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GOVERNMENT OF JAMMU AND KASHMIR.

**THE
JAMMU AND KASHMIR ELECTRICITY ACT
ACT NO. XIV OF 1941.**

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HIS HIGHNESS' GOVERNMENT, JAMMU & KASHMIR.
PRAJA SABHA DEPARTMENT.

The following Act which was passed by the Jammu and Kashmir Praja Sabha on 30th September 1940 and received the assent of His Highness the Maharaja Bahadur on 7th December 1940 is hereby published for general information :—

(Sd.) HIRANAND RAINA,

Secretary to Government, Praja Sabha Department.

Act No. XIV of 1997.

THE JAMMU AND KASHMIR ELECTRICITY ACT.

WHEREAS it is expedient to frame a law relating to the supply and use of electrical energy ; it is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Electricity Act, 1997.
 - (2) It extends to the whole of Jammu and Kashmir State.
 - (3) It shall come into force when after receiving the assent of His Highness the Maharaja Bahadur it is published in the Jammu and Kashmir Government Gazette.
2. *Definitions.*—In this Act unless there is anything repugnant in the subject or context :—
 - (a) "aerial line" means any electric supply line which is placed above ground and in the open air ;
 - (b) "area of supply" means the area within which alone a licensee is for the time being authorised by his licence to supply energy ;
 - (c) "consumer" means any person who is supplied with energy by a licensee or whose premises are for the time being connected for the purposes of a supply of energy with the works of a licensee ;
 - (d) "daily fine" means a fine for each day on which an offence is continued after conviction therefor ;
 - (e) "distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected ;
 - (f) "electric supply line" means a wire conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, covering, tube, pipe or insulator enclosing surrounding or supporting the same or any part thereof or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy ;

(g) "energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message ;

(h) "licensee" means any person licensed under Part II to supply energy ;

(i) "main" means any electric supply line through which energy is, or is intended to be, supplied by a licensee to the public ;

(j) "prescribed" means prescribed by rules made under this Act ;

(k) "public lamp" means an electric lamp used for the lighting of any street ;

(l) "service line" means any electric supply line through which energy is, or is intended to be supplied by a licensee—

(i) to a single consumer either from a distributing main or immediately from the licensee's premises, or

(ii) from a distributing main to a group of consumers on the same premises or an adjoining premises supplied from the same point of the distributing main ;

(m) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway ;

(n) "works" includes electric supply lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a licence granted under Part II ; and

(o) "local authority" means a Municipal Committee, Town Area Committee, Notified Area Committee or other authority legally entitled to or entrusted by the Government with the control or management of a Municipal or local fund.

PART II.

SUPPLY OF ENERGY.

Licences.

3. *Grant of licences.*—(1) The Government may, on application made in the prescribed form and on payment of the prescribed fee (if any) grant to any person a licence to supply energy in any specified area, and also to lay down or place electric supply lines for the conveyance and transmission of energy :—

(a) where the energy to be supplied is to be generated outside such area from a generating station, situated outside such area to the boundary of such area, or

(b) where energy is to be conveyed or transmitted from any place in such area to any place therein, across an intervening area not included therein across such area,

(2) In respect of every such licence and the grant thereof the following provisions, shall have effect :—

(a) any person applying for a licence under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars and the licence shall not be granted—

(i) until all objections received by the Government with reference thereto have been considered by it ;

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid ; and

(ii) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, fortress, arsenal, camp or of any building or place in the occupation of the Government for military purposes, the Government has ascertained that there is no objection to the grant of the licence on the part of the military authorities ;

(b) where any objection is received from any local authority concerned the Government shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reasons for such opinion ;

(c) a licence under this part—

(i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive and as to the limits of price to be charged in respect of the supply of energy, and generally as to such matters as the Government may think fit ; and

(ii) save in cases in which under section 9, clause (b), the provisions of sections 5 and 6 or either of them have been declared not to apply, every such licence shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under section 5 or section 6 ;

(d) the grant of a licence under this part for any purpose shall not in any way hinder or restrict the grant of a licence to another person within the same area of supply for a like purpose ;

(e) the provisions contained in the schedule shall be deemed to be incorporated with, and to form part of, every licence granted under this part save in so far as they are expressly added to, varied or excepted by the licence and shall, subject to any such additions, variations or exceptions which the Government is hereby empowered to make apply to the undertaking authorised by the licence :

Provided that, where a licence is granted in accordance with the provisions of clause IX of the schedule for the supply of energy to other licensees for distribution by them, then in so far as such licence relates to such supply the provisions of clauses IV, V, VI, VII, VIII, and XII of the schedule shall not be deemed to be incorporated with the licence.

