

Electricity Theft Control Act, 2058 (2002)

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Amendment:

Republic Strengthening and Some Nepal Laws Amendment Act, 2066(2010)¹ 2066.10.7 (21 Jan. 2010)

Act Number 13 of the year 2058 (2002)

.....²

An Act Made To Provide For Controlling Electricity Theft

Preamble: Whereas, it is expedient to make necessary legal provisions for controlling electricity theft;

Now, therefore, Parliament has made this Act in the first year of reign of His Majesty King Birendra Bir Bikram Shah Dev.

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be called as "Electricity Theft Control Act, 2058 (2002)".
(2) It shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:
 - (a) "Electricity" means electric power generated from water, mineral oil, coal, gas, solar energy, wind energy, atomic energy or any other means.

¹ This Act came into force on 15 *Jestha* 2065 (28 May 2008).

² Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066(2010).

- (b) "Distributor" means the electricity seller, distributor as referred to in Section 3.
- (c) "Customer" means a person or institution whose name is registered in the list of customers using the electricity service sold and distributed by a distributor, and this term also includes the chief of any institution or office and, where registered customer has died, the heir to such a registered customer in accordance with the prevailing laws.
- (d) "User" means a person or institution using the electricity service sold and distributed by a distributor.
- (e) "House" or "building" means a residential or non-residential house or building, and this term also includes a house, building or shed where an institution, office, shop, godown, factory etc. are situated, and the compound of the house, building or shed.
- (f) "Offense" means the offense relating to the electricity theft as referred to in Section 7.
- (g) "Offender" means a person who is involved in the offense relating to the electricity theft as referred to in Section 7, and this term also includes an employee of the distributor involved in that offense.
- (h) "Energy measurement machine" includes an energy measurement machine installed with the house or building of a customer on behalf of a distributor to count the units of electricity used by the user, and other equipment related therewith.
- (i) "Institution" means an institution established pursuant to the laws in force.
- (j) "Investigation authority" means an investigation authority designated pursuant to Sub-section (1) of Section 12.

- (k) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter-2

Provisions Relating to Electricity Distributor and Electricity Theft

3. **Electricity distributor:** In the case of the electricity as follows, the following person or institution shall be considered as the electricity distributor:
- (a) The licensee, in the case of the electricity sold and distributed with or without using the national grid upon having obtained the license to generate and sell and distribute pursuant to Section 4 of the Electricity Act, 2049 (1992),
 - (b) The Government of Nepal, in the case of the electricity to be sold and distributed by using the national grid upon purchasing the same by the Government of Nepal pursuant to Section 21 of the Electricity Act, 2049 (1992), and in the case of the electricity sold and distributed upon being purchased through any other institution,
 - (c) The concerned importer, in the case of the electricity imported into and sold and distributed in³ Nepal pursuant to Sub-section (1) of Section 22 of the Electricity Act, 2049 (1992),
 - (d) In the case of the electricity generated and developed, and sold and distributed by the Government of Nepal itself pursuant to Section 34 of the Electricity Act, 2049 (1992), the Government of Nepal,
 - (e) In the case of the electricity sold and distributed upon concluding a contract with the Government of Nepal in relation to the sale

³ Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010).

and distribution of electricity pursuant to Section 35 of the Electricity Act, 2049 (1992), the person or institution making concluding such a contract,

(f) In the case of the electricity to be sold and distributed upon obtaining the electricity from another point by wheeling the same from one point by using the distribution system of one distributor, the person or institution who so obtains the electricity at the last point.

4. **Liability of distributor:** It shall be the duty of the distributor institution and its employees to act taking into best account of the interests of its customers. The other provisions in relation thereto shall be as prescribed, and provisions shall be made for compensation as prescribed in the case of the violations of the rights of consumers.

5. **Code of conduct:** Upon the commencement of this Act, a code of conduct shall be prepared and enforced in the case of the distributor institution and its employees. Its violator shall be liable to punishment as if it were a criminal offense, and the other provisions in relation thereto shall be as prescribed.

6. **Prohibition on electricity theft:** No person shall steal, cause the theft of electricity or aid another person to commit such act.

