

# **The West Bengal Transport Infrastructure Development Fund Act, 2002**

WEST BENGAL

India

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### **Act 21 of 2002**

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The West Bengal Transport Infrastructure Development Fund Act, 2002 West Bengal Act 21 of 2002 [Dated 3rd January, 2003] Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 3rd January, 2003. An Act to establish a fund to create, develop, maintain or improve transport infrastructure in West Bengal and for such purpose to levy and collect a cess on sale of motor spirit commonly known as petrol, high speed diesel oil and liquefied petroleum gas and to provide for matters connected therewith or incidental thereto; Whereas it is expedient to establish a fund to create, develop, maintain or improve transport infrastructure in West Bengal and for such purpose to levy and collect a cess on sale of motor spirit commonly known as petrol, high speed diesel oil and liquefied petroleum gas and to provide for matters connected therewith or incidental thereto; It is hereby enacted as follows :-

## **Chapter I Preliminary**

### **1. Short title, extent and commencement.**

(1) This Act may be called the West Bengal Transport Infrastructure Development Fund Act, 2002. (2) It extends to the whole of West Bengal. (3) It shall be deemed to have come into force on the 21st day of August, 2002.

### **2. Definitions.**

- In this Act, unless the context otherwise requires, -(a) "cess" means the cess levied and collected under section 4; (b) "Fund" means the West Bengal Transport Infrastructure Development Fund

established under sub-section (1) of section 5;(c)"goods" means the goods specified in column (2) of the First Schedule;(d)"notification" means a notification published in the Official Gazette;(e)"prescribed" means prescribed by rules made under this Act;(f)"Schedule" means a Schedule to this Act;(g)"State Government" means the Government of West Bengal.

## **Chapter II**

### **Authorities for the purposes of levy and collection of cess**

#### **3. Cess authorities.**

(1)The State Government shall, by notification, appoint an authority (hereinafter referred to as the prescribed authority), and shall appoint such other persons, being the officers of the State Government, to assist the prescribed authority as the State Government may think fit, for carrying out the purposes of this Act.(2)The prescribed authority and the persons appointed under sub-section (1) to assist him shall have jurisdiction over the whole of West Bengal.(3)The persons appointed to assist the prescribed authority shall exercise shall powers as may be delegated to them by the prescribed authority.(4)The prescribed authority and the persons appointed to assist him under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.(5)No suit, prosecution or other legal proceedings shall lie against the prescribed authority or the persons appointed under sub-section (1) to assist him for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **Chapter III**

### **Incidence and levy of cess, rate of cess and payment of cess**

#### **4. Incidence of cess, rate thereof, payment of cess and furnishing of return.**

- [(1) There shall be levied and collected, for the purposes of this Act, a cess on every sale in West Bengal] [[Sub-section (1) substituted by W.B. Act 6 of 2004, which was earlier as under :'(1) There shall be levied and collected, for the purposes of this Act, a cess on every sale in West Bengal by any person of goods, specified in column (2) of the First Schedule, which have not been purchased by such person in West Bengal, at the rate specified in the corresponding entry in column (3) of the said Schedule.'.]-(a)by any person, other than the persons referred to in clause (b), of goods which have not been purchased by such person in West Bengal,(b)by any of the persons, namely,-(i)Indian Oil Corporation Limited,(ii)Hindusthan Petroleum Corporation Limited,(iii)Bharat Petroleum Corporation Limited,(iv)IBP Company Limited,(v)Indian Oil Corporation Limited (Assam Division),(vi)Indian Oil Petronas Private Limited,(vii)Reliance Petroleum Private Limited,(viii)[Numaligarh Refinery Limited,] [[Sub-clause (viii) first Substituted by W.B. Act 15 of 2004, then again Substituted by W.B. Act 3 of 2007, which was earlier as under :'(viii) Reliance Petro Marketing Private Limited,'][(ix)[ Bongaigaon Refinery and Petrochemicals Limited, [Sub-clauses (ix) to (xi) Inserted by W.B. Act 18 of 2006.](x)Essar Oil Limited,(xi)Oil and Natural Gas Corporation,](xii)[Haldia Petrochemicals Limited, [Sub-clause (xii) and (xiii) Inserted by W.B. Act 3 of

