

19 of 1988, S. 2 & Sec. I

Rep. by

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1978

No. 23 of 1978

[3rd June, 1978]

An Act further to amend the Electricity (Supply) Act, 1948.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Electricity (Supply) Amendment Act, 1978.

54 of 1948.

2. In section 1 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act),—

(a) in sub-section (3), for the words "Sixth and Seventh Schedules", the words "Sixth Schedule" shall be substituted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (4),—

(a) where any provision of this Act, to which sub-section (4) applies, is in force in any State immediately before the commencement of the Electricity (Supply) Amendment Act, 1978, that provision as amended by the Electricity (Supply) Amendment Act, 1978, shall, on and from such commencement, be in force in that State;

(b) the provisions of this Act, to which sub-section (4) applies, which are not in force in any State on the commencement of the Electricity (Supply) Amendment Act, 1978, shall come into force in that State on such date as the State Government may, with the concurrence of the Central Government, by notification in the Official Gazette, appoint."

3. In section 3 of the principal Act, in sub-section (6), in the opening paragraph, for the word "servants", the word "employees" shall be substituted.

4. After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. (1) The State Government may, if it considers expedient so to do, by notification in the Official Gazette, direct that the Board shall, with effect from such date as may be specified in the notification, be a body corporate with such capital, not exceeding ten crores of rupees, as the State Government may specify from time to time,

Amendment of section 3.

Insertion of new section 12A.

Board may have capital structure.

Short title.

Amendment of section 1.

REPEALED

(2) The State Government may, from time to time, with the approval of the State Legislature, increase the maximum limit of the capital referred to in sub-section (1) to such extent as that Government may deem fit, so, however, that the increased maximum limit of capital aforesaid shall not exceed the amount representing the aggregate of the outstanding loans of the Board.

(3) Such capital may be provided by the State Government, from time to time, after due appropriation made by the State Legislature by law for the purpose and subject to such terms and conditions as may be determined by that Government."

Amendment of section 15.

5. In section 15 of the principal Act, in the opening paragraph, for the word "servants", the word "employees" shall be substituted.

Amendment of section 57.

6. In section 57 of the principal Act,—

(a) the words "and the Seventh Schedule" shall be omitted;

(b) for the words "the said Schedules", in both the places where they occur, the words "the said Schedule" shall be substituted;

Amendment of section 57A.

7. In section 57A of the principal Act, in sub-section (1), the words "and the Seventh Schedule" shall be omitted.

Substitution of new section for section 59.

8. For section 59 of the principal Act, the following section shall be substituted, namely:—

General principles for Board's Finance.

59. (1) The Board shall, after taking credit for any subvention from the State Government under section 63, carry on its operations under this Act and adjust its tariffs so as to ensure that the total revenues in any year of account shall, after meeting all expenses properly chargeable to revenues, including operating, maintenance and management expenses, taxes (if any) on income and profits, depreciation and interest payable on all debentures, bonds and loans, leave such surplus, as the State Government may, from time to time, specify.

(2) In specifying the surplus under sub-section (1), the State Government shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization and leave—

(a) a reasonable sum to contribute towards the cost of capital works; and

(b) where in respect of the Board a notification has been issued under sub-section (1) of section 12A, a reasonable sum by way of return on the capital provided by the State Government under sub-section (3) of that section and the amount of the loans (if any) converted by the State Government into capital under sub-section (1) of section 66A."

REPEALED

- 9. In section 60 of the principal Act, in sub-section (2),—

 - (a) for the words "two months", the words "one year" shall be substituted;
 - (b) the words, brackets and figures, "before the issue of the notification under sub-section (4) of section 1" shall be omitted.

Amendment of section 60.

- 10. In section 61 of the principal Act, in sub-section (2), for the words "members, officers and servants", the words "members and officers and other employees" shall be substituted.

Amendment of section 61.

- 11. In section 62 of the principal Act, in sub-section (2), after the words "extreme urgency", the words "it shall be expended in accordance with the regulations made by the Board with the previous approval of the State Government and" shall be inserted.

Amendment of section 62.

- 12. In section 65 of the principal Act,—

 - (a) in sub-section (2), for the words "issue of bonds or stock", the words "issue of debentures or bonds" shall be substituted;
 - (b) in sub-section (4), for the words "Stock issued", the words "Debentures or bonds issued" shall be substituted.

Amendment of section 65.

- 13. After section 66 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 66A.

 - "66A. (1) Notwithstanding anything contained in section 12A, where any loan has been obtained from the State Government by a Board, in respect of which Board a notification has been made under sub-section (1) of that section, or any loan is deemed to be advanced to such Board by the State Government under sub-section (2) of section 60, the State Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that the amount of such loan or any part thereof shall be converted into capital provided to the Board on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of such loan do not include a term providing for an option for such conversion.

(2) In determining the terms and conditions of such conversion, the State Government shall have due regard to the following circumstances, that is to say, the financial position of the Board, the terms of the loan, the rate of interest payable on the loan, the capital of the Board, its loan liabilities and its reserves.

(3) Notwithstanding anything contained in this Act, where the State Government has, by an order made under sub-section (1), directed that any loan or any part thereof shall be converted into capital, and such order has the effect of increasing the capital of the Board, the capital of the Board shall stand increased by the amount by which the conversion increases the capital of the Board in excess of the capital specified under sub-section (1) of section 12A:

Conversion of amount of loans into capital.

