

**GOVERNMENT OF GUJARAT**

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

**Bombay Act No. XL of 1958**

**The Bombay Electricity Duty Act, 1958**  
(As modified upto the 31st October, 2000)

PAINTED IN INDIA BY THE MANAGER, GOVERNMENT CENTRAL PRESS GANDHINAGAR.  
PUBLISHED BY THE DIRECTOR, GOVERNMENT PRINTING, PUBLICATIONS  
AND STATIONERY, GUJARAT STATE GANDHINAGAR  
2000

# THE BOMBAY ELECTRICITY DUTY ACT, 1958

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**BOMBAY ACT NO. XL OF 1958.1\***  
[THE BOMBAY ELECTRICITY DUTY ACT, 1958.]  
[9\* May, 1958.]

Adapted and modified by the Gujarat Adaptation of LPIWS (State and Concurrent, Subjects)  
Order, 1960.

Amended by Guj. 7 of 1961.  
Amended by Guj. 33 of 1961.  
Amended by Guj. 18 of 1962.  
Amended by Guj. 20 of 1968.  
President's Act No. 6 of 1976.  
Amended by Guj. 19 of 1977.  
Amended by Guj. 14 of 1979.  
Amended by Guj. 17 of 1983.  
Amended by Guj. 4 of 1987.  
Amended by Guj. 7 of 1988.  
Amended by Guj. 7 of 1991.  
Amended by Guj. 8 of 1999.

**An Act to provide for the levy of a duty on consumption of electrical energy in the State of Bombay.**

WHEREAS it is expedient to provide for the levy of a duty on consumption of electrical energy in the State of Bombay; It is hereby enacted in the Ninth Year of the Republic of India as follows :—

**Short title extent and commencement** 1.

- (1) This Act may be called the Bombay Electricity Duty Act, 1958.
- (2) It extends to the whole of the 2[State of Gujarat].
- (3) It shall come into force on such date as the State Government may, by notification in the **Official Gazette**, appoint.

**Definitions.**

2. In this Act, unless the context requires otherwise,-
3. [(a) "consumer" means any person who is supplied with energy on payment of charges or otherwise by a licensee or by any other person who generates energy .".ud includes—
  - (i) a licensee in relation to energy either generated by himself or supplied by any other licensee,
  - (ii) any other person in relation to energy generated by himself, and used by such licensee or person for any purpose excluding that of •construction, mair.ten.anoe or operation of his generating, transmitting or distributing system but including office, commercial or residential purpose connected with such system ;and the word "consume" with its grammatical variations end cognate expressions shall be construed accordingly;]
- (b) "energy" means electrical energy when generated, transmitted supplied or used for any purpose except the transmission of a message;

1. For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1958, Extra Ordinary, Part-V, p. 44.

\* This Act was assented to by the Governor on the 6th May, 1958.

\*\* For validating provision see sec. 3 of Guj. 7 of 1988.

2. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3. Clause (a) was substituted for the original by Guj. 20 of 1988, 8.2(1).

l(bb) "industrial undertaking"., means an undertaking engaged predominantly in—

- (i) the manufacture or production of goods 2+ + + or
  - (ii) any job work which remits in the manufacture or production of goods2+ + + + +
- 3[but does not include—

- (a) a service undertaking; and
- (b) an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on tie premises of the undertaking.]

4[Explanation 1.-For the purpose of item (B) of this clause, "premises of the undertaking" includes all premises which are. intended for being used for consumption of food or drinks or both.]

5[Explanation 2], — For. the purposes of this clause raid clause (ee), an undertaking engaged in the manufacture 01 production of goods and also in any one or more of the activities specified in clause (ee) —

- (a) shall be deemed to be —
  - (i) engaged predominantly in the manufacture or production of goods 6 + + + + + if the gross annual income of such undertaking from such manufacture or production for the accounting year

of such undertaking preceding the period in respect of which the duty is levied is greater than the gross annual income of such undertaking for that accounting year from such \*1 activity or activities,

(ii) a service undertaking engaged predominantly in any one or more of the activities specified in clause (ee) if the gross annual income of such undertaking from such activity or activities for the accounting year of such undertaking preceding the period in respect of which the duty is levied is greater than the gross annual income of such undertaking for that accounting year from such manufacture or production.

