



The Indian Electricity (Gujarat Amendment) Act, 1973

3 of 1974

Keyword(s):

Electricity, State Electricity Board, Energy, Electric Supply, Circuits, Meter

Amendments appended: 12 of 1974, 18 of 1976, 23 of 2003

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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinance promulgated and
Regulations made by the Governor.

The following Act to the Gujarat Legislature having been assented to by the
President on the 20th February 1974 is hereby published for general information.

S. S. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT No. 3 OF 1974.

(First published, after having received the assent of the President in the
Gujarat Government Gazette on the 2nd March, 1974.)

An Act further to amend the Indian Electricity Act, 1910, in its application
to the State of Gujarat.

It is hereby enacted in the Twenty-fourth Year of the Republic of India as
follows :—

1. This Act may be called the Indian Electricity (Gujarat Amendment) Short title.
Act, 1973.

2. In the Indian Electricity Act, 1910 (in its application to the State of Gujarat), (hereinafter referred to as "the principal Act"), after section 7, the following section shall be inserted, namely :—

9 of
1910.

Insertion of
new section
7AA in Act
9 of 1910.

Power to take forcible delivery of possession of undertaking.

"7AA. (1) If a licensee upon whom a notice requiring him to deliver the undertaking to the designated purchaser has been served in pursuance of sub-section (3) of section 5 or a notice exercising the option of purchasing the undertaking has been served under section 6 refuses or fails to deliver the undertaking as required under sub-section (3) of section 5 or under sub-section (6) of section 6, as the case may be, the State Electricity Board, the State Government or the local authority, as the case may be, may, by order in writing, require the licensee to deliver on or before such date as may be specified in the order, the possession of the undertaking, including all its property, effects, actionable claims, books of account and other documents, to such officer as the State Electricity Board, the State Government or the local authority, as the case may be, may appoint in that behalf and the licensee shall comply with such order. On failure of the licensee to comply with such order, such officer may forthwith enter into possession of such undertaking and may take or cause to be taken such steps and use or cause to be used such force as may in the opinion of such officer be reasonably necessary for that purpose.

(2) On the entry into possession under sub-section (1) by the officer concerned, the provisions of section 7 shall apply as if the undertaking had been delivered to the State Electricity Board, the State Government or the local authority, as the case may be, under sub-section (3) of section 5 or sub-section (6) of section 6, as the case may be."

Insertion of new section 42A in Act 9 of 1910.

3. In the principal Act, after section 42, the following section shall be inserted, namely :—

Penalty for refusal or failure to deliver possession of undertaking or its property and for obstructing the taking of possession thereof.

"42A. (1) Whoever —

(a) being a licensee or an officer or employee of the licensee, wilfully fails or refuses to deliver to the officer appointed under sub-section (1) of section 7AA (hereinafter in this section referred to as "the appointed officer") the possession of the undertaking, or the possession of any property, effects or actionable claims belonging to or forming part of such undertaking or of any books of accounts or other documents relating to the undertaking the possession of which the appointed officer is entitled to take, or

(b) wilfully obstructs the appointed officer in entering into possession of the undertaking or taking possession of any of its property, effects, actionable claims, books of accounts or documents as aforesaid,

shall be punishable with imprisonment of either description (rigorous or simple) for a term which may extend to two years or with fine which may extend to ten thousand rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, v of 1898 an offence punishable under this section shall be cognizable." 1896.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 19th October, 1974.

No. 21248/B.—The following President's Act assented on the 19th October, 1974, is published for general information:—

THE INDIAN ELECTRICITY (GUJARAT AMENDMENT) ACT, 1974.

[Act No. 12 of 1974]

Enacted by the President in the Twenty-fifth Year of the Republic of India.

AN ACT

*further to amend the Indian Electricity Act, 1910 in its application to
the State of Gujarat.*

11 of 1974. In exercise of the powers conferred by section 3 of the Gujarat State Legis-
lature (Delegation of Powers) Act, 1974, the President is pleased to enact as follows:—

1. (1) This Act may be called the Indian Electricity (Gujarat Amendment) Act, 1974. Short title
and commen-
cement.

