

National Highways Fee (Determination Of Rates And Collection) Rules, 2008

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National Highways Fee (Determination Of Rates And Collection) Rules, 2008

G.S.R. 838(E).-In exercise of the powers conferred by section 9 of the National Highways Act, 1956 (48 of 1956) and in supersession of the National Highways (Temporary Bridges) Rules, 1964, the National Highways (Collection of Fees by any person for the Use of Section of National Highways/Permanent Bridge/Temporary Bridge on National Highways) Rules, 1997, the National Highways (Fees for the Use of National Highways Section and Permanent Bridge - Public Funded Project) Rules, 1997 and the National Highways (Rate of Fees) Rules, 1997, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules for collection of fee for use of sections of national highways, permanent bridges, bypasses and tunnels, namely:-

1. Short title and commencement :-

- (1) These rules may be called the National Highways Fee (Determination of Rates and Collection) Rules, 2008.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) They shall not apply to agreements and contracts executed and bids invited prior to the publication of these rules.

2. Definitions :-

(l) In these rules, unless the context otherwise requires,-

- (a) "Act" means the National Highways Act, 1956;
- (b) "base year" means the period from 1st April 2007 to 31st March 2008;
- (c) "bypass" means a section of the national highway bypassing a town or city;
- (d) "concessionaire" means a person with whom an agreement has been entered into under section 8A of the Act;
- (e) "elevated highway" means any section of national highway raised above ground level through support of piers or columns;
- (f) "executing authority" means an officer or authority notified by the Central Government under section 5 of the Act;
- (g) "expressway" means a national highway having a divided carriageway suitable for high speed traffic and with control of access;
- (h) "financial year" means the year commencing on the 1st day of April of a year and ending on 31st day of March of the succeeding year;
- (i) "gross vehicle weight" in respect of any vehicle means the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle under the Motor Vehicles Act, 1988 (59 of 1983);
- (j) "lane" means a lane forming part of the main carriageway and having a minimum width of three meters and fifty centimeters;
- (k) "mechanical vehicle" means any vehicle driven under its own power including a motor vehicle as defined under the Motor Vehicles Act, 1988;
- (l) "notification" means a notification published in the Official Gazette;
- (m) "private investment project" means a project relating to section of national highway, permanent bridge, bypass or tunnel, as the case may be. for which an agreement is entered into with a

concessionaire;

(n) "public funded project" means a project which is not a private investment project, as defined in clause (m) above and includes a private investment project in respect of which the agreement has expired;

(o) "toll plaza" means any building, structure or booth made for collection of fee.

(2) Words and expressions used herein and not defined but defined in the National Highways Authority of India Act, 1988 shall have the meanings respectively assigned to them in that Act.

3. Levy of fee :-

(1) The Central Government may by notification, levy fee for use of any section of national highway, permanent bridge, bypass or tunnel forming part of the national highway, as the case may be, in accordance with the provisions of these rules:

Provided that the Central Government may, by notification, exempt any section of national highway, permanent bridge, bypass or tunnel constructed through a public funded project from levy of such fee or part thereof, and subject to such conditions as may be specified in that notification.

(2) The collection of fee levied under sub-rule (1) of rule 3, shall commence within forty- five days from the date of completion of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, constructed through a public funded project.

(3) In case of private investment project, the collection of fee levied under sub-rule (1) shall be made in accordance with the terms of the agreement entered into by the concessionaire.

(4) No fee shall be levied for the use of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, by two wheelers, three wheelers, tractors and animal drawn vehicles:

Provided that three wheelers, tractors and animal-drawn vehicles shall not be allowed to use the section of national highway, permanent bridge, bypass or tunnel, as the case may be, where a service road or alternative road is available in lieu of the said national highway, permanent bridge, bypass or tunnel:

Provided further that where service road or alternative road is available and the owner, driver or the person in charge of a two

wheeler is making use of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, he or she shall be charged fifty per cent, of the fee levied on a car.

Explanation1.- For the purposes of this rule,- (a) "alternative road" means such other road, the carriageway of which is more than ten meters wide and the length of which does not exceed the corresponding length of such section of national highway by twenty per cent, thereof;

(b) "service road" means a road running parallel to a section of the national highway which provides access to the land adjoining such section of the national highway.

(5) The fee notified by the Central Government under these rules shall be rounded off and levied in multiple of the nearest Rupees five.

