



GOVERNMENT OF ODISHA

THE ODISHA ELECTRICITY (DUTY) ACT, 1961

(Odisha Act 14 of 1961)

(As modified up to the 31st May, 2017)

LAW DEPARTMENT

THE ODISHA ELECTRICITY (DUTY) ACT, 1961

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ODISHA ACT 14 OF 1961

[THE ODISHA ELECTRICITY (DUTY) ACT, 1961]

**[Received the assent of the Governor on the 14th October 1961,
first published in an extraordinary issue of the Odisha Gazette,
dated the 14th October 1961]**

**An Act to levy a duty on the consumption of electrical energy on the
State of Odisha**

BE it enacted by the Legislature of the State of Odisha in the Twelfth Year of the Republic of India as follows :

Short title
extent and
commencement.

1. (1) This Act may be called the Odisha Electricity (Duty) Act, 1961.
- (2) It shall extend to the whole of the State of Odisha.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "appointed authority" means—

¹[(i) in case of undertaking or licensee or persons engaged in the business of supplying electricity to consumers or persons engaged in generating electricity, such officer or authority as may be appointed by such undertaking, licensee or persons, as the case may be, in this behalf;]

(ii) in any other case such officer or authority as the State Government may appoint in this behalf ;

²[(b) "auxiliary consumption" means the consumption of energy by auxiliary equipments of the generation station, which is used for the purpose of operating plant and machinery including switch yard of the generating station and the transformer losses within the generating station :

Provided that such consumption shall not include energy consumed for supply of power to Housing Colony and other facilities at generating station and the energy consumed for any construction work at the generating station;]

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For Statement of Objects and Reasons see *Odisha Gazette* Ext. No. 647, dated the 19th September 1961; and

For Report of the Select Committee see *Odisha Gazette* Ext. No. 683 of 1961

Came into force with effect from the 16th October 1961 vide *Odisha Gazette* Ext. No. 727/1961

1. Substituted by Odisha Act 11 of 2016, s.2(a)

2. Substituted by Odisha 11 of 2016, section .2(b)

¹[(c) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Electricity Act, 2003 or any other law for the time being in force and includes any person whose premises are, for the time being, connected for the purpose of receiving electricity in connection with the works of a licensee, the Government or such other person, as the case may be and also includes such person who generates such energy for his own use or consumption including auxiliary consumption;] 36 of 2003

(d) "energy" means electrical energy;

²[(d-i) "energy charge" means charges as specified in the licensees' tariff, approved by the Odisha Electricity Regulatory Commission constituted under the Odisha Electricity Reform Act, 1995 which is payable by the consumer on the basis of actual or evaluated consumption of energy, as the case may be;] Odisha Act, 2 of 1996.

³[(e) "licensee" means licensee as defined in clause (39) of section 2 of the Electricity Act, 2003;] 36 of 2003

⁴[(e-1) (***)]

(f) "Prescribed" means prescribed by rules made under this Act;

⁵[(g) "unit" means 1 kilowatt hour of energy.]

⁶[(h) words and expressions not defined in this Act but defined in the Indian Electricity Act, 1910, shall have the meaning assigned to them in that Act.]

Electricity
duty on
energy
supplied to
consumers.

3.⁷[(1) Subject to the provisions of this Act, there shall be levied and paid to the State Government with effect from the date of the commencement of the Odisha Electricity (Duty) Amendment Act, 2016, a duty (hereinafter referred to as the electricity duty),—

(a) at such percentum not exceeding fifteen percentum on the energy charges as the State Government may, by notification, specify, from time to time, on the energy consumed by a consumer, a consumer in respect of energy supplied to him free of cost by a licensee or by any person who generates such energy or any person to whom the energy is supplied through open access or any other category of consumers to whom energy is supplied by any special agreement between the consumer and the licensee approved by the Odisha Electricity Regulatory Commission, other than a licensee who consumes energy in its own premises and any person, not being a licensee who generates such energy for his own use or consumption;