4. *Revocation or amendment of licences.*—(1) The Government may, if in its opinion the public interest so requires, revoke a licence in any of the following cases namely :—

(a) Where the licensee, in the opinion of the Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act ;

(b) Where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation ;

(c) Where the licensee fails, within the period fixed in this behalf by his licence or any longer period which the Government may substitute therefor by order under sub-section (3) clause (b) and before exercising any of the powers conferred on him thereby in relation to the execution of works,—

(i) to show, to the satisfaction of the Government that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence or

(ii) to make the deposit or furnish the security required by his licence ;

(d) where the licensee is, in the opinion of the Government, unable by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where the Government might, under sub-section (1), revoke a licence it may, instead of revoking the licence, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms and conditions so imposed shall be binding upon, and be observed by, the licensee and shall be of like force and effect as if they were contained in the licence.

(3) Where in its opinion the public interest so permits, the Government may, on the application or with the consent of the licensee, and, after consulting the local authority (if any) concerned,—

(a) revoke a licence as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit, or

(b) make such alterations or amendments in the terms and conditions of a licence, including the provisions specified in section 3, sub-section (2) clause (e) as it thinks fit.

5. *Provisions where licence of a licensee is revoked.*—Where

the Government revokes, under section 4, sub-section (1), the licence of a licensee, the following provisions shall have effect, namely :—

(a) The Government shall serve a notice of the revocation upon the licensee and where the whole of the area of supply is included in the area for which a single local authority is constituted upon that local authority also and shall in the notice fix a date on which the revocation shall take effect and on and with effect from that date all the powers and liabilities of the licensee under this Act shall absolutely cease and determine ;

(b) Where a notice has been served on a local authority under clause (a), the local authority may, within 3 months after the service of the notice and with the written consent of the Government, by notice in writing, require the licensee to sell and thereupon the licensee shall sell, the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to and used by him for the purposes of the undertaking, other than a generating station declared by the licensee not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations ;

(c) Where no purchase has been effected by the local authority under clause (b) and any other person is willing to purchase the undertaking, the Government may if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to such other person ;

(d) Where no purchase has been effected under clause (b) or clause (c) within such time as the Government may consider reasonable or where the whole of the area of supply is not included in the area for which a single local authority is constituted, the Government shall have the option of purchasing the undertaking and, if the Government elects to purchase, the licensee shall sell the

undertaking to the Government upon terms and conditions similar to those set forth in clause (b);

(e) Where a purchase has been effected under any of the preceding clauses :—

(i) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase money in substitution for the undertaking ; and

(ii) the revocation of the licence shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking is purchased, and save as aforesaid, the licence shall remain in full force and the purchaser shall be deemed to be the licensee :

Provided that where the Government elects to purchase under clause (d), the licence shall, after purchase, in so far as the Government is concerned, cease to have any further operation ;

(f) Where no purchase has been effected under any of the foregoing clauses, 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 date on which the same became exercisable, the 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 ;

(g) If the licensee has been required to sell the undertaking and if the same has not been completed by the date fixed in the notice issued under clause (a), the purchaser may, with the previous sanction of the Government, work the undertaking pending the completion of the sale.

6. *Purchase of undertaking.*—(1) Where a licence has been granted to any person, the Government shall on the expiration of such period, not exceeding fifty years, and of every such subsequent period, not exceeding twenty years, as shall be specified in this behalf in the licence have the option of purchasing the undertaking and if the Government elects to purchase the licensee shall sell the undertaking to the Government on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the licensee not to form part of the undertaking for the purpose of purchase, such value to be

in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and to the state of repair thereof and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking :

Provided also there shall be added to such value as aforesaid such percentage, if any, not exceeding twenty per cent. on that value as may be specified in the licence on account of compulsory purchase.

(2) Where a purchase has been effected under sub-section (1),

(a) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase money in substitution for the undertaking ; and

(b) the licence shall, after purchase cease to have any further operation.

(3) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the licensee by the Government.

(4) Notwithstanding anything hereinbefore contained, the Government may waive its option to purchase and enter into an agreement with the licensee for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (1) upon such terms and conditions as may be stated in the agreement.

7. *Provisions where no purchase and licence revoked with consent of licensee.*—Where on the expiration of any of the periods referred to in section 6, sub-section (1) the Government does not purchase the undertaking and the licence is, on the application or with the consent of the licensee, revoked, 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, the Government may proceed to take action as provided in section 5 clause (f) proviso.

8. *Licensee not to purchase or associate himself with other licensed undertakings or transfer his undertaking.*—(1) The licensee shall not, at any time without the previous consent in writing of the Government, acquire, by purchase or otherwise, the licence of

the understaking of, or associate himself so far as the business of supplying energy is concerned with, any person supplying, or intending to supply, energy under any other licence, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority both in the licensee's area of supply, and also in the area or district in which such other person supplies, or intends to supply, energy.

(2) The licensee shall not at any time assign his licence or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Government.

(3) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2), unless made with or subject to, such consent as aforesaid, shall be void.

9. *General power for Government to vary terms of purchase.*—Notwithstanding anything in sections 5, 6 and 7, the Government may, in any licence to be granted under this Act—

(a) vary the terms and conditions upon which, and the periods on the expiration of which, the licensee shall be bound to sell his undertaking, or

(b) direct that, subject to such conditions and restrictions (if any) as it may think fit to impose, the provisions of the said sections or any of them shall not apply.

