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THE RAJASTHAN ELECTRICITY (DUTY) ACT, 1962

THE RAJASTHAN ELECTRICITY (DUTY) ACT, 1962
(ACT NO. 12 OF 1962)

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 21ST DAY OF MAY, 1962]

An ACT to levy a duty on the consumption of electrical energy in Rajasthan;

WHEREAS it is expedient to levy a duty on the consumption of electrical energy in Rajasthan.

Be it enacted by the Rajasthan State Legislature in the thirteenth year of the Republic of India as follows:—

(1) Short title and extent. -

- (1) This Act may be called the Rajasthan Electricity (Duty) Act, 1962.
- (2) It extends to the whole of Rajasthan.

(2) Definitions.-

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

- (a) "Board" means the Rajasthan State Electricity Board constituted under chapter III of the Electricity (supply) Act, 1948 (Central Act 54 of 1948);
- ¹[(b) "Commissioner" means the Commissioner, Commercial Taxes, Rajasthan, and includes the Additional Commissioner, Commercial Taxes, Rajasthan];
- (c) "Consumer" means a person who is supplied with energy by a supplier ²[or by any other person who generates energy] and includes a supplier in respect of the energy consumed by him in or upon premises used by him for his commercial or residential purposes;
- (d) "energy" means electrical energy;
- (e) "net rate charged" means the rate charged less any rebate or other deduction that may be allowed by the supplier;
- (f) "Prescribed" means prescribed by rules made under this Act;
- (g) "rate charged" means the rate per unit, charged for energy by the supplier from the consumer, and does not include hire for meter or service.

Provided that where a minimum charge or a fixed charge is payable by a consumer instead of a rate per unit, the rate charged shall be deemed to be the same as for other consumers of the same category;

- (h) "supplier" means the Board or a licensee licensed under chapter 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 u/s 28 of the said Act;
- (i) 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.

³[(3) Electricity duty on energy consumed.-

There shall be levied for, and paid to, the State Government on the energy consumed by a consumer or by a person other than a supplier generating energy for his own use or consumption a duty (hereinafter referred to as the "electricity duty") computed at such rate^[xx] as may be fixed by the State Government from time to time by notification in the Official Gazette:

Provided that—

- (1) in respect of consumption of energy under a temporary connection obtained, by a consumer from the supplier for a period not exceeding such number of days, for such purpose and exceeding such units as may be prescribed, the duty may be computed at a rate as may be fixed by the State Government from time to time by a notification in the Official Gazette;
- (1A) The total of the duty so levied and the net rate charged per unit shall not exceed the rate as may be notified by the State Government from time to time by a notification in the Official Gazette; and
- (1B) where energy is consumed by a cultivator in agricultural operations under a non-metered supply, the electricity duty shall be levied and charged at a rate as may be notified by the State Government from time to time.]
- (2) the electricity duty shall not be levied on the energy consumed—
 - (a) by the Government of India;
 - (b) in the construction, maintenance or operation of any Railway by the Government of India;⁴[(bb) Where the energy is generated at a voltage not exceeding 100 volts;]

¹ Subs. by Raj. Act No. 30 of 1964

² Ins. by Raj. Act No. 5 of 1979

³ Subs. by Act No, 15 of 1995 [except its provisos (2) & (3)]

⁴ Ins. by Raj. Act No. 5 of 1979

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- (c) [omitted by Act No. 8 of 1982 w.e.f. 3.3.1982],
- (d) by the following classes of institutions, namely:—
 - (i) hospitals or dispensaries, which are not maintained for private gain,
 - (ii) recognised educational institutions,
 - (iii) place of public worship,

subject to the condition that the exemption Under this sub-clause shall not be applicable to energy consumed in buildings or part of buildings, used for commercial or residential purposes.

¹[(3) Where the State Government is of opinion that it is necessary or expedient in the public interest to do so, it may by notification in the Official Gazette, ²[and on such terms, conditions and restrictions as may be laid down in the notification], reduce or remit—

- (a) the electricity duty on the energy consumed—
 - (i) by a consumer in any industry in the manufacture, production, processing or repair of goods;
 - ³[(ia) by a person generating energy for his own use or consumption;]
 - (ii) by or in respect of any mine as defined in the Mines Act. 1952 (Central Act 35 of 1952),
- (b) Whether Prospectively or retrospectively, the electricity duty on the energy consumed by or in respect of any Municipal Board or Council or Panchayat or Panchayat Samiti or other local authority, for the purpose of, or in respect of public street lighting;

Subject, however, in the case of clause (a), to the condition that any reduction, or remission so made shall not be applicable to energy consumed in respect of any premises used for commercial or residential purposes.]

