

## **Uttar Pradesh Electricity (Duty) Act, 1952**

**33 of 1952**

**[01 December 1952]**

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Amended by the U.P. Acts No. XXVII of 1957; XII of 1959; XX of 1963; 2 of 1971; 10 of 1972; 8 of 1975; 16 of 1975; 11 of 1985; 13 of 1987. An Act to levy a duty on the consumption of electrical energy in Uttar Pradesh. Whereas it is expedient to levy a duty on the consumption of electrical energy in U.P.; It is hereby enacted as follows : Statement of Objects and Reasons. -- This is intended to levy a duty on the consumption of electrical energy in the State of Uttar Pradesh. It is proposed in the Bill of the Act. The minimum programme of development which this State must carry out within the next three or four years for the attainment of the objective of a welfare State is set out in the Five-Years Plan drawn up by the Planning Commission. This Plan provides for an expenditure of

13.58 crores of rupees on power development projects. Such a huge expenditure cannot be met from our present resources. It is, however, essential for the welfare of the people that the expenditure should be incurred and that nothing should be allowed to stand in the way of the progress of the Plan. Additional resources have therefore to be found, the bulk of which can be raised only by means of fresh taxation. "A tax on the consumption of electrical energy will impose a negligible burden on the consumer and it is a fruitful source of additional revenue. The Bill has been so prepared as to ensure that the tax payable by a person will be related to the quantity of electricity consumed by him. The Bill is being introduced with the above object."--[Vide U.P. Gazette (Extra.), dated September 1, 1952.] 1. Received the assent of the Governor on December 1, 1952, and published in the U.P. Gazette (Extra.), dated December 4, 1952.

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

- (1) This Act may be called the U.P. Electricity (Duty) Act, 1952.
- (2) It extends to the whole of Uttar Pradesh.
- (3) It shall come into force on such date<sup>1</sup> as the State Government may, by notification in the official Gazette, appoint.

### **2. Definitions :-**

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

(a) "appointed authority" means,--

(i) in the case of electricity undertaking engaged in the business of supplying energy owned or managed by the State Government, such officer or authority as the State Government may appoint in this behalf; and (ii) in the case of electricity undertaking engaged in the business of supplying energy owned or managed by the Central Government or a Board, such officer or authority as the State Government may, with the concurrence of the Central Government or the Board, as the case may be, appoint in this behalf;

Explanation.--For purposes of this clause, a department of the Government engaged in supplying energy is an electricity undertaking as aforesaid;

(b) "Board" means a board constituted under Chapter III of the Electricity (Supply) Act, 1948;

(c) "Central Government" shall have the meaning assigned to it in

the General Clauses Act, 1897;

(d) "consumer" means a person other than a licensee, who is supplied with energy--

(i) by a licensee;

(ii) by a Board; or

(iii) by the State Government or Central Government;

(e) "energy" means electrical energy;

(f) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction in that behalf of the State Government under Section 28 of the said Act;

(g) "prescribed", means prescribed by rules made under this Act; and

(h) "rate charged" does not include--hire for meter or service line; but includes,--

(i) where any rebate is allowed on account of payment being made within any specified period, the rebate so allowed;

(ii) 2[xxx]

(iii) in the case of a two-part tariff, the fixed charge and also the unit-charge;

(iv) in the case of the un-metered supply, the periodical charge made therefor; and

(v) any surcharge on the rates whether imposed by the licensee, Board, the State Government or the Central Government;

Explanation.--In clause (iii) "Unit charge" means "the charge for the energy actually consumed".

(i) "State Government" means the Government of Uttar Pradesh;

(j) words and expressions not defined in this Act but defined in the Indian Electricity Act, 1910, have the meaning assigned to them in that Act.

1. The Act came into force on Jan. 15th, 1953, vide Notification No. 4389-EL/XXIII-D--319-EL-52, dated Dec. 30, 1952, published in U.P. Gaz., dated Jan. 3, 1953, Pt. I. p. 48.