10. *Annual accounts of licensee.*—(1) Every licensee shall, unless expressly exempted from the liability by his licence, or by order in writing of the Government, prepare and render to the Government or to such authority as the Government may appoint in this behalf on or before the prescribed date in each year, an annual statement of accounts of his undertaking made upto such date, in such form and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statements at his office and sell the same to any applicant at a price not exceeding Rs. 5 per copy.

WORKS.

11. *Provisions as to the opening and breaking up of streets, railways, tramways.*—(1) Any licensee may from time to time but subject always to the terms and conditions of his licence, within the area of supply, or when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply without that area :—

(a) open and break up the soil and pavement of any street, railway, or tramway ;

(b) open and break up any sewer, drain or tunnel in or

under any street, railway or tramway ;

(c) lay down and place electric supply-lines and other works ;

(d) repair, alter or remove the same, and

(e) do all other acts necessary for the due supply of energy.

(2) Nothing contained in sub-section (1) shall be deemed to authorise or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply line or other work in, through or against building, or on, over or under any land not dedicated to public use, whereon, wherever or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee :

Provided that any support of an aerial line or any stay or strut required for the sole purpose of securing in position any support of an aerial line may be fixed on any building or land or, having been so fixed, may be altered notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate by order in writing so direct :

Provided also, that, if at any time the owner or occupier of any building or land on which any such support stay or strut has been fixed shows sufficient cause, the District Magistrate may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub-section (2) the District Magistrate shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate under sub-section (2) shall be subject to revision by the Government.

(5) Nothing contained in sub-section (1) shall be deemed to authorise or empower any licensee to open or break up any street not repairable by the Government or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorised to break up by his licence, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway, unless with the written consent of the Government :

Provided that the Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the Government may direct and within such period as the Government may fix in this behalf to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the Government.

12. *Notice of new works.*—(1) Where the exercise of

any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along, across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely :--

(a) not less than one month before commencing the execution of the works (not being a service line immediately attached, or intended to be immediately attached to a distributing main or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner") as the case may be, a notice in writing describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to 8 feet vertically and sixteen inches to the mile horizontally, and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

(b) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final;

(c) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority may proceed to carry out the works in accordance with the notice and the section and plan served under clause (a);

(d) if the owner disapproves of such works, section or plan or approves thereof subject to amendment, he may within three weeks after the service of the notice under clause (a) serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owners to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(e) where no requisition has been served by the owner upon the licensee under clause (d), within the time named, the owner

shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(f) where the works to be executed consist of laying of any underground service line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

(g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch and if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply line, after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aerial line without complying with the provisions of sub-section (1):

Provided that such aerial line shall be used only until the defect in the underground electric supply line can be made good, and in no case (unless with the written consent of the Government) for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

13. *Alterations of pipes or wires.*—(1) Any licensee may alter the position of any pipe (not forming part of a local authority's main sewer) or of any wire under or over any place which he is authorised to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act, and any person may alter the position of any electric supply line or works of a licensee under or over any such place as aforesaid, if such electric supply lines or works are likely to interfere with the law-

ful exercise of any powers vested in him.

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply namely:—

(a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "operator") shall serve upon the person for the time being entitled to the pipe wire, electric supply lines, or works, as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any questions arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(c) every arbitrator to whom a reference is made under clause (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid as far as possible interference therewith;

(d) where no requisition is served upon the operator under clause (b) within the time named, or where such requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(e) the owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alterations himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or in default of agreement, determined by arbitration;

(f) where a statement is served upon the operator under clause (e) he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced furnish such security and serve upon the owner a notice in writing inti-

imating the time when the alteration is required to be commenced, and the manner in which it is required to be made and thereupon the owner may proceed to execute the alteration as required by the operator;

(g) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under clause (f), comply with the notice, the operator may himself execute the alteration;

(h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

14. *Laying of electric supply lines or other works, near sewers, pipe or other electric supply lines or works.*—(1) Where—

(a) the licensee requires to dig or sink any trench for laying down any new electric supply lines or other works, near to which any sewer, drain, water-course or work under the control of the Government or of any local authority or any pipe, syphon, electric supply line or other work belonging to any duly authorised person, has been lawfully placed, or

(b) any duly authorised person requires to dig or sink any trench for laying down or constructing any new pipes or any other works, near to which any electric supply lines or works of a licensee have been lawfully placed, the licensee or such duly authorised person as the case may be (hereinafter in this section referred to as "the operator"), shall unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the Government or to such duly authorised person or to the licensee, as the case may be (hereinafter in this section referred to as "the owner") not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply line across, or so as to be liable to touch, any pipes, lines

or service pipes or service lines belonging to any duly authorised person or to any person supplying, transmitting or using energy under this Act, he shall not except with the written consent of such person and in accordance with section 34 sub-section (1), lay his electric supply lines so as to come into contact with any such pipes, lines or service pipes or service lines.

