

ODISHA ELECTRICITY REGULATORY COMMISSION

PLOT NO.4, CHUNOKOLI, SAILASHREE VIHAR,
BHUBANESWAR - 751021

E-mail: oriarc@rediffmail.com/oriarc@gmail.com

Website: www.oriarc.org

PUBLIC NOTICE


Sub: OERC (Compensation to Victims of Electrical Accidents) Regulation, 2020.

The Commission hereby publishes the proposed OERC (Compensation to Victims of Electrical Accidents) Regulation, 2020 for information of the general public under Section 181(3) of the Electricity Act, 2003.

The proposed Regulation is available in the Commission's website www.oriarc.org. The copies of the proposed Regulations may also be obtained from the Commission's office on payment of Rs.10.00 in shape of Bank Draft drawn in favour of OERC or in cash to be deposited with the Accounts Officer, OERC.

Before finalisation of the said Regulation, the Commission invites opinion through this publication u/s 181(3) of the Electricity Act, 2003. Interested persons/ institutions/ associations/Generating companies/ Licensees may furnish their suggestions/opinions on the said Regulation to the undersigned on or before **18.03.2020 (by 5.00 P.M.)**. On receipt of the responses from different quarters, the Commission may, in appropriate cases, bring the modifications, if any, to the proposed Regulation and approve the same for publication in the official gazette.

By order of the Commission


Secretary

17.2.2020

ODISHA ELECTRICITY REGULATORY COMMISSION
(Compensation to Victims of Electrical Accidents) Regulation, 2020

Whereas Section 53 of the Electricity Act, 2003 prescribes specification of suitable measures for -

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;

Whereas Section 73 (c) of the Electricity Act, 2003 makes it a function and duty of the Central Electricity Authority to specify the safety requirements for construction, operation and maintenance of electrical plants and electric lines;

Whereas the Central Electricity Authority, in exercise of the powers conferred by Section 177 (2) (b) of the Electricity Act, 2003, made the Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010 notified on 20-09-2010, amended by Amendment Regulations, 2015 notified on 13-04-2015;

Whereas till the said Regulations for measures relating to safety and electric supply were made, the Indian Electricity Rules, 1956 made under Section 37 (2) (f) of the Indian Electricity Act, Central Act 9 of 1910 continued to be in force providing for 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;

Whereas Section 67 (2) (j) of the Electricity Act, 2003 prescribes making of rules by the appropriate Government specifying the procedure for safety measures relating to Works of Licensees ('Works' are defined in Section 2 (77)) and rules were accordingly made under the Works of Licensees Rules, 2006 of the Government of India.

Whereas Sections 57 and 58 of the Electricity Act, 2003 prescribe specification of standards of performance of a licensee or a class of licensees and liability for payment of compensation as may be determined by the Appropriate Commission to the person affected by a licensee failing to meet the specified standards, without prejudice to any penalty which may be imposed or prosecution which may be initiated;

Whereas the State Commission may make Regulations consistent with the Act and the Rules providing for standards of performance of a licensee or a class of licensees under Section 57 (1) read with Section 181 (2) (za) of the Electricity Act, 2003;

Whereas the Odisha Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation, 2004 has been accordingly made, but they do not provide for compensation for injury to human beings or animals or property, in spite of providing for and ensuring their protection and safety being mandatory under the statutes and the statutory rules above referred to;

Whereas Section 161 of the Electricity Act, 2003 provides for notice of accidents and inquiries, if any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, but no provision was made for payment of any compensation to any person affected;

Whereas while granting licence to the Distribution Licensees of Odisha, the Commission at licence condition 10.4 has stated as below:

“The Commission, may by order, after providing an opportunity of hearing direct the licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the major incident has been caused by any act of commission, omission or negligence on the part of any employees or agents of the licensee.”

Whereas while granting licence to the Transmission Licensees of Odisha, the Commission at licence condition 9.4 has stated similar provision in line with the above.

