



The Himachal Pradesh Electricity (Duty) Act, 1975

Act 11 of 1975

Keyword(s):

Consumer, Energy, Unit, Competent Authority

Amendments appended: 16 of 1979, 13 of 1992, 6 of 1993

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THE HIMACHAL PRADESH ELECTRICITY (DUTY) ACT, 1975(Act. No. 11 of 1975)¹

ARRANGEMENT OF SECTIONS

SECTIONS :

1. Short title, extent and commencement.
2. Definitions.
3. Electricity duty on energy supplied to consumers or licensees by Board.
4. Collection and payment of electricity duty.
5. Records and returns.
6. Inspecting officers.
7. Penal duty to be paid in certain cases.
8. Recovery of duty.
9. Power to disconnect supply for non-payment of duty .
10. Penalties.
11. Power to revise the rate of electricity duty.
- 11-A. Power to exempt.
12. Power to make rules.
13. Repeal and savings.

(Received the assent of the Governor on the 15th May, 1975, and was published in R.H.P. Extra., dated the 24th May, 1975 at p. 569—574).

Amended, repealed or otherwise affected by:—

1. H.P. Act No. 16 of 1979² assented to by Governor on 26-6-1979 and was published in R.H.P. Extra., dated 3-7-1979 p. 1990 effective *w.e.f.* 1-4-1979.
2. H.P. Act No. 13 of 1992³ assented to by the Governor on 21-5-1992 and was published in R.H.P. Extra., dated 22-5-1992 in Hindi and p.2017-2018 in English effective *w.e.f.* The Commencement, of Principal Act.
3. Ordinance No. 15 of 1993 replaced by President's Act No. 6 of 1993⁴ assented to by the President of India on 3-4-93 published in the gazette of India (Extra Ordinary) Part-II, Section 1, dated the 3rd April, 1993 and republished in R.H.P., Extra., dated 3-4-93, p. 491-492 effective *w.e.f.* 25-1-1993.

An Act to levy duty on the sale or consumption of electric energy in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India, as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Electricity (Duty) Act, 1975.

1. For authoritative Hindi Text see R.H.P., Extra, dated 30-6-86, p. 1277.
2. For statement of Objects and Reasons see R.H.P. Extra, dated 12-4-79, p. 1460.
3. Passed in Hindi by the H. P. Vidhan Sabha and for Statement of Objections and Reasons see R.H.P. Extra., dated 28-3-92, p. 1152 and 1156.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

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

(a) “Board” means the Himachal Pradesh State Electricity Board constituted under Chapter III of the Electricity (Supply) Act, 1948 (54 of 1948) ;

(b) “consumer” means any person or establishment who uses or consumes energy and includes,—

(i) a domestic consumer *i.e.* a person or an institution occupying a premises ordinarily used for residential purposes and supplied with energy upto 10 K.W. and shall include charitable institutions like orphanages, hospitals, leprosy homes etc. without any limit of energy supplied to them,

(ii) a commercial consumer *i.e.* non-residential premises such as business houses, clubs, offices, schools, hospitals, hostels, street lighting and places of worship etc. for use of lights, refrigerators, heaters, fans etc. and fractional horse power motors provided the load of each appliance or equipment used does not exceed 3 K.W.,

(iii) agricultural consumers *i.e.* a person or an institution using energy for agricultural, horticultural and professions allied and subservient thereto,

(iv) industrial consumer *i.e.* any person or institution using energy for industrial purpose or purposes subservient to industry, and

(v) person(s) generating energy for their own consumption provided the capacity of generation is 5 K.W. or above;

(c) “energy” means electric energy;

(d) “prescribed” means prescribed by rules made under this Act ;

(e) “unit” in relation to the energy means kilowatt-hour;

(f) “competent authority” means the authority appointed by the State Government for the purpose of section 7 of this Act ; and

(g) the words and expressions not defined in this Act, but defined in the Indian Electricity Act, 1910 (9 of 1910), have the same meanings assigned to them under that Act.