7. **Offense deemed to be committed:** (1) If any person commits any of the following acts, the person shall be deemed to have committed the offense of electricity theft:

(a) To haul or install the electricity line directly or indirectly from other line of the electricity than through the energy measurement machine,

(b) To haul or install the electricity line from the electricity line for street light or other purpose, without approval of the distributor,

- (c) To follow other technology than the technology specified to supply the electricity to the house of building through the electricity measurement machine,
- (d) To take phase from one electricity measurement machine by reversing its polarity and take neutral line from another electricity measurement machine or earth,
- (e) To insert anything into the electricity measurement machine or create obstruction in the normal mobilization of the disk of the electricity measurement machine in any other manner,
- (f) To open the terminal link,
- (g) To break, destroy, obliterate the terminal or test seal affixed to the electricity measurement machine on behalf of the distributor or use a fake terminal or test seal,
- (h) To damage the electricity measurement machine by breaking, destroying, obliterating it or in any other manner or make it incapable of being mobilized normally,
- (i) To temper with the seal of the box containing the electricity measurement machine, or despite the existence of the seal, use the seal containing no seal of the distributor or use the seal containing the seal of anyone other than the distributor or temper with such seal,
- (j) Temper with the seal of CT or PT or both, make reverse the polarity or break out the connection,

- (k) To follow any other method to thief electric power in any circumstance other than those set forth in Clause (a) to Clause (j).

(2) Notwithstanding anything contained in Sub-section (1), if, in making technical examination in the course of investigation and inquiries into the offense, it appears that the electricity measurement machine has become disordered not because of any fault of the customer or user but because of any other technical reason or act beyond human control, the offense shall not be deemed to have been committed.

8. Liability of offense to be vested: (1) The liability of the offense as referred to in Section 7 shall be vested in the person, concerned customer involved in acts relating to that offense and the person who aids the commission of such offense.

(2) Notwithstanding anything contained in Sub-section (1), the liability of the offense committed in the following house or building shall be vested in the following person:

- (a) In the case of the offense committed in the house or building being used by an institution or office, chief of the concerned institution or office,
- (b) In the case of the offense committed in the house or building being used in rent or otherwise, chief of the institution or office using such house or building, and where any person or family has used such a house or building, main person of such person or family or house-owner,
- (c) In the case of the offense committed in a joint housing or a house or building where more than one institution, office, person or family have jointly resided, chief of the institution or office, person or

main person of the family or house-owner involved in the offense, out of the institutions, offices, persons or families using such a house or building,

- (d) In the case of the offense committed in the house or building sold or otherwise transferred by the owner of any house or building, chief of the institution or office, person or main person of the family involved in the offense, out of the institution, office, person or families using such a house or building,

Provided that, the burden of proof shall lie on the owner of any house or building to prove that such house or building has been rented. Otherwise, the liability of offense committed in such a house or building shall be vested in the owner of house or building.

9. Power to cut electricity line: The electricity line may be cut in the following circumstance:

- (a) Failure to pay the electricity tariff within the specified time,
(b) Appearing to have committed the offense as referred to in Section 7.

10. Power to enforce special provision in area more affected from electricity theft: The contract or cut out system may be so enforced as to have the flow of electricity only in such quantity as specified by publishing a notice in the Nepal Gazette, in the case of any area in.....⁴ Nepal, which is more affected from the electricity theft.

11. Offender is to pay the amount of loss and damage and compensation: (1) If any person commits the offense as referred to in

⁴ Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066(2010).

Section 7 and causes loss and damage, the offender shall pay the amount for the same and the amount of compensation equal thereto. The electricity line shall not be installed until the amount and compensation to be so paid is paid.

(2) If a person who has once paid the loss, damage and compensation pursuant to Sub-section (1) again commits the same offense, that person has to pay the amount of loss and damage that the distributor has suffered actually and amount of Two Hundred percent thereof for compensation to the distributor for each instance.

(3) The manner and procedures for the evaluation of the loss and damage that the distributor has suffered actually pursuant to Sub-sections (1) and (2) shall be as prescribed.

Chapter-3

Investigation and Inquiry

12. Investigation authority: (1) The distributor shall designate the investigation authority for the investigation and inquiry into the offense as referred to in this Act.