1. Clause (bb) was substituted and shall be deemed always to have been substituted with effect from the date of coming into force of the Bombay Electricity Duty (Gujarat Amendment) Act 1983 by Guj. 7 of 1988, g. 2(1).

2. The brackets and words "(other than eatables or drinks)" were deleted by Guj. 7 of 1991, s. 2(l)(a)(i).

3. These portion was substituted for the words "but does not include a service undertaking", ibid., s. 2(l)(a)(ii).

4. Explanation 1 was inserted, ibid., s. 2(l)(b).

5. The existing Explanation was numbered as Explanation 2, ibid.

6. The brackets and words "(other than eatables or drink?)" were deleted, ibid, s. (2)(i)(c)

(b) shall, until such gross annual income is available, be deemed to be an undertaking falling under sub-clause (i) or, as the case may be, sub-clause (ii) of clause (a) on the basis of the declaration made by the undertaking to such authority as the State Government may, by notification in the Official Gazette, specify; and on the availability and verification of such income, the undertaking shall be treated as if it had always been the undertaking to which sub-clause (i) or, as the case may be, sub-clause (ii) of clause (a) applied, having regard to such income;]

(c) "Licensee" means any person licensed under Part-JI of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the State Government under section 28 of that Act, the State Government when it is engaged in a business of [supplying energy, the generating company as defined in sub-section 4-A] of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity Board constituted under section 5 of that Act of 1948];

2[(cc) "premises used by an industrial undertaking for industrial purpose" means premises used by such undertaking for any purpose, other than the purpose of residence, commerce, office, sports, club, library, canteen or such other purpose as the State Government may, by notification in the Official Gazette, specify;],

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

3[(e) "rules area" means-

(i) a gram as defined in clause (11) of section 2 of the Gujarat Panchayats Act, 1961; or

(ii) an area in regard to which a notification has been issued under section 305A of the said Act, the population of which as ascertained at the last preceding census of which the relevant figures have been published does not exceed five thousand:

4 (ee) "service undertaking" means an undertaking which is engaged predominantly in all or any of the following activities, irrespective of whether all or any of these activities result in the manufacture or the production of goods, namely :—

(i) repairs, renovation, reconditioning, restoration, restoration or preservation,

(ii) cleaning,

1. These words, figures, letter and brackets were substituted for the words, figures and brackets "supplying energy and the State Electricity Board was constituted under section 5 of the Electricity (Supply) Act, 1948" by Guj. 8 of 1999, s.2.

2. Clause (cc) was inserted by Guj/20 of 1968, s. 2(2).

3. Clauses (e) and (f) were inserted by President's Act No. 6 of 1976, s.2.

4. Clause (ee) was substituted for the span of period commencing on the date of coming into force of the Bombay Electricity Duty (Gujarat Amendment) Act, 1983 and ending on the 21st July, 1987 by Guj. 7 of 1988, s. 2 (2)(a) and it was further substituted with effect from 22nd July, 1987 by Guj. 7 of 1988, b. 2(2)(b).

(v) case hardening, carbonizing or any other surface treatment,

(vi) electronic data processing,

(vii) such other activity as the State Government may, by notification in the Official Gazette, specify;]

(f)"urban area" means an area which is not a rural area.]

### **Duty on units of energy Consumed.**

3.

2[(1) 3[Subject to the provisions of sub-sections (2), (2A), 4[(2AA), and (3)], there shall be levied and paid to the State Government a duty on the consumption of electricity (hereinafter in this Act referred to as "electricity duty") at the rates specified below :—

(a) the electricity duty shall be payable by consumers other than those referred to in sub-clauses (i) and (ii) of clause (a) of section 2, at the rates specified in Schedule I to this Act, and

(b) the electricity duty shall be payable by consumers referred to in sub-clause (i) and (ii) of clause (a) of section 2, at the rates specified in Schedule II to this Act.]