¹3. **Levy of electricity duty on consumption of energy.**—²(1) There shall be levied and paid to the State Government on the energy consumed a duty to be called the “Electricity Duty” in the prescribed manner and computed at the following rates:—

(i) in case of domestic consumers at the rate of 5 paise per unit; and

1. Heading of section 3 subs. *vide* Act No. 13 of 1992

2. “Subs. *vide* Act No. 16 of 1979 effective *w.e.f.* 1-4-79 and subsequently Subs. *vide* President”, Act No. 6 of 1993 *w.e.f.* 25-1-93.

- (ii) in case of other category of consumers at the rate of 10 paise per unit :

Provided that if the energy is partly used for category (i) and partly for category (ii), above, the highest rate of duty applicable will be [vide.].

(2) Nothing in sub-section (1) shall apply to the consumption or sale of energy which is,—

- (i) consumed by the State Government; or
- (ii) consumed by or sold to the Government of India for consumption by that Government; or
- (iii) consumed or sold for the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway; or
- (iv) consumed by the Board for generating stations, sub-stations, works directly connected with the generation, transmission and distribution of energy.

(3) For the purpose of computing the electricity duty under this section, the consumption shown by the meters starting after the first meter reading date after the commencement of this Act shall be taken into account.

4. Collection and payment of electricity duty.—The electricity duty shall be collected and paid to the State Government by the Board or a person who generates energy for his own consumption¹ [or person who supplies energy to a consumer,] as the case may be.

5. Records and returns.—(1) If the State Government so directs by a general or special order, the Board or a person generating energy for his own consumption [or person who supplies energy to a consumer] shall maintain such record in such form and manner as may be prescribed showing,—

- (a) the units of energy generated for supply to the consumer (s) or for self consumption;
- (b) the units of energy supplied to the consumer (s) or consumed by it;
- (c) the amount of the duty payable thereon and the duty paid or recovered under this Act; and
- (d) such other particulars as may be prescribed.

(2) The Board, or a person generating energy for his own consumption who has been directed under sub-section (1) to maintain a record shall submit such returns in such form and manner and to such authority as may be prescribed.

(3) The amount of energy shall, for purposes of clauses (a) and (b) of sub-section (1), be ascertained in such manner as may be prescribed.

6. Inspecting officers.—(1) The State Government may, by notification in the Official Gazette, appoint Inspecting Officers² to inspect records maintained under section 5.

1. Added *vide* Act No. 13 of 1992.

2. R.H.P., dated the 26th July, 1975, p. 831.

(2) The Inspecting Officers 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 Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

7. Penal duty to be paid in certain cases.—(1) If in the opinion of the competent authority the Board, or the person generating energy for his own consumption¹ [or a person who supplies energy to a consumer,] as the case may be, evades or attempts to evade the payment of duty, whether by maintaining false records, submitting false returns, concealing the energy supplied or by any other means the Board or such person shall pay by way of penalty in addition to the duty payable under this Act, a sum not exceeding four times the amount of the duty to be determined by the competent authority:

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

(2) An appeal shall lie against an order passed under sub-section (1) to such authority², within such period and on payment of such fees, as may be prescribed.

(3) An order passed on appeal under sub-section (2) shall be final and binding.

(4) An order for the payment of any penalty made under this section shall be without prejudice to any prosecution instituted or which may be instituted for an offence under this Act.

8. Recovery of duty.—Any duty under this Act or penalty imposed under section 7 which remains unpaid, whether by a consumer to the board or by the board or a person generating energy for his own consumption [or a person who supplies energy to a consumer,] to the State Government, shall be recoverable as an arrear of land revenue or by deduction from amounts payable by the State Government to the Board or such person.

9. Power to disconnect supply for non-payment of duty.—Where a consumer fails to pay the electricity duty to the Board authorised to collect the duty from the consumer(s) under section 4 the Board may exercise the power conferred on a licensee under sub-section (1) of section 24 of the Indian Electricity Act, 1910 (of 1910), for the recovery of any charge or sum due in respect of energy supplied by it.