(2) The functions, duties and powers of the investigation authority as referred to in Sub-section (1) shall be as follows:

- (a) Where information is received from any person that the offense is being committed or going to be committed or where, despite that no information has been received, there is a reasonable ground to doubt that the offense is going to be committed, the investigation authority shall go to such a place and carry out necessary technical inquiry, and if the offense is found to have been committed or have taken place, the investigation authority shall cut the line immediately, take in his or her custody the

goods related with the offense and give a slip thereof, and inquire into the offender and prepare a deed of public inquiry,

- (b) To carry out investigation and inquiry into the offense and evaluate the actual loss and damage caused by the offender to the distributor.

(3) It shall be the duty of the local administration, officials of the local bodies, police and all the concerned to render assistance to the investigation authority in the course of investigation and inquiry into the offense.

(4) The investigation authority fine a person who makes obstruction or objection with or to investigation and inquiry into the offense with a sum not exceeding Two Thousand Rupees.

13. Power to make application for review: (1) In the event of dissatisfaction with the action, evaluation and punishment taken or made by the investigation authority pursuant to Sub-sections (2) and (4) of Section 12, the concerned person or institution may make an application to the concerned distributor for the review of such action, evaluation and punishment.

(2) If an application is made pursuant to Sub-section (1), the distributor shall make review.

(3) The procedures of making review pursuant to Sub-section (2) shall be as prescribed.

14. To give notice for making payment of loss, damage and compensation: A notice has to be given, as prescribed, to the concerned person or institution to make payment of the amount of loss and damage and compensation accordingly if no application is made pursuant to Section 13 for the review of the evaluation made pursuant to Clause (b) of Sub-section (2) of Section 12, and if an application if made

for the review, the amount of actual loss and damage and compensation for the same as held upon review not later than Thirty Five days.

- 15. To file cases:** (1) If the offender tenders payment of the amount within the time-limit of the notice given pursuant to Section 13, the amount has to be received, the action against him or her has to be finalized and closed. If amount is not tendered for payment, the investigation authority shall file the case in the concerned district court within Thirty days after the date of the expiration of the time-limit.

(2) The investigation authority shall, for the purpose of filing the case pursuant to Sub-section (1), do as per Section 31 of the Sate Cases Act, 2049.

(3) In trying and disposing the case filed pursuant to Sub-section (1), the district court shall follow the procedures on the matters set forth in this Act and the procedures as referred to in the Summary Procedure Act, 2028 (1972) in relation to the other matters.

Chapter-4

Miscellaneous

- 16. Punishment:** (1) If, in trying and disposing case by the court, a person is held to have committed the offense, the claimed amount for the actual loss and damage that the distributor has sustained and the amount of compensation equal to the claimed amount shall be recovered from the offender to the distributor, and such offender shall be liable to punishment of a fine of up to Five Thousand Rupees or imprisonment for a term not exceeding Three months according to the gravity of offence or both punishments.

(2) If a person who is once held to have committed the offense commits the same offense again, the claimed amount for the loss and damage that the distributor has sustained and the amount of

compensation equal to the Two Hundred percent of the claimed amount shall be recovered from the offender to the distributor for each instance, and such offender shall be liable to punishment of a fine of up to Ten Thousand Rupees or imprisonment for a term not exceeding Six months or both punishments.

17. **To be state cases:** The cases under this Act shall be state cases.
18. **Reward:** (1) after the final disposal of the case, the distributor shall give a reward in the sum as prescribed to the person who gives information relating to the offense.

Provided that, such reward shall not be given to the distributor, employee of the distributor and his or her family.

(2) The other provisions relating to the reward to be given pursuant to Sub-section (1) shall be as prescribed.

19. **Saving of act done in good faith:** No investigation authority or employee shall be personally liable for any act done in good faith in the course of performing their duties by the investigation authority and employee related with such act.
20. **Power to frame Rules:** The Government of Nepal may frame necessary Rules to implement the objectives of this Act.
21. **Repeal and saving:** (1) Of the Electricity Act, 2049 (1992):

- (a) Sub-section (3) of Section 38 is, hereby, repealed.
- (b) The words "Sub-sections (1) and (2) of Section 38" shall be substituted for the words "Sub-sections (1), (2) and (3) of Section 38" contained in Section 39.

(2) Notwithstanding anything contained in this Act, no provision contained in this Act shall be deemed to prevent the distributor from exercising the powers conferred to the distributor pursuant to the prevailing laws in relation to the controlling of unauthorized use/consumption of electricity.

NEPAL LAW COMMISSION