

ELECTRICITY ACT, 2049

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An Act made for the Management and Development of Electricity

PREMABLE:

WHEREAS, it is expedient to develop electric power by regulating the survey, generation, transmission and distribute the survey, generation, transmission and distribution of electricity and to standardize and safeguard the electricity services.

NOW, THEREFORE, be it enacted by the Parliament in the twenty-first year of the reign of **His Majesty's King Birendra Bir Bikram Shah Dev.**

1. Short Title and Commencement:

- 1) This Act may be called "**Electricity Act, 2049**".
- 2) This Act shall come into force on such date as His Majesty's Government may, by notification published in the Nepal Gazette, appoint.

2. Definitions:

Unless the subject or the context otherwise requires, in this Act -

- a) "**Electricity**" means electric power generated from water, mineral oil, coal, gas, solar energy, wind energy, atomic energy or any other means.
- b) "**Hydro-electricity**" means electric power generated from water.
- c) "**License**" means the license issued pursuant to this Act.
- d) "**Consumer**" means a person who obtains electricity from the licensee.
- e) "**Charges**" means the fee charged to the consumer for the electricity services rendered to them pursuant to this Act.
- f) "**Licensee**" means a person or a corporate body who has obtained the license pursuant to **Section 4**.
- g) "**Inspector**" means electricity inspector appointed pursuant to **Section 37** and this word also denotes Chief Electricity Inspector.
- h) "**Prescribed**" or "**as prescribed**" means prescribed or as prescribed in the rules made under this Act.

3. Survey, Generation, Transmission or Distribution of Electricity:

No person shall be entitled to conduct survey, generation, transmission or distribution of electricity without obtaining license under this Act.

Provided that no license shall be required to be obtained by a national or a corporate body for the generation, transmission or distribution of electricity up to 1000 kilowatt and for conducting necessary survey thereof. Before

generating, transmitting or distributing hydro-electricity of the capacity ranging from 100 kilowatt to 1000 kilowatt, information to that effect shall be given to the prescribed officer in a manner as prescribed.

4. Provisions of License:

1) A person or a corporate body, who desires to conduct survey, generation, transmission or distribution of electricity, shall be required to submit an application to the prescribed officer along with the economic, technical and environmental study report and with other prescribed particulars on the relevant subject.

Provided that such study report shall not be required to be included while applying for the license to conduct the survey relating to electricity.

2) On receipt of an application pursuant to **sub-section 1)** the prescribed officer shall have to examine or cause to examine necessary enquiries and shall have to issue license to the applicant according to the format as prescribed within 30 days of receipt of such application in case of license for conducting survey relating to electricity and within 120 days in as of license for generation, transmission or distribution of electricity.

3) A person or a corporate body, who is doing generation, transmission or distribution of electricity prior to the commencement of this Act, shall be required to submit an application along with prescribed particulars to the prescribed officer within one year from the date of the commencement of this Act except otherwise provided in the proviso clause of **Section 3**.

4) On receipt of an application pursuant to **sub-section 3)** the prescribed officer after examining necessary enquiries, shall issue the license according to the format as prescribed within 60 days of receipt of such application.

5) In case a license desires to sell or otherwise transfer its license, it shall be required to obtain the approval from the prescribed officer.

5. Terms of License:

1) The term of license to be issued for the survey of electricity may be of 5 (Five) years in maximum.

2) The term of license to be issued for generations, transmission or distribution of electricity may be of 50 (Fifty) years in maximum.

3) In case a license is issued for a term less than prescribed term in **sub-section 1) or 2)**, it shall be required to be renewed before one year of expiry of the term stipulated in the license.

4) If the license is not renewed pursuant to **sub-section 3)** such license shall be void.

6. Restriction of the Issuance of License:

In case license has been issued to any person or corporate body for the distribution of electricity in any area in accordance with this Act, no license shall be issued to any other person or corporate body for the distribution of electricity in the same area for the distribution of electricity in the same area for the whole term of such license.

Provided that if the licensee is deemed to be unable to supply the electricity as per demand of that area, license may be issued also to any other person or corporate body for the distribution of electricity in such area.

7. Matters to be observed by the Licensee:

Matters to be observed by the licensee in relation to survey, generation, transmission or distribution of electricity shall be as prescribed.