4. Base rate of fee :-

(1) The rate of fee for use of the section of national highway, permanent bridge, bypass or tunnel constructed through public funded project or private investment project shall be identical.

(2) The rate of fee for use of a section of national highway of four or more lanes shall, for the base year 2007-08, be the product of the length of such section multiplied by the following rates, namely:-

Type of Vehicle	Base rate of fee per km (in Rupees)
Car, Jeep, Van or Light Motor Vehicle	0.65
Light Commercial Vehicle, Light Goods Vehicle or Mini Bus	1.05
Bus or Truck	2.20
Heavy Construction Machinery(HCM) or Earth Moving Equipment (EME) or Multi Axle Vehicle (MAV) (three to six axles)	3.45
Oversized Vehicles (seven or more axles)	4.20

Explanation.- For the purposes of this rule,-

(a) "car" or "jeep" or "van" or "light motor vehicle" means any mechanical vehicle the gross vehicle weight of which does not exceed seven thousand five hundred kilograms or the registered passenger carrying capability as specified in the certificate of registration issued under the Motor Vehicles Act, 1988 does not exceed twelve excluding the driver,

(b) "light commercial vehicle" or "light goods vehicle" or "mini bus" means any mechanical vehicle with a gross vehicle weight exceeding seven thousand five hundred kilograms but less than twelve thousand kilograms or the registered passenger carrying capability as specified in the certificate of registration issued

under the Motor Vehicles Act, 1988, exceeds twelve bir does not exceed thirty two excluding the driver;

(c) "truck" or "bus" means any mechanical vehicle with a gross vehicle weight exceeding twelve thousand kilograms but less than twenty thousand kilograms or the registered passenger carrying capability as specified in the certificate of registration issued under the Motor Vehicles Act, 1988, exceeds thirty two, excluding the driver;

(d) "heavy construction machinery" or "earth moving equipment" or "multi axle vehicle " means heavy construction machinery or earth moving equipment or mechanical vehicle including a multi axle vehicle with three to six axles or vehicle with a gross vehicle weight exceeding twenty thousand kilograms but less than sixty thousand kilogram; and

(e) "oversized vehicle " means any mechanical vehicle having seven or more axles or vehicle with a gross vehicle weight exceeding sixty thousand kilograms.

(3) The rate of fee for use of a section of national highway, having two lanes and on which the average investment for up gradation has exceeded Rupees one crore per kilometer, shall be sixty per cent, of the rate of fee specified under sub-rule (2) of rule 4.

(4) The rate of fee for use of permanent bridge, bypass or tunnel constructed with the cost exceeding Rupees ten crore, shall, for the base year 2007-08, be as follows:-

Base rate of fee (Rupees per vehicle per trip)					
Cost of permanent bridge, bypass or tunnel (Rupees in crore)	Car, Jeep, Van or Light Motor Vehicle	Light Commercial Vehicle, Light Goods Vehicle or Mini Bus	Truck or Bus	HCM, EME or MAV	Oversized Vehicle
10 to 15	5	7.50	15	22	30
For every additional Rupees five crore or part thereof, exceeding Rupees fifteen crore and up to Rupees one hundred crore.	I	1.50	3	4.50	6
For every additional Rupees five crore or part thereof, exceeding Rupees one hundred crore and upto Rupees two hundred crore.	0.75	1.15	2.25	3.40	4.50
For. every additional Rupees	0.50	0.75	1.50	2.25	3

five crore or part thereof exceeding Rupees two hundred crore.					
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Provided that while computing fee for the section of national highway on which a permanent bridge, bypass or tunnel costing Rupees fifty crore or more is situated, the length of such permanent bridge, bypass or tunnel shall be excluded from the length of such section of national highway and fee shall be levied at the rates specified for such permanent bridge, bypass and tunnel:

Provided further that where the cost of such permanent bridge, bypass or tunnel, as the case may be, is less than Rupees fifty crore, and the said permanent bridge, bypass or tunnel, form part of the section of national highway, then instead of above rate of fee, the rate of fee specified under sub-rule (2) of rule 4 shall be applicable for such permanent bridge, bypass or tunnel.

Explanation.- For the purpose of this sub-rule,-

- (a) the cost for private investment project, shall be the cost as assessed by the executing authority prior to invitation of bids from the concessionaire;
- (b) the cost for public funded project shall be the cost as assessed by the executing authority six months prior to completion thereof.

