

Electricity Act, 1910

Section 5 - PROVISIONS WHERE LICENCE OF A LICENSEE IS REVOKED

1) Where the State Government revokes, under Sec. 4-, sub-section (1), the licence of a licensee, the following provisions shall have effect, namely : (a) the State Government shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect ; and on and with effect from that date, or on and with effect from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (3) all the powers and liabilities of the licensee under this Act shall absolutely cease and determine ; (b) the State Government shall enquire from the State Electricity Board, and where the licensee is not a local authority, also from any local authority constituted for the area within which the whole of the area of supply is included, whether it is willing to purchase the undertaking: (c) if the State Electricity Board is willing to purchase the undertaking, the State Government shall, by notice in writing, require the licensee to sell, and thereupon, the licensee shall sell the undertaking to the State Electricity Board : (d) if the State Electricity Board is not willing to purchase the undertaking, the State Government shall have the option of purchasing the undertaking and if it elects to purchase, it shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to it; (e) if the State Electricity Board it not willing to purchase the undertaking and the State Government does not itself elect to purchase it, the State Government in any case where the local authority referred to in Cl. (b) is willing to purchase the undertaking shall by notice in writing require the licensee to sell and thereupon the licensee shall sell the undertaking to that local authority; (f) if no sale of the undertaking is effected under any of the foregoing clauses and if any other person is willing to purchase the undertaking, the State Government may by notices in writing require the licensee to sell, and thereupon the licensee shall sell the under- taking to such other person. (2) Where an undertaking is sold under sub-section (1) the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the provisions of subsections (1) and (2) of Sec. 7-A-, or as the case may be, sub-section (3) of that section. (3) Where the State Government issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking: Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price. (4) Where before the date fixed in the notice issued under Cl. (a) of sub-section (1) as the date on which revocation of the licence shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit : Provided that if the licensee does not exercise such option within a period of six months from the aforesaid date. the State Government may forthwith cause the works of the licensee in, under, over, along, or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee. STATE AMENDMENTS Assam.- In Sec. 5 of the principal Act. in sub-section (2)- (i) for the words "the purchase price of the Undertaking", the words "an amount" shall be substituted; . (ii) the words, brackets, figures and punctuation marks, "or as the case may be, sub-section (3) of that section" shall be omitted. [Assam Act 9 of 1973 (w.e.f. 27th September, 1972).] To Cl. (a) of Sec. 5 of the said Act. the following proviso shall be inserted namely: "Provided that where the undertaking vests in the State Government under the provisions of Sec. 7-A, for the purposes of valuation the time of such vesting shall be deemed to be the time of purchase:" [Bihar Act 29 of 1950, Sec. 3]. For sub-sections (2) and (3) of Sec. 5 of the Indian Electricity Act, 1910 (Act IX of 1910) (hereinafter referred to as the said Act, the following subsections shall be substituted, namely : "(2) Where an undertaking is sold under

sub-section (1), the purchaser shall pay to the licensee the amount payable for the undertaking determined in accordance with the provision of sub-sections (1) and (2) of Sec. 7-A. (3) Where the State Government issues any notice under sub-section (1) requiring the licensee to deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the amount payable for the undertaking: Provided that in any such case the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per cent on the amount payable for the undertaking for the period from the date of delivery of the undertaking to the date of payment of the amount payable." [Biliar Ordinance 5 of 1974.] Gujarat.-In the principal Act, in Sec. 5, in sub-section (2), for the words, brackets, figures and letter "sub-sections (1) and (2) of Sec. 7-A or, as the case may be, sub-section (3) of that section", the words, brackets figures and letter "sub-sections (1), (2) and (3) of Sec. 7-A" shall be substituted [Vide-Gujarat Ordinance No. 3 of 1979.] Madhya Pradesh.- In Sec. 5 of the Indian Electricity Act, 1910 (IX of 1910), in its application to the State of Madhya Pradesh (hereinafter referred to as the principal Act), for sub-sections (2) and (3), the following sub-sections shall be substituted, namely :"(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee an amount determined in accordance with the provisions of sub-sections (1) and (2) of Sec. 7-A. (3) Where the State Government issues any notice under sub-section (1) require the licensee to sell the undertaking it may by such notice requiring the licensee to deliver and thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending determination and payment of the amount to the licensee : Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per cent, on the amount payable to the licensee for the period from the date of the delivery of the undertaking to the date of payment of such amount." [Madhya Pradesh Act 19 of 1974, Sec. 2.1 The provisions of sub-sections (2) and (3) of Sec. 5, sub-section (7) of Sec. 6 and Sec. 7-A as substituted by Sees. 2, 3 and 4, respectively of this Act shall apply to all licensees in respect of their undertakings sold under Sec. 5 or Sec. 6 of the principal Act, and purchase price in respect whereof was not determined prior to the 2nd day of March, 1974. [Madhya Pradesh Act 19 of 1974, Sec. 5.] Maharashtra.-To Cl. (d) of Sec. 5 and sub-section (2) of Sec. 7 of the Indian Electricity Act, 1910 (IX of 1910), hereinafter called the said Act in its application to the Province of Bombay, the following proviso shall be added, namely: " Provided that where the undertaking vests in the Provincial Government under the provisions of Sec. 7-A for the purposes of valuation, the time of such vesting shall be deemed to be the time of purchase". [Maharashtra Act 18 of 1946, Sec. 2.] In Sec. 5 of the Indian Electricity Act, 1910 (IX of 1910), in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"),- (a) for sub-section (2), the following shall be substituted, namely: "(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee for the undertaking an amount determined in accordance with the provisions of sub-sections (1) and (2) of Sec. 7-A" ; (b) in sub-section (3),- (i) for the words "payment of the purchase price of the undertaking," the words "payment of the amount for the undertaking" shall be substituted; (ii) in the proviso- (1) for the words "purchase price of the undertaking, " the words "amount for the undertaking" shall be substituted; and (2) for the words "payment of the purchase price", the words "payment of such amount" shall be substituted. [Maharashtra Act 44 of 1976. Sec. 2.] Uttar Pradesh.- In Sec. 5 of the Indian Electricity Act, 1910, as amended in its application to Uttar Pradesh (hereinafter referred to as the principal Act), for sub-sections (2) and (3), the following subsections shall be substituted, namely : "(2) Where an undertaking is sold under sub-section (1) the purchaser shall pay to the licensee an amount determined in accordance with the provisions of Sec. 7 and Sec. 7-A, as substituted by the Indian Electricity (Uttar Pradesh Amendment and Validation) Act, 1975, excepting sub-section (3) of the said Sec. 7-A. (3) Where the State Government issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver and thereupon the licensee shall deliver on a date specified in the notice of the undertaking to the designated purchaser or to such officer as the designated purchaser may appoint in that behalf pending determination and payment of the said amount to the licensee : Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per cent., on the amount payable to the licensee for the period from the date of delivery of the undertaking to the date of payment of such amount." [U.P. Act 16 of 1975, Sec. 2.]