8. License may be Cancelled:

1) If the licensee performs any act contrary to this Act or rules made under this Act, the prescribed officer may issue an order to the concerned licensee by prescribing necessary improvements to be made on such activity within the specified period.

2) If the licensee makes no improvement within the prescribed period pursuant to **sub-section 1)**, the prescribed officer may cancel the license of such person.

3) Prior to the cancellation of license pursuant to **sub-section 2)**, the prescribed officer shall give the licensee a reasonable opportunity to explain one's own innocence.

9. Agreement may be Entered with the Licensee:

His Majesty's Government may enter into agreement with the licensee for bulk purchase of electricity, guarantee for the necessary capital to be invested or other financial and technical matters.

10. Ownership of His Majesty's Government:

1) The land, building, equipment and structure related to the electricity generation plant or transmission and distribution line established by the foreign national or corporate body as more than 50 Fifty) percent of the total investment, shall be under the ownership of His Majesty's government after the expiry of the term as prescribed in the license.

2) The assets coming under the ownership of His Majesty's Government pursuant to **sub-section 1)** may be purchased by the prior licensee on the amount as assessed pursuant to **sub-section 3)** for generation, transmission or distribution of electricity and after acquiring such asset, such person, after entering into an agreement with His Majesty's Government, shall generate, transmit or distribute electricity according to the agreement so made.

3) His Majesty's Government shall constitute a committee comprising of at least five persons for the purpose of assessing the amount pursuant to **sub-section 2)**.

4) The electricity generation plant, transmission or distribution line established by the foreign national or corporate body as up to fifty percent of the total investment or established without foreign investment shall be operated or managed by the prior licensee by entering into an agreement with **His Majesty's Government** after the expiry of the term as prescribed in the license on conditions as mentioned in the agreement so made.

11. Royalty to be Paid:

- 1) The licensee shall have to pay royalty to His Majesty's Government at a rate of Rs. 100 for each installed kilowatt of electricity per year plus 2 percent of the average tariff per unit per kilowatt hour) for a term of up to fifteen years from the date of generation of electricity for commercial purpose.
- 2) After the term specified in **sub-section 1)**, the licensee shall have to pay royalty to His Majesty's Government at a rate of Rs. 1000 for each installed kilowatt of electricity per year plus 10 percent of the average tariff per unit per kilowatt hour).

12. Facilities Relation to Income Tax and Other Tax and Charge:

- 1) No income tax shall be levied to a person or a corporate body who is generating, transmitting and distributing hydro-electricity up to 1000 Kilowatt.
- 2) The licensee, who has obtained license for hydro-electricity generation, transmission or distribution shall be levied an income tax lessened by 10 percent than the corporate income tax levied pursuant to the prevailing law.
- 3) The licensee who has obtained license for hydro-electricity generation, transmission and distribution shall be exempted from income tax for fifteen years from the date of generation, transmission and distribution of electricity for commercial purpose.
- 4) The licensee, who has obtained license for hydro-electricity transmission or distribution, shall be exempted from income tax for ten years from the date of transmission or distribution of electricity.
- 5) If the licensee takes the responsibility to operate and manage the hydro-electricity generation plant, transmission or distribution line owned by His Majesty's Government or purchases the same, such licensee shall be exempted from income tax for five years from the date of such undertaking or purchase.
- 6) If the licensee reinvests in hydro-electricity generation plant, transmission or distribution line for its diversification or extension of installed capacity by 25 percent or more for modernization of technology and develops subsidiary industry such licensee shall be entitled to deduct 50 percent of the cost of new additional fixed assets from the net income earned from such hydro-electricity generation plant, transmission and distribution line. Such deduction shall be provided in lump sum or in installments within three years.

Explanation:

"**Net Income**" means net income assessed in accordance with the assessment procedure prescribed by prevailing law for the purpose of income tax.

- 7) Customs duties and sales tax shall be levied as per the prevailing schedule for the import of construction equipment, machines, tools and equipment required for repair and maintenance as well as the spare parts thereof for hydro-electricity generation, transmission or distribution which are produced and sold by local industries. Only 1 percent customs duties shall be levied for the import of materials which are not produced in Nepal and no charge for import license and sales tax shall be levied for such imports.

13. Facility of Foreign Exchange:

In case foreign currency has been invested in the generation, transmission or distribution of hydro-electricity as a loan or share capital, **His Majesty's Government** shall make available necessary foreign currency at the prevailing market rate of foreign exchange for repatriation of investment or repayment of principal or interest of loan.

