

THE JAMMU AND KASHMIR ENERGY CONSERVATION ACT, 2011.

(Act No. XIV of 2011)

[23rd April, 2011]

An Act to provide for efficient use of energy and its conservation and for matters connected therewith and incidental thereto.

Be it enacted by the State Legislature in the Sixty-second year of Republic of India as follows:—

CHAPTER I

1. Short title and commencement. – (1) This Act may be called the Jammu and Kashmir Energy Conservation Act, 2011.

(2) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint and different dates may be appointed for different provisions of the Act.

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

- (a) “Act” means the Jammu and Kashmir Energy Conservation Act, 2011;
- (b) “accredited energy auditor” means an energy auditor accredited in accordance with the provisions of clause (r) sub-section (2) of section 11;
- (c) “appellate court” means High Court of Jammu and Kashmir;
- (d) “building” means any structure or erection or part of structure or erection after the rules relating to energy conservation building codes have been adopted under clause (p) of section 12, and includes any existing structure or erection or part of structure or erection, which is having a connected load of 100 Kilowatt (KW) or contract demand of 120 Kilo-volt Ampere (KVA) and above and is intended to be used for commercial purposes;
- (e) “Bureau” means the Bureau of Energy Efficiency established under sub-section (1) of section 3;

- (f) “Chairperson” means the Chairperson of the Governing Council;
- (g) “designated consumer” means any consumer specified under clause (g) of section 12;
- (h) “energy” means any form of energy derived from fossil fuels, nuclear substances or materials, hydro-electricity and includes electrical energy or electricity generated from renewable sources of energy or bio-mass connected to the grid;
- (i) “energy audit” means the verification, monitoring and analysis of use of energy including submission of technical report containing recommendations for improving energy efficiency with cost benefit analysis and an action plan to reduce energy consumption;
- (j) “energy conservation building codes” means the norms and standards of energy consumption expressed in terms of per square meter of the area wherein energy is used and includes the location of the building;
- (k) “energy consumption standards” means the norms for process and energy consumption standards specified under clause (a) of section 12;
- (l) “energy manager” means any individual possessing the qualifications prescribed under clause (o) of section 12;
- (m) “energy savings certificate” means any energy saving certificate issued to the designated consumers under sub-section (1) of section 13;
- (n) “equipment or appliance” means any equipment, appliance which consumes, generates, transmits or supplies energy and includes any device that consumes any other form of energy and produces a desired work;
- (o) “Governing Council” means the Governing Council referred to in section 4;
- (p) ”Government” means the Government of Jammu and Kashmir;

- (q) “member” means the member of the Governing Council and includes the Chairperson;
- (r) “notification” means a notification published in the Government Gazette;
- (s) “prescribed” means prescribed by rules made under this Act;
- (t) “regulations” means regulations made by the Bureau under this Act;
- (u) “schedule” means the Schedule of this Act;
- (v) “State” means the State of Jammu and Kashmir;
- (w) “State Commission” means the State Electricity Regulatory Commission established under Jammu and Kashmir Electricity Act, 2010;
- (x) Words and expressions used and not defined in this Act but defined in the Jammu and Kashmir Electricity Act, 2010 shall have meanings assigned to them in that Act.

CHAPTER II

BUREAU OF ENERGY EFFICIENCY

3. Establishment and incorporation of Bureau of Energy Efficiency. – With effect from such date as the Government may, by notification, appoint, there shall be established, for the purposes of the Act, a Bureau to be called the Bureau of Energy Efficiency.

(2) The Bureau shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power subject to the provisions of the Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Bureau shall be at Jammu/Srinagar.

4. Management of Bureau. – (1) The general superintendence, direction and management of the affairs of the Bureau shall vest in the Governing Council which shall consist of not less than ten, but not exceeding fifteen, members to be appointed by the Government.