(2) Save as otherwise provided in this Act, it shall come into force at once.

Amendment
of section 6.

2. In section 6 of the Indian Electricity Act, 1910 (in its application to the State of Gujarat), (hereinafter referred to as the principal Act),—

9 of
1910.

(i) after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of May, 1960, namely:—

“(5A) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price:

Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.”;

(ii) sub-section (6) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of May, 1960.

Amendment
of section 7.

3. In section 7 of the principal Act, for the words, brackets and figures “or under sub-section (6) of section 6”, the words, brackets, figures and letter “or under sub-section (5A) of section 6” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of May, 1960.

Amendment
of section
7AA.

4. In section 7AA of the principal Act,—

(i) in sub-section (1), for the words, brackets and figures “or under sub-section (6) of section 6”, the words, brackets, figures and letter “or under sub-section (5A) of section 6” shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974;

(ii) in sub-section (2), for the words, brackets and figures “or sub-section (6) of section 6”, the words, brackets, figures and letter “or sub-section (5A) of section 6” shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974.

Certain defau-
lts and fail-
ures not to
be offences.

5. Notwithstanding that the amendments made to sections 6 and 7AA of the principal Act have been given retrospective effect, no default or failure to comply with the provisions of the said section 6 as amended by this Act or the said section 7AA as amended by this Act shall render any person guilty of any offence if such default or failure—

(a) relates to the provisions of sub-section (5A) as inserted in section 6 of the principal Act by section 2 of this Act; and

(b) occurred before the commencement of this Act.

Validation.

6. Notwithstanding anything contained in any judgment, decree or order of any court, every option of purchase of an undertaking exercised by the Gujarat Electricity Board, the State Government of Gujarat or a local authority in the State of Gujarat by serving a notice upon a licensee under section 6 of the principal Act and every delivery of an undertaking effected by a licensee to the said Electricity Board, State Government or local authority, as the case may be, in pursuance of such notice, at any time after the 1st day of May, 1960 and before the commencement of this Act, shall be deemed to have been exercised or effected, as

the case may be, under section 6 of the principal Act as amended by this Act as if the said section 6 as so amended were in force at all material times when such option was exercised or delivery was effected and accordingly every option of purchase so exercised and every delivery of an undertaking so effected and all things done or actions taken in consequence of such exercise of option or delivery of the undertaking shall be, and shall be deemed always to have been, valid and shall not be called in question in any court or tribunal or before any other authority merely on the ground that section 6 of the principal Act did not provide for the payment of any interest on the purchase price for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

REASONS FOR THE ENACTMENT

In the Godhra Electricity Company Ltd. and another vs. State of Gujarat and another (Civil Appeal No. 2016 of 1973), the Supreme Court has held that sub-section (b) of section 6 of the Indian Electricity Act, 1910 is violative of sub-clauses (f) and (g) of clause (1) of article 19 of the Constitution on the ground that, that sub-section, while requiring the licensee to deliver the undertaking to the State Electricity Board, the State Government or the local authority pending determination and payment of purchase price, -does not provide for the payment of interest on the purchase price of the undertaking for the period between the date of delivery of the undertaking and the date of payment of the purchase price. Unless the defect pointed out by the Supreme Court is rectified, the Gujarat Electricity Board will be compelled to return the Godhra electricity undertaking to the Godhra Electricity Company. This measure seeks to remove the defect pointed out by the Supreme Court in the aforesaid decision by suitably amending the Indian Electricity Act, 1910. Provision is also being made for validating the purchases of undertakings effected under the impugned sub-section (b) of section 6 of the Act before the commencement of this measure.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Gujarat Legislation. This measure is accordingly being enacted without reference to the Consultative Committee.

R. V. SUBRAHMANIAN,
Secretary to the Government of India,
Ministry of Energy.
(*Department of Power*)

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

A. M. AHMADI,
Secretary to Government.



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PART IV

**Acts of the Gujarat Legislature and Ordinance promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the President on the 14th June 1976 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 18 OF 1976.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 16th June 1976).

