

Energy Conservation Act 2001

Chapter VIII - Penalties and Adjudication

(1) If any person fails to comply with the provisions of clause (c) or clause (d) or clause (h) or clause (i) or clause (k) or clause (l) or clause (n) or clause (r) or clause (s) of section 14 or clause (b) or clause (c) or clause (h) of section 15, he shall be liable to a 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 commencement of this Act.

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

Section 27 - Power to adjudicate

(1) For the purpose of adjudging under section 26, 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 Central Government, after giving any 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 the sections specified in section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of that section:

Provided that where a State Commission has not been established in a State, the Government of that State shall appoint any of its officer not below the rank equivalent to a Secretary dealing with legal affairs in that State to be an adjudicating officer for the purposes of this section and such officer shall cease to be an adjudicating officer immediately on the appointment of an adjudicating officer by the State Commission on its establishment in that State;

Provided further that where an adjudicating officer appointed by a State Government ceased to be an adjudicating officer, he shall transfer to the adjudicating officer appointed by the State Commission all matters being adjudicated by him and thereafter the adjudicating officer appointed by the State Commission shall adjudicate the penalties on such matters.

Section 28 - Factors to be taken into account by adjudicating officer

While adjudicating the quantum of penalty under section 26, 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;

(b) the repetitive nature of the default.

Section 29 - 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 this Act or the Appellate Tribunal is empowered by or under this 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 this Act.
