

2[(e)] the duties and powers of Inspecting Officers appointed under section 5; and

2[(f)] 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 **1**(State) Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the **1**(State) Government may provide that a breach thereof shall be punishable with fine not exceeding fifty rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

1. This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

2. Clauses (b) to (e) were relettered as clauses (c) to (f) respectively and clause (6) was inserted by section 4 of the Madras Electricity Duty (Amendment) Act, 1943 (Madras Act II of 1943), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948). This amendment should be deemed to have formed part of the principal Act from its commencement.

3. These words were substituted for the words " refunds to the Central Government, the Federal Railway Authority and railway companies operating Federal Railways " by the Adaptation (Amendment) Order of 1950.

10. Saving :-

1[This Act shall have effect subject to the provisions of article 288 of the Constitution.]

1. This section was added by the Adaptation (Amendment) Order of 1950.