10. Penalties.—If any person,—

- (a) required by section 5 to keep record or to submit returns fails to keep or submit the same in the prescribed form or manner or submits a return which is false; or
- (b) intentionally obstructs an Inspecting Officer appointed under section 6 in the exercise of his powers and duties under this Act and the rules made thereunder; or
- (c) contravenes any other provision of this Act or the rules made thereunder;

he shall be liable, on conviction, to a fine not exceeding one thousand rupees

1. The words "or a person who supplies energy to a consumer" added *vide* Act No. 13 of 1992.

2. R.H.P., dated the 26th July, 1975, p. 831.

11. Power to revise the rate of electricity duty.—The State Government may, by notification, revise the rates of electricity duty in respect of consumer(s) as given under section 3 provided that such revised rates shall not exceed the rates mentioned in section 3 by more than 50%.

¹[11-A. **Power to exempt.**—The State Government may in public interest by notification on exempt any consumer or person 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. Power to make rules.—(1) The State Government may by notification make² 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 payment of the duty under section 3;
- (b) the manner of collection and payment to the State Government of the electricity duty by the Board or person(s) generating energy for their own consumption² [or a person who supplies energy to a consumer];
- (c) the time and manner of payment of the electricity duty by consumers;
- (d) the powers and duties to be exercised and performed by inspecting Officers ; and
- (e) any other matter for which, in the opinion of the State Government, rules are necessary for giving effect to the provisions of this Act.

(3) Every rule made under this Act 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 not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule 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.

13. Repeal and savings.—The Punjab Electricity (Duty) Act, 1958 (10 of 1958), in its application to the area as added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), is hereby repealed :

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day in which such thing was done, action taken, rules made or notification issued.

1. Sec. 11-A added *vide* President Act No. 6 of 1993.
2. The Rules framed *vide* Not. No. MPP-A(4)-4/75, dated the 2nd July, 1975 (Appended).
3. Added *vide* Act No. 13 of 1992.

**THE HIMACHAL PRADESH ELECTRICITY (DUTY) (AMENDMENT)
ACT, 1979**

ARRANGEMENT OF SECTIONS

Sections :

1. Short title and commencement.
2. Amendment of Section 3.

**THE HIMACHAL PRADESH ELECTRICITY (DUTY) (AMENDMENT)
ACT, 1979**

(ACT NO. 16 OF 1979)¹

(Received the assent of the Governor, Himachal Pradesh on the 26th June, 1979 and was published in R.H.P. Extra. dated the 3rd July, 1979, p. 1990).

An Act to amend the Himachal Pradesh Electricity (Duty) Act, 1975 (Act No. 11 of 1975).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Electricity (Duty) (Amendment) Act, 1979.

(2) It shall come into force on the 1st day of April, 1979.

2. Amendment of section 3.—For the existing sub-section (1) of section 3 of the Himachal Pradesh Electricity (Duty) Act, 1975 (11 of 1975), the following sub-section (1) shall be substituted, namely:—

“(1) There shall be levied and paid to the State Government on the energy supplied by the Board to a consumer(s) a duty to be called the “electricity duty” in the prescribed manner and computed at the following rates:—

- (i) in case of domestic and agricultural consumers for the first fifteen units at the rate of 1 paise per unit; and above fifteen units at the rate of 2 paise per unit;
- (ii) in case of commercial consumers at a flat rate of 2 paise per unit;
- (iii) in case of industrial consumers at a flat rate of 4 paise per unit; and
- (iv) in case of any other consumer not covered by above at a flat rate of 4 paise per unit:

Provided that if the energy is partly used for category (i) and partly for categories (ii), (iii) and (iv) above, the highest rate of duty applicable will be levied.”.

1. For Statement of Objects and Reasons, see R. H. P. Extra., dt. 12-4-1979, p. 1460.

in the Rajpatra, H. P. (Extra), dated 17-4-1978 and 11-9-1978 *vide* notifications of even number, dated 6-4-1978 and 4-9-1978, respectively:—

AMENDMENT

Sr. No.	Place in which cinemas are located	Category	Rate of	Amended
			entertainment tax per show per hundred occupied seats of a cinema at present	rate of entertainment tax per show per hundred occupied seats of a cinema
			Rs.	Rs.
1.	Simla (Ritz, Rivoli and Regal Theatres)	A	3.00	5.00
2.	Mandi, Nahan, Solan, Chamba, Shahi Theatre Simla.	B	2.00	4.00
3.	Dharamsala, Palampur, Sundernagar, Dalhousie	C	1.50	3.00
4.	Jogindernagar, Kangra, Yol, Bakloh, Kulu.	D	1.00	2.00
5.	Kasauli	D	1.00	2.00
6.	Poanta Sahib	D	1.00	2.00
7.	Bilaspur, Hamirpur, Unu and Touring Talkies.	D	1.00	2.00

R.H.P. Extra., dt. 23-12-1978, p. 1615-16

Appointments and Delegations

Appointment of persons to assist the Commissioner for carrying out the purposes of the Act.