(2) The Governing Council shall consist of the following members, namely:-

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| (a) | The Minister Incharge Power Development Department | ex-officio Chairperson |
| (b) | Administrative Secretary, Power Development Department | ex-officio member |
| (c) | Administrative Secretary, Consumer Affairs and Public Distribution Department | ex-officio member |
| (d) | Administrative Secretary, Industries and Commerce Department | ex-officio member |
| (f) | Administrative Secretary, Science and Technology Department | ex-officio member |
| (g) | Managing Director, J&K Power Development Corporation | ex-officio member |
| (h) | Managing Director, J&K Minerals Corporation | ex-officio member |
| (i) | Managing Director, Small Scale Industries Development Corporation | ex-officio member |
| (j) | Managing Director, J&K State Industries Development Corporation | ex-officio member |
| (k) | Managing Director J&K Energy Development Agency | ex-officio member |
| (l) | A nominee from Central Electricity Authority | ex-officio member |
| (m) | Director General of Bureau | ex-officio member-secretary |

(3) The Governing Council may exercise all powers and do all acts and things which may be exercised or done by the Bureau.

5. Meeting of Governing Council. – (1) The Governing Council shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum of such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason he is unable to attend a meeting of the Governing Council, any other

member chosen by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Governing Council shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have second or casting vote.

6. Vacancies etc. not to invalidate proceedings of Bureau, Governing Council or Committee. – No act or proceeding of the Bureau or the Governing Council or any Committee shall be invalid merely by reason of, –

- (a) any vacancy in, or any defect in the constitution of, the Bureau or the Governing Council or the Committee; or
- (b) any defect in the appointment of a person acting as a Director-General or Secretary of the Bureau or a member of the Governing Council or the Committee; or
- (c) any irregularity in the procedure of the Bureau or the Governing Council or the Committee not affecting the merits of the case.

7. Constitution of Advisory Committees and other committees. – (1) Subject to any regulations made in this behalf, the Bureau shall, within six months from the date of commencement of the Act, constitute Advisory Committees for the efficient discharge of its functions.

(2) Each Advisory Committee shall consist of a Chairperson and such other members as may be determined by regulations.

(3) Without prejudice to the powers contained in subsection (1), the Bureau may constitute, such number of technical committees of experts for the formulation of energy consumption standards or norms in respect of equipment or processes, as it considers necessary.

8. Director General of Bureau. – (1) The Government shall, by notification, appoint a Director-General of Bureau from amongst persons of ability and standing, having adequate knowledge and experience in dealing with the matters relating to

energy production, supply and energy management standardization and efficient use of energy and its conservation.

(2) The Government shall, by notification, appoint any person not below the rank of Deputy Secretary to Government, as Secretary to the Bureau.

(3) The Director General shall hold office for a term of five years from the date on which he enters upon his office or until he attains age of 60 years, whichever is earlier.

(4) The salary and allowances payable to the Director-General and other terms and conditions of his service and the terms and conditions of service of the Secretary of the Bureau shall be such as may be prescribed.

(5) Subject to general superintendence, direction and management of the affairs by the Governing Council, the Director-General of the Bureau shall be the Chief Executive Authority of the Bureau.

(6) The Director-General of the Bureau shall exercise and discharge such powers and duties of the Bureau as may be determined by regulations.

9. Officers and employees of Bureau. – (1)The Government may, in consultation with the Bureau, appoint such other officers and employees in the Bureau as it considers necessary for the efficient discharge of its functions under the Act.

(2) The terms and conditions of service of officers and other employees of the Bureau appointed under sub-section (1) shall be such as may be prescribed.

10. Authentication of orders and decisions of the Bureau. – All orders and decisions of the Bureau shall be authenticated by the signature of the Secretary or any other officer of the Bureau authorized by Director General in this behalf.

CHAPTER III

POWERS AND FUNCTIONS OF BUREAU

11. Powers and functions of Bureau. – The Bureau shall effectively co-ordinate with designated consumers, designated agencies and other agencies, recognize and utilize the existing

resources and infrastructure, in performing the functions assigned to it by or under the Act.

(2) The Bureau may perform such functions and exercise such powers as may be assigned to it by or under the Act and in particular, such functions and powers include the function and power to –

- (a) recommend to the Government amendments or modifications to be made in the norms for processes and energy consumption standards to suit the regional and local climatic conditions of the State.

