

MODEL RIGHT TO ELECTRICITY BILL BY DGEF (www.dgef.in)

Note: Please replace the word *[STATE]* with the name of the State. Example- Madhya Pradesh, Assam, Sikkim, Tamil Nadu, etc.

The *[STATE]* Right to Electricity Act, 2022

PREAMBLE

An Act to ensure right to electricity and universal service obligation in the state of *[STATE]*, promoting clean cooking to ensure health of women & children, promoting e-mobility revolution to mitigate climate change, supporting micro enterprises/ small businesses, for promoting clean energy jobs.

Electricity is a joint responsibility of Central & State Government. By virtue of entry 38 (List III-Concurrent List, Schedule VII) of The Constitution of India both the parliament of India & the legislature of *[STATE]* can legislate on the subject of electricity. Recognizing that after food, water and shelter, the 4th element of basic necessity is energy. Thus, Right to Energy is a basic human right which must be accessible to every resident of state. It is a key indicator of development in the state. In this endeavor the state of *[STATE]*, desires to expand the access of electricity to all sections of society including economically weaker section.

PART I- PRELIMINARY

Section 1- Short title, Extent & Commencement-

- 1) The Act may be called The *[STATE]* Right to Electricity Act, 2022.
- 2) It extends to the whole state of *[STATE]*.
- 3) It shall come into force on the day appointed by the government of *[STATE]*.

Section 2- Definition-

- (1) In this Act, unless the context otherwise requires-

- a. "Direct Benefit transfer"- means transfer of electricity bill amount paid by electricity consumer to distribution licensee in the bank account of electricity consumer either by state government or distribution licensee as specified.
- b. "Distribution Licensee"- means a licensee authorized to operate and maintain distribution system for supplying electricity to the consumer to his area of supply in terms of The Electricity Act 2003 (36 of 2003)
- c. "Electric Cooking"- means usage of electricity for cooking daily food through electrical appliances such as Induction, Microwave, Electric Grills and connected appliances for cooking food as may be specified.
- d. "Electric Mobility"- means usage of electricity for charging electric vehicles for day to day travel of the consumer and other mobility mediums which may be specified.
- e. "Entrepreneurship"- means a micro enterprise as defined in Micro Small & Medium Enterprises Development Act, 2006 and other small businesses eligible for the electricity rights as may be prescribed.
- f. "Home Lighting"- means the usage of electricity for basic domestic purposes which may include lighting of residential home, heating and cooling facility and connected appliances for ease of living as may be specified.
- g. "State Commission"- means [STATE] Electricity Regulatory Commission referred to in Section 82 of The Electricity Act, 2003. (36 of 2003)
- h. "State Government"- means the Government of [STATE].

(2) Words & Expression used but not defined in this Act and defined in the electricity Act, 2003 (36 of 2003) shall have the meaning specifically assigned to them in that Act.

(3) All other words and expressions used in this Act not specifically defined herein shall have a purposive approach of Interpretation.

PART-II- RIGHT TO ELECTRICITY

Section 3- Right to Electricity-

(1) The state government shall provide free electricity prescribed under this Act in such manner as the state may, by law determine.

Being a key essential for the survival of human life, the state government recognizes Right to Electricity as an essential for the development of the State and shall provide free electricity as may be prescribed under this Act.

- (2) No person shall be deprived of the prescribed electricity except according to procedures established by law.

PART III- POWERS AND RESPONSIBILITIES OF STATE GOVERNMENT

Section 4- Determination of right to electricity-

- (1) The state government shall prescribe the minimum quantum of electricity which is essential for dignified living from time to time.
- (2) The state government may prescribe the minimum quantum of electricity in four classification:
 - (i) Home Lighting/Living
 - (ii) Electric cooking
 - (iii) Electric mobility
 - (iv) Entrepreneurship

Section 5- Determination of eligible beneficiaries- The state Government by rules shall prescribe the class(es) of state residents who shall be eligible for the benefit of subsidies for any of the classification as provided in Section 4 of this Act.

Section 6- Transfer of right to electricity subsidy by State Government or cash-back- If the state Government in terms of section 4 prescribes minimum quantum of electricity for any class of consumers, shall pay, in advance and in such manner as may be specified by the state commission to the distribution licensee or directly to the consumer through the mechanism of direct benefit transfer.

Provided, that no such direction of the state government shall be operative if the payment is not made in accordance with the provision contained in this section.

Provided further, the state government can also transfer the right to electricity subsidy to distribution licensee for direct benefit transfer to the consumer in their respective accounts.