2007.](xiii)Reliance Industries Limited.][made to any person, other than those referred to in sub-clause (i) [to sub-clause (xiii)] [Words, figure and brackets 'to sub-clause (xi)' first Substituted for the words, figure and brackets 'to sub-clause (viii)' by W.B. Act 18 of 2006, then the words, figure and brackets within third brackets Substituted for the words, figure and brackets 'to sub-clause (xi)' by W.B. Act 3 of 2007.], of goods-(A)which have been purchased in West Bengal by the person referred to in sub-clause (i) [to sub-clause (xiii)] [Words, figure and brackets 'to sub-clause (xi)' first Substituted for the words, figure and brackets 'to sub-clause (viii)' by W.B. Act 18 of 2006, then the words, figure and brackets within third brackets Substituted for the words, figure and brackets 'to sub-clause (xi)' by W.B. Act 3 of 2007.] from any other person so referred to, or(B)which have not been purchased in West Bengal by the person referred to in sub-clause (i) [to sub-clause (xiii)] [Words, figure and brackets 'to sub-clause (xi)' first Substituted for the words, figure and brackets 'to sub-clause (viii)' by W.B. Act 18 of 2006, then the words, figure and brackets within third brackets Substituted for the words, figure and brackets 'to sub-clause (xi)' by W.B. Act 3 of 2007.],at the appropriate rate specified in column (3) of the First Schedule :Provided that, subject to such condition as may be prescribed, the State Government may exempt, with prospective or retrospective effect, any sale of goods from levy of cess.(2)The cess leviable under sub-section (1) shall be payable by the person who sells such goods in West Bengal.(3)The person referred to in sub-section (2) shall furnish a return to such authority in such form, in such manner and at such interval, as may be prescribed and such person shall, in the prescribed manner, pay the full amount of cess before furnishing such return.(4)The cess leviable under sub-section (1) shall be in addition to any tax or duty, by whatever name called, leviable on sale of the goods under any other law for the time being in force in West Bengal.

## **Chapter IV**

# **West Bengal Transport Infrastructure Development Fund**

### **5. Establishment of Fund.**

(1)There shall be established for the purposes of this Act, a Fund to be called the West Bengal Transport Infrastructure Development Fund.(2)The Fund shall be under the control of the State Government and there shall be credited thereto-(a)any sum of money credited under section 6;(b)any sum of money credited under section 7;(c)any sum realised by the State Government in carrying out its functions under this Act or in the administration of this Act;(d)any fund provided by the Central Government for the creation, development, maintenance or improvement of transport infrastructure.(3)The balance to the credit of the Fund shall not lapse at the end of the financial year.

### **6. Crediting of cess to the Fund.**

- The proceeds of the cess levied under section 4 shall first be credited to the Consolidated Fund of West Bengal, and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of this Act.

## **7. Grants and loans by State Government.**

- The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the Fund, by way of grants or loans, such sums of money as the State Government may consider necessary.

## **8. Utilisation of Fund.**

- The Fund shall be utilised for-(a)the creation, development, maintenance or improvement of transport infrastructure, including roads, bridges and flyovers;(b)the improvement of traffic operation and road safety;(c)the purposes of such other projects as may be prescribed.

# **Chapter V**

## **Management of the Fund**

## **9. Maintenance of accounts.**

- The State Government shall maintain proper accounts and other relevant records in such form, and in such manner, as may be prescribed.

## **10. Administration of Fund.**

- The State Government shall administer the Fund and take such decisions regarding investment in projects of transport infrastructure, traffic operation and road safety as it considers necessary.

# **Chapter VI**

## **Miscellaneous**

## **11. Power to make rules.**

(1)The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provision of this Act required to be prescribed, or to be provided for, by rules.

## **12. Amendment of West Bengal Act 49 of 1994.**

(1)The West Bengal Transport Infrastructure Development Fund Ordinance, 2002, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under the corresponding provisions of this Act.The First Schedule[See section 4]

Sl. No.	Name of goods	Rate of cess
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol	Rupee one per liter.
2.	High speed diesel oil.	Rupee one per liter.
3.	Liquefied petroleum gas used for commercial and industrial purposes.	Rupees one per kilogram.

The Second Schedule[See section 12]Amendment in the West Bengal Sales Tax Act, 1994In the West Bengal Sales Tax Act, 1994, in section 2, in clause (31), after the words "less any sum allowed as cash discount according to ordinary trade practice", the words and figures "or any sum charged as cess leviable under the West Bengal Transport Infrastructure Development Fund Act, 2002," shall be inserted.