(4) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section the matter shall be determined by arbitration.

15. *Streets, railways, tramways, sewers, drains or tunnels broken up to be re-instated without delay.*—(1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway or any sewer, drain or tunnel, he shall :—

(a) immediately cause the part opened or broken up to be fenced and guarded ;

(b) before sunset cause a light or lights, sufficient for warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up ;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain, or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up ; and

(d) after reinstating and making good the soil or pavement or the sewer, drain or tunnel, broken or opened up, keep the same in good repair for three months and for any further period not exceeding nine months during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1) the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined by arbitration.

16. *Notice to Telegraph authority.*—(1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph line, any electric supply line or other works (not being either service lines or electric supply lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days' notice in writing

to the telegraph authority, specifying :—

- (a) the course of the works or alterations proposed,
- (b) the manner in which the works are to be utilised,
- (c) the amount and nature of the energy to be transmitted,

and

(d) the extent to and manner in which (if at all) earth returns are to be used ;

and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations :

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph authority) arising from defects in any of the electric supply lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying or placing of any service line, the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph authority a notice in writing of his intention to execute such works.

17. *Aerial lines.*—(1) Save as provided in section 12, sub-section (3), nothing in this part shall be deemed to authorise or empower a licensee to place any aerial line along or across any street, railway, tramway, canal or waterway unless and until the Government has communicated to him a general approval in writing of the methods of construction which he proposes to adopt :

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any aerial line has been placed or maintained by a licensee in breach of the provisions of sub-section (1), the Government may require the licensee forthwith to remove the same or may cause the same to be removed and recover from the licensee the expenses incurred in such removal.

(3) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy, or the accessibility of any work, a Magistrate of the first class may on application of the licensee, and after affording such opportunity for objections as may be brought forward, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(4) When disposing of an application under sub-section (3) the

Magistrate shall in the case of any tree in existence before the placing of the aerial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

EXPLANATION.—For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.

18. *Compensation for damage.*—(1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case provided for in section 11, sub-section (3) where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

SUPPLY.

19. *Point where supply is delivered.*—For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.

20. *Power for licensee to enter premises and to remove fittings or other apparatus of licensee.*—(1) A licensee or any person duly authorised by a licensee may, at any reasonable time and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of :—

(a) inspecting and testing the electric supply lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee, or

(b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply; or

(c) removing, where a supply of energy is no longer required or where the licensee is authorised to take away and cut-off such supply, any electric supply lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorised as aforesaid may also in pursuance of a special order in this behalf made by the District Magistrate, and after giving not less than twenty-four hours' notice in writing to the occupier, enter any premises to which energy is or has been supplied or is to be supplied, by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any

person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or sub-section (2), or when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer cut-off the supply to the consumer for as long as such refusal or failure continues, but for no longer.

21. *Restrictions on licences controlling or interfering with use of energy.*—(1) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or, save as provided by section 23, sub-section (2), or by section 26 sub-section (7) in any way to control or interfere with the use of such energy :

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(2) Subject to the provisions of sub-section (1) a licensee may, with the previous sanction of the Government, given after consulting the local authority, make conditions not inconsistent with this Act or with his licence or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction given after the like consultation add to or alter or amend any such conditions, and any conditions made by a licensee without sanction shall be null and void.

(3) The Government may, after the like consultation cancel any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of its intention to do so.

(4) Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1), the matter shall be either referred to an Electric Inspector and decided by him or, if the licensee or consumer so desires, determined by arbitration.

22. *Obligation on licensee to supply energy.*—Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the licence, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply :

Provided that no person shall be entitled to demand or to continue to receive from a licensee a supply of energy for any pre-

mises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

23. *Charges for energy to be made without undue preference.*—(1) A licensee shall not, in making any agreement for the supply of energy show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his licence.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer :—

- (a) by the actual amount of energy so supplied, or
- (b) by the electrical quantity contained in the supply, or
- (c) by such other method as may be approved by the

Government.

(4) Any charges made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely :—

- (a) the consumer's load factor, or
- (b) the power factor of his load, or
- (c) his total consumption of energy during any stated period, or
- (d) the hours at which the supply of energy is required.

24. *Discontinuance of supply to consumer neglecting to pay charges.*—(1) Where any person neglects to pay any charge for energy or any sum, other than a charge for energy, due from him to a licensee in respect of the supply of energy to him, the licensee may after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut-off the supply and for that purpose cut or disconnect any electric supply-line or other works being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

(2) Where any difference or dispute has been referred under this Act to the Electric Inspector before notice as aforesaid has been given by the licensee the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision :

Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request.

25. *Exemption of Electric supply lines or other apparatus from attachment in certain cases.*—Where any electric supply lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

26. *Meters.*—(1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter :

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.

(2) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter correct, and in default of his doing so, the consumer shall for so long as the default continues, cease to be liable to pay for the hire of the meter.

