THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977

ARRANGEMENT OF SECTIONS

SECTIONS

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SCHEDULE II.

THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977

ACT NO. 36 OF 1977

[7*th December*, 1977.]

An Act to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974.

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. Short title, extent, application and commencement.—(*1*) This Act may be called the Water (Prevention and Control of Pollution) Cess Act, 1977.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) Subject to the provisions of sub-section (*2*), it applies to all the States to which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) applies and the Union territories.

(*4*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "local authority" means a municipal corporation or a municipal council (by whatever name called) or a cantonment board or any other body, entrusted with the duty of supplying water under the law by or under which it is constituted;

(*b*) "prescribed" means prescribed by rules made under this Act;

[2][(*c*) "industry" includes any operation or process, or treatment and disposal system, which consumes water or gives rise to sewage effluent or trade effluent, but does not include any hydel power unit;]

(*d*) words and expressions used but not defined in this Act and defined in the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) shall have the meanings respectively assigned to them in that Act.

3. Levy and collection of cess.—(*1*) There shall be levied and collected a cess for the purposes of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and utilisation thereunder.

(*2*) The cess under sub-section (*1*) shall be payable by—

(*a*) every person carrying on any [3][industry]; and

(*b*) every local authority,

and shall be calculated on the basis of the water consumed by such person or local authority, as the case may be, for any of the purposes specified in column (1) of Schedule II, at such rate, not exceeding the rate specified in the corresponding entry in column (2) thereof, as the Central Government may, by notification in the Official Gazette, from time to time, specify.

[4][(*2A*) Where any person carrying on any [3][industry] or any local authority consuming water for domestic purpose liable to pay cess fails to comply with any of the provisions of section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or any of the standards laid down by the Central Government under the Environment (Protection) Act, 1986 (29 of 1986), cess shall be, notwithstanding anything contained in sub-section (*2*) of this section, calculated and payable at such rate, not exceeding the rate specified in column (3) of Schedule II, as the Central Government may, by notification in the Official Gazette, from time to time, specify.]

1. 1st April, 1978, *vide* notification No. G.S.R. 189(*E*), dated 23rdMarch, 1978, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

2. Subs. by Act 19 of 2003, s. 2, for clause (*c*) (w.e.f. 6-5-2003).
3. Subs. by s. 3, *ibid*., for "specified industry" (w.e.f. 6-5-2003).
4. Ins. by Act 53 of 1991, s. 2 (w.e.f. 26-1-1992).

(*3*) Where any local authority supplies water to any person carrying on any [1][industry] or to any other local authority and such person or other local authority is liable to pay cess [2][under sub-section (*2*) or sub-section (*2A*)] in respect of the water so supplied, then, notwithstanding anything contained [3][in those sub-sections], the local authority first mentioned shall not be liable to pay such cess in respect of such water.

Explanation.—For the purposes of this section and section 4, "consumption of water" includes supply of water.

4. Affixing of meters.—(*1*) For the purpose of measuring and recording the quantity of water consumed, every person carrying on any [1][industry] and every local authority shall affix meters of such standards and at such places as may be prescribed and it shall be presumed that the quantity indicated by the meter has been consumed by such person or local authority, as the case may be, until the contrary is proved.

(*2*) Where any person or local authority fails to affix any meter as required by sub-section (*1*), the Central Government shall, after notice to such person or local authority, as the case may be, cause such meter to be affixed and the cost of such meter together with the cost for affixing the meter may be recovered from such person or local authority by the Central Government in the same manner as an arrear of land revenue.

5. Furnishing of returns.—[4][(*1*)] Every person carrying on any [1][industry] and every local authority, liable to pay the cess under section 3, shall furnish such returns, in such form, at such intervals and containing such particulars to such officer or authority, as may be prescribed.

[5][(*2*) If a person carrying on any [1][industry] or a local authority, liable to pay the cess under section 3, fails to furnish any return under sub-section (*1*), the officer or the authority shall give a notice requiring such person or local authority to furnish such return before such date as may be specified in the notice.]

6. Assessment of cess.—(*1*) The officer or authority to whom or which the return has been furnished under section 5 shall, after making or causing to be made such inquiry as he or it thinks fit and after satisfying himself or itself that the particulars stated in the return are correct, by order, assess the amount of cess payable by the concerned person carrying on any [1][industry] or local authority, as the case may be.