Explanation: – For purposes of this clause, ‘norms for processes and energy consumption standards’ shall mean the norms notified by the Central Government under section 14 of the Energy Conservation Act, 2001 (Central Act 52 of 2001);

- (b) recommend to the Government the energy conservation building codes with respect to use of energy in the buildings under clause (b) of section 12;
- (c) take suitable steps to prescribe guidelines for energy conservation building codes specified by the Government under clause (b) of section 12 ;
- (d) recommend to the Government amendments or modifications to be made in the energy conservation building codes under clause (c) of section 12 to suit the regional and local climatic conditions of the State.

Explanation: – For purposes of this clause, ‘energy conservation building codes’ shall mean the codes notified by the Central Government under section 14 of the Energy Conservation Act, 2001 (Central Act 52 of 2001);

- (e) recommend to the Government the particulars required to be displayed on label on equipment or on appliances and manner of their display under clause (f) of section 12;
- (f) recommend to the Government for notifying any user or class of users of energy as a designated consumer under clause (g) of section 12;

- (g) recommend to the Government for issuing of the energy savings certificates under section 13;
- (h) take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;
- (i) arrange and organize training of personnel and specialist in the techniques for efficient use of energy and its conservation;
- (j) strengthen consultancy services in the field of energy conservation;
- (k) promote research and development in the field of energy conservation;
- (l) develop testing and certification procedure and promote testing facilities for certification and testing for energy consumption of equipment and appliances;
- (m) formulate and facilitate implementation of pilot projects and demonstration projects for promotion of efficient use of energy and its conservation;
- (n) promote use of energy efficient processes, equipment, devices and systems;
- (o) promote innovative financing of energy efficient projects;
- (p) give financial assistance to institutions for promoting efficient use of energy and its conservation;
- (q) levy fee, as may be determined by regulations, for services provided for promoting efficient use of energy and its conservation;
- (r) maintain a list of accredited energy auditors as may be specified by regulations;
- (s) specify, by regulations, the qualifications criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation;
- (t) specify, by regulations, the manner and intervals of time in which the energy audit shall be conducted;

- (u) specify, by regulations, certification procedures for energy auditors and energy managers to be designated or appointed by designated consumers;
- (v) prepare educational curriculum on efficient use of energy and its conservation for educational institutions, boards, universities or autonomous bodies and co-ordinate with them for inclusion of such curriculum in their syllabus;
- (w) conduct examination for capacity building and strengthening of services in the field of energy conservation including certification of energy managers and energy auditors; and
- (x) perform any other function as may be prescribed.

CHAPTER IV

POWER OF GOVERNMENT TO FACILITATE AND ENFORCE EFFICIENT USE OF ENERGY AND ITS CONSERVATION

12. Power of Government to enforce efficient use of energy and its conservation. – The Government may, by notification, in consultation with the Bureau, –

- (a) modify and amend the norms for processes and energy consumption standards for any equipment, appliances which consumes, generates, transmits or supplies energy to suit the regional and local climatic conditions of the State.

Explanation: – For purposes of this clause, ‘norms for processes and energy consumption standards’ shall mean the norms notified by the Central Government under section 14 of the Energy Conservation Act, 2001 (Central Act 52 of 2001);

- (b) specify energy conservation building codes with respect to use of energy in the buildings;
- (c) amend and modify the energy conservation building codes to suit the regional and local climatic conditions of the State.

Explanation: – For purposes of this clause, ‘energy conservation building codes’ shall mean the codes notified by the Central Government under section 14 of the

Energy Conservation Act, 2001 (Central Act 52 of 2001);

- (d) prescribe the specifications of equipments or appliances or class of equipments or appliances, as the case may be, for the purpose of the Act;
- (e) prohibit manufacture or sale or purchase or import of equipment or appliance specified under clause (d) unless such equipment or appliances conforms to energy consumption standards:

Provided that no notification prohibiting manufacture or sale or purchase or import or equipment or appliance shall be issued within a period of six months from the date of notification issued under clause (a) of this section:

Provided further that the Government may, having regard to the market share and the technological development having impact on equipment or appliance, and for reasons to be recorded in writing, extend the said period of six months referred to in the first proviso by a further period not exceeding six months;