⁴[3A. Levy of electricity duty during certain period.-

- (1) Notwithstanding anything contained in this Act but subject to the statutory exemptions granted under sub-section (2) of section 3, there shall be levied and paid to the State Government from 3rd March, 1982 the electricity duty at the rate shown against each category of consumption as given below, and such rate shall be deemed modified by the notification issued from time to time after 3rd March, 1982 under section 3:—

1	Industrial including mining	6paiseperunit
2	Agriculture	
	(i) in the case of metered supply	1 paise per unit
	(ii) in the case of non-metered supply	5% of the flat rate
3	Commercial, domestic and others	6 paise per unit
4	Consumption under temporary connection	15 paise per unit
5	Consumption of self-generated energy for any purpose	6 paise per unit]

4. Consumers to pay electricity duty.—

The amount of electricity duty levied u/s 3 on the energy consumed by a consumer shall be payable by, and be collected and recovered from, the consumer 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 Government by the supplier:
Provided that, where the amount of electricity duty collected by the supplier from the consumer is not paid to the State Government within the prescribed period, the supplier shall be liable to pay interest at the rate of 12.5% per annum on the amount of 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 supplier for the energy supplied by him and shall be a debt due by him to the State Government,
- (3) Where any consumer fails or neglects to pay, within the prescribed time and in the prescribed

¹ Subs. by Raj. Act No. 9 of 1965

² Ins. by Raj. Act No. 5 of 1979

³ Ins. by Raj. Act No. 5 of 1979

⁴ Ins. by Raj. Act No. 12 of 1992

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manner, the amount of electricity duty due from him, the supplier may, without prejudice to the right of the State Government to recover the amount under section 8 and after giving not less than seven days clear notice in writing to such consumer, cut off the supply of energy to such consumer.

- (4) The supplier ¹[and the person supplying energy free of charge] may, for the purpose of sub-section (2), exercise the powers conferred on a licensee under sub-section (1) of section 24 of the India Electricity Act, 1910 (Central Act 9 of 1910), as if the duty was a charge of sum due in respect of energy supplied to such consumer,

- ²[(5) Every person, other than a supplier, who generates energy and supplies the same to any other person free of charge, shall collect and pay to the State Government, at the time and in the manner prescribed, the electricity duty payable under this Act on the **units of energy consumed by the other person.**]

Provided that where the amount of electricity duty collected by such person is not paid to the State Government within the prescribed period, he shall be liable to pay interest at the rate of 12.5% per annum on the amount of electricity duty remaining so unpaid until the payment thereof is made.

- (6) Every person, **other than a supplier**, who generates energy and supplies the same to any other person free of charge, shall collect and pay to the State Government, at the time and in the manner prescribed, the electricity duty payable under this Act on the units of energy consumed by the other person.

Provided that where the amount of electricity duty collected by such person is not paid to the State Government within the prescribed period, he shall be liable to pay interest at the rate of 12.5% per annum on the amount of electricity duty remaining so unpaid until the payment thereof is made.]

6. Records and Returns.-

- (1) If the State Government so directs by a general or special order, a supplier ³[and a person liable to pay electricity duty under sub-section (5) of section 5 and a person not being a supplier who supplies energy free of charge as mentioned in sub-section (6) of section 5] shall maintain such record in such manner or form as may be prescribed showing:—
- (i) the units of energy generated or received by ⁴[him] for supply to the consumers;
 - (ii) the units of energy supplied to consumers or consumed by him;
 - (iii) the amount of the duty payable thereon and the duty recovered or paid by him under section 5;
 - (iv) the amount of interest, if any **paid ⁵[***] under** section 5; and
 - (v) such other particulars as may be prescribed.
- (2) Every supplier ⁶[and a person liable to pay duty under sub-section (5) of section 5 and a person not being a supplier who supplies energy free of charge as mentioned in sub-section (6) of section 5] who has been directed under sub-section (1) to maintain a record shall submit returns in such form or manner as may be prescribed.
- (3) The amount of energy shall, for purpose of clauses (i) and (ii) of sub-section (1), be ascertained in such manner as may be prescribed.