AN ACT

to re-enact the Indian Electricity (Gujarat Amendment) Act, 1974
(President's Act No. 12 of 1974).

It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:--

1. (1) This Act may be called the Indian Electricity (Gujarat Amendment) Act, 1976. Short
title and
commence-
ment.
- (2) Save as otherwise provided in this Act, it shall come into force at once.

Amend-
ment of
section 6
of Act 9
of 1910.

2. In section 6 of the Indian Electricity Act, 1910 (in its application to the State of Gujarat) (hereinafter referred to as "the principal Act"),—

9 of
1910

(i) after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of May, 1960, namely:—

"(5A) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price:

Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price";

(ii) sub-section (6) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of May, 1960.

Amend-
ment
of section 7
of Act 9 of
1910.

3. In section 7 of the principal Act, for the words, brackets and figures "or under sub-section (6) of section 6", the words, brackets, figures and letter "or under sub-section (5A) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of May, 1960.

Amend-
ment
of section
7AA of Act 9
of 1910.

4. In section 7AA of the principal Act,—

(i) in sub-section (1), for the words, brackets and figures "or under sub-section (6) of section 6", the words, brackets, figures and letter "or under sub-section (5A) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974;

(ii) in sub-section (2), for the words, brackets and figures "or sub-section (6) of section 6", the words, brackets, figures and letter "or sub-section (5A) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974.

Certain
defaults
and failures
not to
be offences.

5. Notwithstanding that the amendments made to sections 6 and 7AA of the principal Act have been given retrospective effect, no default or failure to comply with the provisions of the said section 6 as amended by this Act or the said section 7AA as amended by this Act shall render any person guilty of any offence if such default or failure—

(a) relates to the provisions of sub-section (5A) as inserted in section 6 of the principal Act by section 2 of this Act; and

(b) occurred before the commencement of this Act.

6. Notwithstanding anything contained in any judgment, decree or order of any court, every option of purchase of an undertaking exercised by the Gujarat Electricity Board, the State Government or a local authority in the State of Gujarat by serving a notice upon a licensee under section 6 of the principal Act and every delivery of an undertaking effected by a licensee to the said Electricity Board, State Government or local authority, as the case may be, in pursuance of such notice, at any time after the 1st day of May, 1960 and before the commencement of this Act, shall be deemed to have been exercised or effected, as the case may be, under section 6 of the principal Act as amended by this Act as if the said section 6 as so amended were in force at all material times when such option was exercised or delivery was effected and accordingly every option of purchase so exercised and every delivery of an undertaking so effected and all things done or actions taken in consequence of such exercise of option or delivery of the undertaking shall be, and shall be deemed always to have been, valid and shall not be called in question in any court or tribunal or before any other authority merely on the ground that section 6 of the principal Act did not provide for the payment of any interest on the purchase price for the period from the date of delivery of the undertaking to the date of payment of the purchase price. Validation.

Act No. 12 of 1974. **7. The Indian Electricity (Gujarat Amendment) Act, 1974 is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Act were an enactment.** Repeal of President's Act No. 12 of 1974.

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I of
1974.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 30th April, 2003 is hereby published for general information.

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 23 OF 2003.

(First published, after having received the assent of the President in the "Gujarat Government Gazette", on the 5th May, 2003).

AN ACT

further to amend the Indian Electricity Act, 1910 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-fourth Year of the Republic of India as follows:-

1. (1) This Act May be called the Indian Electricity (Gujarat Amendment) act, 2003.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title
and
commence-
ment.

Amendment of
section 26 of
IX of 1910.

2. In the Indian Electricity Act, 1910 in its application to the State of Gujarat (hereinafter referred to as "the principal Act"), in section 26, in sub-section (6), for the words "six months", the words "twelve months" shall be substituted.

Substitution of
section 39 of
IX of 1910.

3. In the principal Act, for section 39, the following section shall be substituted, namely:-

Penalty for
theft of energy.