Explanation- The consumer shall be eligible for direct benefit transfer only if he has paid electricity bill(s) in the specified manner. The distribution licensee shall transfer the benefit directly or provide the details to the state government to transfer the subsidy only after proper receipt of bill amount by the distribution licensee.

PART IV- POWERS OF THE STATE COMMISSION

Section 7- Functions of state commission-

- (1) The state commission shall discharge the following functions, namely:-
- a) To regulate the procedure for direct benefit transfer by distribution licensee or the state government as may be specified.
 - b) To regulate the procedure for dispute resolution between beneficiary of the subsidy and distribution licensee through forum for re-addressal of grievances of the consumer and electricity ombudsman.
 - c) To adjudicate upon dispute involving state Government or generating companies or licensees with matters connected to this Act.
 - d) To discharge such other functions as may be assigned under this Act.

Section 8- Power of State Commission to pass orders & enforce decisions-

All powers of the state commission to pass orders & enforce decisions shall apply *mutatis mutandis* in terms of The Electricity Act, 2003 (36 of 2003) for the purpose of giving effect to this Act.

PART V- OBLIGATION OF DISTRIBUTION LICENSEE

Section 9- On-boarding of beneficiary consumers-

- (1) The distribution licensee as specified by the state commission shall be responsible for online and offline on-boarding of eligible beneficiaries.
- (2) Online platform will be established for online registration.
- (3) The applications submitted offline shall be captured in the set platform within 7 working days by the distribution licensee.
- (4) The documents required for on-boarding of eligible beneficiaries and other terms and conditions shall be specified by the state commission.

Section 10- Management of Right to Electricity Fund-

- (1) The distribution licensee shall manage day to day operation of right to electricity fund as may be specified.
- (2) The distribution licensee shall submit annual report of the income and outgo of the fund.

Section 11- Disbursement of Cash-back- The distribution licensee shall disburse the fund through Direct Benefit Transfer to the eligible beneficiaries of the right to electricity under this Act.

PART VI- DISPUTE RESOLUTION

Section 12- Forum for Redressal of grievances of the consumers- Where any dispute arises between the eligible beneficiaries and distribution licensee, such grievances shall be decided by forum for Redressal of grievances for the consumers as may be specified by the state commission.

Explanation- This forum is the forum mentioned in sub-section (5) section 42 of The Electricity Act, 2003 (32 of 2003). The jurisdiction has been extended for resolving dispute between eligible beneficiaries and distribution licensee under this Act.

Section 13- Electricity Ombudsman- Any of the eligible beneficiaries who is aggrieved by non-Redressal of the grievances under section 12, may make a representation for the Redressal of his grievance to electricity ombudsman.

Explanation- This electricity ombudsman is the ombudsman mentioned in sub-section (6) section 42 of The Electricity Act, 2003 (32 of 2003). The jurisdiction has been extended for resolving dispute between eligible beneficiaries and distribution licensee under this Act.

PART VII- OFFENCES & PENALTIES

Section 14- Penalties for contravention of provision of this Act- If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to any direction/ order or requirement made under any of the provisions of this Act, he shall be punishable with imprisonment which may extend to two years, or with penalty by the way of fine which may extend to five lakhs rupees, or with both and a further penalty which may extend to twenty thousand rupees for each day after the first during which the offence continues.

Section 15- Offences by Companies, Micro Enterprise/ Small Businesses-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, 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 be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the state commission of such offence.

(2) Notwithstanding anything contained in the sub-section (1), whereas offence under this Act has been committed by a company and it is proved that the offence 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 shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation- For the purpose of this section-

- (a) “Company” means a body corporate and includes a firm or other association of individuals; and
- (b) “Director” in relation to the firm, means a partner in the firm.

Section 16- Power to compound offences- The state commission may, for reasons to be recorded in writing wither before or after the institution of proceedings compound any offence relating to contravention of any order made by it.

Section 17 Cognizance of Offences-

- (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by the state commission or by any other officer of the state commission generally or specifically authorized by the state commission for the purpose and no court other than that of a Metropolitan Magistrate or a court superior thereto shall try any such offence.
- (2) Notwithstanding anything contained in the code of criminal procedure, 1973 (2 of 1974) the court may if it sees reason so to do, dispense with the personal attendance of the officer of the state Commission filing the complaint.

Section 18- Penalties and proceedings not to prejudice other actions- The proceedings and actions under this Act against a person contravening the provisions of this Act or orders passed by the state commission shall be in addition to and without prejudice to the actions that may be initiated under other Acts including and in particular, under The Electricity Act, 2003 (32 of 2003).

