



# महाराष्ट्र शासन राजपत्र

असाधारण  
प्राधिकृत प्रकाशन

गुरुवार, जून २३, २००५/आषाढ २, शके १९२७

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद)

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Electricity (Maharashtra Amendment) Ordinance, 2005 (Mah. Ord. No. IV of 2005), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,  
Secretary to Government.  
Law and Judiciary Department.

[ Translation in English of the Electricity (Maharashtra Amendment) Ordinance, 2005 (Mah. Ord. No. IV of 2005), published under the authority of the Governor.]

### INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 23rd June 2005.

### MAHARASHTRA ORDINANCE No. IV OF 2005.

#### AN ORDINANCE

*to amend the Electricity Act, 2003, in its application to the State of Maharashtra.*

WHEREAS both Houses of the State Legislature are not in session ;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Electricity Act, 2003, in its application to the State of Maharashtra, for the purposes hereinafter appearing ;

36 of  
2003.

भाग आठ—१११

(५४२)

[ किंमत : रुपये ९.०० ]

AND WHEREAS the instructions of the President under the proviso to clause (1) of article 213 of the Constitution of India have been obtained;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short title and commencement.

1. (1) This Ordinance may be called the Electricity (Maharashtra Amendment) Ordinance, 2005.

(2) It shall come into force at once.

Substitution of section 151 of Act 36 of 2003.

2. For section 151 of the Electricity Act, 2003, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), the following section shall be substituted, namely :—

36 of 2003.

Cognizance of offences.

" 151. No Court shall take cognizance of an offence punishable under this Act except,—

(a) upon a complaint in writing made by Appropriate Government or Appropriate Commission or any of their officer authorised by them or a Chief Electrical Inspector or an Electrical Inspector or a licensee or the generating company, as the case may be, for this purpose; or

(b) upon a police report of facts which constitute an offence :

Provided that, such police report is based on the First Information Report filed by a person who is authorised to file a complaint under clause (a)."

Amendment of section 153 of Act 36 of 2003.

3. In section 153 of the principal Act, after sub-section (4), the following sub-section shall be added, namely :—

"(5) Where no Special Court for any area or areas has been constituted under sub-section (1), one or more Additional District and Sessions Judges, as may be designated by the High Court, for such area or areas, from time to time, shall exercise the powers of the Special Court under this Act and any Judge so designated shall be deemed to be a Special Court for the purposes of this Act."

Amendment of section 154 of Act 36 of 2003.

4. In section 154 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) every Special Court may take cognizance of an offence without the accused being committed to it for trial; and

(b) every offence punishable under sections 135 to 139 shall be triable only by the Special Court within whose jurisdiction such offence has been committed."

## STATEMENT

The Electricity Act, 2003 has been enacted by the Parliament with a view to consolidate the laws relating to generation, transmission, distribution, trading and use of Electricity and generally for taking measures conducive to development of electricity industry and for certain other matters.

2. Section 151 of the said Act provides for taking cognizance of the offences (regarding theft of electricity, etc.) punishable under the Act by the Court, on the basis of complaints filed by certain authorised officers. The Bombay High Court (Nagpur Bench) has held that under the existing provisions of the Electricity Act, 2003, a complaint filed by a police officer could not be entertained by the Special Court. Therefore, a suitable provision in this regard is proposed to be made in the said section 151, so that, the Courts shall take cognizance of an offence punishable under the Act, upon a police report of facts, based on the First Information Report filed by an authorised officer, which constitutes such offence.

3. Every offence under the said Act is triable only by the Special Court. The Special Court being a Court of Sessions could not take cognizance of the offence without the accused being committed to it for trial. This is defeating the objective of speedy inquiry and trial of the offences explicit under section 153 of the Act. Therefore it is decided to make suitable provisions in the Act on the lines of the provisions obtaining in section 5 of the Prevention of Corruption Act, 1988, thereby enabling the Special Court to take cognizance of the offence without the accused being committed to it for trial.

4. An opportunity is also taken to provide that, the designated Additional District and Sessions Judge shall perform the duties of the Special Court in the area or areas for which no such Special Court has been constituted.

5. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Electricity Act, 2003, in its application to the State of Maharashtra, for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,  
Dated the 22nd June 2005.

S. M. KRISHNA,  
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

B. P. PANDEY,  
Principal Secretary to Government.