Whereas a rash or negligent act endangering human life or the personal safety of others is made punishable under the Indian Penal Code, 1860 per se under Section 336, if it causes hurt under Section 337, if it causes grievous hurt under Section 338 and if it causes death under Section 304-A of the Indian Penal Code, Central Act XLV of 1860;

Whereas an act or illegal omission thus endangering human life or the personal safety of others or causing hurt or grievous hurt or death, as the case may be is also an actionable civil wrong leading to liability for compensation;

Whereas the doctrine of strict liability has been consistently held by judicial precedents to be imposing a liability on a person undertaking an activity involving hazardous or risky exposure to human life to compensate for the injury suffered by any other person, irrespective of any negligence

or carelessness on the part of that person and even if measures to prevent mishaps have been adopted; Whereas the Jurisprudential technicalities, procedural complications and proverbial law's delays deprive the victims of electrical accidents from getting prompt and adequate relief and humanitarian considerations mandate provision of a prompt and adequate relief;

Whereas the Odisha Electricity Regulatory Commission has decided to, therefore, make Regulations for protecting human beings, animals and property from any risk of any injury arising from the generation, transmission, distribution, trading, supply or use of electricity or installation, construction, maintenance, operation or use of any works and to provide for liability for payment of compensation to the persons affected by a licensee failing to meet the specified standards eliminating or reducing the risk of any loss of human or animal life or any injury to any human being or animal or property;

Therefore, in exercise of the powers conferred on it by Section 57 (1) read with 181 (2) (za) of the Electricity Act, Central Act 36 of 2003 and all other powers hereunto enabling, the Odisha Electricity Regulatory Commission hereby makes the following Regulation:

CHAPTER-I

PRELIMINARY

1. Short Title, Commencement and Extent:-

- 1.1 These Regulations may be called the OERC (Compensation to Victims of Electrical Accidents) Regulation, 2020.
- 1.2 These Regulations extend to the whole state of Odisha.
- 1.3 These Regulations shall be applicable to all Generating Companies as well as Transmission and Distribution licensees in their respective licensed areas in the State of Odisha.
- 1.4 These Regulations shall come into force on the date of publication in the Odisha Gazette.

2. Definitions and Interpretation:-

- (a) '**Authority**' means the Central Electricity Authority (CEA) constituted under section 70 of the Electricity Act, 2003.
- (b) '**Beneficiary**' means person affected by electrical accident or dependant of deceased person of such accident.
- (c) '**Commission**' means the Odisha Electricity Regulatory Commission.
- (d) '**Dependents**' means persons who are entitled to succeed to the estate of the deceased as per the personal law by which the deceased was governed;

- (e) **'Electrical Inspector'** means a person appointed as such by appropriate government under sub-section (1) of Section 162 for the concerned area.
- (f) **'Grievoushurt'** means grievous hurt as defined in Section 320 of the Indian Penal Code, Central Act XLV of 1860;
- (g) **'Hurt'** means hurt as defined in Section 319 of the Indian Penal Code, Central Act XLV of 1860;
- (h) **'Licensee'** means a person who has been granted a licence under Section 14 of the Electricity Act 2003, including a deemed licensee under the said provision;

2.1 Words and expressions used and not defined in these Regulations but defined in the Electricity Act, 2003 or "Odisha Electricity Regulatory Commission (Licensee's Standards of Performance) Regulations, 2004" made thereunder, shall have the meanings respectively assigned to them therein.

CHAPTER-II

STANDARDS OF PERFORMANCE

3. Safety Standards:-

- (i) The works of licensees shall be so installed, constructed, maintained or operated or used as to protect the public (including the persons engaged in the generation, transmission or distribution), animals and property from dangers arising from the generation, transmission or distribution of electricity or use of electricity supplied and eliminate the risks of any injury to any person or animal.
- (ii) The licensees shall comply with all the mandatory safety requirements and take all necessary measures to protect human beings and animals 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, distribution, supply or use of energy.
- (iii) The licensees shall strictly comply with the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 as amended from time to time and any further suitable measures or requirements that may be specified by the Central Electricity Authority under Section 53 (a) and (b), Section 73 (c) and Section 177 (2)

(b) of the Electricity Act, 2003 (Central Act 36 of 2003) relating to safety and electric supply.