(2) Electricity duty shall not be livable oh the units of energy consumed,—  
5[(i)by the Government of Gujarat (save in respect of premises used for residential purposes);

(ia) by or in respect of any municipal corporation, municipality, local board, notified area committee, cantonment board or panchnyat constituted under any law for the time benign force in the State for the purpose of, or in respect of, public street lighting, public water works (including head-works and other auxiliary water supply works and pumps used for the purpose), public gardens including zoos, public museum or system of public sewers or drains;]

1. Items (iii) and (iv) were deleted by Guj. 7 of 1991, s.2(2).
2. Sub-section (1) was substituted by Guj. 19 of 1977, s.2.
3. These words, brackets, figures and letters were substituted for the words, brackets end figures "Subject to the provisions of sub-sections (2) and (3)" by Guj. 17 of 1983, 8.3(1).
4. These brackets, figures and letters were substituted for the brackets, figure and letters "(2AA)" by Guj. 8 of 1999, s.3(l).
5. Clauses (i)and (ia) were substituted for the original clause (i) by Guj. 20 of 1968

1[2 [(ii) by a consumer in respect of premises used for residential purposes in a rural area 3[ \* \* \* \* \* ], if the total energy consumed by him for the said purpose in a year does not exceed 250 units, ]]

(iii) in respect of a hospital or dispensary which is not maintained for private gain 4[(save in respect of primness used for residential purposes;)]

(iv) where the energy is generated by any person for the purpose of supplying it for the use of vehicles or vessels;

(v) where the energy is generated at a voltage not exceeding 100 volts;  
5[(v-a) where the energy is generated by any person by solar, wind or bioma ss energy;]

(vi) 6[save as provided in clause (vii), in respect of] such industrial or agricultural purposes 7[ \* \* \* \* \* ]

in such areas and subject to such terms and conditions and for such period as the State Government may having regard to the need and conditions of industrial and agricultural development in the areas by general or special order specify in that behalf}

8[(vii) for motive power and lighting in respect of premises used by an industrial undertaking for industrial purpose, until the expiry of the following period, that it to say,—

9[10[(a) in the case of an industrial undertaking which generates energy for its own use, five years from the 1st April, 1999, the date of commencement of the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 or the date of starting the generation of such energy, whichever is later;]

(b) in the case of new industrial undertaking established on or after date, which does not generate energy for its own use, five years from the commencement date or the date on which industrial undertaking commences for the first time manufacture or production of goods, whichever is later: ]

Provided that no industrial undertaking shall be entitled to exemption from payment of electricity duty under this clause, unless it has obtained a certificate regarding eligibility for such exemption in proscribed form by making an application therefore in prescribed form and within prescribed period to such officer as the State Governm3ut may, by notification in the Official Gazette, specify.

Explanation. 1. 11[For the purposes of clause (mi) of this sub-section and sub section (2A), — ]

12[ \* \* \* \* \* ]  
(ii) "a new industrial undertaking" means any such industrial undertaking which —

1. Clause (it) was drifted by Guj. 20 of 1968, s. 3 (A) (2).
2. Clause (it) was insert- d by President's Act No. 6 of 1976, s. 3.
3. The words "the population of which does not exceed two thousand" weld deleted by Guj. 17 of 1983, s. 3 (2) (aa).
4. These words and brackets were added by Guj. 20 of 1968, s. 3(A)(3).
5. Clause (va) was inserted by Guj. 17 of 1983, s. 3(2)(a).
6. These words, brackets and letters were substituted for the words "in respect of" by Guj. 33 of 1961, s. 2(ii) (a).
7. The brackets and wards "(Other than residential or office purposes)" were deleted by Guj. 20 of 1968, s.3(4)(4).

8. Clause (vii) was substituted for the original, *ibid.*, s. 3 (4)(5).
9. Sub-clauses (a) and(b) were substituted by Guj. 17 of 1983, s. 3(2)(b)(i).
10. Sub-clause (a)) was substituted by Guj. 8 of 1999, s. 3(2).
11. These words, brackets, figures and letter were substituted for the words, brakets and figures "For the purpose, of clause (Vii)" by Guj. 14 of 1979, s. 2 (1).
12. Clause (i) was deleted by Guj. 17 of 1983, s. 3 (2)(b)(ii).

(a) is not formed by the splitting up or the reconstruction of a business or undertaking already in existence in the State; or

(b) is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in the State for any industrial purpose, of such value in relation to total investments, as the State Government may, by notification in the Official Gazette, specify; or

(c) is tot an expansion of the existing business 01 undertaking in the State.

