

opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

44. Right of appellant to take assistance of legal practitioner or accredited auditor and of Government to appoint presenting officers

(1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear in person or take the assistance of a legal practitioner or an accredited energy auditor of his choice to present his case before the Appellate Tribunal, as the case may be.

(2) The Central Government or the State Government may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal, as the case may be.

45. Appeal to Supreme Court

Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

PROVIDED that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

**CHAPTER X
MISCELLANEOUS**

46. Power of Central Government to issue directions to Bureau

(1) Without prejudice to the foregoing provisions of this Act, the Bureau shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

PROVIDED that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

47. Power of Central Government to supersede Bureau

(1) If at any time the Central Government is of opinion,—

(a) that on account of grave emergency, the Bureau is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Bureau has persistently made default in complying with any direction issued by the Central Government under this Act or in discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default, the financial position of the Bureau had deteriorated or the administration of the Bureau had deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Bureau for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding

the Bureau,—

- (a) all the members referred to in clauses (o), (p) and (q) of sub-section (2) of section 4 shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Bureau, shall until the Bureau is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and
- (c) all property owned or controlled by the Bureau shall, until the Bureau is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Bureau by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:

PROVIDED that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

48. Default by companies

(1) Where a company makes a default in complying with the provisions of clause (c) or clause (d) or clause (h) or clause (i) or clause (k) or clause (l) or clause (n) or clause (r) or clause (s) of section 14 or clause (b) or clause (c) or clause (h) of section 15, every person who at the time of such contravention was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to have acted in contravention of the said provisions and shall be liable to be proceeded against and imposed penalty under section 26 accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable for penalty provided in this Act if he proves that the contravention of the aforesaid provisions was committed without his knowledge or that he exercised all due diligence to prevent the contravention of the aforesaid provisions.

(2) Notwithstanding anything contained in sub-section (1), where any contravention of the provisions of clause (c) or clause (d) or clause (h) or clause (i) or clause (k) or clause (l) or clause (n) or clause (r) or clause (s) of section 14 or clause (b) or clause (c) or clause (h) of section 15 has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to have contravened the said provisions and shall be liable to be proceeded for imposition of penalty accordingly.

Explanation: For the purposes of this section, “company” means a body corporate and includes a firm or other association of individuals.

49. Exemption from tax on income

Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on income, profits or gains—

- (a) the Bureau;

- (b) the existing Energy Management Centre from the date of its constitution to the date of establishment of the Bureau, shall not be liable to pay any income-tax or any tax in respect of their income, profits or gains derived.

50. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or Director-General or Secretary or State Government or any officer of those Governments or State Commission or its members or any member or officer or other employee of the Bureau for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

51. Delegation

The Bureau may, by general or special order in writing, delegate to any member, member of the committee, officer of the Bureau or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 58) as it may deem necessary.

52. Power to obtain information

Every designated consumer or manufacturer of equipment or appliance specified under clause (b) of section 14 shall supply the Bureau with such information, and with such samples of any material or substance used in relation to any equipment or appliance, as the Bureau may require.

53. Power to exempt

If the Central Government or the State Government is of the opinion that it is necessary or expedient so to do in the public interest, it may, by notification and subject to such conditions as may be specified in the notification, exempt any designated consumer or class of designated consumers from application of all or any of the provisions of this Act:

PROVIDED that the Central Government or the State Government, as the case may be, shall not grant exemption to any designated consumer or class of designated consumers for a period exceeding five years:

PROVIDED FURTHER that the Central Government or the State Government, as the case may be, shall consult the Bureau of Energy Efficiency before granting such exemption.

54. Chairperson, Members, officers and employees of the Appellate Tribunal, Members of State Commission, Director-General, Secretary, members, officers and employees of the Bureau to be public servants

The Chairperson of the Appellate Tribunal or the Members of the Appellate Tribunal or officers or employees of the Appellate Tribunal or the Members of the State Commission or the Members, Director-General, Secretary, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

55. Power of Central Government to issue directions

The Central Government may give directions to a State Government or the Bureau as to carrying out into execution of this Act in the State.