- (f) direct display of such particulars on label on equipment or on appliance specified under clause (d) and in such manner as may be specified by regulations;
- (g) specify, having regard to the intensity or quantity of energy consumed and the amount of investment required for switching over to energy efficient equipments and capacity of industry to invest in it and availability of the energy efficient machinery and equipment required by the industry, any user or class of users of energy in the energy intensive industries and other establishments as specified in the Schedule as a designated consumer for the purposes of the Act;
- (h) alter the list of Energy Intensive Industries specified in the Schedule;
- (i) establish and prescribe such energy consumption norms and standards for designated consumers as it may consider necessary:

Provided that the Government may prescribe different norms and standards for different designated consumers having regard to such factors as may be prescribed;

- (j) direct, having regard to quantity of energy consumed or the norms and standards of energy consumption specified under clause (a) the energy intensive industries specified in the Schedule to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;
- (k) direct, if considered necessary for efficient use of energy and its conservation, any designated consumer to get energy audit conducted by an accredited energy auditor;
- (l) specify the matters to be included for the purposes of inspection under sub-section (2) of section 16;
- (m) direct any designated consumer to furnish to the designated agency, in such form and manner and within such period, as may be prescribed, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditor;
- (n) direct any designated consumer to designate or appoint energy manger in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of the every financial year to designated agency;
- (o) prescribe minimum qualification for energy auditors and energy managers to be designated or appointed under clause (n);
- (p) direct every designated consumer to comply with energy consumption norms and standards;
- (q) direct any designated consumer, who does not fulfill the energy consumption norms and standards prescribed under clause (i), to prepare a scheme for efficient use of energy and its conservation and

implement such scheme keeping in view of the economic viability of the investment in such form, the time within which and the manner as may be prescribed;

- (r) direct every owner or occupier of the building or building complex, being a designated consumer to comply with the provisions of energy conservation building codes for efficient use of energy and its conservation;
- (s) direct, any designated consumer referred to in clause (r), if considered necessary, for efficient use of energy and its conservation in his building to get energy audit conducted in respect of such building by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;
- (t) take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;
- (u) arrange and organize training of personnel and specialists in the techniques for efficient use of energy and its conservation; and
- (v) take steps to encourage preferential treatment for use of energy efficient equipment or appliance.

13. Energy savings certificates. – (1) The Government may, on the recommendation of Bureau, issue the energy savings certificates to the designated consumers whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

(2) The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy savings certificate to comply with the prescribed norms and standards.

14. Prescription of value of energy consumed. – The Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent of energy consumed for the purposes of the Act.

15. Power of inspection. – (1) The Bureau may appoint, after the expiry of five years from the date of commencement of the Act, as many inspecting officers as may be necessary for the

purpose of ensuring compliance with energy consumption standard specified under clause (a) of section 12 or ensure display of particulars on label on equipment or appliances specified under clause (d) of section 12 or for the purpose of performing such other functions as may be assigned to them:

Provided that pending such appointments, the Bureau may designate any officer of the Power Development Department as inspecting officer for purposes of the Act.

(2) Subject to any rules made under the Act, an inspecting officer shall have power to –

- (a) inspect any operation carried on, or in connection with, the equipment or appliance specified under clause (d) of section 12 or in respect of which energy standards under clause (a) of section 12 have been specified;
- (b) enter any place of designated consumer at which the energy is used for any activity and may require any proprietor, employee, director, manager or secretary or any other person who may be attending in any manner to, or helping in, carrying on any activity with the help of energy,–
 - (i) to afford him necessary facility to inspect–
 - (A) any equipment or appliance as he may require and which may be available at such place;
 - (B) any production process to ascertain the energy consumption norms and standards;
 - (ii) to make an inventory of stock of any equipment or appliance checked or verified by him; and
 - (iii) to record the statement of any person which may be useful for, or relevant to, for efficient use of energy and its conservation under the Act.

(3) An inspecting officer may enter any place of designated consumer–

- (a) where any activity with the help of energy is carried on; and
- (b) where any equipment or appliance notified under clause (d) of section 12 has been kept, during the hours at which such places is open for production or conduct of business connected therewith.

(4) An inspecting officer acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any equipment or appliance or books of accounts or other documents.

16. Power of Government to issue directions. – The Government may, in the exercise of its powers and performance of its functions under the Act and for efficient use of energy and its conservation, issue such directions in writing as it deems fit for the purposes of the Act to any person, officer, authority or any designated consumer and such person, officer or authority or any designated consumer shall be bound to comply with such directions.