1. Substituted by Odisha Act, 11 of 2016, s.2(c)

2. Inserted by Odisha Act, 11 of 2016, s.2(d)

3. Substituted by Odisha Act, 11 of 2016, s.2(e)

4. Omitted by Odisha Act, 11 of 2016, s.2(e-1)

5. Substituted by Odisha Act, 9 of 1986, s.2(g)

6. Substituted by Odisha Act, 11 of 2016, s.2(h)

7. Substituted by Odisha Act, 11 of 2016, s.3

- (b) at such rate not exceeding two rupees per unit as the State Government may, by notification, specify, from time to time, on the energy consumed by a licensee in its own premises and any person, not being a licensee who generates such energy for his own use or consumption:

Provided that different rates of electricity duty may be levied for different categories of consumer or consumption :

Provided further that where energy consumed is billed by the licensee or any person on the basis of evaluated energy consumption—

- (i) on minimum charges;
- (ii) in case of defective meters ; and
- (iii) in case of un-metered supply,

there shall be paid electricity duty on the same number of units as is arrived at by the licensee or the person 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 this sub-section:

Provided also that, in case of consumption, where there is defective meter or no meter, or there has been non-maintenance of record and non-submission of return under section 6 by the generating plant, the Inspecting Authority, by taking into account all relevant materials and after giving the generating plant an opportunity of being heard, shall make the assessment of the electricity duty to the best of his judgment and determine the electricity duty payable by such generating plant on the basis of such assessment.

(2) Every notification issued under sub-section (1) shall, as soon as it is published, be laid before the Legislative Assembly for a period of fourteen days which may be comprised in one or more sessions.

(3) Notwithstanding anything contained in the foregoing sub-sections, no electricity duty shall be levied and paid in respect of energy generated by a plant having a capacity not exceeding fifty KVA.

(4) The State Government may, by notification, subject to such condition and exception, exempt any industry from payment of electricity duty to such extent and for such period as may be specified in the notification.]

Consumers
to pay
electricity
duty.

4. ¹[The amount of electricity duty levied under section 3 on the energy consumed by a 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.]

Collection of
electricity
duty.

5. (1) The electricity duty shall be collected from the consumer and paid to the State Government—

¹[(a) where the energy is supplied by a licensee or person, by such licensee or person;]

²[(b) (* * *)]

³[(c) where the energy is generated by a person for his own use or consumption, 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 Government with the prescribed period the licensee or such person shall be liable to pay interest at the rate of ⁴[eighteen percent] per annum ⁵[after expiry of the prescribed period] 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 Government:

⁶[Provided that, where any consumer makes any part payment of his dues so payable to the licensee or the appointed authority, the electricity duty and the interest, if any, so payable shall be paid, by the licensee or appointed authority in proportion on the amount so paid :

Provided further that the amount of electricity duty so payable to the State Government by the licensee or appointed authority shall be first adjusted towards the interest, if any, then the arrear and then the current electricity duty;]

(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 Government to recover the amount ⁷[under sections 10 and 10-A], exercise the powers conferred on a licensee ⁸[under section 56 of the Electricity Act, 2003] as if the duty was a charge or sum due in respect of energy supplied to such consumer.

1. Substituted by Odisha Act, 11 of 2016 s.4 (a) (i)

2. Omitted by Odisha Act, 11 of 2016 s.4 (a) (ii)

3. Substituted by Odisha Act, 11 of 2016 s.4 (a) (iii)

4. Inserted by Odisha Act, 9 of 1986 s. 5

5. Inserted by Odisha Act, 11 of 2016 s. 4 (a) (iv)

6. Added by Odisha Act, 11 of 2016 s. 4 (b)

7. Substituted by Odisha Act, 11 of 2016 s.4 (c)

8. Substituted by Odisha Act, 11 of 2016 s.4 (c)

Liability in
case of
transfer.