2. Omitted by U.P. Act No. 2 of 1971, vide Section 2.

### **3. Levy Of Electricity Duty :-**

1[(1) Subject to the provisions hereinafter contained, there shall be levied for and paid to the State Government on the energy-(a) sold to a consumer by a licensee, the Board, the State Government or the Central Government; or

(b) consumed by a licensee or the Board in or upon premises used

for commercial or residential purposes or in or upon any other premises except in the construction, maintenance or operation of his or its works; or

(c) consumed by any other person from his own source of generation; a duty (hereinafter referred to as electricity duty) determined at such rate or rates as may from time to time be fixed by the State Government by notification in the Gazette, and such rate may be fixed either as a specified percentage of the rate charged or as a specified sum per unit :

2[Provided that such notification issued after October 1, 1984 but not later than March 31, 1985 may be made effective on or from a prior date not earlier than October 1, 1984.]

(2) In respect of clauses (a) and (b) of sub-section (1), the electricity duty shall not exceed 3[fifty percent] of the rate charged :

Provided that in the case of one-part tariff where the rate charged is based on units of consumption, the electricity duty shall not be less than one paise per unit or more than 4[nine paise] per unit.

Explanation.--For the purpose of the calculation of electricity duty as aforesaid, energy consumed by a licensee or the Board or supplied free of charge or at concessional rates to his or its partners, directors, members, officers or servants shall be deemed to be energy sold to consumers by the licensee or the Board, as the case may be, at the rates applicable to other consumers of the same category.

(3) In respect of clause (c) of sub-section (1), the electricity duty shall not be less than one paise or more than six paise per unit.

(4) The State Government may, in the public interest, having regard to the prevailing charges for supply of energy in any area, the generating capacity of any plant, the need to promote industrial production generally or any specified class thereof and other relevant factors, either fix different rates of electricity duty in relation to different classes of consumption of energy or allow any exemption from payment thereof.

(5) No electricity duty shall be levied on--

(a) energy consumed by the Central Government or sold to the Central Government for consumption by that Government; or

(b) 5[xxx].

(c) energy consumed in the construction, maintenance or operation of any railway by the Central Government or sold to that Government for consumption in the construction, maintenance or operation of any railway;

(d) by a cultivator in agricultural operations carried on in or near his fields such as the pumping of water for irrigation, crushing, milling or treating of the produce of those fields or chaff-cutting.

6(e) energy consumed in light upon supplies made under the Janta Service Connection Scheme to Harijans, landless labourers, farmers, (whose holding is one acre or less), active and ex-servicemen and war widows and other weaker sections in districts as may be notified by the State Government in this behalf.

1. Substituted by U.P. Act No. 2 of 1971, vide Section 3 and in the Proviso after sub-section (2) of Section 3, the words "fifty paise" substituted for "forty paise" by U.P. Act No. 10 of 1972, vide Section 2, deemed to have come into force w.e.f. January 1, 1972, and the whole proviso after sub-section (2) of Section 3. substituted by U.P. Act No. 8 of 1975, vide Section 37 (w.e.f. 12-10-1974).

2. Inserted by U.P. Act No. 11 of 1985, vide Section 2 (a), (w.e.f. 1st Oct., 1984).

3. Substituted by ibid, vide Section 2 (b) (i), (w.e.f. 1st Oct., 1984), for the words "twenty-five percent" and re-substituted by U.P. Act No. 13 of 1987, vide Sections 2, for the words "thirty-five percent", (w.e.f. 26th Nov., 1986).

4. Substituted by U.P. Act No. 11 of 1984, vide Section 2 (b) (ii), (w.e.f. 1st Oct., 1984), for the words "six paise" and re-substituted by U.P. Act No. 13 of 1987, vide Section 2 (ii), for "eight paise" (w.e.f. 26th Nov., 1986).

5. Omitted by U.P. Act No. 11 of 1984, vide Section 2 (c), (w.e.f. 1st Oct., 1984). Old clause (b) runs as under:-

"(b) energy consumed by the State Government or sold to the State Government for consumption by that Government; or"

6. Inserted by U.P. Act No. 2 of 1977, vide Section 2 (w.e.f. June 1, 1977).

### **3A. Consumers To Pay Electricity Duty :-**

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1[xxx].

