



The Orissa Electricity (Duty) Act, 1961

Act 14 of 1961

Keyword(s):

Consumer, Energy, Licensee, Maximum Demand, Rate Charged

Amendment appended: 19 of 1992

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ORISSA ACT 14 OF 1961
THE ORISSA ELECTRICITY (DUTY) ACT, 1961

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ORISSA ACT 14 OF 1961

[THE ORISSA ELECTRICITY (DUTY)
ACT, 1961]

[Received the assent of the Governor on the 14th
October 1961, first published in an extra-
ordinary issue of the Orissa Gazette, dated
the 14th October 1961]

AN ACT TO LEVY A DUTY ON THE
CONSUMPTION OF ELECTRICAL
ENERGY IN 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:—

1. (1) This Act may be called the Orissa Electricity (Duty) Act, 1961.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of the State of
Orissa.

(3) It shall come into force² on such date as the
State Government may, by notification, appoint.

2. In this 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 Government
or a Board, such officer or authority as the
State Government may, with the con-
currence of the Central Government 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 Government may appoint in
this behalf;

1. For Statement of Objects and Reasons, see *Orissa Gazette*, Extraordi-
nary, dated the 19th September, 1961 (No. 647) and for the Report of the
Select Committee see *ibid.*, dated the 4th October, 1961 (No. 683).

2. Came into force with effect from the 16th day of October, 1961—vide
Notification No. 30671-EL-178/61, dated the 14th October, 1961, published in
Orissa Gazette, Extraordinary, dated the 14th October, 1961 (No. 727).

(Sec. 2-contd.)

- (b) "Board" means a Board constituted under Chapter III of the Electricity (Supply) Act, 1948;^{54 of 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 Government or Central Government, and includes a consumer belonging to any of the classes specified in sub-section (2) of section 3;
- (d) "energy" means electrical energy;
- (e) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910,^{9 of 1910} to supply energy [* *];
- ²[(e-1) "maximum demand" shall have the same meaning as assigned under the Electricity (Supply) Act, 1948;]^{54 of 1948}
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "rate charged" does not include hire for meter or service line, but includes—
- (i) where any rebate is allowed on account of payment being made within any specified period, the rebate so allowed;
 - (ii) the minimum charges, if any, payable by the consumer;
 - (iii) in the case of a two-part tariff the fixed charge and also the unit charge;

1. Omitted by the Orissa Electricity (Duty) Amendment Act, 1980 (Or. Act 15 of 1980), s. 2 (a), w. e. f. 18th August, 1979.

2. Inserted by the Orissa Electricity (Duty) (Second Amendment) Act, 1970 (Or. Act 24 of 1970), s. 2.

(Sec. 3)

(iv) in the case of the unmetered supply, the periodical charge made therefor; and

(v) any surcharge on the rates whether imposed by the licensee, Board, the State Government or the Central Government.

[Explanation—For the purposes of sub-clause (iii),—

(a) 'unit charge' means the charge for the energy actually consumed, and

(b) 'fixed charge' means kilovolt ampere demand charge or reservation charge on maximum demand actually recorded.]

(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.

9 of 1910

3. ²[(1) There shall be levied for and paid to the State Government, on the energy consumed by a consumer, a duty (hereinafter referred to as the "electricity duty") computed on the basis of the rate charged therefor by a licensee, by the Board or by any Government referred to in clause (c) of section 2 at the rates specified hereunder:—

Electricity
duty on
energy
supplied to
consumers.

(a) Where the rate charged is calculated on the energy consumed in a month the electricity duty shall be computed at the rate of—

(i) fifteen per cent of the rate charged for the first one thousand units or part thereof;

1. Substituted by the Orissa Electricity (Duty) Amendment Act, 1980 (Or. Act 15 of 1980), s. 2 (b), w. e. f. 18th August, 1979.

2. Substituted by the Orissa Electricity (Duty) (Amendment) Act, 1970 (Or. Act 12 of 1970), s. 2.

(Sec. 3-*contd.*)

¹[(ii) for the next ninety-nine thousand units or part thereof, twenty-five per cent of the rate charged if the energy has been consumed only for the purposes of irrigation, and thirty per cent in other cases; and;]

(iii) forty per cent of the rate charged for the remainder.]

