

The Orissa Electricity (Duty) Act, 1961.

An Act to levy a duty on the consumption of electrical energy on the State of Orissa.

Be it enacted by the legislature of the State of Orissa in the Twelfth year of the Republic of India as follows.

Statement of Objects & Reasons:

Additional resources have to be found by the State Government to maintain and further expand the development activities during the Third Five- Year Plan. For this purpose the possible sources of taxation have been investigated by the State Taxation Enquiry Committee and they have recommended that the rate of electricity prevalent in the State can admit of a levy of electricity duty on the energy consumed. They had suggested different rates for different categories of loads. After careful consideration of the recommendations of the committee the State Government propose to levy duty at the rate of 15 percent on the rates applicable to different categories of consumption.

The bill seeks to achieve the aforesaid purpose.

1. Short title, extent and commencement -
 - (1) This Act may be called the Orissa Electricity (Duty) Act, 1961.
 - (2) It shall extend to the whole of the State of Orissa.
 - (3) It shall come in to force on such date as the State Government may, by notification, appoint.
2. Definitions -

In thus Act, unless there is anything repugnant in the 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 Central Govt. or a Board, such officer or authority as the State Govt. may, with the concurrence of the Central Govt. or the Board, as the case may be, appoint in this behalf: and
 - (ii) in any other case such officer or authority as the State Govt. may appoint in this behalf:
 - (b) “Board” means a Board constituted under Chapter III of the Electricity (Supply) Act, 1948.
 - (c) “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 Govt. or Central Govt, and includes a consumer belonging to any of the classes specified in ¹[***] Section 3:
 - (d) “energy” means electrical energy.
 - (e) “licensee” means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy ¹[***]:

- (e-1) “maximum demand” shall have the same meaning as assigned under the Electricity (Supply) Act, 1948:
- (f) “prescribed” means prescribed by rules made under this Act:
- (g) “unit” means I kilowatt hour of energy.
3. Electricity Duty on energy supplied to consumers ³[(1) There shall be levied and paid to the State Govt. with effect from the 1st day of April, 1992, a duty (hereinafter referred to as the electricity duty), at such rate, not exceeding twenty-five paise per unit as the State Govt. may, by notification from time to time, specify on the energy consumed by -
- (a) a consumer:
- (b) a consumer in respect of energy supplied to him, free of cost, by a licensee or Board, or by any person or licensee other than the Board who generates such energy:
- (c) a licensee or Board in its own premises:
- (d) any person, not being a licensee or Board, who generates such energy for his own use or consumption:

Provided that-

- (i) different rates of electricity duty may be levied for different categories of consumer or consumption: and
- (ii) where energy consumed is billed by the Board on the basis of evaluated energy consumption-
- (a) on minimum charges,
- (b) in case of defective meters, and
- (c) in case of un metered supply,

There shall be paid electricity duty on the same number of units as is arrived at by the Board for the purpose of payment of energy charges and at the rate applicable to the category to which the consumer belongs as specified by Notification issued under Sub-section (1).

4. All Notifications that may be issued by the State Govt. from time to time under Sub-section
- (i) shall, as soon as may be after they are issued, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the notifications shall thereafter have effect only in such modified form, so however, that such modifications shall be without prejudice to the validity of any electricity duty levied or collected under the Notifications.

5. There shall also be levied for and paid to the State Govt. a duty ¹[at the rate applicable to the category to which the consumer belongs as specified by Notification issued under Sub-section (1)] on the energy imported from outside the State and supplied by the Board or a licensee to a consumer by any special arrangement.
6. Notwithstanding anything contained in the foregoing Sub-sections, no duty shall be levied or paid in respect of energy generated by a plant having a capacity not exceeding ten KVA.
7. The State Govt. may, by notification, subject to such condition, as they may impose, exempt any industry which has started production at any time after the 31st day of July, 1980 from payment of electricity duty to such extent and for such period as may be specified in the notification.
4. Consumers to pay electricity duty:- [The amount of electricity duty levied under Section 3 on the energy consumer or any other person shall be payable by, and be collected and recovered from the consumer or such person in the manner hereinafter provided.]
5. Collection of electricity Duty- (1) The electricity duty shall be collected from the consumer and paid to the State Govt.
 - (a) where the energy is supplied by the licensee;
 - (b) where the energy is supplied by or on behalf of the State Govt. or the Central Govt. or Board, by the appointing authority concerned; and
 - (c) where the energy is generated by a person other than a licensee or the Board, by such person: Provided that the licensee or the appointed authority shall not be liable to pay duty in respect of energy supplied by it for which it has not been able to recover its dues.