"39. (1) Whoever dishonestly abstracts, consumes, uses or draws any energy,-

- (a) otherwise than through a meter referred to in section 26,
- (b) by tampering with such meter or its seals or apparatus or circuits,
- (c) by manipulating change of phases of the electric supply,
- (d) by obstructing or interfering in the functioning of such meter,
- (e) by manipulating any meter, indicator or apparatus,
- (f) by cutting, damaging or removing insulation of service wire,
- (g) from a disconnected connection, or
- (h) by any other means whatsoever,

shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to two lakh rupees or with both; and if it is proved that any artificial means or means not authorised by the electricity utility exist for the abstraction, consumption, use or draw of energy by the consumer or any other person, it shall be presumed, until the contrary is proved that any abstraction, consumption, use or draw of energy has been dishonestly caused by such consumer or person:

Provided that such imprisonment shall not be less than one month and such fine shall not be less than ten thousand rupees.

(2) Any officer of electricity utility or any Electrical Inspector authorised in this behalf by the State Government may-

- (a) enter, inspect, break open and search any place or premises in which he has reason to believe that energy has been, is being, or is likely to be, dishonestly abstracted, consumed, used or drawn;
- (b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, is being, or is likely to be used for dishonest abstraction, consumption, use or draw of energy;
- (c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) of this section or section 39A, 39AA or 44 and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure in any domestic place or premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such place or premises.

2 of 1974.

(4) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply, as far as may be, to searches and seizures under sub-section (2).

(5) Where, during an inspection of any place or premises under sub-section (2), a consumer or a person is found to have committed an offence under section 39, 39A, 39AA or 44, the electricity utility may cut off the supply to the place or premises and for that purpose cut or disconnect any electric supply line or any other work being the property of the electricity utility and shall discontinue the supply till the time the electricity utility restores the supply in accordance with its conditions of supply.

Explanation 1.- For the purpose of this section, the expression "dishonestly" shall have the same meaning as assigned to it in section 24 of the Indian Penal Code and the

45 of 1860.

expression "dishonest" occurring in this section and section 50A shall be construed accordingly.

Explanation II:- For the purpose of this section, section 39A and sub-section (1) of section 50A, the expression "electricity utility" means the Board constituted under section 5 of the Electricity (Supply) Act, 1948 or a licensee or a person who is authorised under this Act or any other law for the time being in force to supply electricity."

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Amendment of
section 39A of
IX of 1910.

4. In the principal Act,-

(1) section 39A shall be renumbered as sub-section (1) of that section and in sub-section (1) as so renumbered, for the word "Whoever", the words "Whoever including an officer or an employee of an electricity utility" shall be substituted;

(2) after sub-section (1) as so renumbered, the following sub-section shall be added, namely,-

"(2) Where-

(a) any inspector or any officer appointed to assist the inspector on whom duty is imposed by the provisions of this Act or any rule made thereunder, or

(b) any officer or employee of an electricity utility on whom duty is imposed by the electricity utility

to undertake inspection and testing periodically or maintenance of an installation connected to the supply system of electricity utility, neglects to inspect and test periodically or maintain the installation and such negligence results in the commission of an offence under section 39 or 44, the inspector, officer or employee shall be punishable for offence under section 39A, for abetting an offence under section 39 or, as the case may be, 44."

Insertion of
new section
39AA in IX of
1910.

5. In the principal Act, after section 39A, the following section shall be inserted, namely:-

Attempt. "39AA. Whoever attempts to commit an offence punishable under section 39 or section 44 or to cause such an offence to be committed, and in such attempt does any act towards commission of the offence shall be punishable with punishment provided for the offence."

6. In the principal Act, in section 44-

(1) for the words "five thousand rupees", the words "two lakh rupees" shall be substituted;

(2) for the words "fifty rupees", the words "two thousand rupees" shall be substituted;

(3) the following proviso shall be added at the end, namely:-

"Provided that such imprisonment shall not be less than one month and

(i) such fine shall not be less than ten thousand rupees, and

(ii) such daily fine shall not be less than one hundred rupees."