[6][(*1A*) If the return has not been furnished to the officer or authority under sub-section (*2*) of section 5, he or it shall, after making or causing to be made such inquiry as he or it thinks fit, by order, assess the amount of cess payable by the concerned person carrying on any [1][industry] or local authority, as the case may be.]

(*2*) An order of assessment made under sub-section (*1*) [6][or sub-section (*1A*)] shall specify the date within which the cess shall be paid to the State Government.

(*3*) A copy each of the order of assessment made under sub-section (*1*) [6][or sub-section (*1A*)] shall be sent to the person or, as the case may be, to the local authority concerned and to the State Government.

(*4*) The State Government shall, through such of its officers or authorities as may be specified by it in this behalf by notification in the Official Gazette, collect the cess from the person or local authority liable to pay the same and pay the amount so collected to the Central Government in such manner and within such time as may be prescribed.

7. Rebate.—Where any person or local authority, liable to pay the cess under this Act, instals any plant for the treatment of sewage or trade effluent, such person or local authority shall, from such date as

1. Subs. by Act 19 of 2003, s. 3, for "specified industry" (w.e.f. 6-5-2003). 2.
Subs. by Act 53 of 1991, s. 2, for "under sub-section (2)" (w.e.f. 26-1-1992). 3.
Subs. by s. 2, *ibid*., for "in that sub-section" (w.e.f. 26-1-1992).
4. S. 5 renumbered as section (*1*) thereof by s. 3, *ibid*. (w.e.f. 26-1-1992).
5. Ins. by s. 3, *ibid*. (w.e.f. 26-1-1992).
6. Ins. by s. 4, *ibid*. (w.e.f. 26-1-1992).

may be prescribed, be entitled to a rebate of [1][twenty-five per cent.] of the cess payable by such person or, as the case may be, local authority:

[2][Provided that a person or local aut any rebate, if he or it—

(*a*) consumes water in excess of the maximum quantity as may be prescribed in this behalf for any [3][industry] or local authority; or

(*b*) fails to comply with any of the provisions of section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or any of the standards laid down by the Central Government under the Environment (Protection) Act, 1986 (29 of 1986).]

8. Crediting proceeds of cess to Consolidated Fund of India and application thereof.—The proceeds of the cess levied under section 3 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Central Board and every State Board, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974):

Provided that while determining the sum of money to be paid to any State Board under this section, the Central Government shall have regard to the amount of cess collected by the State Government concerned under sub-section (*4*) of section 6.

Explanation.—For the purposes of this section, "State Board" includes a Joint Board, if any, constituted under section 13 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974).

9. Power of entry.—Any officer or authority of the State Government specially empowered in this behalf by that Government may,—

(*a*) with such assistance, if any, as he or it may think fit, enter at any reasonable time any place which he or it considers it necessary to enter for carrying out the purposes of this Act including the testing of the correctness of the meters affixed under section 4;

(*b*) do within such place anything necessary for the proper discharge of his or its duties under this Act; and

(*c*) exercise such other powers as may be prescribed.

10. Interest payable for delay in payment of cess.—If any person carrying on any [3][industry] or any local authority fails to pay any amount of cess payable under section 3 to the State Government within the date specified in the order of assessment made under section 6 such person or local authority, as the case may be, shall be liable to pay [4][interest on the amount to be paid at the rate of two per cent. for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid].

11. Penalty for non-payment of cess within the specified time.—If any amount of cess payable by any person carrying on any [3][industry] or any local authority under section 3 is not paid to the State Government within the date specified in the order of assessment made under section 6, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on such person or, as the case may be, local authority, a penalty not exceeding the amount of cess in arrears:

Provided that before imposing any such penalty, such person or, as the case may be, the local authority shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

1. Subs. by Act 53 of 1991, s. 5, for "seventy per cent." (w.e.f. 26-1-1992).
2. Proviso ins. by s. 5, *ibid*. (w.e.f. 26-1-1992).
3. Subs. by Act 19 of 2003, s. 3, for "specified industry" (w.e.f. 6-5-2003).
4. Subs. by s. 6, *ibid*., for certain words (w.e.f. 26-1-1992).