(3) Where the meter is the property of the consumer he shall keep the meter correct, and, in default of his doing so, the licensee may, after giving him seven days' notice for so long as the default continues, cease to supply energy through the meter.

(4) The licensee or any person duly authorised by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in sub-section (1); and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if the meter is found to be otherwise than correct, be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses the matter shall be referred to the Electric Inspector and his decision shall be final :

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (6) has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter referred to in sub-section (1) with any electric supply line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct the matter shall be decided, upon the application of either party, by the Electric Inspector, or by a competent person specially appointed by the Government in this behalf; and, where the meter has, in the opinion of such Inspector or person, ceased to be correct, such Inspector or person shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter shall not, in the opinion of such, Inspector or person, have been correct; and where the matter has been decided by any person other than the Electric Inspector, an appeal shall lie to the Inspector whose decision shall in every case be final; but, save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct; and provisions of sub-sections (4), (5) and (6) shall in the case apply as though the meter, indicator or apparatus were a meter referred to in sub-section (1).

EXPLANATION.—A meter shall be deemed to be "correct" if it registers the amount of energy supplied, or the electrical quantity

contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus referred to in sub-section (7) shall be deemed to be "correct" if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

27. *Supply of energy outside area of supply.*—Notwithstanding anything in this Act, the Government may, by order in writing, and subject to such conditions and restrictions, if any, as it thinks fit to impose, authorise any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee's consent, unless the Government considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel in or under any street, railway or tramway, or to interfere with any telegraph line without the written consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph authority, as the case may be, unless the Government, after such enquiry as it thinks fit, considers that such consent has been unreasonably withheld:

Provided, fourthly, that save as aforesaid, the provisions of this Act shall apply in the case of any supply authorised under this section as if the said supply were made within the area of supply.

PART III.

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES.

28. *Sanction required by non-licensees in certain cases.*—No person other than a licensee, shall engage in the business of supplying energy except with the previous sanction of the Government and in accordance with such conditions as the Government may fix in this behalf, and any agreement to the contrary shall be void:

Provided that sanction shall not be given within the area of supply of any licensee, without that licensee's consent, unless the Government considers that consent has been unreasonably withheld.

29. *Application of section 17 to aerial lines maintained by railways.*—The provisions of sub-section (3) and (4) of section 17 and of the Explanation thereto shall apply in the case of any aerial

line placed by any railway administration as defined in section 3 of the Indian Railway Act, 1890, as if the references therein to the licensee were references to the railway administration.

30. *Control of transmission and use of energy.*—(1) No person, other than a licensee duly authorised under the terms of his licence, shall transmit or use energy at a rate exceeding two hundred and fifty watts :—

(a) in any street, factory or mine or

(b) in any place,

(i) in which one hundred or more persons are likely ordinarily to be assembled, or

(ii) to which the Government, by general or special order, declares the provisions of this sub-section to apply,

without giving not less than seven clear days' notice in writing of his intention to the District Magistrate and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable :

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods on or for the lighting or ventilation of the rolling stock of, any railway or tramway subject to the provisions of the Indian Railway Act 1890 :

Provided also, that the Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provision or rules as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Government, and the decision of the Government thereon shall be final.

PART IV.

GENERAL.

Protective clauses.

31. *Protection of railways and canals, docks, wharves and piers.*—No person shall, in the generation, transmission, supply or use of energy in any way injure any railway, tramway, canal, or waterway or any dock, warf or pier vested in or controlled by a

local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or waterway.

32. *Protection of Telegraphic, Telephonic and Electric signalling lines.*—(1) Every person generating, transmitting, supplying or using energy (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply lines and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Government, and the Government, unless it is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly :

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

EXPLANATION.—For the purposes of this section, a telegraph line shall be deemed to be injuriously affected if telegraphic, telephonic or electric-signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use made thereof.

33. *Notice of accidents and injuries.*—(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Government

may, by general or special order, direct.

(2) The Government may, if it thinks fit, require any Electric Inspector, or any other competent person appointed by it in this behalf, to inquire and report :

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with the generation, transmission, supply or use of energy, or

(b) as to the manner in, and extent to, which the provision of this Act or of any licence or rules thereunder so far as those provisions affect the safety of any person have been complied with.

34. *Prohibition of connection with earth and power for Government to interfere in certain cases of fault.*—(1) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the Government.

(2) If at any time it is established to the satisfaction of the Government :—

(a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1) or

(b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph line, or

(c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

the Government may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

35. *Appointment of Electric Inspector.*—(1) The Government may, by notification in the Gazette appoint duly qualified persons to be Electric Inspectors and every Electric Inspector, so appointed shall exercise the powers and perform the functions of an Electric Inspector under this Act within such areas and subject to such restrictions as the Government may direct.

(2) In the absence of express provision to the contrary in this Act or any rule thereunder, an appeal shall lie from the decision of an Electric Inspector to the Government.