¹[(5-A1) Where a licensee or person or consumer, liable to pay electricity duty under this Act, transfers his business or property, whole or in part, by sale, lease or license or hire or in any other manner whatsoever, such licensee or person or consumer and the person to whom such transfer is made, shall jointly and severally, be liable to pay electricity duty and interest, if any, due from such licensee, person or consumer, whether such duty including interest, if any, have been determined before or after such transfer.

(2) In case of closed unit where supply of electricity is disconnected and such unit is subsequently transferred by way of sale or lease or license or hire by order of any Authority or otherwise, supply of electricity shall not be reconnected until arrear electricity duty is cleared in whole.

(3) Where a liquidator or receiver has been appointed in a liquidation proceeding, he shall be liable for payment of electricity duty including the arrear and the interest, if any, which the Company would have been liable to pay under this Act :

Provided that, where there are more than one liquidator, the obligations and liabilities attached to the liquidator shall be attached to all liquidators jointly and severally :

Provided further that when any private Company is wound-up and any electricity duty including any arrear and the interest, if any, determined under this Act on the Company for any period, whether before or during the course of or after its liquidation, cannot be recovered, then every person who was a Director of such Company, except the Directors nominated by the Government, if any, if he was a Director during the period for which the electricity duty or arrear or interest is due shall be jointly and severally liable for payment of such dues unless he proves that such liability cannot be attributed to his willful neglect, misfeasance or breach of duty on his part in relation to the affairs of the Company.]

Records and
returns.

6. (1) ²[A licensee or a person] 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 ;

³[(iii-a) the amount of electricity charges billed for various consumers category wise ;]

- (iv) the amount of interest, if any, paid by the licensee under Section 5 ; and
- (v) such other particulars as may be prescribed.

1. Inserted by Odisha Act No. 11 of 2016, s.5

2. Substituted by Odisha Act No. 11 of 2016, s.6(a)

3. Inserted by Odisha Act 11 of 2016, s.(b)

(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.

Inspecting officers.

7. ¹[(1)The Chief Electrical Inspectors and Electrical Inspectors appointed under section 162 of the Electricity Act, 2003 shall respectively, be, not below the rank of Chief Engineer (Electrical) of the State Government and not below the rank of Executive Engineer (Electrical) of the State Government and shall be the deemed to be the inspecting officers for the purpose of this Act.]

36 of 2003

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

²[Dispute resolution.]

8. ³[(1) The Chief Electrical Inspector, Electrical Inspector or Deputy Electrical Inspector as may be authorized by the State Government within the local limit as may be specified in that behalf shall have the powers to decide all disputes relating to the liability for payment of the electricity duty or exemption therefrom :

Provided that, in case of any dispute relating to exemption of electricity duty as an incentive under different Policy Resolutions of the State Government, such dispute shall be referred to the Secretary to Government, Energy Department, whose decision shall be final.

(1-a) Any person aggrieved by the order passed by the authority referred to in sub-section (1), may prefer an appeal accompanied with such fee as may be prescribed, before,—

- (a) the Principal Chief Electrical Inspector, where the order is passed by the Chief Electrical Inspector ;
- (b) the Chief Electrical Inspector, where the order is passed by the Electrical Inspector ; and
- (c) the Electrical Inspector, where the order is passed by the Deputy Electrical Inspector,

within one month from the date of the order passed under sub-section (1) and the decision in appeal under this sub-section shall be final subject to appeal, if any, preferred under sub-section (2) :

1. Substituted by Odisha Act No. 11 of 2016, s.7

2. Substituted by Odisha Act No. 11 of 2016, s.8

3. Substituted by Odisha Act No. 11 of 2016, s.8

Provided that no appeal shall be admitted unless the appellant makes a deposit of fifty per centum of the amount disputed ;]

(2) Subject to the decision in appeal before such authority as may be constituted by the State Government in that behalf by a notified order preferred within three months from the date of the order ¹[under sub-section (1-a)] such order shall be final.

Power of
Inspectors.