14. Facilities under the Prevailing Law shall be Enjoyed:

The licensee shall also enjoy facility pursuant to prevailing law in addition to the facilities obtained under this Act in such a manner that the facilities are not repeated.

15. Arrangement Relating to Housing and Bonus:

Notwithstanding anything written in the prevailing law, the arrangement of housing and bonus of the labourer and staff associated with the work of electricity generation, transmission or distribution shall be as prescribed.

16. Electricity Charge and Other Charges to be Realized:

- 1) His majesty's Government or the licensee may realize electricity tariff or other charges as assessed pursuant to **Section 17** from persons, using such services, in consideration of the services rendered to them.
- 2) Electricity charge and other charges pursuant to sub-section 1) shall be realized as prescribed.

17. Assessment of Electricity Tariff and Other Charges:

- 1) His majesty's Government shall constitute a Tariff Fixation Commission for the purpose of fixing electricity tariff and other charges.
- 2) The commission constituted pursuant to sub-section 1) shall consist of at least five persons from among the representative of His Majesty's Government, economist and those involved in the generation, transmission and distribution of electricity and the consumers.
- 3) The commission, pursuant to **sub-section 1)**, shall fix the electricity tariff and other charges on the basis of the rate of depreciation, reasonable profit, mode of the operation of the plant, changes in consumer's price index, royalty, etc.
- 4) The licensee shall not entitled to realize electricity charges and other charges and in excess of what has been fixed or any other charges other than those fixed pursuant to **sub-section 3)**.
- 5) The commission pursuant to **sub-section 1)** may, in order to complete its function, call for the concerned company, person, institution or corporate body, the necessary information and document and it shall be their duty to give such information and document.
- 6) While fixing electricity tariff and other charges pursuant to **sub-section 3)** the commission, constituted pursuant to **sub-section 1)** , may classify the types of consumer and fix the tariff accordingly.
- 7) The working procedure of the commission, constituted pursuant to sub-section 1), shall be as prescribed.

18. Separate Tariff and Other Charge may be Assessed:

- 1) Notwithstanding anything written in **Section 17**, one who distributes electricity in isolation of the national grid, shall be entitled to fix the electricity tariff and other charges for the electricity so distributed.
- 2) While fixing electricity tariff and other charges pursuant to **sub-section 1**), it may be so fixed that all investments made on electricity generation, transmission or distribution is paid back in average of 25 years by deducting the depreciation cost and a dividend of 25 percent on share capital is earned.

19. Electricity Service may be Stopped:

Electricity services may be stopped in the following condition:

- a) If there is a need to inspect, repair or to perform any important work relating to the electrical equipment and the electrical line.
- b) If there occurs natural calamities like-flood, landslide, fire, earthquake or strike, lockout, riot or any other extraordinary circumstances which are beyond one's control.
- c) For any consumer, who do not pay the electricity tariff and other charges, which have to be paid.
- d) For any consumer, who utilizes electricity unauthoritatively or utilizes electric power contrary to the terms and conditions as set forth.

20. National Transmission Line of Grid:

His majesty's Government may, by a notification published in the Nepal gazette, specify and transmission line or grid as national transmission line or grid.

21. Sale of Generated Electricity:

- 1) If any person desires to sell in bulk the electricity generated pursuant to this Act, His Majesty's Government may purchase or cause to purchase such electricity to the national grid.
- 2) The rate of electricity purchased pursuant to **sub-section 1**) shall be determined on the basis of fixed percentage of avoided cost or an addition to the generation cost or fixed percentage of average tariff of Nepal Electricity Authority.
- 3) While determining the rate of electricity purchased pursuant to **sub-section 2**) calculation shall be made in such a way that the total investment could be paid back in twenty-five years in average by deducting the depreciation cost.

22. Import and Export of Electricity:

- 1) If the licensee desiring to distribute electricity by importing the same within the Kingdom of Nepal, may do so by obtaining prior approval of His Majesty's Government as prescribed.
- 2) The licensee desiring to export electricity generated on its own to the foreign country may do so by entering into an agreement with His Majesty's Government on such matter.

3) The exporter of electricity pursuant to **sub-section 2)** shall have to pay export duty as prescribed to His Majesty's Government.