Provided further that where the amount of electricity duty collected by a licensee from a consumer or the amount of such duty payable by the person specified in Clause (c) is not paid to the State Govt. with the prescribed period the licensee or such person shall be liable to pay interest at the rate of ¹[eighteen percent] per annum on the amount of the electricity duty remaining so unpaid until the payment thereof is made.
- (2) The duty and the interest, if any, so payable shall be a first charge on the amount recoverable by the licensee or appointed authority for the energy supplied by him and shall be a debt due by him to the State Govt.

- (3) where any consumer fails or neglects to pay at the prescribed time and in the prescribed manner, the amount of electricity duty due from him, the licensee or the appointed authority, as the case may be, entitled to collect such dues may, without prejudice to the right of the State Govt. to recover the amount under Section 10, exercise the powers conferred on a licensee under Sub-section (1) of Section 24 of the Indian Electricity Act, 1910 as if the duty was a charge or sum due to respect of energy supplied to such consumer.
6. Records and returns- (1) If the State Govt. so direct by a general or special order a licensee or any appointed authority or the person generating energy for his own use or consumption shall maintain such record in such manner and form as may be prescribed showing-
- (i) the unit of energy generated or received by it for supply to the consumer:
 - (ii) the unit of energy supplied to the consumers or consumed by him:
 - (iii) the amount of duty payable thereon and the duty recovered or paid by him under Section 5
 - (iv) the amount of interest, if any, paid by the licensee under Section 5: and
 - (v) such other particulars as may be prescribed,
- (2) Every licensee and every appointed authority and every person generating energy for his own use or consumption, who has been directed under Sub-section (1) to maintain a record shall submit such returns in such form and manner as may be prescribed.
- (3) The amount of energy shall, for purposes of Clauses (i) and (ii) of Sub-section (1) be ascertained in such manner as may be prescribed.
7. Inspecting officers-
- (1) The State Govt. may, by notification in the Official Gazette, appoint any person as they think fit having the prescribed qualifications to be Inspector for the purposes of this Act.
- (2) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.
8. Disputes between the licensee and the consumer- (1) ¹[The Chief Electrical Officer] or such other officer not below the rank of an Assistant Engineer or an Assistant Electrical Inspector as may be authorized by the State Govt. in that behalf shall have the power to decide all disputes relating to the liability for payment of the electricity duty or exemption therefrom.

9. Power of Inspectors- (1) Subject to the provisions of any rules made by the State Government in this behalf an Inspector may-
- (i) Require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of electricity duty leviable under this Act.
 - (ii) Enter and search any premises where energy is or is believed to be supplied for the purpose of
 - (a) Verifying the statements made in the books of account kept, and returns submitted, under section 6.
 - (b) [Checking of the readings of the meters, and testing the meters, metering equipments and connection thereof;]
 - (c) Verifying the particulars required in connection with the levy of electricity duty;
 - (iii) Exercise such other powers and perform such other duties as may be necessary for carrying out the purpose of this Act or the rules made there under.
- (2) All searches made under Sub- section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.
10. Electricity Duty recoverable as arrear of land revenue- Any sum due on account of electricity duty and interest, if any, not paid within the prescribed time and in the prescribed manner shall be recoverable by the State Government as an arrear of land revenue-
- (a) In the case of energy supplied by a license, at the discretion of the State Government either from the consumer or subject to the first provision to Sub- section (1) of section 5 from the license; and
 - (b) In the case of other energy, from the person liable to pay such duty under this Act.
11. Penalties- 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 manner or form; 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 there under.
 - (c) Contravenes any rules made under this Act, he shall be guilty of an offence triable by a Magistrate of the first class and on conviction shall be liable to punishment with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