CHAPTER- V

FINANCE, ACCOUNTS AND AUDIT OF BUREAU

17. Grants and loans by Government.-The Government may, after due appropriation made by State Legislature by law in this behalf, make to the Bureau grants and loans of such sums or money as the Government may consider necessary.

18. Establishment of Fund by the Government.- (1)The Government shall constitute a Fund to be called the State Energy Conservation Fund for the purposes of promotion of efficient use of energy and its conservation within the State.

(2) To the Fund shall be credited all grants and loans that may be made by the Government or the Central Government or any other organization or individual for the purposes of the Act.

(3) The Fund shall be applied for meeting the expenses incurred for implementing the provisions of the Act.

(4) The Fund created under sub-section (1) shall be administered by such persons or any authority and in such manner as may be specified in the rules made by the Government.

19. Borrowing powers of Bureau.- (1) The Bureau may, with the consent of the Government or in accordance with the terms of any general or special authority given to it by the Government, borrow money from any source as it may deem fit for discharging all or any of its functions under the Act.

(2) The Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Bureau under sub-section (1).

20. Budget.-The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Government.

21. Annual Report.-The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving full account of its activities during the previous financial year, and submit a copy thereof to the Government.

22. Annual report to be laid before State Legislature.-The Government shall cause the annual report referred to in section 21 to be laid, as soon as may be after it is received, before each House of the State Legislature.

23. Accounts and audit.- (1) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Accountant General.

(2) The accounts of the Bureau shall be audited by the Accountant General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureau to the Accountant General.

(3) The Accountant General and any other person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and privileges and authority in connection with such audit as the Accountant General generally has in connection with the audit of the Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Bureau.

(4) The accounts of the Bureau as certified by the Accountant General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government and the Government shall cause the same to be laid before each House of the State Legislature.

CHAPTER – VI

PENALTIES AND ADJUDICATION

24. Penalty.- (1) If any person fails to comply with the provisions of clause (e) or clause(f) or clause (j) or clause (k) or clause(m) or clause (n) or clause (p) or clause (r) or clause (s) of section 12, he shall be liable to penalty which shall not exceed ten thousand rupees for each such failure and, in the case of continuing failure, with an additional penalty, which may extend to one thousand rupees for every day during which such failure continues:

Provided that no person shall be liable to pay penalty within five years from the date of the commencement of the Act.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

25. Power to adjudication.- (1) For the purpose of adjudging under section 24, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Government, after giving the person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which, in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the clauses of section 12, he may impose such penalty as he thinks fit in accordance with the provisions of section 24.

26. Factors to be taken into account by adjudicating officer.- While adjudicating the quantum of penalty under section 25, the adjudicating officer shall have due regard to the following factors, namely:-

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; and
- (b) the repetitive nature of the default.

27. Civil Court not to have jurisdiction.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under the Act is empowered by, or under, the Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act.

CHAPTER VII

APPELLATE COURT FOR ENERGY CONSERVATION

28. Appeal.- Any person aggrieved, by an order made by an adjudicating officer or the Government or other authority under the Act, may prefer an appeal to the appellate court for energy conservation:

Provided that any person appealing against the order of the adjudicating officer levying any penalty, shall, while filing the appeal, deposit the amount of such penalty:

Provided further that where in any particular case, the appellate court is of the opinion that the deposit of such penalty would cause undue hardship to such person, the appellate court may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realization of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the adjudicating officer or the Government or other authority, as the case may be, is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the appellate court may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the appellate court may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks

fit, confirming, modifying or setting aside the order appealed against.

(4) The appellate court shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer or the Government or other authority, as the case may be.

(5) The appeal filed under sub-section (l) shall be dealt with by the appellate court as expeditiously as possible.

(6) The appellate court may, for the purpose of examining the legality, propriety or correctness of any order made by the adjudicating officer or the Government or other authority under the Act, as the case may be, in relation to any proceedings, on its own motion or otherwise, call for the records of such proceedings and make such order in the case as it thinks fit.

