

Tamil Nadu Irrigation Cess Act, 1865

TAMILNADU

India

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Act 7 of 1865

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Tamil Nadu Irrigation Cess Act, 1865(Tamil Nadu Act 7 of 1865)An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.Preamble. - Whereas, in several districts of the [State of Tamil Nadu] [Substituted for 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment), Order, 1969.] large expenditure out of Government funds has been, and is still being, incurred in the construction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land; and whereas, it is right and proper that a fit return should, in all cases, alike be made to Government on account of the increased profits derivable from lands irrigated by such works; It is enacted as follows:-

1. Power to levy water-cess in addition to assessment on land.

(a)Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, or flows into a reservoir and, thereafter, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, and in the opinion of the Revenue Officer empowered to charge water-cess, subject to the control of the Collector and the [Board or Revenue] [By virtue of section 10(1) of the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980) any reference to the Board of Revenue shall be deemed to be a reference to the State Government.], such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land, it shall be lawful for the State Government before the end of the revenue year succeeding that in which the irrigation takes place to levy at pleasure a separate fee for such water (hereinafter referred to as the water-cess) and the State Government may prescribe the rules under which and the rates at which such water-cess shall be levied and alter or amend the same from time to time:Providos:Provided that where a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the Government entitled to irrigation free of separate charge, no water-cess under this Act shall be imposed for water supplied to the extend of

this right and no more: Provided further that a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement shall be liable to pay the water-cess under this Act except to the extent to which he is entitled to irrigation free of separate charge under the first proviso: Provided also that no water-cess shall be leviable under this Act in respect of water supplied or used for the irrigation of land held under ryotwari settlement which is classified and assessed as wet unless the land be irrigated whether voluntarily or involuntarily, and whether wholly or in part, - (i) from any source herein before mentioned not being a source which has been assigned by the Revenue authorities or adjudged by a competent Civil Court as the source of irrigation of such land; or (ii) from any source assigned or adjudged as aforesaid in respect of such land otherwise than in accordance with any notification or order of the State Government or of any authority subordinate to them regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge. (2) For the avoidance of doubt, it is hereby declared that water-cess leviable under this Act is not a tax of land but is a fee for the water supplied or used for the irrigation of land.

1A. Rules for the recovery of water-cess from the landholder and the ryot.

(1) In respect of water supplied or used for the irrigation of land included in an estate, the water-cess due under this Act shall notwithstanding anything contained in the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864) be leviable in accordance with such rules as the State Government may, after previous publication, prescribe in that behalf - (a) from the landholder; or (b) from the ryot; or (c) in shares from both. (2) The amount payable by a landholder or a ryot under this Act shall be a first charge upon his interest in the land. (3) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot inter se under any contract express or implied in regard to the payment of water-cess.

1B. Rules to have effect as if enacted in the Act.

- All rules made under this Act shall have effect as if enacted in this Act.

2. Water-cess, how recoverable.

- Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of land revenue or may be realized by law in the State of Tamil Nadu.

3. Indemnification for acts done before passing of Acts.

- No action or other proceeding shall be had or be sustainable against any officer for anything done by him previous to the passing of this Act, in or relating to, the imposition or levying of any such water rate here to before imposed or levied with the sanction of the State Government.