4. Liability for compensation:-

- (i) The licensee failing to meet the standards of performance specified in Regulation 3 above shall be liable to pay compensation as specified in these Regulations to the person affected for loss of human or animal life or injury to human beings or animals or property in consequence of an electrical accident.
- (ii) Whether or not there has been any wrongful act, omission, rashness, neglect or default on the part of the licensee and generating companies as the case may be as would entitle the person affected to maintain a civil action for recovery of any damages or compensation or maintain a prosecution for invoking criminal liability in respect thereof, the licensee and generating companies as the case may be shall, notwithstanding anything contained in any other law in force, be liable to pay compensation to such extent as specified in these Regulations, if an electrical accident occurs, resulting in loss of human or animal life or injury to human beings or animals unless the electrical accident primarily was not due to the failure of the licensee and generating companies as the case may be to meet the standards of performance but was a direct or proximate result of intervention of some other extraneous reason or cause.
- (iii) The compensation once determined shall be paid within the time limit specified in these Regulations to the beneficiary by the licensee or generating company, as the case may be. The amount of compensation may be recovered from the concerned employees of the licensees and generating company, if found responsible for occurrence of the accident. If the personal responsibility of any employee for the electrical accident is not clearly established, the compensation paid to the victim/beneficiary shall be met by the licensee/generating company. In deserving cases, the expenses may be passed through in the Annual Revenue Requirement subject to due diligence check by the Commission.
- (iv) The compensation shall not be paid for injury or damage or loss of life occurring out of irresponsible act on the part of the victim or his employer /owner. However, the government may pay any ex-gratia as deemed fit in deserving cases.

- (v) If the loss of human life is due to suicide or homicide or the injury to a human being is due to an attempt to commit suicide or homicide, the licensee and generating companies as the case may be shall not be liable to pay any compensation for the same under these Regulations.

CHAPTER - III COMPENSATION

5. Quantum of compensation:-

- (i) The compensation payable for loss of human life as a result of an electrical accident shall be Rupees **4,00,000** /-(**four lac**)per person.
- (ii) A sum of Rupees **2,00,000/-** (**Two lac**) per person in case of more than **60%** disability and Rupees **59,100/-** (**Fifty Nine Thousand one Hundred**) per person in case of disability between **40%** and **60%** shall be paid as compensation for electric accidents. The amount of compensation will be payable on the certificate with regard to percentage of disability granted by the Chief District Medical Officer or CMO of the respective area.
- (iii) A sum of Rupees **12,700/-** per person requiring hospitalization for more than a week and Rs. **4300/-** per person requiring hospitalization for less than a week shall be paid subject to production of bills of Govt. Hospital dully certified by the concerned hospitals.
- (iv) The compensation payable for loss of animal life as a result of an electrical accident shall be payable at the following rates:-
 - (1) **Milch Animals-**
 - a. **Rs. 30,000/-** -Buffalo/ Cow/ Camel/Yak/ etc.
 - b. **Rs. 3,000/-**-Sheep/Goat/Pig etc.
 - (2) **Draught animals-**
 - a. **Rs.25000/-** Camel/ horse/ bullock, etc.
 - b. **Rs.16,000/-** Calf/ Donkey/ Pony/ Mule

The assistance may be restricted for the actual loss of economically productive animals and shall be subject to a ceiling of 3 large milch animal or 30 small milch animals or 3 large draught animal or 6 small draught animals per household

irrespective of whether a household has lost a larger number of animals. (The loss is to be certified by the Competent Authority designated by the State Government).

(3) **Poultry:-Poultry@50/-per bird** subject to a ceiling of assistance of **Rs. 5000/-** per beneficiary household.

6. **Periodical revision of the quantum of compensation:-** The Commission may in consultation with the licensees, generating companies and the state government and for reasons to be recorded in writing, enhance the limit of compensation specified above at any time by a special order. The quantum of Compensation under these Regulations will be commensurate with the norms of assistance adopted by the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF).
7. **Other rights and remedies unaffected:** - The right of any person to claim compensation as above shall not affect the right of any such person to recover the compensation payable under any other law for the time being in force but the amount paid as compensation under these Regulations shall be duly given credit to in any such compensation payable under any such statutory or civil or other liability.
8. **Contracts or Schemes Unaffected:-**The right of any person to otherwise claim compensation under any contract or scheme providing for payment of compensation for death or personal injury or any sum payable under any policy of insurance shall remain unaffected by any payment of any sum made under these Regulations.