1[ •\* \* \* \* \* \* \* \* \*].]

2[ \*\*\*\*\*]

3[(2AA) (a) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Amendment) Act, 1983 (hereinafter referred to fs "the Amending Act") shall affect any exemption, granted to an existing industrial undertaking before the commencement date and such exemption shall continue for the period provided in clause (mi) of sub-section (2), or as the case may be, sub-section (2A) before the commencement date.

(b) Notwithstanding anything contained in clause (vii) of sub-section (2) or subsection (2A) as amended by the Amending Act, any existing industrial undertaking which was eligible for exemption under the provisions of clause (vii) of sub-section (2) or of sub-section (2A) before the commencement date but which did not avail of such exemption before the commencement date shall be eligible for such exemption under the said clause (vii) or the said sub-section (2A) as if the Amending Act was not passed.

Explanation.—For the purpose of this sub-section an existing industrial undertaking means an industrial undertaking which exists on the commencement date and which manufactures or produces goods for isale or use in the manufacture or production of of cher goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking.]

4[(2AAA) (?) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 (hereinafter referred to as "the Amending Act of 1999") shall affect any exemption granted to an existing industrial undertaking before the 1st April, 1999 and such exemption shall continue for the period provided in sub-elf use (;) of clause (vii) of sub-section (2) or as the case may be, subsection (2 A), as if the Amending Act of 1999 was not passed.

(b) Notwithstanding any thing contained in sub-clause (a) of clause (vii) of sub-section (2) or sub- section (2A), as amended by the Amending Act of 1999, any existing industrial undertaking which was eligible for exemption under the provisions of sub-section (i) of clause (vii) of sub-section (2) or sub-section (2A) before 1st April, 1999 but which did not avail of such exemption before that date shall be eligible for such exemption Under the said sub-clause (r) of clause (vii) or the said sub-section (2A), as if the Amending Act of 1999 was not passed.

(c) Notwithstanding anything contained in sub-clause (a) of clause (vii) of sub-section (2) as amended by the Amending Act of 1999, where any undertaking has started generation of energy for its own use b' fore the 1st April, 1999 but has not commenced manufacture or production of goods before that date, such undertaking shall be eligible for exemption under the said sub-clause (a) of clause (vii) of sub-section (2), as if the Amending Act of 1999 was not passed.

Explanation.— For the purpose of this sub-section, an existing industrial undertaking means an industrial undertaking which exists on the 1st April, 1999 and which manufactures 01 produces goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking.]

5 [(3) The State Government may by notification in the Official Gazette, and subject to such terms and conditions as may be specified therein, reduce the rate of duty or remit the duty in respect of—

1. Explanation 2 was deleted, by Guj. 17 of 1983, s.3(2)(l)(iii).
2. Sub-section (2A) which was inserted by Guj. H of 1979, s.2(2) was subsequently
3. deleted by Guj. 8 of 1999, r. 3 (3).
4. Sub-section (2AA) was inserted by Guj. 17 of 1983, .s. 3(4).
5. Sub-section (2AAA) was added by Guj. 8 of 1999,s. 3 (4). 8. Sub-section (3) was substituted for the original by Guj. 20 of 1968, s. 3(B).

(a) electro-chemical, electro-lyrical, or electro-metallurgical process

carried on by an industrial undertaking, or  
(b) such class of consumers or such class of premises in such areas and for such period as the State Government may specify in the notification.]

#### **Payment of electricity duty**

4.

(1) Every licensee shall collect and pay to the State Government at the time and in the manner prescribed the proper electricity duty payable under this Act, [in respect of energy] supplied by him to consumers. The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the State Government:

Provided that where the licensee has been unable to recover his dues for the energy supplied by him, he shall not be liable to pay the duty in respect of the energy so supplied.

(2) Every person, not being a licensee, 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 the manner prescribed, the proper electricity duty payable under this Act [in respect of energy] consumed by that other person.