23. Fixing of Quality Standard of Electricity:

- 1) His Majesty's Government may, by a notification published in the Nepal Gazette, fix the quality standard of electricity, which is generated, transmitted and distributed pursuant to this Act.
- 2) While generating, transmitting or distributing electricity, the quality standard as prescribed pursuant to **sub-section 1)** shall be maintained.

24. No Substantial Adverse effect be made on Environment:

While carrying out electricity generation, transmission or distribution, it shall be carried out in such manner that no substantial adverse effect be made on environment by way of soil erosion, flood, landslide, air pollution etc.

25. Volt level and other Technical Matters:

- 1) For the purpose of electricity generation, transmission or distribution, the volt level and other technical matters shall be as prescribed.
- 2) The person who conducts electricity generation, transmission or distribution shall maintain the prescribed standard pursuant to **sub-section 1)**.

26. Arrangements for Security Measures:

The security measures to be adopted in the process of generation, transmission or distribution of electricity shall be as prescribed.

27. Repair and Maintenance:

If the supply of electricity is required to be interrupted for the purpose of repair and maintenance of electricity generation plant or transmission line or distribution line or any other structure or due to any other reason, the licensee shall notify the general public by publishing a notification at least 24 hours in advance.

28. Special Condition:

- 1) If it is required that the generation of electricity in any area is to be stopped due to any special circumstance or if the supply of electricity service is to be made immediately in any area, His Majesty's Government shall issue necessary order to the person who generates, transmits or distributes electricity and it shall be the duty of the concerned person to obey such order.
- 2) His Majesty's Government shall compensate the concerned person for the loss or damage caused due to the obeying of the order issued pursuant to **sub-section 1)**.

29. No Nationalization to be made:

1) The land, building, equipment and structure related to electricity generation, transmission or distribution should not be nationalized. Provided that the land, building equipment and structure related to the generation, transmission or distribution of 1000 kilowatt or less of hydro-electricity, His Majesty's Government may, for the extensive public use take over such property and develop and develop that itself.

Explanation: "Extensive Public Use" means the use, which serves benefits to larger population than the existing population benefited from it.

2) His Majesty's Government shall pay compensation, as prescribed, to the concerned person for the land, building, equipment and structure which is taken-over by His Majesty's Government pursuant to the proviso clause of **sub-section 1)**.

3) The compensation payable pursuant to **sub-section 2)** shall be determined on the basis of current price after deducting wear, tear and depreciation) of the land, building, equipment and structure taken over by His Majesty's Government.

30. Purchase of Electricity Generation Plant etc.:

In case where the licensee is going to distribute electricity in an area where any person or corporate body is already distributing electricity by generating up to 1000 Kilowatt of hydro-electricity, such person or corporate body who is generating hydro-electricity up to 1000 Kilowatt if desires to sell the hydro-electricity plant, transmission and distribution line which is operated by him, the said licensee shall have to purchase such hydro-electricity plant, transmission and distribution line on the price after deducting wear, tear and general depreciation) as fixed by mutual agreement.

31. Security of Electricity Structure:

1) His Majesty's Government may make necessary arrangement for the security of any electricity generation plant, transmission plant, sub-station, or any reservoir made for generating electricity or any other structure related to electricity, on the request of the licensee or by itself, if it deems it necessary to provide such security.

2) If the security arrangement is made pursuant to **sub-section 1)** on the request of the licensee, all the expenses incurred for such security shall be borne by the licensee.

32. To Enter into Others' Premises:

If His Majesty's Government or the licensee requires to enter into anyone's premises in connection with survey, generation, transmission or distribution of electricity, the employee of His Majesty's Government or the licensee may enter into such premises only after giving a prior notice to the concerned person. In case any loss or damage is caused due to such entry, His Majesty's Government or the licensee shall pay compensation as prescribed for such loss or damage.

Provided that such employee may, without giving prior notice, enter into the concerned premises to rescue from any

accident or to carry out investigation into the matter if there is a reasonable ground to suspect that the electricity is being unauthoritatively used or pilfered in such premises.

