

fund through cess are required, the Centre will be in a better position to deal with the matter.

**Power to make rules by
Appropriate Govern-
ment**

6. The Appropriate Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act, for all or any of the following purposes:-
- (i) directing energy users to set up Energy Conservation Cells.
 - (ii) giving fiscal and financial incentives.
 - (iii) collecting energy conservation cess.

Speedy implementation of the law, however, is possible only through the state agencies. The responsibility for the implementation of the Act, minor policy matters and collection of cess, has, therefore, been assigned to the States.

CHAPTER - III

STRUCTURE, POWERS AND FUNCTIONS OF THE NODAL ENERGY CONSERVATION ORGANIZATION

**Establishment of
NECO**

7. (1) The Central Government shall, by notification in the Official Gazette, as soon as possible, establish NECO for the purposes of this Act.
- (2) The NECO shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to enter into contracts, and shall by the said name sue and be sued.

Constitution of NECO

- (3) The NECO shall consist of the following members, namely:-
- (a) The Minister in charge of the Ministry or Department of the Central Government responsible for administering this Act, who shall be *ex-officio* President of the NECO.

- (b) The Minister of State or Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the NECO who shall be *ex-officio* Vice-President of the NECO, and where there is no such Minister of State or Deputy Minister, such person as may be nominated by the Central Government to be the Vice-President of the NECO.
 - (c) The Secretary to the Government of India in charge of the Ministry or Department of the Central government having administrative control of the NECO, *ex-officio*.
 - (d) The Chairman of NECO, *ex-officio*.
 - (e) Such number of other official and non-official persons to represent the government, industry, scientific and research institutions and other experts as may be prescribed, to be appointed by the Central Government.
- (4) The term of office of the members referred to in clause (e) of sub-section (3) and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members, shall be such as may be prescribed.
- (5) The NECO may associate with itself, in such manner and for such purposes as may be prescribed, any person, association or organization whose assistance or advice it may desire in complying with any of the provisions of this Act and a person, association or organization so associated shall have the right to take part in the discussions of the NECO relevant to the purpose for which it/he has been associated but shall not have the right to vote.

Establishment of a Nodal Energy Conservation Organization at the national level is a pre-requisite to any energy conservation programme in the country. This assumes importance in view of the fact that the present Energy Advisory Board is an ad hoc arrangement and it is also not well equipped to handle all matters in the energy situation. There is lack of coordination between various agencies-governmental and non-governmental, which are engaged in different aspects of energy conservation. Therefore, to facilitate and coordinate activities at different levels, to provide relevant information to users as well as to government, and to plan proper energy policies by taking into consideration local and regional requirements, NECO is very much desired.

During field research it was emphasized that such an organization should be autonomous in nature. In the Act the autonomy of NECO has been maintained at the apex level by giving representation to state governments, industries, non-governmental organizations, and other institutions as members of NECO which will ensure effective decision making acceptable to all.

Constitution of Executive Committee

8. (1) The NECO, with the prior approval of the Central Government, by notification in the Official Gazette shall constitute an Executive Committee which shall consist of such number of members, as may be prescribed under the Rules.
- (2) The Executive Committee shall perform, exercise and discharge such of the functions, powers and duties of the NECO, as may be prescribed under the Rules.

Constitution of Advisory Committees

9. (1) Subject to any regulations made in this behalf, the NECO may, from time to time and as and when it is considered necessary constitute the following committees for the efficient discharge of its functions, namely:-
- (a) Financial committee;
 - (b) Energy information advisory committee;
 - (c) Energy policy, planning and consultancy advisory committee;
 - (d) Energy research and development advisory committee;
 - (e) Review committee;
 - (f) Such number of other committees as may be determined by regulations.
- (2) Each advisory committee shall consist of a Chairman and such other members as may be determined by regulations.
- (3) The review committee shall be headed by a retired judge of a high court.

Vacancies, etc. not to invalidate proceedings of NECO, Executive Committee, etc.

10. No act or proceeding of the NECO or of any of the committee constituted under sections 8 and 9 shall be invalidated merely by reason of -

- (a) any vacancy in, or any defect in the constitution of, the NECO or such committee; or
- (b) any defect in the appointment of a person acting as member of the NECO or such committee; or
- (c) any irregularity in the procedure of the NECO or such committee not affecting the merits of the case.

11. (1) The Central Government shall appoint a chairman of the NECO. **Chairman and members of the NECO**
- (2) The terms and conditions of service of the chairman of NECO shall be such as may be prescribed.
- (3) Subject to the general superintendence and control of NECO, the chairman of the NECO shall be the Chief Executive Authority of the NECO.
- (4) The chairman of the NECO shall exercise and discharge such of the powers and duties of the NECO as may be determined by regulations.

12. (1) The NECO may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act. **Officers and Employees of the NECO**
- (2) The NECO shall draw its manpower and expertise from the governments, public and private sectors, universities, institutions and other organizations.
- (3) The terms and conditions of service of officers and employees of the NECO appointed under sub-section (1) shall be such as may be determined by regulations.

