

THE ASSAM ELECTRICITY DUTY ACT, 1964

[Assam Act XXX of 1964]

[Received the assent of the President on the 23rd December, 1964]

***An Act to levy a duty on the sale or consumption of electricity* Preamble**

Whereas it is expedient to levy a duty on the sale or consumption of electrical energy in the State of Assam;

It is hereby enacted in the Fifteenth Year of the Republic of India as follows:—

Short title, extent and commencement

1. (1) This Act may be called the Assam Electricity Duty Act, 1964.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,-
 - (a) "Board" means the Assam State Electricity Board constituted under Chapter III of the Electricity (Supply) Act, 1948 (Central Act 54 of 1948);
 - (b) "consumer" means a person, other than a licensee, who is supplied with energy-
 - (i) by a licensee; or
 - (ii) by the Board;
 - (c) "energy" means electrical energy;
 - (d) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910 (Central Act 9 of 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;
 - (e) "prescribed" means prescribed by rules made under this Act;
 - (f) "unit", in relation to the energy, means "kilowatt-hour"; and
 - (g) words and expressions not defined in this Act but defined in the Indian Electricity Act, 1910 (Central Act 9 of 1910) have the meaning assigned to them in that Act.

Levy of electricity duty

3. (1) There shall be levied and paid to the State Government a duty, to be called the "electricity duty", at the rate of *ten paise* per unit of energy,-
 - (a) Supplied by the Board to a consumer within the State or to any consumer outside the State, or
 - (b) supplied to the consumer by a licensee generating energy or procuring in bulk from

the Board; or

- (c) generated by a person or a company or a firm or any organisation for own use or consumption.

Amendment : *In the principal Act, in section 3, in sub-section (1), in the first paragraph, for the words “five paise” appearing between the words “at the rate of” and “per unit of energy” , the words “ten paise” has been substituted vide notification no. LGL.11/2006/15 Dtd. 29th March, 2007 published in the Assam Gazette Extraordinary No. 82 Dtd. 30th March,, 2007.*

- (2) Nothing in sub-section (1) shall apply to the consumption sale of energy which is-
 - (a) consumed by or sold to the Government of India for consumption by that Government; or
 - (b) consumed in the construction, maintenance or operation of any railway by that Government of India or a railway company operating that railway or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway.
- (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 commencement of this Act shall be taken into account and consumption in a month shall form the basis of calculation.

Collection and payment of electricity duty

4. The electricity duty shall be collected and paid to the State Government by the Board or a licensee or a person who generates energy for his own use or consumption as the case may be.

Licensee not to reimburse himself from consumer without sanction of State Government

5. No licensee shall, without the previous sanction of the State Government and subject to such conditions as the State Government may impose, recover from any person to whom energy is sold, the duty which falls to be paid by the licensee under this Act.

Explanation - Where the State Government permits a licensee to charge duty from the consumer, the duty shall not be deemed to be part of the price charged for the energy by the licensee.

Records and returns

6. (1) If the State Government so directs by a general or special order, the Board or a licensee or a person generating energy for his own use or consumption shall maintain such record and in such form and manner as may be prescribed showing -

- (a) the units of energy generated or received by it or him for supply to the

- consumer;
- (b) the units of energy supplied to the consumer or consumed by it or him;
 - (c) the amount of the duty payable thereon and the duty paid or recovered by him under this Act; and
 - (d) such other particulars as may be prescribed.
- (2) The Board, the licensee, or the person generating energy for his own use or consumption who has been directed under sub-section (1) to maintain a record shall submit such return, in such form and manner and to such authority as may be prescribed.
- (3) The amount of energy shall, for purpose of clause (a) and (b) of sub-section (1), be ascertained in such manner as may be prescribed.

Inspecting officers

7. (1) The State Government may, by notification in the Official Gazette, appoint inspecting officers to inspect records maintained under section 6.

- (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 rules made thereunder.

See : Notificaion

- (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 (Act XLV of 1860).

Penal duty to be paid in certain cases

8. (1) If in the opinion of an authority prescribed in this behalf, the Board, the licensee or the person generating energy for his own use or consumption 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, the licensee or person, as the case may be, 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 prescribed authority :

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

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

See: Rule 11 & 16

- (3) An order passed on appeal under sub-section (2) shall be final.
- (4) An order for the payment of any penalty made under this section shall be without prejudice to any prosecution instituted for an offence under this Act.

Recovery of duty

9. Any duty due under this Act or penalty imposed under section 8 which remains unpaid, whether by a consumer to the Board or by the Board or a licensee or a person generating energy for his own use or consumption, to the State Government, shall be recoverable as an arrear of land revenue or by deduction from amounts payable by State Government to the Board or the licensee or such person.

Power to disconnect supply for non-payment of duty

10. Where a consumer or a licensee fails to pay the electricity duty to the Board or a consumer fails to pay such duty to a licensee who is authorised to recover the duty from the consumers under section 5, the Board or the licensee may exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910 (Central Act 9 of 1910), for the recovery of any charge or sum due in respect of energy supplied by it or him.

Penalties

11. If any person -

- (a) required by section 6 to keep record or to submit returns fails to keep or submit the same in the prescribed form and manner or submits a return which is false, or
- (b) intentionally obstructs an inspecting officer appointed under section 7 in the exercise of his powers and duties under this Act and the rules made thereunder, or
- (c) contravenes any such rule,

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

Power to exempt

12. The State Government may in public interest, by notification in the Official Gazette, exempt any licensee, consumer or person from the payment of the whole or part of the electricity duty for such period a and subject to such terms and conditions as may be specified in such notification.

See : Notification

Power to make rules

13. The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provision 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 calculating the duty (including marginal adjustment) under section 3 ;

- (b) the manner of collection and payment to the State Government of the electricity duty by the Board, licensees and person generating energy for their own use or consumption ;
 - (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;
 - (e) any other matter for which provision is, in the opinion of the State Government, necessary for giving effect the provisions of this Act.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree 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 this rule.