36. *Power for Government to make rules.*—(1) The Government may make rules for the whole or any part of the Jammu and Kashmir State to regulate the generation, transmission, supply and use of energy, and, generally, to carry out the purposes and ob-

jects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may :—

(a) prescribe the form of applications for licences and the payments to be made in respect thereof ;

(b) regulate the publication of notices ;

(c) prescribe the manner in which objections with reference to any application under Part II are to be made ;

(d) provide for the preparation and submission of accounts by licensees in a specified form ;

(e) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers ;

(f) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy ;

(g) for the purposes of electric traction regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on, metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply lines and apparatus of parties other than the owners of the electric traction system or with the currents therein, whether the earth is used as a return or not ;

(h) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy ;

(i) prescribe the qualifications to be required of Electric Inspectors ;

(j) authorise any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests ;

(k) authorise and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act, and

(l) provide for any matter which is to be, or may be, prescribed.

(3) In making any rule under this Act, the Government may

direct that every breach thereof shall be punishable with fine which extend to three hundred rupees, and, in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

37. *Further provisions respecting rules.*—All rules made under section 36 shall be published in the Government Gazette and on such publication shall have effect as if enacted in this Act.

CRIMINAL OFFENCES AND PROCEDURE.

38. *Theft of energy.*—Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Ranbir Penal Code; and the existence of artificial mean for such abstraction shall be *prima facie* evidence of such dishonest abstraction.

39. *Penalty for maliciously wasting energy or injuring works.*—Whoever maliciously causes energy to be wasted or diverted or, with intent to cut-off the supply of energy, cuts or injures or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees or with both.

40. *Penalty for unauthorised supply of energy by non-licensees.*—Whoever, in contravention of the provisions of section 28 engages in the business of supplying energy, shall be punishable with fine which may extend to three thousand rupees and, in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees.

41. *Penalty for illegal or defective supply or for non-compliance with order.*—Whoever—

(a) being a licensee, save as permitted under section 27 or section 50 or by his licence, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(b) being a licensee, in contravention of the provisions of this Act or of the rules thereunder or in breach of the conditions of his licence and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

(c) makes default in complying with any order issued to him under section 34, sub-section (2); shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

42. *Penalty for illegal transmission or use of energy.*—Whoever, in contravention of the provisions of section 30, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees,

and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

43. *Penalty for interference with meters or licensee's works and for improper use of energy.*—Whoever—

(a) connects any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7) with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee, forty-eight hours' notice in writing of his intention; or

(b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or

(c) maliciously injures any meter referred to in section 26, sub-section (1) or any meter, indicator or apparatus referred to in section 26 sub-section (7) or wilfully or fraudulently alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or

(d) improperly uses the energy of a licensee; shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees; and if it is proved that any artificial means exist for making such connection as is referred to in clause (a) or such communication as is referred to in clause (b) or for causing such alteration or prevention as is referred to in clause (c) or for facilitating such improper use as is referred to in clause (d) and that the meter, indicator or apparatus is under the custody or control of the consumer, whether it is property or not, it shall be presumed, until the contrary is proved, that such connection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

44. *Penalty for extinguishing public lamps.*—Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

45. *Penalty for negligently wasting energy or injuring works.*—Whoever negligently causes energy to be wasted or diverted or negligently breaks, throws down or damages any electric supply line, post, pole or lamp or other apparatus connected with supply of energy, shall be punishable with fine which may extend to two hundred rupees.

46. *Penalty for offences not otherwise provided for.*—Whoever, in any case not already provided for by sections 38 to 45 (both inclusive) makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a

licensee, with any of the conditions of his licence, shall be punishable with fine may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees :

Provided that, where a person has made default in complying with any of the provisions of sections 12, 13, 14, 16 and 32 as the case may be, he shall not be so punishable if the court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable in the circumstances.

47. *Penalties not to affect other liabilities.*—The penalties imposed by sections 38 to 46 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his licence, which the offender may have incurred.

48. *Penalties where works belong to Government.*—The provisions of sections 38, 39, 43, 44 and 45 shall, so far as they are applicable, be deemed to apply also when the act made punishable thereunder are committed in the case of energy supplied by, or of works belonging to Government.

49. *Institution of prosecutions.*—No prosecution shall be instituted against any person for any offence against this Act or any rule, licence or order thereunder, except at the instance of the Government or an Electric Inspector or a person aggrieved by the same.

SUPPLEMENTARY.

50. *Exercise in certain cases of powers of telegraph authority.*—Notwithstanding anything in sections 11 to 15 (both inclusive) and sections 17 and 18 the Government may, by order in writing, for the placing of appliances and apparatus for transmission of energy, confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as the Government may think fit to impose and to the provisions of the Telegraph Act 1974 any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

51. *Arbitration.*—Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the licence of a licensee, be determined by such person or persons as the Government may nominate in that behalf on the application of either party.