5. Annual revision of rate of fee :-

(1) The rates specified under rule 4 shall be increased without compounding, by three per cent each year with effect from the 1st day of April, 2008 and such increased rate shall be deemed to be the base rate for the subsequent years.

(2) The applicable base rates shall be revised annually with effect from April 1 each year to reflect the increase in wholesale price index between the week ending on January 6, 2007 (i.e. 208.7) and the week ending on or immediately after January 1 of the year in which such revision is undertaken but such revision shall be restricted to forty per cent of the increase in wholesale price index.

(3) The formula for determining the applicable rate of fee shall be as follows:-

Applicable rate of fee = base rate + base rate X {WPI A - WPI B/WPI B} X 0.4

Explanation.- for the purposes of this sub-rule ,-

- (a) applicable rate of fee shall be the rate payable by the user;
- (b) base rate shall be the rate specified in rule 4 read with sub-rule (1) of rule 5;
- (c) WPI A means the wholesale price index of the week ending on or subsequent to 1st January immediately preceding the date of revision under these rules; and

(d) WPI B means the wholesale price index of the week ending on 6th January, 2007 i.e. 208.7.

Illustration:

If the revision is to be made for the year 2008-09 by applying the wholesale price index of the week ending on 5th January 2008 (i.e. 216.6), then the rate for car, jeep or van will be 0.6796 as computed below:

Applicable rate of fee: $0.6695 + 0.6695 \times \{216.6 - 208.7 / 208.7\} \times 0.4 = 0.6796$

(4) Annual revision of rate of fee under this rule shall be effective from first of April every year.

6. Collection of fee :-

(1) Fee levied under these rules shall be collected by the Central Government or the executing authority or the concessionaire, as the case may be at the toll plaza.

(2) Every driver, owner or person in charge of a mechanical vehicle shall for the use of the section of national highway, permanent bridge, bypass or tunnel, before crossing the toll plaza, pay the fee specified under these rules.

(3) The fee collected under these rules shall be paid either in cash or through smart card or on board unit (transponder) or any other like device:

Provided that no additional charges shall be realised for making the payment of fee by use of a smart card or on board unit (transponder) or any other such device.

(4) Any driver, owner or person in charge of a mechanical vehicle who opts for the installation of on board unit (transponder) or any other such device for payment of fee. shall deposit a refundable security equivalent to the cost of the equipment with the Central Government, the executing authority or the concessionaire, as the case may be for such installation and no interest shall accrue on such security deposit.

(5) The person receiving such fee under sub-rule (2) of rule 6, shall issue to the driver, owner or person in charge of mechanical vehicle a receipt, specifying therein the date and time of such receipt of fee, total amount received, and the class of vehicle for which the fee has been received:

Provided that where the fee is paid through smart card or on board unit (transponder) or any other such device, a receipt shall be

issued on demand only.

(6) The fee shall be collected in perpetuity by the Central Government or the executing authority, as the case may be, and for a specified period in accordance with the terms of the agreement entered into by the concessionaire.

(7) In respect of public funded projects the fee levied under these rules shall be collected by the Central Government, or the executing authority, as the case may be, through its own officials or through a contactor.

7. Remittance and appropriation of fee :-

(1) In case of public funded projects, the fee collected under the provisions of these rules by every executing authority shall be remitted to the Central Government:

Provided that the Central Government may by notification allow any or all executing authorities to appropriate the whole or any part of the fee for such purposes and subject to such conditions as may be specified in the said notification:

Provided further that in case of private investment projects, the fee collected under the provisions of these rules shall be appropriated by the concessionaire in accordance with the provisions of and for the performance of its obligations under the agreement entered into by such concessionaire.

(2) Every executing authority shall remit to the Central Government, the amount of fee collected over and above the amount permitted to be appropriated by the executing authority under sub-rule (1) of rule 7, within ninety days from the date of the closing of the financial year along with an annual return showing the amount collected and the expenditure incurred on collection of fee, including the administrative and management expenses.

(3) The Central Government shall by notification determine the administrative and management expenses which may be allowed to be deducted and retained by the executing authority.