(3) 2[Where 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, or as the case may be, the person supplying energy free of charge, may, without prejudice to the right of the State Government to recover the amount 3[under section 8, deduct such amount of electricity duty from the amount, if any, deposited by the consumer with the licensee or such person or] after giving not less than seven clear days notice in writing to 4[such consumer] cut off the supply of energy to 4[such consumer]; and he may, for that purpose, exercise the power conferred on, licensee by sub-section (i) of section 24 of the India Electricity Act, 1910, for recovery of any 1910 charge or sum due in respect of energy supplied by him.

5[(3A) The State Government or an officer authorised by the State Government in this behalf, may, in respect of any censurer,-

(a) extend the date of payment or allow him to pay electricity duty by installments in such manner and on such conditions as may be prescribed,

(b) allow deferment of payment of electricity duty under such circumstances, on such conditions and for such period not exceeding five years in aggregate, as may be prescribed.]

(4) The licensee, or as the case may be, the person supplying energy free of charge shall be entitled to a rebate of such amount as may from time to time be determined by the State Government, regard had to the cost of collection of the duty incurred by such licensee, or person supplying energy free of charge.

6[Every licensee who uses energy and every person, not being a licensee,] who generates energy for his own use shall any to the State Government at the time and in the manner prescribed the proper electricity duty payable under this Act on the units of energy consumed by him.

1. These words were substituted for the words "on the units of energy" by Guj. 19 of 1977, s. 3.
2. These words was- substituted for the words "Where any person" by Guj. 20 of 1968, s. 4(l)(i).
3. These words .and figure were substituted for the words and figure "under section 7, and" ibid., s. 4(1 )(iii)
4. These words were substituted for the words "such persons", ibid., s. 4(l)(iii).
5. Sub-section(3A) was seated by Guj. 8 of 1999, s.4.
6. These words were substituted for the words 'Every person other thana Licensee', ibid., s.4 (2).

#### **Licensee etc. to keep books of account and submit returns.**

5. Every licensee, and every person not being a licensee who supplies energy free of charge as mentioned in sub-section (2) of section 4, and every other person who is liable to pay electricity duty under sub-section (5) of section 4 shall, save in respect of energy exempt from electricity duty under sub-section (2) of section 3, keep books of account in the prescribed form and submit to the State Government or to the prescribed officer returns in such form and at such times as any be prescribed, showing the units of energy supplied by him to each consumer, or as the case may be, consumed by him and the amount of the duty payable thereon and recovered or paid by him under section 4.

#### **Inspecting Officers**

6.

(1) The State Government may, by notification in the Official Gazette, appoint any persons as it thinks fit, having the prescribed qualifications to be Inspectors for the purposes of this Act.

(2) Every Inspector shall be deemed to be a public servant within the

**Powers of Inspectors.**

meaning of section 21 of the Indian Penal Code.

**7.**

(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 livable under the 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 5,

(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 of the Code of Criminal Procedure, 1898.

**Recoveries**

**8.** 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, 1[24 per cent per annum]) which the State 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—

(a) if the sum was payable under sub-section (1) of section 4, either from the consumer, or, subject to the proviso to the said sub-section, from the licensee, at the option of the State Government.

(b) if the sum was payable under sub-section (2) of section 4, either from the consumers or from the person supplying energy free of charge at the option of the State Government.

if the sum was payable under sub—section (5) of section 4 2[from the licensee or as the case may b- ] from the person who generates energy for his own use.

1. These figures and words were substituted for the figures and words "12 per cent per annum" by Guj. 4 of 1987, s.2.

2. These words were inserted by Guj. 20 of 1968, s. 5.

**Penalties**

**9.** If any person-

(a) fails to keep books of account or to submit returns in accordance with the provision of section 5 and the rules made in that behalf under section 12, or

(b) wilfully obstructs an Inspector in the exercise of the powers conferred upon him by or under this Act,

he shall, on conviction, be punished with fine which may extend to 1[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 continued 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 offense-has been committed with the consent 'or connivance of or is attributable to any neglect on the port of, any director, manager, secretary or other officer of the company, such director, manager, secretary of other officer shall also be deemed to be guilty of that offence find, shall be liable to be proceeded against and punished accordingly.

