

THE KERALA ELECTRICITY DUTY ACT, 1963
 (Act 23 of 1963)

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ACT 23 OF 1963*

THE KERALA ELECTRICITY DUTY ACT, 1963

An Act to unify and amend the laws relating to the levy of duty on sale and consumption of electrical energy in the State of Kerala.

Preamble.—Whereas it is expedient to unify and amend the laws relating to the levy of duty on the sales and consumption of electrical energy in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Electricity Duty Act, 1963.

(2) It extends to the whole of the State of Kerala.

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

* Received the assent of the Governor on 31st March 1963 and published in the Gazette Extraordinary, dated 1st April 1963.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “ consumer ” includes a local authority, company or other person to whom energy is supplied by a licensee on payment of charges or otherwise, and a licensee or other person who consumes energy generated by himself, but does not include a licensee to whom energy is supplied by the State Electricity Board for supply to others,

Explanation :—Where a licensee to whom energy is supplied by the Kerala State Electricity Board for supply to others, himself consumes any part of the energy, he shall be deemed to be a consumer in respect of energy so consumed except energy lost in distribution ;

(b) “ electricity duty ” means a duty levied under section 3 or section 4 of the Act ;

(c) “ energy ” means electrical energy ;

(d) “ licensee ” means—

(i) the Kerala State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (Central Act 54 of 1948) ;

(ii) 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 is deemed to have been so licensed and any other person who has obtained the sanction of the Government under section 28 of the said Act ; and

(iii) the Government when it is engaged in the business of supplying energy ,

(e) “ prescribed ” means prescribed by rules made under this Act.

3. *Levy of Electricity Duty on certain sales of energy by licensees.*—(1) Save as otherwise provided in sub-section (2) every licensee in the state of Kerala shall pay every month to the Government in the prescribed manner, a duty calculated at 6 naye Paise per unit of energy sold at a price of more than 12 naye Paise per unit :

Provided that no duty under this sub-section shall be payable by the Kerala State Electricity Board on the energy sold by it to another licensee.

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

(3) The duty under this section on the sales of energy should be borne by the licensee and shall not be passed on to the consumer.

4. *Levy of Electricity Duty on consumers.*—Every consumer belonging to any of the classes specified in column (2) of the Schedule shall pay every month to the Government in the prescribed manner a duty calculated at the rate specified against that class in column (3) thereof :

Provided that in cases where the supply of energy to a consumer is regulated by an agreement entered into between the Government or the

licensee and the consumer it shall be competent for the Government either to reduce the rate at which duty is leviable on such consumer or to exempt such consumer from payment of duty under this section subject to such terms and conditions as may be imposed by the Government.

5. *Collection and payment of electricity duty levied on consumers.*—

(1) Every licensee shall collect and pay to the Government at the time and in the manner prescribed, the electricity duty payable under section 4 of this Act on the units of energy consumed by every consumer to whom energy is supplied by him. The duty so payable shall be a first charge on the amounts recoverable by the licensee for the energy consumed, and shall be a debt due by him to the Government.

(2) When any consumer fails or neglects to pay at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee may, without prejudice to the right of the Government to recover the amount under section 8, after giving not less than seven clear days' notice in writing to such consumer, cut off supply of energy to such consumer ; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for the recovery of any charge or sum due in respect of energy supplied by him.

6. *Books of account, etc.*—Every licensee shall keep books of account, in the prescribed form and submit to the Government or to the prescribed officer returns in such form and at such times as may be prescribed showing the units of energy consumed by him or supplied by him to each consumer, as the case may be, and the amount of duty payable thereon and recovered or paid by him under this Act, or showing such other particulars as may be prescribed.

7. *Inspecting Officers.*—(1) The Government may by notification in the Gazette, appoint Inspecting Officers to inspect the books of account required to be kept by licensees under section 6.

(2) The Inspecting 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.

8. *Recoveries.*—Any sum due on account of electricity duty, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon such interest not exceeding twelve per cent per annum which the Government may by general or special order fix, shall be payable on such sum ; and the sum, together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue—

(i) if the amount was payable under section 3, from the licensee ; and

(ii) if the sum was payable under sub-section (1) of section 5, either from the consumer or from the licensee, at the option of the Government.

9. *Penalties.*—If any licensee—

(a) fails to keep books of account or to submit returns as required by section 6, or

(b) intentionally obstruct an Inspecting Officer appointed under section 7 in the performance of his duties or the exercise of his powers under this Act and the rules made thereunder, he shall be punishable with fine which may extend to one thousand rupees.

10. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, 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 provided in this Act 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 is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, 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 a 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.

11. *Power to exempt.*—The Government may in public interest, by notification in the Gazette, exempt any licensee from the payment of the whole or part of the electricity duty for such period and subject to such terms and conditions as may be specified in such notification.

12. *Savings.*—For the avoidance of doubt, it is hereby declared that nothing in this Act shall be taken to impose or authorise the imposition of, a duty on the consumption or sale of electricity (whether produced by Government or other persons) which is—

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

13. *Power to make rules*—(1) The 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 the manner of payment of electricity duty under sections 3 and 4;
- (b) the form of the books of account required to be kept under section 6;
- (c) the times at which, the form in which, and the officers to whom, the returns required by section 6 should be submitted;
- (d) the duties and powers of Inspecting Officers appointed under section 7; and
- (e) 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 Government, necessary for giving effect to the purpose of this Act.

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

(4) Every rule made under this Act and every notification issued under section 11 or section 14 shall be laid, as soon as may be after it is made, before the 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 Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made, the rule or notification 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 that rule or notification.

14. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments repealed by section 16, the Government may, by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

15. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith, done or intended to be done under this Act.

16. *Repeal.*—The Madras Electricity Duty Act, 1939 (Act V of 1939) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 and the Travancore-Cochin Electricity Duty Act, 1950 (Act IV of 1950) are hereby repealed.

SCHEDULE

(See section 4)

<i>Column (1)</i> <i>Item</i>	<i>Column (2)</i> <i>Class of Consumers</i>	<i>Column (3)</i> <i>Rates of Duty</i>
1.	Domestic and Commercial consumers consuming energy for purposes like lighting and combined installation of lights and fans, radios, refrigerators, small cookers, air conditioning plants, heaters, pumps, all electric homes, cinematograph installations and motion picture studios.	10 per cent of the price of energy indicated in the invoice.
2.	Public Lighting.	Nil.
3.	Consumers of energy for agriculture purposes.	10 per cent of the price of energy indicated in the invoice.
4.	INDUSTRIAL CONSUMERS.	
	(a) Consumers taking supply of energy at points below 11 KV.	10 per cent of the price of energy indicated in the invoice.
	(b) Consumers taking supply of energy at 11 KV. and above.	20 per cent of the price of energy indicated in the invoice.