Autonomy of the NECO is maintained at the working level also by giving NECO freedom to draw its manpower from industry, universities, expert agencies, non-governmental organizations, etc. Giving representation to people affected and people concerned will ensure the smoother and efficient functioning of NECO.

13. (1) The NECO may exercise all such powers and perform such **Powers and functions of the NECO**

duties as may be assigned by or under this Act and, in particular, such powers include the power to -

- (i) make regulations for transacting its business;
- (ii) constitute such executive committee and such other committees as it deems necessary and delegate any of its power to such committees, in addition to those described in section 9(1);
- (iii) associate with itself, any person, organization or association whose assistance is necessary in achieving the aims and objectives of this Act;
- (iv) levy penalty on any energy user for the contravention of any of the provisions of this Act, rules, orders or directions issued thereunder;
- (v) advise Central and State Governments on the fiscal incentives to be provided under section 25;
- (vi) collect and preserve necessary information on energy conservation, to publish them and to carry out a sustained national campaign to educate the public in general and the high energy users in particular, about the advantages of energy conservation;
- (vii) coordinate and promote research concerning norms and technologies that need to be set for efficient energy use, for machines, instruments, equipments, appliances, goods and processes, in collaboration with the Bureau of Indian Standards and other expert agencies;
- (viii) coordinate at the national level the research activities and information collected by various government and private agencies engaged in research in energy conservation or in alternate or appropriate technologies;
- (ix) provide information and advice to Energy Cells and energy users;
- (x) carry out and sponsor investigations and research relating to energy conservation;
- (xi) undertake research in energy conservation measures and alternate or other appropriate technologies, pric-

ing systems for energy resources, alternative economic models for energy resources use and industrial planning for energy conservation;

- (xi) recommend norms to the Central Government and the Bureau of Indian Standards for energy consumption and efficiency for various kinds of goods or processes and give guidelines for the rational and efficient use of energy and energy resources;
- (xii) recommend to the Central Government and the Bureau of Indian Standards rules and guidelines for the design, manufacture and standardization of energy consuming and energy monitoring goods, equipments, auxiliaries and processes;
- (xiv) issue directions for the acquisition and adoption of technologies, machinery, equipments, goods or processes for achieving energy conservation;
- (xv) sanction or ratify master plans for energy conservation or modernization proposed to it by the energy users for the purposes of financial aid, loans, grants import licences and tax deductions;
- (xvi) issue directions for reporting particulars about energy consumption and for maintaining up-to-date records of such consumption for inspection by the prescribed authorities;
- (xvii) advise the Central and State Governments on the incentives that need to be given to the energy users to promote conservation of energy;
- (xviii) perform such other duties as may be assigned to it by the Central Government under this Act from time to time.

(2) The NECO shall give information to all energy users on matters of rational energy use, planning, technology and conservation of energy, subject to the conditions of trade secret or overwhelming interests of security of state.

14. The directions given by NECO shall be binding on all Central and State Government agencies, authorities and energy users.

Recommendations of
NECO binding

Since autonomy of the NECO is maintained at both decision

making and functional levels, and since at both levels NECO is represented by the people concerned, it is presumed that the decisions of NECO will be based on common consensus which will be acceptable and binding on all concerned.

Grants and loans by the Central Government

15. The Central Government may, give to NECO such grants and loans as that Government may consider necessary for the efficient discharge of duties and functions of NECO under this Act.

Funds

16. (1) There shall be constituted a Fund to be called the Nodal Energy Conservation Organization Fund and there shall be credited thereto -

(a) any grants and loans made to the NECO by the Central Government under section 15;

(b) all sums received by the NECO from such other sources as may be prescribed by the Central Government.

(2) The Fund shall be applied for meeting -

(a) the salary, allowances and other remuneration of the members, chairman, officers and other employees of the NECO;

(b) expenditure of the NECO in the discharge of its functions under section 13;

(c) expenditure related to attainment of the objectives, and for purposes authorised by this Act.

Budget

17. The NECO shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing, showing the estimated receipt and expenditure under this Act and a copy thereof shall be forwarded to the Central Government.

Annual Report

18. (1) The NECO shall, within six months of the commencement of each financial year, prepare and submit to the Central Government a report, in such form as may be prescribed, giving

full account of its activities under this Act during the previous financial year.

- (2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be within six months of the date on which it is received by it along with a memorandum indicating the action taken by the Central Government on the recommendations of the NECO.

The requirement of laying Annual Report of NECO to Parliament through the Central Government will ensure the accountability of NECO and highlight its achievements on the one hand and on the other it will reflect the commitment of the Central Government to the energy conservation programme.

19. (1) The NECO shall in relation to its functions, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and submit the same to the Central Government in such manner as may be prescribed.

Accounts and Audit

(2) The accounts of the NECO shall be audited by an auditor duly qualified to act as an auditor of companies under the Companies Act, 1956.

(3) The said auditor shall be appointed by the Central Government on the advice of the Comptroller and Auditor General of India.

Appointment of Auditor

(4) Every auditor appointed to audit the accounts of the NECO under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of NECO.

(5) every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government in such manner as may be prescribed.

(6) The Central Government shall, as soon as may be, after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.