Explanation-the purposes of this section,—

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

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

**Protection of action taken in good faith  
Power to make rules**

**11.** 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.

**12.**

(1) The State Government may make rules not inconsistent with the

provisions of this Act, 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, 2[such rules may

(a-1) prescribe, under the proviso to clause {vii} of sub-section (2) of section 3, the form of certificate regarding eligibility, the form of application for obtaining such certificate and the period within which such application shall be made;]

3[(a) prescribe the time and manner of payment of electricity duty, the manner and conditions for extending the date of payment of electricity duty and payment of electricity duty by installments; the circumstances in which and conditions subject to which, and the period for which deferment of payment of electricity duty may be allowed under section 4;]

1. These words were substituted for the words "fifty rupees" by Guj. 8 of 1999, s.5.
2. These words, brackets, figures and letters were substituted for the words such rules may" by Guj. 20 of 1968, s.6 (l)(i).
3. Clause (a) was substituted for the original by Guj. 8 of 1999, s.6.

(b) prescribe the form of the books of account to be kept, and the times at which, the form in which and the officers to whom the returns required by section 5 shall be submitted;

(c) prescribe the qualifications of Inspectors under section 6;

(d) prescribe the rules, if any, subject to which the Inspectors may exercise the powers under section 7;

[(e) prescribe the procedure for securing any concession or exemption under the Act;

(f) prescribe the procedure for referring questions to the authority specified under 2[Part II 3[of Schedule I or, as the case may be, of Schedule II]] and for filing mix appeal to the State Government against the decision of such authority;

(g) prescribe the procedure and the period of limitation for claiming refund of the amount of electricity duty paid in excess of the amount payable under this Act may be consumer;

(h) provide for installation and the reading of meters and sub-meters;] 4[(i)] provide for giving effect to the provisions of this Act.

(3) The making of rules under this section shall be subject to the condition of previous publication.

5[(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modifications so made by the Legislature shall b3 published In the Official Gazette, and shall thereupon take effect.]

## Sauings

**13.** For the avoidance of doubt it is hereby declared that nothing in this Act shall be taker, 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 tie 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.

## Repeal and savings

**14.**

On the commencement, of this Act the following provisions shall stand repealed, namely: —

(i) Part II of the Bombay Finance Act, 1932 ;

1. Clauses (e),(f), (g) end (h) were inserted by Guj. 20 of 1968, s. 6 (l)(ii).
2. The words and figure "Part-II of the Schedule" were substituted for the words and figure "Part IV of the Schedule" by President's Act No. 6 of 1976, s.4.
3. These words and figures were substituted for the words "of the Schedule" by Guj. 19 of 1977, s. 4.
4. Clause (e) was reentered as clause (i) by Guj. 20 of 1968, s. 6(l)(iii).
5. Sub-sections (4) and (5) were inserted, ibid., s. 6(2).

(ii) The Central Provinces and Barer Electricity Duty Act. 1949; (in) (iii) The Saurashtra electricity Duty Act. 1956 :

Provided that such repeal shall not affect—

(a) the previous operation of any law so repealed or anything duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed: or

(c) any penalty or punishment incurred in respect of any offence committed against any law so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right privilege, obligation, liability, penalty or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed as if this Act had not been passed :

Provided further that, subject to the preceding proviso, rates of duty or of interest prescribed, or rules or fronts framed, under the provisions of Part II of the Bombay Finance Act, 1932 and any appointment of Inspectors made under any of the repealed provisions shall be deemed to have been prescribed, framed or made under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

**Consequential**

**15.** In the Bombay Finance Act, 1932, in the long title and in the preamble, the words, "to provide for the levy of a duty on consumption of electrical energy" shall be deleted.

## 1[SCHEDULE I

(See section 3 (1) (a))

( Rates of duty payable by consumers other than those referred to in section 2 (a) (i) and (ii) ).

Nature of consumption 1	Rates of duty 2
<b>PART I</b>	
(1) For energy consumed by a consumer in respect of premises used for residential purposes or educational purposes—	
(a) in rural areas	20 per cent of consumption charges.
(b) in urban areas—	
(i) where the total consumption per month does not exceed 40 units	25 per cent of consumption charges.
(ii) where the total consumption per month exceeds 40 units.	40 per cent of consumption charges.