9. (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) ²[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 thereunder.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

Electricity
duty
recoverable
as arrear of
land revenue

10. 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 proviso 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.

1. Substituted by Odisha Act No. 11 of 2016, s.8

2. Substituted by Odisha Act No. 9 of 1986, s.9

[10-A. (1) Notwithstanding anything contained in Section 10, any sum due on account of electricity duty and interest, if any, if not paid within the prescribed time by the licensee, consumer or appointed authority, as the case may be, (hereinafter referred to as defaulter), Government or any officer authorized in writing in this behalf, may, by notice in writing, a copy of which shall be forwarded to the defaulter concerned at his last address, require any person from whom any money is due or may become due to the defaulter or any person who holds or may subsequently hold any money for or on account of such defaulter, to pay into Government Treasury, in the manner specified in the notice issued under this sub-section, either forthwith or upon the money becoming due or being held or at or within the time specified in the notice, so much of the money as is sufficient to pay the electricity duty along with the interest, if any, due from the defaulter as payable under this Act.

(2) The Government or any officer so authorized may, at any time or from time to time amend or revoke any notice issued under sub-section (1) or extend the time for making the payment in pursuance of such notice.

(3) Any person, making any payment in compliance with a notice issued under sub-section (1), shall be deemed to have made the payment under the authority of the defaulter and the receipt from the Government Treasury shall constitute a good and sufficient discharge of the liability of such person to the defaulter to the extent of the amount specified in the receipt.

(4) Any person, discharging liability to the defaulter after service of the notice under sub-section (1) on him shall, if the liability is discharged in any manner other than that required under the said notice, be personally liable to the Government to the extent of the liability so discharged or to the extent of the liability of the defaulter for the electricity duty due under this Act along with the interest, if any, as payable, whichever is less.

(5) Where a person, on whom a notice is served under sub-section (1), proves to the satisfaction of the Government or any officer so authorized that the money demanded or any part thereof was not due to the defaulter or that he did not hold any money for or on account of the defaulter, at the time the notice was served on him or that the money demanded or any part thereof is not likely to become due to or to be held for or on account of, the defaulter, then nothing contained in this section shall be deemed to require such person to pay into Government Treasury any such money or part thereof, as the case may be.

(6) Any amount of money which a person is required to pay under sub-section (1) or for which he is personally liable to the Government under sub-section (4) shall, if it remains unpaid, be recoverable in the same manner as provided under Section 10 :

Provided that nothing in this section shall operate to affect any action taken or that may have been taken or prevent any action that may be or is being taken under Section 10 for recovery from the defaulter the amount due from him.]

Penalties

11. ¹[(1)] 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 thereunder ;
- (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.

²[(2) Save as provided under sub-section (1), if any person, engaged in generating energy for his own use or consumption or to supply power to any person free of charges or to supply power to any person through open access, evades or attempts to evade the payment of electricity duty whether by maintaining false records or by submitting false returns or by concealing the energy consumed by it or by any other means, such person shall, in addition to electricity duty payable under this Act, be liable to pay by way of fine not exceeding one thousand rupees for each day of delay, from the date of detection, but the same shall not exceed a sum of one lakh rupees :

Provided that no action under this sub-section shall be taken without affording such person a reasonable opportunity of being heard.]

Power to
make rules.

12. (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 Government 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 Government necessary to be made for giving effect to the provisions of this Act.

1. Renumbered and inserted by Odisha Act No. 11 of 2016, s.10

2. Inserted by Odisha Act No. 11 of 2016, s.10

Removal of doubts.

13. 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 Government or other persons which is —

- (a) consumed by the State Government or by the Government of India or sold to the Government of India for consumption by that Government ; or
- (b) consumed in the construction, maintenance of operations of any railway of the Government of India, or sold to that Government for consumption in the construction, maintenance of operation of any railway.

Power to remove difficulty.

14. If any difficulty arises in giving affect to the provisions of the Act, the State Government 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.