8. Location of toll plaza :-

(1) The executing authority or the concessionaire, as the case may be, shall establish a toll plaza beyond a distance of ten kilometers from a municipal or local town area limits:

Provided that the executing authority may, for reasons to be

recorded in writing, locate or allow the concessionaire to locate a toll plaza within a distance of ten kilometers of such municipal or local town area limits, but in no case within five kilometers of such municipal or local town area limits:

Provided further that where a section of the national highway, permanent bridge, bypass or tunnel, as the case may be, is constructed within the municipal or town area limits or within five kilometers from such limits, primarily for use of the residents of such municipal or town area, the toll plaza may be established within the municipal or town area limits or within a distance of five kilometers from such limits.

(2) Any other toll plaza on the same section of national highway and in the same direction shall not be established within a distance of sixty kilometers:

Provided that where the executing authority deems necessary, it may for reasons to be recorded in writing, establish or allow the concessionaire to establish another toll plaza within a distance of sixty kilometers:

Provided further that a toll plaza may be established within a distance of sixty kilometers from another toll plaza if such toll plaza is for collection of fee for a permanent bridge, bypass or tunnel.

9. Discounts :-

(1) The executing authority or the concessionaire, as the case may be, shall upon request provide a pass for multiple journeys to cross a toll plaza within the specified period at the rates specified in sub-rule (2) of rule 9.

(2) A driver, owner or person in charge of a mechanical vehicle who makes use of the section of national highway, permanent bridge, bypass or tunnel, may opt for such pass and he or she shall have to pay the fee in accordance with the following rates, namely:-

Amount payable	Maximum number of one way journeys allowed	Period of validity
One and half times of the fee for one way journey	Two	Twenty four hours from the time of payment
Two-third of amount of the fee payable for fifty single journeys.	Fifty	One month from date of payment

(3) A person who owns a mechanical vehicle registered for non-commercial purposes and uses it as such for commuting on a section of national highway,

permanent bridge, bypass or tunnel, may obtain a pass, on payment of fee at the base rate for the year 2007-2008 of Rupees one hundred and fifty per calendar month and revised annually in accordance with rule 5, authorising it to cross the toll plaza specified in such pass:

Provided that such pass shall be issued only if such driver, owner or person in charge of such mechanical vehicle resides within a distance of twenty kilometers from the toll plaza specified by such person and the use of such section of national highway, permanent bridge, bypass or tunnel, as the case may be, does not extend beyond the toll plaza next to the specified toll plaza.

Provided further that no such pass shall be issued if a service road or alternative road is available for use by such driver, owner or person in charge of a mechanical vehicle.

(4) No pass shall be issued or fee collected from a driver, owner or person in charge of a mechanical vehicle that uses part of the section of a national highway and does not cross a toll plaza.

10. Rate of fee for overloading :-

(1) Without prejudice to the liability of the driver, owner or a person in charge of a mechanical vehicle under any law for the time being in force, a mechanical vehicle which is loaded in excess of the permissible load specified for its category under sub-rule (2) of rule 4, shall be liable to pay fee at such rate which is applicable for the next higher category of mechanical vehicles:

Provided that the payment of such fee for overloading shall not entitle a driver or owner or a person in charge of a mechanical vehicle to make use of such national highway and his or her vehicle shall be prevented from using the national highway or crossing the toll plaza until the excess load has been removed from such mechanical vehicle.

(2) The weight of a mechanical vehicle, as recorded at a weighbridge installed at the toll plaza, shall be the basis for levying the fee for overloading under this rule:

Provided that where no weighbridge has been installed at the toll plaza, no fee for overloading shall be levied and collected under this rule and the driver, owner or person in charge of the mechanical vehicle shall be liable to pay fee applicable for such vehicle only.

11. Exemption from payment of fee :-

(1) No fee shall be levied and collected from a mechanical vehicle,-

(a) transporting and accompanying, -

(i) the President of India;

(ii) the Vice-President of India;

(iii) the Prime-Minister of India:

(iv) the Chief Justice of India:

- (v) the Governor;
- (vi) the Lieutenant Governor;
- (vii) the Union Minister:

- (viii) the Chief Minister;
- (ix) the Judge of Supreme Court;
- (x) the Chairman of the Council of State;
- (xi) the Speaker of the House of People;
- (xii) the Chairman of the Legislative Council of the State;
- (xiii) the Speaker of the Legislative Assembly of the State;
- (xiv) the Chief Justice of High Court;
- (xv) the Judge of High Court;
- (xvi) Ministers of States; and
- (xvii) Foreign dignitaries on State visit.