1. Omitted by U.P. Act No. 2 of 1971, vide Section 4.

### **4. Payment Of Electricity Duty And Interest Thereon :-**

1[(1) The electricity duty shall be paid in such manner and within such period as may be prescribed, to the State Government--

(a) where the energy is supplied or consumed by a licensee, by the licensee;

(b) where the energy is supplied by the State Government or the Central Government or is supplied or consumed by the Board, by the appointed authority; and

(c) where the energy is consumed by any other person from his own source of generation, by the person generating such energy.

(2) Where the amount of electricity duty is not paid to the State Government within the prescribed period as aforesaid, the licensee, the Board or other person mentioned in clause (c) of sub-section (1), as the case may be, shall be liable to pay within such period as may be prescribed, interest at the rate of eighteen per cent. per annum on the amount of electricity duty remaining unpaid until payment thereof is made.

1. Substituted by *ibid*, vide Section 5.

#### **4A. Reimbursement Of Electricity Duty From Consumers :-**

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(1) The amount of electricity duty payable under Section 3 on the energy supplied to a consumer by a licensee, the State Government, the Central Government, or the Board, may be recovered by the licensee, or the appointed authority, as the case may be, from the consumer.

(2) For the purpose of recovering the amount of electricity duty from the consumer, the licensee or the appointed authority, as the case may be, may, without prejudice to any other mode of recovery, exercise the powers conferred on the licensee under sub-section (1) of Section 24 of the Indian Electricity Act, 1910 (Act No. IX of 1910), as if the duty were a charge or sum due in respect of energy supplied to such consumer.

#### **4B. Penal Duty To Be Paid In Certain Cases :-**

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(1) If in the opinion of an authority prescribed in that behalf, the licensee, the Board or other person liable to pay electricity duty evades or attempts to evade the payment of the duty, whether maintaining false records, submitting false returns, concealing the energy supplied or consumed, or by any other means, the licensee, the Board or other person, as the case may be, shall pay by way of penalty within such time as may be prescribed in addition to the said duty, a sum, not exceeding four times the amount of duty so evaded or attempted to be evaded, to be determined by such authority :

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

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

(3) The appellate authority may confirm, set aside or modify the order appealed from, and pending the disposal of the appeal stay the operation of the order wholly or partially and on such terms as it thinks fit.

#### **5. Records And Returns :-**

(1) If the State Government so directs by a general or special order a licensee or an appointed authority 1[or other person liable to pay

electricity duty] shall maintain such record in such manner and form as may be prescribed showing--

(i) the units of energy generated, or received by it for 2[transmission or supply];

(ii) the units of energy supplied to consumer or consumed by him;

(iii) the amount of electricity duty payable separately on each category of consumption and the amount received under Section 4-A; 3[\* \* \*].

4[(iii-a) the amount of interest, if any, payable under Section 4 and the amount of penal duty, if any, determined under Section 4-B; and

(iv) such other particulars as may be prescribed.

(2) 5[Every person who has been directed under sub-section (1) to maintain a record shall submit such returns in such form and manner, 6[to such authority and within such period, as may be prescribed.]

(3) The amount of energy shall for purposes of clauses (i) and (ii) of subsection (1) be ascertained in such manner as may be prescribed.

1. Inserted by U.P. Act No. 2 of 1971, vide Section 6 (i) (a).

2. Substituted by *ibid*, vide Section 6 (ii) (b).

3. The word "and" deleted by U.P. Act No. 12 of 1959, vide Section 3 (1) and whole . clause (iii) subs, by U.P. Act No. 2 of 1971.

4. Added by U.P. Act No. 12 of 1959. vide Section 5 (ii) and subs, by U.P. Act No. 2 of 1971, vide Section 6 (i) (d).

5. Substituted by U.P. Act No. 2 of 1971. vide Section 6 (ii).

6. Inserted by *ibid*, vide Section 6 (ii).

## **6. Inspecting Officers :-**

(1) The State Government may, by notification in the official Gazette, appoint inspecting officers 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. .