PART VIII- MISCELLANEOUS

Section 19- Right to electricity fund- Every distribution licensee shall create a right to electricity fund wherein following amounts shall be credited:

- (a) Subsidy/ grant by state Government
- (b) Subsidy/ grant by Central Government, if any.
- (c) Contribution by United Nations Agencies, Inter-Governmental Agencies approved by the central government.
- (d) Corporate Social Responsibility contribution by companies in terms of section 135 read with Schedule VII entry IX of the Companies Act, 2013 (18 of 2013) for socio-economic development and relief in the state
- (e) Other contributions.
- (f) Interests accrued on the above funds.

Provided that the State Government by notification or budget allocation divert water tax, electricity tax or royalties received from hydro electricity power plant for the purpose of right to electricity fund.

Section 20- Separation of fund/ bank account for direct benefit transfer-

- (1) The distribution licensee shall create a right to energy fund which shall be placed in one or more bank accounts not related to day to day operation of the distribution licensee.
- (2) All monies received for ensuring right to energy shall be credited to such fund. Entire money disbursed as subsidy shall be debited from such fund.

Section 21- Nodal Officer for enforcing right to electricity- The state Government, the state Commission and all the distribution licensees shall nominate one officer as nodal officer for enforcing right to electricity under this Act. He shall be responsible for coordination. Any other powers and responsibilities of the nodal officer may be prescribed by state government.

Section 22- Protection of action taken in good faith- No suit, prosecution or other proceeding shall lie against the state government or state commission or any officer of state government, or any member, officer or other employee of the state commission, or any public servant for anything done in good faith purporting to be done under this act or the rules or regulation made there under.

Section 23- Recovery of penalty payable under this Act- Any penalty payable by a person under this Act, if not paid, maybe recovered as if it were any arrears of land revenue.

Section 24- Power of State Government to make rules-

- (1) The state government may, by notification, make rules for carrying out the provision of this Act.
- (2) In particular and without prejudice for the generality of the forgoing power, such rule may provide for all or any of the following matters, namely:-
 - (a) The minimum units of electricity under section 3(1) of this Act.
 - (b) Change the minimum units of electricity under section 4(1) of this Act.
 - (c) Define entities under “Entrepreneurship” under clause (iv) of sub-section 2 of section 4 of this Act.
 - (d) Provide the classification of eligible beneficiaries under section 5 of this Act.
 - (e) Provide power and responsibilities of Nodal Officer under section 21 of this Act.
 - (f) Any other matter which is required to be, or maybe, prescribed.

- (3) All rules made by the state Government under this Act shall be subject to the conditions of previous publications.

Section 25- Powers of State Commission to make regulations-

- 1) The Commission may, by notification make regulations consistent with this act and the rules generally to carry out the provisions of this act.
- 2) In particular and without prejudice to the generality of the powers contained in sub-section 1, such regulation may provide for all or any of the following matters, namely:-
 - (a) Procedure and regulation for the Direct Benefit Transfer as defined under sub-section 1 (a) of section 2 of this Act.
 - (b) Determine the appliances under “home lighting” under clause (i) of sub-section 2 of section 4 of this Act.
 - (c) Determine the appliances under “electric cooking” under clause (ii) of sub-section 2 of section 4 of this Act.
 - (d) Determine “electric mobility” under clause (iii) of sub-section 2 of section 4 of this Act.
 - (e) Determine the procedure of payment by state government to eligible beneficiaries or distribution licensees under section 6 of this Act.
 - (f) Determine the procedure of on-boarding of eligible beneficiaries by the distribution licensees and to specify the documents required to be submitted by the eligible beneficiaries under sub-section 1 & 4 respectively, under section 9 of this Act.
 - (g) Determine the procedure for day to day management of right to electricity fund by the distribution licensee under sub-section 1 of section 10 of this Act.
 - (h) Provide the guidelines to the Redressal forum under section 12 of this Act.
 - (i) Any other matter which is required to be, or maybe, specified.
- 3) All regulations made by the state Commission under this Act shall be subject to the conditions of previous publications.

Section 26- Rules and Regulations to be laid before state legislature- Every rule made by the State Government and every regulation made by the state Commission shall be laid, as soon as may be after it is made, before state legislature, while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive session aforesaid, the house agrees in making any modification in the rule or regulation or agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule or regulation.

PART IX- EFFECT OF EXISTING CENTRAL LEGISLATION

Section 27- No provision of this Act shall contradict any provision of The Electricity Act, 2003. If any inconsistency in interpretation is found with The Electricity Act, 2003, the provision of The Electricity Act, 2003 shall overrule the provision of this Act.