(b) used for official purposes by,-

- (i) the Ministry of Defence including those which are eligible for exemption in accordance with the provisions of the Indian Toll (Army and Air Force) Act, 1901 and rules made thereunder, as extended to Navy also;
 - (ii) the Central and State armed forces in uniform including para military forces and police;
 - (iii) an executive Magistrate;
 - (iv) a fire-fighting department or organisation;
 - (v) the National Highway Authority or any other organisation or person using such vehicle for inspection, survey, construction or operation and maintenance thereof; and
- (c) used as ambulance.

12. Display of Information :-

(1) The executing authority or the concessionaire, as the case may be, shall publish a notice specifying the amount of fee to be charged from the mechanical vehicle, in at least one Newspaper, each in English and vernacular language, having a wide circulation in such area.

(2) The executing authority shall prominently display in Hindi and English one thousand meters ahead of the toll plaza and in English and local language five hundred meters ahead of the toll plaza,-

(i) the amount of fee payable for each class of vehicles and the discounts available under rule 9;

(ii) the categories of vehicles exempted from payment of fee; and

(iii) the name, address and telephone or contact number of the executing authority or the concessionaire, as the case may be.

(3) The height of the display boards, their quality and size of lettering shall be clearly visible and legible to the users.

13. Unauthorised collection :-

(1) An officer authorised by the Central Government or by the executing authority, as the case may be, may assess the excess fee collected, if any, by the executing authority or the concessionaire, as the case may be, and recover the same from such authority or concessionaire , along with an additional sum equal to twenty five per cent, of the excess fee collected:

Provided that no recovery of such excess fee shall be made unless an opportunity of hearing has been given to the executing authority or concessionaire, as the case may be.

(2) Any driver, owner or person incharge of a mechanical vehicle aggrieved by unauthorised collection of fee, may lodge a complaint with the officer authorised by the Central Government or the executing authority, as the case may be, in this behalf, who shall after hearing the parties pass an order on such complaint for refund of excess payment and damages for the inconvenience suffered by such user within thirty days.

14. Failure to pay fee :-

(1) If any driver, owner or person in charge of a mechanical vehicle does not pay or refuses to pay the fee for use of national highway, permanent bridge, bypass or tunnel, his or her vehicle shall not be allowed to use such section of national highway, permanent bridge, bypass or tunnel and in case such vehicle obstructs the normal flow of traffic, the executing authority or the concessionaire, as the case may be, may get such obstructing vehicle removed from the national highway, permanent bridge, bypass or tunnel, as the case may be.

(2) Where the driver or the person in charge of a mechanical vehicle refuses or fails to pay the fee levied under these rules, the same shall be recovered from the registered owner of the mechanical vehicle.

(3) Where the Central Government, executing authority or the concessionaire, as the case may be, has reason to believe that a mechanical vehicle is plying on a section of the national highway,

permanent bridge, bypass or tunnel without payment of fee due, it may stop such vehicle for the purpose of verifying the payment thereof and collect the fee due from such vehicle.

15. Power of Central Government to verify records :-

An officer duly authorised by the Central Government or the executing authority, as the case may be shall have the power to verify the collection of fee, and inspect any document, records, other information, receipts or reports of the executing authority or the concessionaire, as the case may be.

16. Collection of fee in respect of Private Investment Project :-

(1) The fee levied under the provisions of sub-rule (3) of rule 3 shall be collected by the concessionaire till its agreement is in force.

(2) On and from the date of expiry of the agreement specified under sub-rule (3) of rule 3, the fee levied shall be collected by the Central Government or the executing authority, as the case may be.

17. Bar for installation of additional barrier :-

No barrier shall be installed at any place, other than at the toll plaza, except with the prior permission in writing of the Central Government or the executing authority, as the case may be, who after being satisfied that there is evasion of fee, may allow on such terms and conditions as it may impose, the installation of such additional barrier by the Central Government, the executing authority or the concessionaire, as the case may be, within ten kilometers from the toll plaza, to check the evasion of fee:

Provided that the Central Government or the executing authority, as the case may be, may, at any time, for reasons to be recorded in writing, withdraw such permission.

Provided further that where the Central Government or the executing authority, as the case may be, do not allow installation of an additional barrier by the concessionaire, the reasons for such refusal shall be communicated to such concessionaire within a reasonable period.