52. *Service of notices, orders or document.*—(1) Every notice, order or document by or under this Act required or

authorised to be addressed to any person may be served by post or left :—

(a) where the Government is the addressee, at the office of such officer as the Government may designate in this behalf ;

(b) where a local authority is the addressee, at the office of the local authority ;

(c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in Jammu and Kashmir at any office of the company in Jammu and Kashmir ;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

53. *Recovery of sums recoverable under certain provisions of Act.*—Every sum declared to be recoverable and every fee leviable under this Act may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any movable property belonging to such person.

54. *Delegation of certain functions of Local Government to Electric Inspector.*—The Government may, by general or special order, authorise the discharge of any of its functions under section 12 or section 17 or section 34 sub-section (2) or clause 5 sub-clause 2 or clause XII of the Schedule by an Electric Inspector.

55. *Protection for acts done in good faith.*—No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done or in good faith purporting to be done, under this Act.

56. *Repeals and savings.*—The Jammu and Kashmir Electricity Act, 1991 is hereby repealed :

Provided that the rules sanctioned and the orders passed under the said Act shall be deemed to have been sanctioned and passed under this Act and shall remain in force until repealed or modified expressly or by implication by competent authority.

THE SCHEDULE.

Provisions to be deemed to be incorporated with, and to form

part of, every licence granted under Part II, so far as not added to, varied or excepted by the licence.

SECURITY AND ACCOUNTS.

I. *Security for execution of works of licensee not being local authority.*—Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely :

(a) The licensee, within the period fixed in that behalf by his licence, or any longer period which the Government may substitute therefor by order under section 4, sub-section 3, clause (b) of the Jammu and Kashmir Electricity Act, 1997 before exercising any of the powers by the licence conferred on him in relation to the execution of works, show, to the satisfaction of the Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the licence throughout the area of supply.

(b) The licensee shall also, within the period fixed in that behalf by his licence, or any longer period which the Government may substitute therefor by order under section 4, sub-section 3, clause (b) of the Jammu and Kashmir Electricity Act and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the Government such sum (if any) as may be fixed by the licence or if not so fixed, by the Government.

(c) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such instalments, as may be approved by the Government.

II. *Audit of accounts of licensee not being local authority.*—Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely :—

(a) The annual statement of accounts of the undertaking shall, before being rendered under section 10 of the Jammu and Kashmir Electricity Act, be examined and audited by such person as the Government may appoint or approve in this behalf, and the remuneration of the auditor shall be such as the Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Government shall approve, shall be paid by the licensee on demand.

(b) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(c) The audit shall be made and conducted in such manner as the Government may direct.

(d) Any report made by the auditor, or such portion thereof as the Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.

(e) Notwithstanding the foregoing provisions of this clause, the Government may, if it thinks fit, accept the examination and audit of an auditor appointed by the licensee.

III. *Separate accounts.*—The licensee shall, unless the Government otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

COMPULSORY WORKS AND SUPPLY.

IV. *Execution of works after commencement of licence.*—The licensee shall, within a period of three years after the commencement of the licence, execute to the satisfaction of the Government all such works as may be specified, in the licence in this behalf or, if not so specified, as the Government may, by order in writing issued within six months of the date of the commencement of the licence, direct.

V. *Provisions as to laying down of further distribution mains.*—(1) Where, after the expiration of two years and six months from the commencement of the licence, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the Government or a local authority charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless :—

(a) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than two years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee ; or

(b) where it is made by the Government or a local authority the Government or local authority, as the case may be, does not, within the like period, tender a like contract binding itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid the matter shall be referred to the Government and either decided by it or if it so directs, determined by arbitration.

(3) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this clause shall be in a form to be prescribed by rules under the Jammu and Kashmir Electricity Act; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VI. *Requisition for supply to owners or occupiers.*—(1) Where, after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced, a requisition is made by the owner or occupier of any premises situate within the area of supply requiring the licensee to supply energy for such premises, the licensee shall, within one month from the making of the requisition, or within such longer period as the Electric Inspector may allow supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply energy in accordance with the requisition:

Provided, first, that the licensee shall not be bound to comply with any such requisition unless and until the person making it:—

(a) within fourteen days after the service on him by the licensee of a notice in writing in this behalf, tenders to the licensee a written contract, in a form approved by the Government, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee, and,

(b) if required by the licensee so to do, pays to the licensee the cost of so much of any service-line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made and of so much of any service-line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main, although not on that property:

Provided, secondly, that the licensee shall be entitled to discontinue such supply:—

(a) if the owner or occupier of the property to which the supply is made has not already given security, or if any security given by him has become invalid or insufficient and such owner or occupier fails to furnish security or to make up the original security to a sufficient amount, as the case may be, within seven days after

the service upon him of notice from the licensee requiring him so to do, or

(b) if the owner or occupier of the property to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or

(c) if the electric wires, fittings, works and apparatus in such property are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persons, or

(d) if the owner or occupier makes any alterations of, or additions to, any electric wires, fittings, works or apparatus within such property as aforesaid, and does not notify the same to the licensee before the same are connected to the source of supply, with a view to their being examined and tested: but the licensee shall reconnect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it:

Provided thirdly, that the maximum rate per unit of time at which the owner or occupier shall be entitled to be supplied with energy shall not exceed what is necessary for the maximum consumption on his premises, and, where the owner or occupier has required a licensee to supply him at a specified maximum rate, he shall not be entitled to alter that maximum, except after one month's notice in writing to the licensee, and the licensee may recover from the owner or occupier any expenses incurred by him by reason of such alteration in respect of the service-lines by which energy is supplied to the property beyond one hundred feet from the licensee's distributing main, or in respect of any fittings or apparatus of the licensee upon that property: and

Provided, fourthly, that, if any requisition is made for a supply of energy and the licensee can prove, to the satisfaction of an Electric Inspector:—

(a) that the nearest distributing main is already loaded up to its full current carrying capacity, or

(b) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity, the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, as such Inspector may think sufficient for the purpose of amending the distributing main or laying down or placing a further distributing main.

(2) Any service-line laid for the purpose of supply in pursuance of a requisition under sub-clause (1) shall, notwithstanding that a portion of it may have been paid for by the person making the

requisition, be maintained by the licensee.

(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as aforesaid, or as to the cost of any service-line or as to the sufficiency of the security offered by any owner or occupier, or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to the amount of the expenses incurred under the third proviso to sub-clause (1), the matter shall be referred to an Electric Inspector and decided by him.

(4) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(5) Every requisition under this clause shall be in a form to be prescribed by rules under the Jammu and Kashmir Electricity Act; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VII. *Further provisions as to laying service-lines.*—The licensee shall, before commencing to lay down or place a service-line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service-line so to be laid down or placed twenty-one days' notice stating that the licensee intends to lay down or place a service-line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require in accordance with the provisions of the licence that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service-line.

VIII. *Supply for public lamps.*—(1) Where, after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced, a requisition is made by the Government or by a local authority requiring the licensee to supply for a period of not less than seven years' energy for any public lamps within the area of supply, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms, or other occurrences beyond his control continue to supply energy for such lamps in such quantities as the Government or the local authority, as the case may be, may require.

(2) The provisions of sub-clause (b) of the first proviso, of sub-clause (c) and (d) of the second proviso, and of the third and fourth provisos to sub-clause (1) and the provisions of sub-clauses (2) and (3) of clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Government or local authority were an owner or

occupier within the meaning of those provisions.

CHARGES.

IX. *Methods of charging.*—(1) Where the licensee charges by any method approved by the Government in accordance with section 23, sub-section (3) clause (c) of the Jammu and Kashmir Electricity Act any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method.

(2) Before commencing to supply energy through any distributing main, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main.

(3) If the consumer is provided with a meter in pursuance of the provisions of section 26, sub-section (1) of the Jammu and Kashmir Electricity Act, and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

X. *Minimum charges.*—A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his license, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.

XI. *Charge for supply for public lamps.*—The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the Government or the local authority as the case may be and, where any difference or dispute arises, the matter shall be determined by arbitration.

TESTING AND INSPECTION.

XII. *Licensee to establish testing stations and keep instru-*

ments for testing.—The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the Government may direct for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and at all premises from which he supplies energy, such instruments for testing as an Electric Inspector may approve, and shall supply energy to each testing station for the purpose of testing.

XIII. *Facilities for testing.*—The licensee shall afford all facilities for inspection and testing of his works and for the reading, testing and inspection of his instruments, and may, on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represented by an agent, who may be present, but shall not interfere with the reading, testing or inspection.

XIV. *Testing of works.*—On the occasion of the testing of any works of the licensee by an Electric Inspector reasonable notice thereof shall be given to the licensee; and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but except under the provisions of an order made in each case in that behalf by the Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee himself has access to the same:

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the Electric Inspector for the purpose of any such testing as aforesaid.

Provided, also that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Government.

PLANS.

XV. *Plan of areas of supply to be made and kept open for inspection.*—(1) The licensee shall, after commencing to supply energy forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignment and in the case of underground works, the approximate depth below the surface of all his then existing electric supply lines, street distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as

to show the electric supply-lines, street distributing boxes and other works for the time being in position. The licensee shall also, if so required by an Electric Inspector cause to be made sections showing the approximate level of all his existing underground works other than service-lines.

(2) Every such plan shall be drawn to such scale as the Government may require; provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public and

(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Government may require.

(4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Jammu and Kashmir Electricity Act, 1997.

(5) The licensee shall, if required by an Electric Inspector supply free of charge to such Electric Inspector a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

ADDITIONAL NOTICE OF CERTAIN WORKS.

XVI. *Notice to the Electric Inspector.*—On the day next preceding the commencement of any such works as are referred to in section 12 of the Jammu and Kashmir Electricity Act, 1997 the licensee shall, in addition to any other notices which he may be required to give, serve upon Electric Inspector or such officer as the Government may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.