7. In the principal Act, after section 49, the following section shall be inserted, namely:-

"49AA. If any person convicted of an offence under section 39, 39A, 39AA or 44 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than three months but which may extend to five years and with fine which shall not be less than fifty thousand rupees."

Penalty for second and subsequent offences.

Amendment of section 44 of IX of 1910.

Insertion of new section 49AA in IX of 1910.

Penalty for second and subsequent offences.

8. In the principal Act, after section 50, following sections shall be inserted, namely:-

"50A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or section 50, any officer of the electricity utility authorised in this behalf by the electricity utility (hereinafter in this section referred to as 'the authorised officer') may, either before or after the institution of proceedings for any offence punishable under section 39, 39A, 39AA or 44 accept from a consumer or person charged with offence by way of composition of the offence such sum as may be determined by the electricity utility and the sum so determined shall not be-

Compounding of offences.

Insertion of new sections 50A, 50B, 50C, 50D and 50E in IX of 1910.

2 of 1974.

(a) less than the loss suffered by the electricity utility on account of non payment of the sum which would have been chargeable to the consumer or person by the electricity utility if the energy dishonestly abstracted, consumed, used or drawn by committing the offence, had been legally consumed or used by the consumer or person from the supply of energy by the electricity utility, and

(b) more than five times the loss so suffered:

Provided that the dishonest abstraction, consumption, use or draw of energy during a period exceeding twelve months prior to detection of offence shall not be taken into account for the purpose of determination of the sum to be paid by a consumer or person under this sub-section.

(2) On payment of such sum as may be determined by the authorised officer under sub-section (1), the consumer or person, if in custody, shall be set at liberty and if any proceedings shall have been instituted against the consumer or person in any criminal court, the composition shall be held to amount to an acquittal of the accused person and no further proceedings shall be taken against the accused person in respect of the same offence.

Designation of courts of Judicial Magistrate of the First Class and Metropolitan Magistrates.

50B. For the purpose of providing for speedy trial of specified offences under this Act, in any district or metropolitan area, in the State, the State Government may after consultation with the High Court, by notification in the *Official Gazette*, designate one or more courts of Judicial Magistrate of the First Class or, as the case may be of Metropolitan Magistrate in such district or metropolitan area (hereinafter in sections 50C, 50D and 50E referred to as "the designated court").

Explanation.- For the purpose of this section and sections 50C and 50E, the expression "specified offence" means an offence under section 39, 39A, 39AA or 44.

Powers and procedure of designated courts.

50C. (1) Unless otherwise directed by the High Court, the designated court shall exercise jurisdiction in respect of specified offences only.

(2) Notwithstanding anything contained in sub-section (1), when trying any case, the designated court may also try any offence other than a specified offence with which the accused may under the Code of Criminal Procedure, 1973 be charged at the same trial.

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(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the designated court may, try the specified offence in

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a summary way in accordance with the procedure prescribed in the said Code and the provisions of the sections 263 to 265 of the said Code, shall, so far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the designated court to pass a sentence of imprisonment for a term not exceeding three years:

Provided further that when, at the commencement of or in the course of a summary trial under this section, it appears to the designated court that the nature of the case is such that a sentence of imprisonment for a term exceeding three years may have to be passed or that it is undesirable to try it in a summary way, the designated court shall after hearing the parties record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

Appeal.

50D. Any person convicted on a trial held by a designated court may appeal to the Court of Session.

Transitory
provision.

50E. (1) All cases involving specified offences committed in a district or a metropolitan area in the State and pending before any court in such district or metropolitan area before the date of the notification issued under sub-section (1) of section 50B (hereinafter referred to as "the said date") shall stand transferred to the designated court having jurisdiction in respect of such district or metropolitan area under section 50B and the designated court to which such proceedings stand transferred shall proceed with such cases from the stage at which they were pending before the said date.

(2) Nothing in sub-section (1) shall apply to the cases involving specified offences, committed in a district or metropolitan area in which a court of Judicial Magistrate of the First Class or, as the case may be of Metropolitan Magistrate is designated under section 50B and pending in a court other than a designated court, if the whole of the evidence for prosecution is taken before the said date."