12. Recovery of amount due under the Act.—Any amount due under this Act (including any interest or penalty payable under section 10 or section 11, as the case may be) from any person carrying on any [1][industry] or from any local authority may be recovered by the Central Government in the same manner as an arrear of land revenue.

13. Appeals.—(*1*) Any person or local authority aggrieved by an order of assessment made under section 6 or by an order imposing penalty made under section 11 may, within such time as may be prescribed, appeal to such authority in such form and in such manner as may be prescribed.

(*2*) Every appeal preferred under sub-section (*1*) shall be accompanied by such fees as may be prescribed.

(*3*) After the receipt of an appeal under sub-section (*1*), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(*4*) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

14. Penalty.—(*1*) Whoever, being under an obligation to furnish a return under this Act, furnishes any return knowing, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(*2*) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(*3*) No court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Central Government.

15. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, 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 be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence 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 be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

[2]**[16. Power of Central Government to exempt the levy of water cess.**—(*1*) Notwithstanding anything contained in section 3, the Central Government may, by notification in the Official Gazette, exempt any industry, consuming water below the quantity specified in the notification, from the levy of water cess.

1. Subs. by Act 19 of 2003, s. 3, for "specified industry" (w.e.f. 6-5-2003).

2. Subs. by s. 4, *ibid*., for section 16 (w.e.f. 6-5-2003).

(*2*) In exempting an industry under sub-section (*1*), the Central Government shall take into consideration—

(*a*) the nature of raw material used;

(*b*) the nature of manufacturing process employed;

(*c*) the nature of effluent generated;

(*d*) the source of water extraction;

(*e*) the nature of effluent receiving bodies; and

(*f*) the production data, including water consumption per unit production,

in the industry and the location of the industry.]

17. Power to make rules.—(*1*) The Central Government may make rules for carrying out the purposes of this Act.

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

(*a*) the standards of the meters to be affixed and the places at which such meters are to be affixed under sub-section (*1*) of section 4;

(*b*) the returns to be furnished under section 5, the

form in which and the intervals at which such returns are to be furnished, the particulars which such returns shall contain and the officer or authority to whom or which such returns shall be furnished;

(*c*) the manner in which and the time within which the cess collected shall be paid to the Central Government under sub-section (*4*) of section 6;

(*d*) the date from which any person or local authority liable to pay cess shall be entitled to the rebate [1][and the maximum quantity of water in excess of consumption whereof any person or local authority shall not be entitled to the rebate] under section 7;

(*e*) the powers which may be exercised by the officer or authority under section 9;

(*f*) the authority which may impose penalty under section 11;

(*g*)the authority to which an appeal may be filed under sub-section (*1*) of section 13 and the time within which and the form and manner in which such appeal may be filed;

(*h*) the fees which shall accompany an appeal under sub-section (*2*) of section 13; and

(*i*) any other matter which has to be or may be prescribed.

(*3*) Every rule 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 both Houses agree that the rule should not be made, the rule 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.

1. Ins. by Act 53 of 1991, s. 7 (w.e.f. 26-1-1992).

[*SCHEDULE I.*] *Omitted by the Water (Prevention and Control of Pollution*) *Cess* (*Amendment*) *Act*, 2003 (19 *of* 2003), *s.* 5 (*w.e.f.* 6-5-2003).]

[1][SCHEDULE II

(*See* section 3)

Purpose for which water is consumed	Maximum rate under sub-section (*2*) of section 3	Maximum rate under sub-section (*2A*) of section 3
(1) (2)	(3)	
1. Industrial cooling, spraying in mine pits or boiler feeds per kilolitre	Five paise per kilolitre.	Ten paise
2.Domestic purpose Two paise per kilolitre	Three paise per kilolitre.	
3.Processing whereby water gets polluted and the pollutants are— (*i*) easily biodegradable; or (*ii*) non-toxic; or (*iii*) both non-toxic and easily biodegradable	Ten paise per kilolitre	Twenty paise per kilolitre.
4. Processing whereby water gets polluted and the pollutants are— (*i*) not easily biodegradable; or (*ii*) toxic; or (*iii*)both toxic and not easily biodegradable	Fifteen paise per kilolitre	Thirty paise per kilolitre.]

1. Subs. by Act 19 of 2003, s. 6, for Schedule II (w.e.f. 6-5-2003).