(b) In cases where the rate charged is the minimum charge electricity duty shall be computed at the rates specified in clause (a) on the basis of units actually consumed.

²[(c) In the case of two-part tariff the electricity duty shall be computed in respect of the fixed charge at the rate of fifteen per cent of the fixed charge, if the energy has been consumed only for the purposes of irrigation and at the rate of twenty-five per cent of the fixed charge in other cases; and in respect of the unit charge at the rates specified in clause (a)].

(d) In the case of unmetered supply or surcharge the electricity duty shall be computed at the rate of fifteen per cent of the periodical charge or surcharge, as the case may be.]

³[(e) In case where the rate charged is based on maximum demand the electricity duty shall be computed in accordance with clause (a) and for the purpose of such computation the rate charged per unit shall be arrived at by dividing the rate charged in respect of a month by the number of units consumed in that month:

1. Substituted by the Orissa Electricity (Duty) Amendment Act, 1974 (Or. Act 10 of 1975), s. 2.

2. Substituted by the Orissa Electricity (Duty) (Amendment) Act, 1978 (Or. Act 21 of 1978), s. 2 (a).

3. Substituted by *ibid.*, s. 2(b)

4. Inserted by the Orissa Electricity (Duty) (Second Amendment) Act, 1970 (Or. Act 24 of 1970), s. 3.

(Sec. 3-*contd.*)

Provided that where such maximum demand is related to a period of one year, electricity duty as computed under the preceding clause shall be re-computed at the close of the year on the basis of the average rate charged per unit which shall be arrived at by dividing the total rate charged in respect of the year by the total number of units consumed during that year; and if the electricity duty so re-computed is more than the amount paid in respect of the year on account of electricity duty the difference shall be paid by the consumer within a month from the date of receipt of a demand notice issued in that behalf or if the amount paid is in excess of the duty so re-computed the excess amount shall be refunded to the consumer within one month from the date of completion of the re-computation.]

(2) There shall also be levied for and paid to the State Government electricity duty at the aforesaid rate on the energy which is—

- (i) consumed by a licensee or Board upon its premises used for commercial or residential purposes;

¹[*Explanation I*—Premises used for commercial purposes shall include premises used for industrial purposes.

Explanation II—Consumption of energy upon premises used for residential purposes shall also include consumption of energy on such premises for the purposes of water pumping, sewerage disposal and lighting of public streets and other public places.]

- (ii) supplied to a consumer by a licensee or Board free of charge;

²[(iii) generated by a person or a licensee other than a Board and supplied free of charge to a consumer; or

1. Inserted by the Orissa Electricity (Duty) (Amendment) Act, 1966 (Or. Act 12 of 1966), s. 2.

2. Substituted by the Orissa Electricity (Duty) Amendment Act, 1980 (Or. Act 15 of 1980), s. 3 (a), w. e. f. 18th August, 1979.

(Secs. 4-5)

- (iv) used or consumed by a person or a licensee who, not being a Board, generates such energy for his own use or consumption.]

¹[(3) The rate charged for the purposes of sub-section (2) shall be the rate charged by the Board for consumption of energy in respect of similar categories of consumers.]

(4) Notwithstanding anything in the foregoing sub-sections—

- (a) the electricity duty shall in no event together with the rate charged, exceed ²[seventy five paise] per kilowatt-hour and no such duty shall be levied or paid where the rate charged is ²[seventy five paise] or more; and

- (b) no duty shall be levied or paid in respect of any energy generated by a plant having capacity not exceeding five kilowatts.

³[(c) the State Government may, by notification and subject to such conditions 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.]

Consumers
to pay elec-
tricity duty.

4. The amount of electricity duty levied under section 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.

Collection of
electricity
duty.

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

1. Substituted by the Orissa Electricity (Duty) Amendment Act, 1980 (Or. Act 15 of 1980), s. 3(b), with effect from the 18th August 1979.