33. Utilization or Acquisition of Other's Land and House:

- 1) If it is required that the land and house of any person be used or acquired for the purpose of generation, transmission, or distribution of electricity, the licensee may submit an application to His Majesty's Government.
- 2) On receipt of an application pursuant to **sub-section 1)**, His Majesty's Government may, after conducting necessary enquiries into the matter, make available such land and house in the same manner as it makes available to any corporate body under the prevailing laws. If the land is owned by the government, such premises shall be made available on lease for the period up to the term of license.
- 3) If a construction work relating to the generation, transmission, or distribution of electricity has been preformed by His Majesty's Government or a licensee, His Majesty's Government may prohibit to use the premises of a house or land located in the area where such construction work is performed or the premises of a house or land located in the prescribed distance from such place of construction by any other person for any specified purpose. His Majesty's Government or the licensee shall pay compensation, as prescribed, to the concerned person for such damage or loss caused due to such prohibition.

34. His Majesty's Government may Generate and Develop Electricity:

Nothing mentioned in this Act shall be deemed to have prevented His Majesty's Government to generate or to develop electricity on its own.

35. His Majesty's Government may enter into contract for Generation, Transmission or Distribution of Electricity:

Notwithstanding anything written elsewhere in this Act, His Majesty's Government, by entering into a contract with any person or corporate body, may do or cause to do the generation, transmission or distribution of electricity subject to the terms and conditions as mentioned in such contract.

36. Hydro-electricity Development Unit:

In order to develop or cause to develop hydro-electricity and to encourage private sector entrepreneurs for the development of hydro-electricity and to follow up the works relating to hydroelectricity development, a Hydro-electricity Development Unit shall be constituted in the Ministry or Water Resources.

37. Appointment of Inspector:

- 1) In order to carry out inspection and supervision of generation, transmission and distribution of electricity, His Majesty's Government may appoint Chief Electricity Inspector and Electricity Inspectors as may be necessary.
- 2) The qualification required for the Chief Electricity Inspector and Electricity Inspector shall be as prescribed.

3) Other functions, rights and duties of the Chief Electricity Inspector and Electricity Inspector shall be as prescribed.

38. Penalties:

1) The prescribed officer may impose a fine up to five thousand rupees to any person who acts in contravention of this Act or rules made under this act. If the damage is caused to anybody due to such act, compensation for such damage shall also be realized from such person by the prescribed officer.

2) If any person generates, transmits or distributes electricity, without obtaining the license, which is required to be obtained under this Act, or without observing the terms and conditions set forth in the license, the prescribed officer may impose a fine up to five thousand rupees and cause to close such activity.

3) If any person pilfers, misuses or uses unauthoritatively the electricity, such person may be punished with a fine at par with the value of the service taken and the value of such service taken shall be realized from such person by the prescribed officer.

4) If any person cause adverse effect, demolishes, destroys or causes harm otherwise with malafied intention to any electricity generation plant or transmission center or transmission line, distribution line or any other structure related to the same or induces to do the said acts or attempt to do so, such person may be punished with a fine at par with the value of the damages or with imprisonment up to ten years or both realizing the value of damages from such person.

39. Appeal:

Any person who is not satisfied with the decision of the cancellation of license by the prescribed authority pursuant to **sub-section 2) of section 8** or the decision on the amount of compensation given pursuant to **section 29, 32 or 33** or an order of the punishment issued by the prescribed authority pursuant to **sub-section 1), 2) or 3) of section 38**, an appeal against such decision or order may lie in an appellate court within a period of thirty five days.

40. Power to Frame Rules:

1) His Majesty's Government may frame necessary rules in order to carry out the objectives of this Act.

2) Without prejudice to the generality of the powers conferred by **sub-section 1)**, Him Majesty's Government may frame rules, in particular, on the following subjects:

a) Matters relating to the format of application for license and the particulars to be mentioned in the application, format of license, terms and conditions, charges or fee and other necessary matter,

b) Matters relating to quality, volt level of electricity and quality standard of service of electricity to be distributed and other necessary technical matters,

c) Matters relating to the construction work relating to electricity structures and its quality standard,

d) Matters relating to quality standard of materials and equipment which are used for generation, transmission or distribution of electricity and methods for using them,

e) Qualification and function, rights and duties of Inspector,

- f)** Matters relating to electricity tariff, service charge or other charges,
- g)** Matters relating to security measures to be followed while generating, transmitting and distributing electricity,
- h)** Matters, which are to be observed by customers or consumers,
- i)** Accident and enquiries thereof,
- j)** Other necessary matters.