CHAPTER VIII

MISCELLANEOUS

29. Power of Government to issue directions to Bureau.- (1) Without prejudice to the foregoing provisions of the Act, the Bureau shall, in exercise of its powers or the performance of its functions under the Act, be bound by such directions on questions of policy as the Government may give in writing to it from time to time:

Provided that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Government, whether a question is one of policy or not, shall be final.

30. Power of Government supersede Bureau.- (1) If at any time the Government is of opinion –

- (a) that on account of grave emergency, the Bureau is unable to discharge the functions and duties imposed on it by or under the provisions of the Act; or
- (b) that the Bureau has persistently made default in complying with any direction issued by the Government under the Act or in discharge of the functions and duties imposed on it by or under the provisions of the Act and as a result of such default, the financial position of the

Bureau has deteriorated or the administration of the Bureau has deteriorated; or

- (c) that circumstances exist which render it necessary in the public interest so to do,

the Government may, by notification, supersede the Bureau for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Bureau-

- (a) all the powers, functions and duties which may, by or under the provisions of the Act, be exercised or discharged by or on behalf of the Bureau, shall until the Bureau is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Government may direct; and
- (b) all property owned or controlled by the Bureau shall, until the Bureau is reconstituted under sub-section (3), vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may reconstitute the Bureau by a fresh appointment:

Provided that the Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Government shall cause a notification issued under sub-section (1) and full report of any action taken under this section and the circumstances leading to such action to be laid before the State Legislature at the earliest.

31. Default of companies.- Where a company makes a default in complying with the provisions of clause (e) or clause (f) or clause (j) or clause (k) or clause (m) or clause (n) or clause (p) or clause (r) or clause (s) of section 12, every person who at the time of such contravention 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 have acted in contravention of the said provisions and shall be liable to be proceeded against and imposed penalty under section 24 or section 25 accordingly:

Provided that nothing contained in this sub-section shall render any such person liable for penalty provided in the Act if he proves that the contravention of the aforesaid provisions was committed without his knowledge or that he exercised all due diligence to prevent the contravention of the aforesaid provision.

(2) Notwithstanding anything contained in sub-section (1), where any contravention of the provisions of clause (e) or clause (f) or clause (j) or clause (k) or clause (m) or clause (n) or clause (p) or clause (r) or clause (s) of section 12, has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to have contravened the said provisions and shall be liable to be proceeded for imposition of penalty accordingly.

Explanation – For the purposes of this section, “company” means a body corporate and includes a firm or other association of individuals.

32. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Government or Director-General or Secretary or any officer of the Government or State Commission or its members or any member or officer or other employee of the Bureau for anything which is in good faith done or intended to be done under the Act or the rules or regulations made thereunder.

33. Delegation.- The Bureau may, by general or special order in writing, delegate to any member, member of the committee, officer of the Bureau or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under the Act (except the powers under section 41) as it may deem necessary.

34. Power to obtain information.- Every designated consumer or manufacturer of equipment or appliances specified under clause (b) of section 12 shall supply the Bureau with such information, and with such samples of any material or substance used in relation to any equipment or appliance, as the Bureau may require.

35. Power to exempt.- If the Government is of the opinion that it is necessary or expedient so to do in the public interest, it may, by notification and subject to such

conditions as may be specified in the notification, exempt any designated consumer or class of designated consumers from application of all or any of the provisions of the Act:

Provided that the Government shall not grant exemption to any designated consumer or class of designated consumers for the period exceeding five years:

Provided further that the Government shall consult the Bureau before granting such exemption.

37. The members, Director General, Secretary, officers and other employees of the Bureau to be public servants.- The members, Director General, Secretary, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any provisions of the Act, to be public servants within the meaning of section 21 of State Ranbir Penal Code.

38. Power of Government to make rules.- The Government may, by notification, make rules for carrying out the provisions of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the salary and allowances payable to the Director-General and other terms and conditions of his service and the terms and conditions of service of the Secretary of the Bureau under sub-section (4) of section 8;
- (b) the terms and conditions of service of officers and other employees of the Bureau under sub-section (2) of section 9;
- (c) performing such other functions by the Bureau, as may be prescribed, under clause (x) of sub-section (2) or section 11;
- (d) the energy conservation building codes under clause (b) of section 12;
- (e) the energy consumption norms and standards for designated consumers under clause (i) of section 12;