CHAPTER-IV

PROCEDURE

9. **Occurrence report of an Electrical Accident:-**

In addition to an independent intimation of accident, the Junior Electrical Engineer/the Assistant Electrical Engineer or their equivalent engineer of the licensee/generating company concerned shall send a report under proper receipt through a special messenger to the Electrical Inspector of the concerned area and to the Managing Director /CEO concerned forthwith on the occurrence of an electrical accident in the form set out in Annexure-I to these Regulations so as to reach the said Electrical Inspector and MD/CEO concerned within twenty four hours of the electrical accident.
10. **Enquiry Report:-**

The Electrical Inspector shall, within 15 days from the receipt of a report of an electrical accident, submit a detailed report through Chief Electrical Inspector to the

Managing Director/ CEO of the licensee/generating company concerned after conducting a detailed enquiry of the said accident.

Notwithstanding above, the dependents of a person who died in an electrical accident or a person affected by the injury caused to himself or an animal are at liberty to make a claim for compensation in the form set out in Annexure-II to these Regulations by presenting in person or sending by post to the M.D/CEO of the licensee/generating company concerned who shall determine the compensation, if payable, in accordance with these Regulations.

The CEO/M.D. of the licensee/generating company shall within 30 days of receipt of the enquiry report from the Electrical Inspector may make payment of compensation after identification of the person to whom it is payable or pass appropriate order.

The records of all such electrical accidents along with enquiry report shall be maintained by the Junior Engineer/Assistance Engineer or his equivalent engineer who has sent information regarding occurrence of electrical accident to Electrical Inspector.

- 11. Appeal:-** If the claimant or the person entitled is aggrieved with regard to entitlement of compensation or quantum of compensation in accordance with these Regulations or non-redressal of his grievance, he may file an appeal before the Secretary, Department of Energy, Govt. of Odisha, whose decision in this regard shall be final.
- 12. Information to the Commission:-** The generating company and the licensee shall submit to the Odisha Electricity Regulatory Commission by 15th of every succeeding month, the details of electrical accidents occurring within their respective jurisdiction and action taken thereon in accordance with these Regulations.
- 13. Consequence of non-compliance:-** Non-compliance of these Regulation and contravention of any of the provisions of the statutes or the rules or regulations made there under concerning the subject matter of these Regulations shall be deemed to be non-compliance and contravention within the meaning of section 142 and 146 of the Electricity Act, 2003 (Central Act 36 of 2003).

CHAPTER – V

MISCELLANEOUS

- 14. Residuary Provisions:-**

- (i) The provisions of these Regulations shall be in addition to and not in derogation of the provisions of any other law or rules or regulations or scheme or contract for the time being in force.
- (ii) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.
- (iii) Nothing in these Regulations shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient.
- (iv) Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Electricity Act, 2003 for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it deems fit.
- (v) Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters which the Commission has been empowered by these Regulations to specify or direct.
- (vi) The Commission may, at any time add, vary, alter, modify, delete or amend any provisions of these Regulations.
- (vii) If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Electricity Act, 2003, which appears to it to be necessary or expedient for the purpose of removing the difficulties.
- (viii) The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, to dispense with the requirements of any of the clauses in these Regulations in a specific case or cases subject to such terms and conditions as may be specified.

By order of the Commission

Secretary

ANNEXURE I
OCCURRENCE REPORT

1. Date & Time of accident:
2. Place of accident: Village/Town/ District:
2. Designation of the Officer-in-charge of the Licensee/generating company in whose jurisdiction the accident occurred:
3. Nature & Details of the accident:
4. Details of Victim(s) (Fatal/Non-Fatal):
 - (a) Human
 - (b) Animal
5. Detailed causes leading to the accident: (Use a separate sheet and attach it to this form, if needed):
6. Details of the persons who witnessed the accident: (Name, designation, address etc.):
7. Action Taken:
8. Any other information:

Signature
Name & Designation

ANNEXURE II
CLAIM FORM FOR PAYMENT OF COMPENSATION

1. Date and Time of accident:

2. Place of accident:

3. Details of the accident:

4. Details of the deceased or Injured person(s):

Name (s):

Age:

Sex:

Address:

Occupation:

5. Details of the dead or injured animal(s)

Description:

Age:

Value:

6. In case of non-fatal accidents, details of temporary/permanent/total/partial disabilities suffered, if any:

(Enclose a certificate issued by the relevant District Medical Board or the Appellate Authority)

7. Details of the dependents:

8. Whether or not an FIR is registered by the Police:

Signature of the claimant(s)

Name of the claimant(s)

Relationship with the deceased/injured/animal