Simla-171002, the 9th September, 1976

No. 1-4/73-E&T (Sectt).—In exercise of the powers conferred on him under sub-section (1) of section 4 of the H. P. Entertainment Tax (Cinematograph Shows) Act, 1968 (Act No. 11 of 1968), the Governor, Himachal Pradesh is pleased to appoint the Assistant Excise and Taxation Officers, in office of the Excise and Taxation Commissioner, Himachal Pradesh to assist the Commissioner for carrying out the purposes of the said Act in Himachal Pradesh.

R.H.P. Extra., dt. 17-9-1976, p. 1730

Simla-171002, the 9th September, 1976

No. 1-4/73-E&I (Sectt).—In exercise of the powers conferred on him under sub-section (1) of section 4 of the H. P. Entertainment Tax (Cinematograph Shows) Act, 1968 (Act No. 11 of 1968), the Governor, Himachal Pradesh is pleased to appoint the Excise and Taxation Officers and Assistant Excise and Taxation Officers, incharge of the districts, to assist the Commissioner for carrying out the purposes of the said Act in the district where they are posted and to confer upon them the powers of Assessing Authority under the said Act.

R.H.P. Extra., dt. 17-9-1976, p. 1730

**THE HIMACHAL PRADESH ELECTRICITY (DUTY)
(AMENDMENT AND VALIDATION) ACT, 1992**

(ACT NO 13 OF 1992)¹

ARRANGEMENT OF SECTIONS

SECTIONS :

1. Short title.
2. Amendment of section 3.
3. Amendment of sections 4, 5, 7, 8 and 12.
4. Retrospective operation.
5. Validation of electricity duty levied under the principal Act in respect of certain periods.

(Received the assent of the Governor on 21-5-1992 and was published in Hindi in R.H.P. Extra., dated 22-5-1992 P. 2015—2016 and in English in R.H.P. Extra., dated 22-5-1992 P. 2017-2018).

An act further to amend the Himachal Pradesh Electricity (Duty) Act, 1975 (Act No. 11 of 1975) and to validate the levy and collection of electricity duty on the consumption of electric energy by certain consumers in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-third Year of the Republic of India, as follows :—

1. Short title.—This Act may be called the Himachal Pradesh Electricity (Duty) (Amendment and Validation) Act, 1992.

2. Amendment of Section 3.—Incorporated in the principal Act.

3. Amendment of Sections 4, 5, 7, 8 and 12.—Incorporated in the principal Act.

4. Retrospective operation.—The principal Act shall be read and construed as if the amendments made by section 2 formed part of the principal Act from its commencement and shall always be deemed to have taken effect from such commencement.

5. Validation of electricity duty levied under the principal Act in respect of certain periods.—For the removal of doubt, it is hereby declared that notwithstanding anything contained in any judgement, decree or order of any court, the electricity duty levied or collected or purporting to have been levied and collected under the principal Act, during the period beginning on the 24th day of May, 1975 and ending with the day of commencement of this Act, shall be deemed to be and always to have been validly levied and collected under the principal Act, as amended by section 2 of this Act, as if the provisions of this Act were in force at all material times, and accordingly :—

- (a) all acts, proceedings or things done or taken by the Government or any Officer of the Government or authority in connection with the levy or collection of such electricity duty shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with the law ;

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha and for Statement of Objects and Reasons see R. H. P. Extra dated 28-3-1992 P. 1152 and 1156.