12. Power to make rules- (1) The State Government may make rules for the purpose of carrying into effect the provisions 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 adjustments under Section 3:
 - (b) the manner of collection and payment to the State Govt. of the electricity duty by the licensees and the appointing authorities:
 - (c) the time and manner of payment of the electricity duty by consumers: and
 - (d) any other matter for which provision is, in the opinion of the State Govt. necessary to be made for giving effect to the provisions of the Act.
13. removal of doubts- For the avoidance of doubt, it is hereby declared that nothing in this Act shall be taken to impose, or authorize the imposition of, a tax on the consumption or sale of electricity produced by a Govt. or other persons which is-
- (a) consumed by the State Govt. or by the Govt. of India or sold to the Govt. of India for consumption by that Govt: or
 - (b) consumed in the construction, maintenance of operations of any railway of the Govt. of India, or sold to that Govt. for consumption in the construction,
14. Power to remove difficulty- If any difficulty arises in giving affect to the provisions of the Act, the State Govt. shall have power, as occasion may arise, by order to do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them necessary for the purpose of removing the difficulty.

NOTIFICATION

No.7721-P-II-Bd.- 15/92-E Dated The 25th April 1992- In pursuance of Section 3 of the Orissa Electricity Duty Act,1961 (Orissa Act 14 of 1961), the State Government do hereby specify the rates mentioned in column (3) of the table below, at which electricity duty shall be levied and paid to the State Government on the Energy consumed by the category of consumers / consumption as specified in column (2) thereof which effect from the 1st day of April 1992.

TABLE

Sl No. (1)	Category of Consumer consumption (2)	Rate per unit in paise (3)
1.	Domestic	.... 5
2.	Commercial	.... 15
3.	Irrigation, Pumping & Agriculture	.... 5
4.	Public lighting	.... 10
5.	General purpose	.... 25
6.	Public water works & Sewerage & Pumping	.... Nil
7.	Railway Traction	.... Nil
8.	Small Industries	.... 10
9.	Medium Industries	.... 20
10.	Large Industries	.... 20
11.	Power Intensive Industries	.... 15
12.	Heavy Industries	.... 25
13.	Public Institution	.... 5
14.	Mini Steel Plant	.... 10
15.	Energy Power Supplied to Power Plant, (not owned by O.S.E.B.) and Industries having captive power plants, not having any agreement with Board for supply of Powers.....	25
16.	When energy is supplied by the Board or a licensee to a consumer by any special agreement out of the power purchased from order State Electricity Board and beyond State's share from generating stations.	.... 5
17.	A licensee or Board in its own premises	.... 6
18.	Any person not being a licensee or Board who generates such energy for his own use or consumption.	.... 12

NOTE - The classification of consumers mentioned above will be as per the classification of serve Chapter-V of the OSEB General Condition of Supply Regulation 1981 as amended to time and OSEB Notification No.- 2247-com-VII-34/91, dated the 24th March 1992 a modified by OSEB from time to time in exercise of the powers conferred by Section 59 of the Electricity (Supply) Act.

The Orissa Electricity (Duty) Rules,1961

Notification No.- ELX-178/61-1, dated the 16th December,1961-

In exercise of the powers conferred by Section 12 of the Orissa Electricity (Duty) Act,1961 (Orissa Act14 of 1961) and all other powers enabling them in this behalf the State Government do hereby make the following rules namely:

1. Short title- These rules may be called the Orissa Electricity (Duty) Rules,1961.
2. Definitions- In these rules, unless the context otherwise requires-
 - (a) “the Act” means the Orissa Electricity (Duty) Act,1961:
 - (b) “duty” means Electricity duty payable under Section 3 of the Act:
 - (c) “Electric Inspector” means Electrical Inspector to Government, Orissa, appointed under the Indian Electricity Act,1910:
 - (d) “Government Treasury” means a Treasury or Sub-Treasury of the Government: and
 - (e) all other words and expression used in these rules shall have the same meanings as have been respectively assigned to them under the Act.
- 2-A. Qualification of Inspectors- No person shall be appointed to be an Inspector under Section 7 of the Act, unless-
 - (a) he possesses a degree or diploma in Electrical Engineering from a recognized University or College or qualifications equivalent to such degree or diploma; and
 - (b) he has been regularly engaged for a period of last eight years in practice of electrical or which not less than two years have spent in an electrical or mechanical engineering workshop or in generation, transmission or distribution of electricity or in the administration of the Act and rules made there under, in position of responsibility.
3. Time and manner of collection and payment-
 - (i) A license shall include the duty leviable under the Act as a separate item in the bill of charges for the energy supplied by him, and shall recover the same from the consumer with his own charges for the supply for such energy.
 - (ii) The license shall within 30 days of the expiry of the month in which the duty has been realized.
 - (a) deposit such duty in the Government Treasury under the head “XIII- Other Taxes and Duties- Electricity Duty-B- Receipts for Electricity Duties- Other receipts – Electricity Duty” under the Orissa Electricity (Duty) Act, 1961: and