2. Substituted by the Orissa Electricity (Duty) Amendment Act, 1979 (Or. Act 29 of 1979), s. 2 (b), w. e. f. 18th August, 1979.

3. Inserted by the Orissa Electricity (Duty) Amendment Act, 1980 (Or. Act 15 of 1980), s. 3 (c), w. e. f. 21st November, 1980.

(Sec. 5-*contd.*)

- (a) where the energy is supplied by a licensee, by the licensee;
- (b) where the energy is supplied by or on behalf of the State Government or the Central Government or Board, by the appointed 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 Government within the prescribed period the licensee or such person shall be liable to pay interest at the rate of twelve and a half per cent 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 Government.

(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 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 in respect of energy supplied to such consumer.

(Secs. 6-7)

Records and
returns.

6. (1) If the State Government 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 units of energy generated or received by it for supply to the consumers;
- (ii) the units of energy supplied to the 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 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.

Inspecting
officers.

7. (1) The State Government 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.

(Secs. 8-9)

8. (1) The Electric Inspector or such other officer not below the rank of an Assistant Engineer or an Assistant Electric Inspector as may be authorised by the State Government in that behalf shall have the power to decide all disputes relating to the liability for payment of the electricity duty or exemption therefrom.

Disputes between the licensee and the consumer.

(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 under sub-section (1), such order shall be final.

9. (1) Subject to the provisions of any rules made by the State Government in this behalf an Inspector may—

Powers of inspectors.

(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) testing the reading of meters;

(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 purposes of this Act or the rules made thereunder.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions

5 of 1898. of the Code of Criminal Procedure, 1898.

(Secs. 10-12)

Electricity
duty recover-
able as
arrear of
land revenue.

10. Any sum due on account of electricity duty, and interest, if any, if 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 licensee, at the discretion of the State Government either from the consumer or, subject to the first proviso to subsection (1) of section 5 from the licensee; and
- (b) in the case of other energy, from the person liable to pay such duty under this Act.

Penalties

11. If any person—

- (a) required by section 6 to keep any 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; or
- (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.

Power to
make rules.

12. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(Secs. 13-14)

(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 appointed 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 for giving effect to the provisions of this Act.

Removal of doubts.

13. 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 tax on the consumption or sale of electricity whether 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 or operation of any railway of the Government of India, or sold to that Government for consumption in the construction, maintenance or operation of any railway.

Power to remove difficulty.

14. If any difficulty arises in giving effect to the provisions of this 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.

ANNEXURE

[PROVISION OF THE ORISSA ELECTRICITY(DUTY)
AMENDMENT ACT, 1980 (OR. ACT 15 OF 1980)
NOT INCORPORATED IN THE ORIGINAL ACT]

* * * *

Savings.

4. Nothing contained in section 11 of the Principal Act shall apply to any act or omission which, but for the amendments made by this Act, would not have been an offence within the meaning of the said section.

ORISSA ACT 19 OF 1992

THE ORISSA ELECTRICITY (DUTY) AMENDMENT ACT, 1992

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ORISSA ACT 19 OF 1992

***THE ORISSA ELECTRICITY (DUTY) AMENDMENT ACT, 1992**

[Received the assent of the Governor on the 22nd April 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 22nd April 1992]

AN ACT FURTHER TO AMEND THE ORISSA ELECTRICITY (DUTY) ACT, 1961.

BE it enacted by the Legislature of the State of Orissa in the Forty-third Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Electricity (Duty) Amendment Act, 1992.

(2) It shall be deemed to have come into force on the 1st day of April, 1992.

Amendment
of section 3

2. In the Orissa Electricity (Duty) Act, 1961 (hereinafter referred to as the principal Act), in section 3,—

Orissa Act
14 of 1961.

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

“(1) There shall be levied and paid to the State Government 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 Government 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).

- (2) All notifications that may be issued by the State Government from time to time under sub-section (1) 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.”; and
- (ii) in sub-section (3), for the words “at the rate specified in the Schedule”, the words, brackets and figure “at the rate applicable to the category to which the consumer belongs as specified by notification issued under sub-section (1)” shall be substituted.

omission of
schedule.

- 3. In the principal Act, the Schedule shall be omitted.