- (b) no suit or other proceedings shall be instituted, maintained or continued in any court against the Government of any person or authority whatsoever for the refund of any such electricity duty so paid; and
 - (c) no court shall enforce any decree or order directing the refund of any electricity duty so paid.
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THE HIMACHAL PRADESH ELECTRICITY (DUTY)
(AMENDMENT) ACT, 1993

(President's Act No.6 of 1993)

ARRANGEMENT OF SECTIONS

Sections :

1. Short title and commencement.
2. Amendment of section 3.
3. Insertion of new section 11-A
4. Repeal and saving.

(Received the assent of the President of India on 3rd April, 1993 and was published in R.H.P. Extra, dated 3rd April, 1993 at page 491-493)

Enacted by the President in the Forty-fourth year of the Republic of India.

An Act further to amend the Himachal Pradesh Electricity (Duty) Act, 1975.

In exercise of the powers conferred by section 3 of the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993, the President is pleased to enact as follows:-

1. Short title and commencement.
(1) This Act may be called the Himachal Pradesh Electricity (Duty) Amendment Act, 1993.

(2) It shall be deemed to have come into force on the 25th day of January, 1993.

2. Amendment of Section 3.
In the Himachal Pradesh Electricity (Duty) Act, 1975 (H.P. Act No. 11 of 1975) (hereinafter referred to as the principal Act, in section 3, for sub-section (1), the following shall be substituted, namely :-

"(1) There shall be levied and paid to the State Government on the energy consumed a duty to be called the "Electricity Duty" in the prescribed manner and computed at the following rates :-

- (i) in case of domestic consumers at the rate of 5

paise per unit; and

- (ii) In case of other category of consumers at the rate of 10 paise per unit;

"Provided that if the energy is partly used for category (i) and partly for category (ii) above, the highest rate of duty applicable shall be levied".

3. Insertion of new section 11-A. --After section 11 of the principal Act, the following section shall be inserted, namely :--

"11-A Power to exempt.--The State Government may in public interest by notification exempt any consumer or person 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."

4. Repeal and saving.--(1) The Himachal Pradesh Electricity (Duty) Amendment Ordinance, 1993 ord. 15 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have done or taken as the case may be, under the principal Act as amended by this Act.

REASONS FOR THE ENACTMENT

In order to mobilise the additional resources and to simplify the collection of the electricity duty levied on consumption of electricity from different categories of consumers in the State of Himachal Pradesh, it became necessary for the State Government to amend certain provisions of the Himachal Pradesh Electricity (Duty) Act, 1975. For this purpose, the Himachal Pradesh Electricity (Duty) (Second Amendment) Ordinance, 1992 (H.P. Ordinance 2 of 1992) was promulgated by the Governor, Himachal Pradesh on the 3rd August, 1992. By virtue of the provisions contained in the said Ordinance, in the State of Himachal Pradesh, the rates of electricity duty have been revised as under :--

- (i) in case of domestic consumers at the rate of 5 paise per unit; and
- (ii) the case of other category of consumers at the rate of 10 paise per unit.

2. A new section 11-A has also been inserted to empower

the State Government to accord exemption to any consumer or person 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 prescribed. The insertion of this provision was considered necessary for giving relief to agricultural and like consumers. Before the said Ordinance could be replaced by a regular enactment the powers of the Legislature of the State of Himachal Pradesh to make laws has been declared by the Proclamation issued on 15th December, 1992 under article 356 of the Constitution to be exercisable by or under the authority of Parliament. As Parliament was not in session, the life of H.P. Ordinance 2 of the 1992 was extended by the Himachal Pradesh Electricity (Duty) Amendment Ordinance, 1993 (15 of 1993) promulgated by the President on the 25th January, 1993. The said power has now been conferred by Parliament on the President under article 357 (i) (a) of the constitution by enacting the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993.

3. Under the proviso to sub-section(2) of section 3 of the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993, the President shall, before enacting any President's Act, consult a Committee constituted for the purpose consisting of members of both the Houses of Parliament. The provisions of the aforesaid Ordinance will be expiring 4th April, 1993, and it is necessary to replace that Ordinance by the President's Act before that date. As the said Committee has not so far been constituted and the matter is very urgent in nature and the time left is very short, it proposed to enact the measure without reference to the Committee.

R.VASUDEVAN
Secy. to the Govt. of India,
Ministry of Power