1. Schedules I and II were substituted by Guj. 17 of 1983, s. 4.

Explanation- "Educational purpose," means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Bombay Primary Education Act, 1947, a recognized school or a registered school as defined in clause II (q) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary Education Act, 1972, or a University established by any law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by such University.

(2) For energy consumed for motive power by a service undertaking- 30 par cent of consumption charges

(3) For energy consumed for the use of 45 par cent of consumption charges

(a) (i) hall or  
(ii) auditorium

used for commercial purpose or let out for any purpose, or

(b) (i) Cinema house or  
(ii) theatre

(4) For energy consumed by

1[\* \* \* \* \* \*]

(b) hotels including residential, restaurants, eating house and holding and boarding houses 45 par cent of consumption charges

(5) For energy consumed by an industrial undertaking, not being an undertaking to which item (2) or (4) applies, other than energy consumed in respect of any of its premises used for residential purpose-

(a) where an industrial undertaking consumes high tensioning energy. 20 par cent of consumption charges

(b) where an industrial undertaking consumes exclusively low tension energy 10 par cent of consumption charges

Explanation I -Any energy consumed by the industrial undertaking for installation of any additional plants, machineries and equipments of such, industrial undertaking shall be construed as energy consumed by such industrial undertaking,

Explanation II.— For the purpose of this Item

(a) "high tension energy" means any energy supplied, the voltage of which exceeds 450 volts under normal condition subject however to the percentage variation allowed by the Indian Electricity Rules, 1956.

(b) "low. tension energy" means any energy supplied-, the voltage.. of which does not exceed 450 voltage under normal conditions subject however to the percentage variation allowed by the rules aforesaid

1. Sub-item (a) was deleted by Guj. 7 of 1991, 8.3.

(6) For the, energy consumed in respect of pumping water for agricultural irrigation purposes. 5 per cent of consumption charges.

*Explanation.*—Any energy consumed for lighting in respect of premises used as a pump house shall be construed as energy consumed in respect of the pumping for agricultural irrigation purposes.

(7) For energy consumed in respect of any premises not falling under any of the items (1) to (6) above, 60 per cent of consumption charges.

*Explanation I.*—For the purposes of this Part, the expression "consumption charges" means the charges payable by a consumer to a licensee or any person who generates energy for the energy supplied by such licensee or person, but shall not be deemed to include any of the following charges, namely: —

- (i) Meter charges
- (ii) Interest on delayed payment
- (iii) Fuse-off call charges and reconnection charges:

Provided that—

(a) Where no energy has been consumed by a consumer, minimum charges payable by him shall not be deemed to be consumption charges;

(b) Where the units of energy actually consumed by a consumer are less than the units of energy for which prescribed minimum charges are payable "consumption charges" shall, in the case of such consumer, mean the charges for the units of energy actually consumed by him and not the prescribed minimum charges;

[(c) Where a licensee who has installed the generating set for his own use supplies surplus electrical energy to any other industrial undertaking (hereinafter referred to as "the receiving undertaking"), the charges payable by any other consumer for such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located shall be deemed to be 'consumption charges' for such supply of energy.]

*Explanation II.* In Explanation I

(a) the expression "energy supplied by such licensee or persons" shall not include the losses of energy sustained in transmission or transformation by a licensee or person before supply to a consumer;

(b) the term "prescribed" means prescribed by the licensee or the person supplying the energy.

## PART II

Where any dispute arises-

(i) whether any undertaking is an industrial undertaking or a new industrial undertaking or a service undertaking;

1. Clause (c) was added by Guj. 8 of 1999. s- 7.

(ii) whether any premises are used by an industrial undertaking for residential purpose or any other purpose ;

(iii) as to the item in this Schedule under which any consumption of energy falls:

(iv) where energy is consumed for different purposes, as to what portion is consumed for any particular purpose;

the dispute shall be referred for decision to such authority as the State Government may, be notification in the Official Gazette, specify and different authorities may be specified for different areas of the State. The authority concerned shall, after such inquiry as it deems fit, record its decision.

An appeal shall lie against such decision to the State Government within sixty days from the date of the decision.

Where no appeal is filed against a decision of the authority, the State Government may of its own motion or otherwise within one year from the date of any order passed by the authority call for and examine the record of any proceedings of the authority for the purpose of satisfying itself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such authority and pass such order thereon as it thinks fit.