56. Power of Central Government to make rules

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) such number of persons to be appointed as members by the Central Government under clauses (o), (p) and (q) of sub-section (2) of section 4;
- (b) the fee and allowances to be paid to the members under sub-section (5) of section 4;
- (c) the salary and allowances payable to the Director-General and other terms and conditions of his service and other terms and conditions of service of the Secretary of the Bureau under sub-section (4) of section 9;
- (d) the terms and conditions of service of officers and other employees of the Bureau under sub-section (2) of section 10;
- (e) performing such other functions by the Bureau, as may be prescribed, under clause (u) of sub-section (2) of section 13;
- (f) the energy consumption norms and standards for designated consumers under clause (g) of section 14;
- (g) prescribing the different norms and standards for different designated consumers under the proviso to clause (g) of section 14;
- (h) the form and manner and the time within which information with regard to energy consumed and the action taken on the recommendations of the accredited energy auditor be furnished under clause (k) of section 14;
- (i) the form and manner in which the status of energy consumption be submitted under clause (l) of section 14;
- (j) the minimum qualifications for [energy auditors and energy managers under clause (m) of section 14;
- (k) the form and manner for preparation of scheme and its implementation under clause (o) of section 14;
- (l) the energy conservation building codes under clause (p) of section 14;
- (la) prescribing the procedure for issuing the energy savings certificate under sub-section (1) of section 14A;
- (laa) the value of per metric ton of oil equivalent of energy consumed under section 14B;
- (m) the matters relating to inspection under sub-section (2) of section 17;
- (n) the form in which, and the time at which, the Bureau shall prepare its budget under section 22;
- (o) the form in which, and the time at which, the Bureau shall prepare its annual report under section 23;
- (p) the form in which the accounts of the Bureau shall be maintained under section 25;
- (q) the manner of holding inquiry under sub-section (1) of section 27;
- (r) the form of and fee for filing such appeal under sub-section (2) of section 31;
- (s) the salary and allowances payable to and other terms and conditions of service of the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal under section 35;
- (t) the salary and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (3) of section 39;

(u) the additional matters in respect of which the Appellate Tribunal may exercise the powers of a Civil Court under clause (i) of sub-section (2) of section 40;]

(v) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made, by rules.

57. Power of State Government to make rules

(1) The State Government may, by notification, make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) energy conservation building codes under clause (a) of section 15;

(b) the form, the manner and the period within which information with regard to energy consumption shall be furnished under clause (h) of section 15;

(c) the person or any authority who shall administer the Fund and the manner in which the Fund shall be administered under sub-section (4) of section 16;

(d) the matters to be included for the purposes of inspection under sub-section (2) of section 17;

(e) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made, by rules.

58. Power of Bureau to make regulations

(1) The Bureau may, with the previous approval of the Central Government and subject to the condition of previous publication, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places of the meetings of the Governing Council and the procedure to be followed at such meetings under sub-section (1) of section 5;

(b) the members of advisory committees constituted under sub-section (2) of section 8;

(c) the powers and duties that may be exercised and discharged by the Director-General of the Bureau under sub-section (6) of section 9;

(d) the levy of fee for services provided for promoting efficient use of energy and its conservation under clause (n) of sub-section (2) of section 13;

(e) the list of accredited energy auditors under clause (o) of sub-section (2) of section 13;

(f) the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation under clause (p) of sub-section (2) of section 13;

(g) the manner and the intervals of time in which the energy audit shall be conducted under clause (q) of sub-section (2) of section 13;

(h) certification procedure for energy auditors and energy managers under clause (r) of sub-section (2) of section 13;

(i) particulars required to be displayed on label and the manner of their display under clause (d) of section 14;

- (j) the manner and the intervals of time for conduct of energy audit under clause (h) or clause (s) of section 14;
- (k) the manner and the intervals of time for conducting energy audit by an accredited energy auditor under clause (c) of section 15;
- (l) any other matter which is required to be, or may be, specified.

59. Rules and regulations to be laid before Parliament and State Legislature

(1) Every rule made by the Central Government and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

60. Application of other laws not barred

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

61. Provisions of Act not to apply in certain cases

The provisions of this Act shall not apply to the Ministry or Department of the Central Government dealing with Defence, Atomic Energy or such other similar Ministries or Departments or undertakings or Boards or institutions under the control of such Ministries or Departments as may be notified by the Central Government.

62. Power to remove difficulty

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

PROVIDED that no such order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[Refer section 2(s)]

LIST OF ENERGY INTENSIVE INDUSTRIES AND OTHER ESTABLISHMENTS

[xxx]

1. Aluminium;
2. Fertilizers;
3. Iron and Steel;
4. Cement;
5. Pulp and Paper;
6. Chlor Alkali;
7. Sugar;

8. Textile;
9. Chemicals;
- 10 . Railways;
11. Port Trust;
12. Transport Sector (Industries and Services);
13. Petrochemical, Gas Crackers, Naphtha Crackers and Petroleum Refineries;
14. Thermal power stations, hydel power stations, electricity transmission companies and distribution companies;
15. Commercial buildings or establishments.

THE BUREAU OF ENERGY EFFICIENCY APPOINTMENT AND TERMS AND CONDITIONS OF SERVICE OF THE DIRECTOR- GENERAL RULES, 2003

[GSR 761(E), dt. 24-9-2003]

In exercise of the powers conferred by section 56 of the Energy Conservation Act, 2001 (52 of 2001), the Central Government hereby makes the following rules for regulating the appointment and other terms and conditions of service of the Director-General of the Bureau of Energy Efficiency, namely:—

1. Short title and commencement

(1) These rules may be called the Bureau of Energy Efficiency Appointment and Terms and Conditions of Service of the Director-General Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,—

- (a) “Act” means the Energy Conservation Act, 2001 (52 of 2001);
- (b) “Director-General” means the Director-General of the Bureau appointed under sub-section (1) of section 9 of the Act;
- (c) “Section” means a section the Act; and
- (d) all other words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Appointment of Director-General

(1) The Central Government shall appoint a person possessing the following qualifications and experience:—