- (f) prescribing the different norms and standards for different designated consumers under the proviso to clause (i) of section 12;
- (g) the form and manner and the time within which information with regard to energy consumed and the action taken on the recommendations of the accredited energy auditor be furnished under clause (m) of section 12;
- (h) the form and manner in which the status of energy consumption be submitted under clause (n) of section 12;
- (i) the minimum qualification for energy auditors and energy managers under clause (o) of section 12;
- (j) the form and manner for preparation of scheme and its implementation under clause (q) of section 12;
- (k) prescribing the procedure for issuing the energy savings certificates under sub-section of section 13;
- (l) the value of per metric ton of oil equivalent of energy consumed under section 14;
- (m) the matters relating to inspection under sub-section (2) of section 15;
- (n) the person or any authority who shall administer the Fund and the manner in which the Fund shall be administered under sub-section (4) of section 18;
- (o) the form in which, and the time at which, the Bureau shall prepare its budget under section 20;
- (p) the form in which, and the time at which, the Bureau shall prepare its annual report under section 21;
- (q) the form in which the accounts of the Bureau shall be maintained under section 23;
- (r) the manner of holding inquiry under sub-section (l) of section 25;
- (s) the form of and fee for filing such appeal under sub-section (2) of section 28; and
- (t) any other matters which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made by rules.

39. Power of Bureau to make regulations.- (1) The Bureau may, with the previous approval of the Government and subject to the condition of previous publication, make regulations not inconsistent with the provisions of the Act and the rules made thereunder to carry out the purposes of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (a) the time and place of the meetings of the Governing Council and the procedure to be followed at such meetings under sub-section (1) of section 5;
- (b) the members of advisory committees constituted under sub-section (2) of section 7;
- (c) the powers and duties that maybe exercised and discharged by the Director-General of the Bureau under sub-section (6) of section 8;
- (d) the levy of fee for services provided for promoting efficient use of energy and its conservation under clause (q) of sub-section (2) of section 11;
- (e) the list of accredited energy auditors under clause (r) of sub-section (2) of section 11;
- (f) the qualifications, criteria and conditions subject to which a person maybe accredited as an energy auditor and the procedure for such accreditation under clause (s) of sub-section (2) of section 11;
- (g) the manner and the intervals or time in which the energy audit shall be conducted under clause (t) of sub-section (2) of section 11;
- (h) certification procedure for energy auditors and energy managers under clause (u) of sub-section (2) of section 11;
- (i) particulars required to be displayed on label and the manner of their display under clause (f) of section 12;

- (j) the manner and the intervals of time for conduct of energy audit under clause (j) or clause (s) of section 12; and
- (k) any other matter which is required to be, or may be, specified.

40. Rules and regulations to be laid before State Legislature.- Every rule made by the Government and every regulation made under the Act shall be laid, as soon as may be after it is made, before each House of State Legislature.

41. Application of other laws not barred.- The provisions of the Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

42. Power to remove difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Government Gazette, make such provisions not inconsistent with the provisions of the Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of the Act.

THE SCHEDULE

[See section 2(u)]

List of Energy Intensive Industries and other establishments

1. Aluminum;
2. Calcium carbide;
3. Caustic Soda;
4. Cement;
5. Charge Chrome;
6. Chemicals;
7. Chlorates/Per Chlorates;
8. Ferro Manganese;
9. Ferro Silicon;
10. Ferro Alloys;
11. Fertilizers;
12. Potassium Chlorate;
13. Pulp and Paper;

14. Petrochemicals, Gas Crackers, Naphtha Crackers and Petroleum Refineries;
 15. Railways;
 16. Silicon Carbide;
 17. Sodium Chlorate;
 18. Sodium Metal Chlorates/per chlorates;
 19. Sugar;
 20. Melting of metals and alloys Industries engaged in electro-chemical/electro thermal process;
 21. Thermal Power Stations, hydel power stations, electricity transmission companies and distribution companies;
 22. Textiles;
 23. Transport Sector Industries and Services;
 24. Commercial buildings or establishments;
 25. Industries using induction/arc furnace;
 26. Industries engaged in electrochemical / electro thermal process;
 27. Iron and Steel;
 28. In other case where the cost of power is more than 25% of the cost of the product manufactured.
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