The decision recorded by such authority, subject to any appeal to or revision by the State Government, and the order of the State Government in appeal or revision, shall be final and shall not be called in question in any court.

## 1[SCHEDULE II

(See section 3 (1) (b))

(Rates of duty payable by consumers other than those referred to in section 2 (a) (i) and (ii) ).

Nature of consumption	Bites of duty
1	2
<b>PART I</b>	
(1) For energy consumed by a consumer in respect of premises used for residential purposes or educational purposes—	
(a) in rural areas	10 paise per unit
(b) in urban areas	20 paise per unit
Explanation.— "Educational purpose" means the purpose of imparting education on the premises of an approved school as defined in clause (2) of section 2 of the Bombay Primary Education Act, 1947, a recognised school or a registered school as defined in clause (9) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary Education Act, 1972, or a University established by any law for the time being in force in the State, or a college affiliated to or, an institution recognised or approved by, such University.	
(2) For energy consumed for motive power by a service undertaking.	15 paise per unit
(3) For energy consumed for the use of—	25 paise per unit
(a) (i) hall or	
(ii) auditorium	
used for commercial purpose or let out for any purpose, or	
(b) (i) Cinema house or	
(ii) theatre	
(4) For energy consumed by	
1[* * * * *]	
(b) hotels including residential, restaurants, eating house and holding and boarding houses	30 paise per unit
(5) For energy consumed by an industrial undertaking, not being an undertaking to which item (2) or (4) applies, other than energy consumed in respect of any of its premises used for residential purpose-	
(a) where an industrial undertaking consumes high tension energy.	2[40 paise per unit]
(b) where an industrial undertaking consumes exclusively low tension energy	5 paise per unit
Explanation I -Any energy consumed by the industrial undertaking for installation of any additional plants, machineries and equipments of such, industrial undertaking shall be construed as energy consumed by such industrial undertaking,	
Explanation II.— For the purpose of this Item	
(a) "high tension energy" means any energy supplied, the voltage of which exceeds 450 volts under normal condition subject however to the percentage variation allowed by the Indian Electricity Rules, 1956.	
(b) "low. tension energy" means any energy supplied-, the voltage.. of which does not exceed 450 voltage under normal conditions subject however to the percentage variation allowed by the rules aforesaid	
(6) For the, energy consumed in respect of pumping water for agricultural irrigation purposes.	3[20 paise per units]
(7) For energy consumed in respect of any premises not falling under any of the items (1) to (6) above,	4[70 paise per units]
Explanation. — For the purposes of this Part in determining the units of energy consumed the losses of energy sustained in transmission or transformation by a licensee or any person who generate energy, before supply to a consumer, shall be excluded.	

1. Sub-item (a) was deleted by Guj. 7 of 1991, s.4.
2. These figures and words were substituted for the figures and words "10 paise per unit" by Guj. 8 of 1999, s.8(1).
3. These figures and words were substituted for the figure and words "3 paise per unit", *ibid.*, s. 8(2).
4. These figures and words were substituted for the figures and words "35 paise par unit", *ibid.*, s.8(3).

## PART II

Where any dispute arises—

- (i) whether any undertaking is an industrial undertaking or a new industrial undertaking or a service undertaking;
- (ii) whether any premises are used by an industrial undertaking for residential purpose or any other purpose;
- (iii) as to the item in this Schedule under which any consumption of energy falls;
- (iv) where energy is consumed for different purposes as to what portion of consumption is consumed for any particular purpose,

the dispute shall be referred for decision to such authority as the State Government may, by notification in the Official Gazette, specify and different authorities may be specified for different areas of the State. The authority concerned shall, after such inquiry as it deems fit, record its decision.

An appeal shall lie against such decision to the State Government within sixty days from the date of the decision.

Where no appeal is filed against a decision of the authority, the State Government may of its own motion or otherwise within one year from the date of any order passed by the authority call for and examine the record of any proceedings of the authority for the purpose of satisfying itself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such authority and pass such order thereon as it thinks fit.

The decision recorded by such authority, subject to any appeal to or revision by the State Government, and the order of the State Government in appeal or revision, shall be final and shall not be called in question in any court.]