

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

36 of 1977

[7th December, 1977]

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

36 of 1977

[7th December, 1977]

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 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 by 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;

(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 :-

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(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.

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 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 :-
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1. Section 5 re-numbered as sub-section (1) thereof and sub-section (2) ins. by Act 53 of 1992, sec. 3 (w.e.f. 26-1-1992).

6. Assessment of cess :-

(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, installs any plant for the treatment of sewage or trade effluent, such person or local authority shall, from such date as 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 authority shall not be entitled to any rebate, if he or it-

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

1. Subs. for the words "seventy per cent" by Act 53 of 1991, sec. 5(a) (w.e.f. 26-1-1992).

2. Ins. by Act 53 of 1991, sec. 5(b) (w.e.f. 26-1-1992).

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 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 .

9. Power of entry :-

Any officer or authority of the State Government specially empowered in this behalf by that Government may,-

(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 industry or any local authority fail 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 ¹ [interest on the amount to be paid at the rate of two percent, 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.]

1. Subs. by Act 53 of 1991, sec. 6, for the words "interest at twelve per cent per annum on the amount to be paid from the date on which such payment is due till such amount is actually paid" (w.e.f. 26-1-1992).

11. Penalty for non-payment of cess within the specified time :-

If any amount of cess payable by any person carrying on any 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.

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 2 , as the case may be) from any person carrying on any 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 :-

(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 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.

16. Power of Central Government to exempt the levy of water cess. :-

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(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. Section 16, shall be substituted by Water (Prevention and Control of Pollution) Cess (Amendment) Act, 2003.(Act 19 of 2003) , published in the Gazette of India, Extra., Part II, Section 1, dated 17th March, 2003, pp. 1-3, No. 22

17. Power to make rules :-

(1) The Central Government may make rules for carrying out the purposes of this Act.

(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 there after 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.

SCHEDULE 1

SCHEDULE

[See section 2 (c)] [* * * * *]

SCHEDULE 2

SCHEDULE

(See section 3)

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