(b) send the duplicate copy of the Treasury Challan to the Electrical Inspector:

Provided that if duty has been paid by a license in respect of consumption of energy in excess of what is payable under the Act, the Electric Inspector shall authorize the refund of the excess duty so paid to the consumers concerned by adjustment in subsequent bill or bills or by payment in cash where the consumer ceases to take supplies:

¹[Provided also that in respect of Public Works Divisions all receipts will pass through the remittances.]

3-A. Rebate towards collection charges of duty- ² [Where the energy is supplied by the Orissa State Electricity Board, a rebate at the rate of two percent of the duty realized shall be allowed to the Board as collection charges every year.]

4. Manner of calculating duty- The electricity duty payable in respect of the electric energy consumed during the period between the date of coming into force of the Act and the date of first meter reading recorded thereafter (hereinafter called “the period first aforesaid”) shall be computed on the test, consumption for the period intervening between the readings immediately preceding and immediately following the enforcement of Act (hereinafter called second aforesaid”) as follows.

- | | | |
|-------|---|---|
| (i) | if the period first aforesaid is ³ [8 days] or more but is less than 16 days | ¼ of the duty which would have been payable on the total consumption for the period second aforesaid: |
| (ii) | if the period aforesaid is 16 days or more but is less than 24 days | ½ of the duty which would have been payable on the total consumption for the period second aforesaid: |
| (iii) | if the period first aforesaid is 24 days and above but is less than 32 days, and | ¾ of the duty which would have been payable on the total consumption for the period second aforesaid: |
| (iv) | if the period first aforesaid is 32 days and above | the full amount of duty which would have been payable on the total consumption for the period second aforesaid: |

Provided that in case the license is unable to include the amount of duty in the bill immediately following the enforcement of the Act for want of time, he may do so in the next bill.

5. Irrecoverable duty- Where a duty is found irrecoverable wholly or in the part, even after careful and diligent attempts to recover it, it may be written off by the State Government.
6. Keeping books of account- The license shall keep books of account containing the following particulars separately for each consumer.
- (i) Service connection number.....
 - (ii) Addressed and brief description of the premises to which the energy is supplied.....
 - (iii) Number of units of energy consumed.....
 - (iv) Date of supply.....
 - (v) Details and amount of electricity duty charged.....
 - (vi) Date of payment of electricity duty
 - (vii) Details of duty adjusted or written off in accordance with Rules 3 and 5 respectively.....
 - (viii) Date of disconnection.....

Provided that where the tariff does not involve metered supply of energy, the license shall compute the supply on a basis approved by a Electric Inspector.

7. Submission & returns- A licensee shall submit to the Electric Inspector-
- (a) returns in duplicate, in Form 'A' annexed there to within 60 days after the expiry of the half year to which the return pertains : and
 - (b) returns in duplicate, in Form 'B' within 3 months of the close of the financial year on 31st March.

8. Inspection of books of account- An inspecting Officer appointed under Section 7 of the Act, may, at any time, require a licensee to produce for inspection at the registered or other offices of the licensee such books and records in his possession or control as may be necessary for ascertaining or verifying the amount of duty leviable under Act.

9. Power of entry of Inspecting Officer- An Inspecting Officer may enter any premises where energy is or believed to be, supplied by a licensee, for the purpose of-
- (i) verifying the statements made in the books of account kept and return submitted by the licensee;
 - (ii) checking the readings of the meters; and
 - (iii) verifying the particulars required in connection with the levy of electricity duty.