Provided that the amount of the loan so converted together with the capital provided under sub-section (3) of section 12A shall not exceed the amount representing the aggregate of the outstanding loans of the Board after such conversion."

Substitu-
tion of
new
section
for
section 67.

Priority
of liabilities
of
Board.

14. For section 67 of the principal Act, the following section shall be substituted, namely:—

"67. (1) If in any year, the revenue receipts are not adequate to enable compliance with the requirements of section 59, the Board shall, after meeting its operating, maintenance and management expenses and after provision has been made for the payment of taxes (if any) on income and profits, distribute the revenue receipts, as far as they are available, in the following order, namely:—

(i) payment of interest on loans not guaranteed under section 66;

(ii) repayment of principal of any loan raised (including redemption of debentures or bonds issued) under section 65 which becomes due for payment in the year;

(iii) payment of interest on loans guaranteed under section 66;

(iv) payment of interest on sums paid by the State Government in pursuance of guarantees under section 66;

(v) payment of interest on loans advanced to the Board by the State Government under section 64 or deemed to be advanced under sub-section (2) of section 60;

(vi) repayment of principal of any loan guaranteed by the State Government under section 66 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(vii) repayment of principal of any loan advanced to the Board under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid.

and if any balance amount is left thereafter, the same shall be utilised for the other purposes specified in section 59 in such manner as the Board may decide,

(2) If for any reason beyond the control of the Board, the revenue receipts in any year are not adequate to meet its operating, maintenance and management expenses, taxes (if any) on incomes and profits and the liabilities referred to in clauses (i) and (ii) of sub-section (1), the shortfall shall, with the previous sanction of the State Government, be paid out of its capital receipts."

Substitu-
tion of
new sec-
tion for
section 68.

Charging
of depre-
ciation
by Board.

15. For section 68 of the principal Act, the following section shall be substituted, namely:—

"68. (1) Subject to the provisions of section 67, the Board shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time.

(2) Where in any particular year depreciation cannot be adjusted against revenues, the same may be carried over to subsequent years.

(3) The provisions of this section shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978, comes into force."

16. In section 69 of the principal Act, in sub-section (4), for the words "forwarded annually to the State Government", the words "forwarded to the Authority and to the State Government within six months of the close of the year to which the accounts and audit report relate" shall be substituted.

Amendment of section 69.

17. In section 74 of the principal Act, for the words "officer or servant", the words "officer or other employee" shall be substituted.

Amendment of section 74.

18. In section 75A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 75A.

"(3A) (a) The Generating Company shall carry on its operations under this Act and adjust its tariffs so as to ensure that the total revenues in any year of account shall, after meeting all the expenses properly chargeable to revenues including operating, maintenance and management expenses, taxes (if any) on income and profits, depreciation and interest payable on all debentures, bonds and loans, leave such surplus as the promoting government or promoting governments, as the case may be, may, from time to time, specify.

(b) In specifying the surplus under clause (a), the promoting government or promoting governments, as the case may be, shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization and leave a reasonable amount to contribute towards the cost of capital works and for payment of dividend on shares."

19. In section 79 of the principal Act,—

Amendment of section 79.

(a) in clause (c), for the words "officers and servants", the words "officers and other employees" shall be substituted;

(b) after clause (j), the following clause shall be inserted, namely:—

"(jj) expending sum not included in statement submitted under sub-section (1) or sub-section (5) of section 61, under sub-section (2) of section 62;"

(c) in the proviso, for the word, brackets and letter "and (d)", the brackets, letters and word "(d) and (jj)" shall be substituted;

20. In section 81 of the principal Act, for the words "members, officers and servants", the words "members and officers and other employees" shall be substituted.

Amendment of section 81.

REPEALED

Amendment of section 82.

21. In section 82 of the principal Act, for the words "member, officer or servant" the words "member or officer or other employee" shall be substituted.

Amendment of Fourth Schedule.

22. In the Fourth Schedule to the principal Act,—

(a) in paragraph I, clause (c) shall be omitted;

(b) in paragraph II, for the words and figure "on the scale set out in paragraph III", the words and figure "calculated in accordance with the provisions of paragraph VI of the Sixth Schedule" shall be substituted;

(c) paragraph III shall be omitted.

Amendment of Sixth Schedule

23. In the Sixth Schedule to the principal Act,—

(I) in paragraph VA,—

(a) in sub-paragraph (1),—

(i) for the words "amount of development rebate", the words "amount of investment allowance" shall be substituted;

(ii) for the words, brackets, figures and letter "under clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922", the words, figures and letter "under section 32A of the Income-tax Act, 1961" shall be substituted;

(b) in the proviso to sub-paragraph (4), after the words "amount of the Reserve", the brackets and words "(whether such amount is in the form of cash or other assets)" shall be inserted;

(2) for paragraphs VI, VII, VIII, IX, X and XI, the following paragraph shall be substituted, namely:—

"VI. (a) The licensee shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time.

(b) Where in any particular year depreciation cannot be adjusted against revenues, the same may be carried over to subsequent years.

(c) The provisions of this paragraph shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978, comes into force."

(3) in paragraph XVII, clause (8) shall be omitted.

Omission of Seventh Schedule.

24. The Seventh Schedule to the principal Act shall be omitted.

Amendment of Eighth Schedule and Ninth Schedule.

25. In clause (a) of paragraph I of the Eighth Schedule and clause (f) of paragraph I of the Ninth Schedule to the principal Act, for the words "officers and servants", the words "officers and other employees" shall be substituted.