

# KERALA STATE ELECTRICITY REGULATORY COMMISSION

## NOTIFICATION

### KERALA ELECTRICITY SUPPLY CODE (THIRD AMENDMENT) REGULATIONS, 2007

#### STATEMENT OF OBJECT AND REASONS

No.KSERC/III/SupplyCodeThirdAmendment/2007/Thiruvananthapuram/ January 8, 2008

In exercise of powers conferred under Section 181 of Electricity Act, 2003 (Central Act 36 of 2003), and all other powers enabling it in this behalf, and after previous publication, the Kerala State Electricity Regulatory Commission hereby makes the following regulations to amend the Kerala Electricity Supply Code, 2005 consequent to the publication of The Electricity (Amendment) Act, 2007 namely.-

**1. Short title and Commencement.-** (1) These regulations may be called the **Kerala State Electricity Supply Code (Third Amendment) Regulations, 2007.**

(2) These regulations shall be deemed to have come into force with effect from date of publication in the official gazette.

**2. For Clause 27 A of the Kerala State Electricity Supply Code, 2005 the following shall be substituted.**

“ 27 A Method of assessment of electricity charges payable in case of unauthorized use of electricity and theft of electricity:

#### **(I) Unauthorised use of electricity**

- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.
- (2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.
- (3) The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from date of

service of such order of provisional assessment of the electricity charges payable by such person.

- (4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:
- (5) If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place , and if however the period during which such unauthorized use of electricity has taken place cannot be ascertained such period shall be limited to a period of 12 months immediately preceeding the date of inspection.
- (6) The assessment under this clause shall be made at a rate equal to twice the tariff applicable for the relevant category of services specified in sub-clause (5).

Explanation. For the purposes of this clause.

- (a) "assessing officer" means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;
- (b) "unauthorised use of electricity " means the usage of electricity -
  - (i) by any artificial means; or
  - (ii) by a means not authorised by the concerned person or authority or licensee;or
  - (iii) through a tampered meter; or
  - (iv) for the purpose other than for which the usage of electricity was authorised or
  - (v) for the premises or areas other than those for which the supply of electricity was authorised.
- (7) Appeal to Appellate authority.
  - (a) Any person aggrieved by a final order of assessment under sub-clause (2 ) of Clause 27A, may within 30 days of the said order , prefer an appeal in the form, verified in the manner and accompanied by the fees as specified in Kerala Electricity (Procedure for filing appeal before the Appellate Authority) Regulations, 2005.
  - (b) No appeal against an order of assessment under sub-clause (2) shall be entertained unless an amount equal to half of assessed amount is deposited in cash or by way of bank draft with the licensee or documentary evidence of such deposit has been enclosed along with appeal.

**(II)Theft of electricity.\_ (1) Whoever, dishonestly.\_**

- (a) taps, makes or causes to be made any connection with overhead, underground or under-water lines or cables, or service wires, or service facilities of a licensee, supplied, as the case may be; or
- (b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of

- electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity, or
  - (d) uses electricity through tampered meter
  - (e) uses electricity for the purpose other than for which the usage of electricity was authorized,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

PROVIDED THAT in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use -

- (i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;
- (ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second or subsequent conviction of a person where the load abstracted, consumed or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt , such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station.

(2) Any officer of the licensee or supplier as the case may be, authorised in this behalf by the State Government may -

- (a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been, or is being, used unauthorisedly;
- (b) search, seize and remove all such devices, instrument, wires and any other facilitator or article which has been, or is being, used for unauthorised use of electricity;
- (c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) (a) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

(b) no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) (a) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

(b) If it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(c) The Licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect such supply of electricity.

(d) Only such officer of the licensee or supplier as authorised for the purpose by the Appropriate Commission, or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorized shall disconnect supply line of electricity.

(e) Such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection.

(e) The licensee or supplier, as the case may be, on deposit or payment of assessed amount or electricity charges in accordance with provisions of Act, shall without prejudice to the obligation to lodge the complaint as referred to above, restore the supply line of electricity within forty-eight hours of such deposit of payment.

(5) Whosoever abets an offence punishable under this Act shall notwithstanding anything contained in the Indian Penal Code (45 of 1860), be punished with punishment provided for the offence.

(6) Without prejudice to any penalty or fine which may be imposed or prosecuting procedure which may be initiated under Act, or any other law for the time being in force, if any officer or other employee of the Board or the licensee enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity is committed, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or both.

(7) Notwithstanding anything contained in sub section (1) of Section 135, Sub Section (1) of Section 136, Section 137 and Section 138, the licensee or certificate of competency or permit or such other authorization issued under the rules made or deemed to have been made under Act to any person who acting as electrical contractor, supervisor or worker abets the commission of an offence punishable under sub-section (1) of Section 135, sub-section (1) of Section 136, Section 137, or

Section 138, on his conviction for such abetment , may also be cancelled by the licensing authority. Provided that no order of such cancellation shall be made without giving such person an opportunity of being heard. For the purpose of this sub section “licensing authority” means the officer who for the time being in force is issuing or renewing such license or certificate of competency or permit or such other authorization.

- (8) No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by appropriate Government or Appropriate Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose.
- (9) Provided that the Court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under Sec 173 of the Code of Criminal Procedure, 1973. Provided further that a special court constituted under Sec 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.
- (10) For the purpose of investigation of an offence punishable under this Act, the police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973.
- (11) Notwithstanding any thing contained in the Code of Criminal Procedure. 1973, an offence punishable under Sec 135 to 140 or Section 150 shall be cognizable and non-bailable.

Sd/-  
MEMBER (F)

Sd/-  
MEMBER (E)

Sd/-  
CHAIRMAN

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Secretary (in charge)