(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.

## **7. Recovery Of Electricity Duty, Etc. :-**

1[2[(1) Any sum due on account of electricity duty or interest or

penal duty under Section 3, Section 4 or Section 4-B, if not paid within the prescribed period to the State Government, shall be recoverable as an arrear of land revenue--

(a) in the case of energy supplied or consumed by a licensee,--from the licensee;

(b) in the case of energy supplied or consumed by the Board,--from the Board; and

(c) in the case of energy consumed by any other person generating it,--from the person liable to pay such duty under this Act.

(2) Without prejudice to the provisions of sub-section (1) the State Government may,--

(a) in the case of any such sum as aforesaid being due from a licensee or the Board, deduct the sum from any amount payable by the State Government to the licensee or the Board; or

(b) in the case of any sum as aforesaid being due from a licensee, requiring the Board to deduct the sum from any amount payable by the Board to the licensee and to pay the sum so deducted to the State Government].

1. Substituted by *ibid*, vide Section 7.

2. Vide *Renusagar Power Co. v. State*. AIR 1973 All 33 at p. 35 : 1972 All LJ 683

## **8. Penalties :-**

(1) If any person--

(a) required by Section 5 to keep record or to submit returns fails to keep or submit the same in prescribed manner or form, 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, or

(c) contravenes any rule,

he shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

1[(2) If any person keeps any record or submits any return specified in Section 5, which he knows or has reasonable cause to believe to be false or not true in any material particular, he shall be punishable with a fine not exceeding one thousand rupees.]

1. The existing Section 8 renumbered as sub-section (1) and after sub-section (1) new subsection (2) inserted by UP. Act No. 2 of 1971, vide Section 8.

## **8A. Cognizance Of Offences :-**



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1[No court shall take cognizance of an offence under this Act except on a complaint made by such officer as may be prescribed.

1. Inserted by *ibid*, vide Section 9.

## **8B. Offences By Companies :-**

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(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business, at the time of the commission of the offence, 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 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 that the commission of the offence is attributable to any neglect on the part of, any Managing Agents, Secretaries and Treasurers, Director, Manager, Secretary or other officer, such Managing Agents, Secretaries and Treasurers, 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.

Section

## **8C. Protection For Acts Done In Good Faith :-**

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No suit, prosecution or other legal proceeding shall lie against an officer or servant of the State Government for anything which is in good faith done or intended to be done in pursuance of any provision of this Act or any rule or order made thereunder.]

## **9. Exemption :-**

1[xxx]

1. Omitted by UP. Act No. 2 of 1971, vide Section 10.

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

1[(1) The State Government may, by notification in the Gazette, make rules for carrying 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 manner in which and the period within which the electricity duty or interest thereon shall be paid to the State Government under Section 4;

(b) the form and manner in which records shall be maintained

under sub-section (1) of Section 5 and the particulars which shall be shown therein;

(c) the form and manner in which, the period within which and the authority to whom, returns shall be submitted under sub-section (2) of Section 5;

(d) the manner in which the units of energy shall be ascertained for the purposes of clauses (i) and (ii) of sub-section (1) of Section 5;

(e) the duties that shall be performed and powers that shall be exercised by inspecting officers appointed under Section 6;

(f) the authority which shall determine the penalty payable, and the period within which it shall be paid, under sub-section (1) of Section 4-B;

(g) the authority to whom, the period within which and the fee on payment of which, appeal shall lie under sub-section (2) of Section 4-B;

(h) the officers who make complaints for prosecution under this Act;

(i) any other matter which is to be or may be prescribed.

(3) All rules under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of fourteen days in its one session, or more than one successive sessions and shall, unless some latter date is appointed, take effect from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make, so, however, that any such modification or annulment shall be without prejudice to anything previously done thereunder.

1. Substituted by *ibid*, vide Section 11.