7. Duties and powers.-

- ⁷[(1)] The Commissioner and such officers as may be appointed to assist him shall perform such duties and exercise such powers as may be prescribed.

- ⁸[(2) Subject to the provisions of any rules made by the State Government in this behalf, the officers appointed to assist the Commissioner if so specially empowered in this behalf by him, and any other officer specially empowered by the State Government in this behalf, may—

- (a) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of electricity duty leviable under the Act;
- (b) enter and search any premises where energy is or is believed to be supplied for the purpose of—
 - (i) verifying the statements made in the books of account kept and returns submitted

¹ Ins. by Raj. Act No. 5 of 1979

² Added by Raj. Act No. 5 of 1979

³ Ins. by Raj. Act No. 5 of 1979

⁴ Subs. by Raj. Act No. 5 of 1979

⁵ Omitted by Raj. Act No. 5 of 1979

⁶ Ins. by Raj. Act No. 5 of 1979

⁷ Numbered by Raj. Act No. 5 of 1979

⁸ Added by Raj. Act No. 5 of 1979

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under section 6;

(ii) testing the reading of meters;

(iii) verifying the particulars required in connection with the levy of electricity duty; and

(c) exercise such other powers and perform such other duties as may be necessary for carrying but the purposes of this Act or the rules made thereunder.

(3) All searches made under sub-section (2) shall be made in accordance with the provisions of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).]

8. Electricity Duty Recoverable as arrears of land revenue.-

Any sum due on account of electricity duty and interest, if any, if not paid within prescribed time and in the prescribed manner shall be recoverable by the State Government as an arrear of land revenue,¹[in the case of a person liable to pay duty under sub-section (5) of section 5, from such person, and in other cases], at the discretion of the State Government either from the consumer or from the supplier²[or as the case may be, from the person supplying energy free of charge as mentioned in sub-section (6) of section 5.]

³[Provided that the Commissioner may, in pursuance of any recommendation of the State Government, defer the recovery of electricity duty in respect of an industrial unit declared as sick by the Board of Industrial and Financial Reconstruction constituted under the Sick Industrial Companies (Special Provisions) Act, 1985 (Central Act No. 1 of 1986) for such period not exceeding five years and on such conditions with regard to the payment or rate of interest as may be specified in such recommendation.]

9. Penalties.-

⁴[(1)] If any person—

(a) required by section 6 to keep record or to submit return fails to keep or submit the same in the prescribed manner or form; or

(b) intentionally obstructs the Commissioner or any other officer appointed under section 7 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:

Provided that the prescribed authority may compound such a case on payment of a sum not exceeding two hundred rupees.

⁵[(2)] If any person keeps any record or submits any return specified in section 6, which he knows or has reasonable cause to believe, to be false, or not true in any material particulars, he shall be liable, on conviction before a Magistrate, to a fine not exceeding Rs. 1000/-.

Provided that the prescribed authority may compound such a case on payment of a sum not exceeding Rs. 1000/-.]

⁶[9A. Offences by companies.-

(1) Where an offence under this Act has been committed by a company, every officer 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 purpose of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

¹ Ins. by Raj. Act No. 5 of 1979

² Ins. by Raj. Act No. 5 of 1979

³ Ins. by Raj. Act No. 12 of 1992

⁴ Numbered by Raj. Act No. 5 of 1979

⁵ Added by Raj. Act No. 5 of 1979

⁶ Ins. by Raj. Act No. 5 of 1979

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(b) "director" in relation to a firm means a partner in the firm.

9B. 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.]

10. 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 electricity duty;
 - (b) the manner of collection and payment to the State Government of the electricity duty by the supplier;
 - (c) the time and manner of payment of the electricity duty by consumers,
 - ¹[(cc) the time and manner of payment of electricity duty by a person liable to pay duty under sub-section (5) of section 5:
 - (ccc) provide for installation and the reading of meters and sub-meters and for getting them tested by an Electrical Inspector or by any other prescribed officer or authority; "
 - (cccc) the officer or authority which shall decide the dispute, if any, arising under the Act or the rules framed thereunder and prescribe the authority to which an appeal shall lie against the order passed on such dispute and the procedure for referring dispute to the officer or authority and for filing appeal;]
 - (d) any other matter for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.
- (3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or 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 thereunder.

11. Repeal.-

The Bombay Finance Act, 1932, in so far as it applies to Abu Area, is hereby repealed.

¹ Ins. by Raj. Act No. 5 of 1979