10. Other duties of Inspecting Officer- An Inspecting Officer shall, as may be necessary, inspect the books of account kept and returns submitted by a licensee under Rules 6 & 7 respectively and apply a detailed test of individual entries for verifying the particulars noted by the licensee, so far as they are connected with the levy of electricity duty,¹[and send written requisitions to the Certificate Officer for realization of arrear electricity duty and interest, if any.] He shall also verify all entries relating to-
- (i) exemption from duty, and
 - (ii) adjustments allowed by licensee.
11. Provision of separate meter- Where there is combined installation using energy and part of supply of energy is dutiable and part is exempt, the consumer shall install and maintain additional, suitable and correct meter or sub- meter to register the quantities of two kinds of consumption separately.
12. Disputes between the licensee and the consumers- In the case of a dispute between a licensee and a consumer regarding liability of the consumer for the payment of the duty or exemption therefrom, the Electric Inspector shall decide the matter. An appeal against the order of the Electric Inspector shall lie within 3 months from the date of the order to an authority constituted by the State Government by a notified order.
13. Application of rules in the case of supply of energy by the State or Central Government or a person other than a licensee- The aforesaid rules shall apply in so far as may be to the supply of energy by the Central or the State Government or the State Electricity Board or by a person other than a licensee.

FORM 'A'

[See Rule7]

Return showing information regarding energy supplied to consumers, electricity duty charged thereon, recovered and paid to Government for the half- year ending September 30/ March 31.....

1. Name of the undertaking.....
2. Total units generated.....
3. Total units supplied.....
4. Less.....

Exempted: Units sold to-

- (a) State Government or Central Government save in respect of premises used for residential purposes.....
- (b) Railway Administration save in respect of premises used for residential purposes.....
- (c) I[* * *]
5. Net number of units dutiable.....
6. Amount of electricity duty for units shown at 5 above Rs.....
7. Plus: Recoveries made for consumers disconnected.....
8. Plus: Outstanding dues from previous returns and portion thereof since recovered.....
9. Less: Refunds or adjustments on account of write-off of irrecoverable dues, etc., allowed as per schedule attached.....
10. Less: Recoverable outstanding against consumers disconnected.....
11. Amount of duty refunded Rule 3, vide Schedule I attached.....
12. Amount written off under Rule 6, vide Schedule II attached.....
13. Amount paid into Treasury –Treasury Challan No.....dated Rs.....

SCHEDULE I FORM 'A'

Amount of electricity duty refunded under Rule 3 during the half-year ending September, 30/
March 31.....

Name of the undertaking.....

Serial No.	Service connection No.	Name & address of the consumer	Amount of duty refunded	Ledger account No.	Electric Inspector's sanction Ref. No.- and date	Remarks
1	2	3	4	5	6	7
Rs. nP						

SCHEDULE II TO FORM 'A'

Amount of electricity duty written off under Rule 5 of the half-year ending September, 30/
March 31.....

Name of the undertaking.....

Serial No.	Service connection No.	Name & address of the consumer	Amount of duty written off	Ledger account No.	Government sanction Ref. No.- and date	Remarks
1	2	3	4	5	6	7
Rs. nP						

FORM 'B'

Return of electricity for the year ending March 31, 19/20.....

1. Name of the undertaking.....
- 2 (i) Amount shown outstanding in the previous return as on the 31st March 19
- (ii) Add-
Total amount of duty billed for the year as per Col.2 of the Schedule attached hereto

Total of (i) & (ii)_____

3. Less-
- (i) Total amount paid to Government for the year as per Col.3 of the Schedule attached hereto
- (ii) Refunds as per Col.4 of the Schedule attached hereto
- (iii) Written off as per Col.5 of the Schedule attached hereto
- (iv) Adjustment as per Col.6 of the Schedule attached hereto
- Total of (i) & (iv)
- Balance outstanding as on the 31st March 19/20.....(2-3)

SCHEDULE TO FORM 'B'

Name of the undertaking.....

Years 19..... Months	Amounts of duty billed vide Rule 3.	Amount paid to Government vide Rule 3	Refunds vide Rule 3	Written off vide Rule 5	Adjustment
1	2	3	4	5	6

	Rs. nP	Rs. nP	Rs. nP	Rs. nP	Rs. nP
April				
May				
June				
July				
August				
September				
October				
November				
December				
January				
February				
March				
<hr/>					
Total				

