

The Orissa Cess Act, 1962

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Act 11 of 1962

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The Orissa Cess Act, 1962Orissa Act 11 of 1962Statement of Objects and Reasons. - At present assessment and levy of cess is being made under various statutes and also in accordance with various local usages and customs which differ from district to district. This makes their administration difficult and gives cause for complaint by the public due to lack of uniformity. The present Bill is proposed to be enacted with the primary objective of condensing and simplifying the existing laws on the subject by consolidating the different enactments, customs and usages having forces of law in the State and also to amend the same in such matters where they are found be defective and deficient. The Bill proposes to introduce the following important changes: (1) Under the existing enactments the local authorities have powers to determine the rates at which cesses shall be levied within their respective jurisdictions subject to certain specified limits. It is now proposed to have a uniform rate throughout the State. (2) Secondly, the present rates of levy of cess vary from place to place. It is now proposed to adopt an uniform rate of 25 np. in the rupee of annual rental value and to distribute the entire collection without making any deduction towards collection charges among the Zilla Parishads, Panchayat Samitis and Grama Panchayats in the ratio of 5 : 8 : 12 respectively. This will yield increased revenue to the above local authorities which are the three tiers of the democratic decentralised administration recently introduced in the State to enable them to discharge their responsibilities under the respective statutes more efficiently by taxing up development works and providing better amenities to the people of the State. For Statement of Objects and Reasons see Orissa Gazette Extraordinary No. 710 of 1961. For Select Committee Report, see Orissa Gazette Extraordinary No. 166/3.3.1962. Published vide Orissa Gazette Extraordinary No. 710/1961/11.5.1962. An Act to consolidate and amend the law relating to Cess in the State of Orissa. Be it enacted by the Legislature of the State of Orissa in the thirteenth Year of the Republic of India, as follows :

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Cess Act, 1962. (2) It shall extend to the whole of the State of Orissa. (3) This section shall come into force at once. The remaining provisions of this Act shall [come into force on such date] [The Act came into force with effect from 1.1.1963, vide Orissa Gazette Extraordinary No. 778/27.12.1962.] as the Government may, by notification, appoint.

2. Repeal.

(1) On the coming into force of this Act in any district or part of a district the enactments specified in the first column of the [Schedule] [Substituted vide Orissa Gazette Extraordinary No. 580/23. 5. 1994-Notin. No. 7685-Legis/23.5.1994.] so far as they are in force in the State of Orissa, shall as regards such district or part of the district, be repealed to the extent mentioned in the third column thereof: Provided that such repeal shall not affect the previous operation of such enactments or anything duly done or suffered or any right, privilege, obligation or liability acquired, accrued or incurred thereunder. (2) All rules, orders, appointments and valuations in force at the commencement of this Act, which were made under the said enactments shall, so far as they are consistent with the provisions of this Act, be deemed to have been made under this Act. (3) Every sum due to be collected in respect of arrears of cess, of expenses incurred, of fees or cost payable, of notices served or of fines imposed under the said enactments, shall be deemed to be due on such account under this Act; and all cess re-imposed and every sum so due may be levied or realised as herein provided.

3. Definitions.

- In this Act, unless there is anything repugnant in the subject or context - (i) "Collector" means the Collector of a district and includes a Deputy Commissioner; (ii) "estate" includes a part of an estate and means any land held by or vested in an intermediary and includes under one, entry in any revenue roll or any of the general registers of revenue paying lands and revenue-free lands prepared and maintained under the law relating to land revenue for the time being in force or under any rules, orders, custom, usage having the force of law, and includes revenue-free lands not entered in any register or revenue-roll and classes of tenures or under-tenures, any jagir, inam or muafi or other similar grant. Explanation I - "Land Revenue" means all sums and payments in money or in kind, by whatever name designated or locally known, received or claimable by or in relation to any land held by or vested in such intermediary. Explanation II - "Revenue-free land" includes land which is, or but for any special covenant, agreement, engagement or contract would have been liable to settlement and assessment of land revenue or with respect to which the State has power to make laws for settlement and assessment of land revenue. Explanation III - In relation to merged territories "estate" as defined in this clause, shall also include any mahal or village hold by or vested in an intermediary, which has been or is liable to be assessed as one unit to land revenue whether such land revenue be payable or has been remitted or compounded for or redeemed in whole or in part; (iii) "Government" means the State Government of Orissa; (iv) "Intermediary" with reference to any estate means a proprietor, sub-proprietor, landlord, land-holder, maiguzar, tikadar, gaontia, tenure-holders, under-tenure holders and includes an inamdar, a jagirdar, zamindar, ilaquedar,

khorphoshdar, paraganadar, sarbarakar, and muafidar including the Ruler of an Indian State merged with the State of Orissa and all other holders or owners of interest in land between the raiyat and the State. Explanation I - Any two or more intermediaries holding a joint interest in an estate which is borne either on the revenue roll or on the rent roll of another intermediary shall be deemed to be one intermediary for the purpose of this Act. Explanation II - The heirs and successors-in-interest of an intermediary and where an intermediary is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator shall be deemed to be an intermediary for the purposes of this Act. All acts done by an Intermediary under this Act shall be deemed to have been done by his heirs and successors-in-interest and shall be binding on them. (v) "khas possession" used with reference to the possession of an intermediary of any land used for agricultural or horticultural purposes, means the possession of such intermediary by cultivating such land or carrying on horticultural operations thereon himself with his own stock or by his own servants or by hired labour or with hired stock; Explanation - "Land used for horticultural purposes" means land used for the purpose of growing fruits, flowers or vegetables; (vi) ["land" means land of whatever description and includes land which is covered with water, but does not include: [Substituted vide Orissa Act No. 10 of 1994.] (a) mineral bearing land as defined in the Orissa Rural Employment, Education and Production Act, 1992; and (b) houses or buildings;] (vii) "prescribed" means prescribed by rules made by the Government under this Act; (viii) "raiayat" means any person who holds land for the purposes of agriculture with rights of occupancy or with permanent and heritable rights therein or is a raiyat within the meaning of any law relating to land tenures; but shall not include persons holding mediately or immediately under a raiyat; [(viii-a) [* * *] [Omitted vide Orissa Act No. 10 of 1994.]] (ix) "year" means the cess year as determined by the Board of Revenue under Section 5.

Chapter II

Imposition and application of the cess

4. All lands to be liable to payment of cess.

(1) From and after the commencement of this Act all lands shall be liable to the payment of cess determined and payable as herein provided: [Provided that no such cess shall be payable in respect of lands which were not liable to payment of tent or revenue prior to the 1st day of April, 1977 or lands in respect of which a tax on holding is assessed under the Orissa Municipal Act (25 of 1950.)] [Substituted vide Orissa Act No. 7 of 1978, w.e.f. 1.4.1977.] [* * *] [Omitted vide Orissa Act No. 10 of 1994.] (2) Save as otherwise expressly provided in this Act, nothing contained in Sub-section (1) shall prejudice or affect the operation of any law granting to land revenue or tax, cess, rate or fee in respect of any land or to the assessment or collection thereof. (3) Notwithstanding anything contained in this section or in any of the other provisions of this Act, all revenue free or rent free lands shall continue to remain liable to pay cess on the basis of assessment, if any, in force immediately before the commencement of this Act made under any of the laws specified in the Schedule until the revenue or rent in respect of such land becomes payable under any law for the time being in force and every amount due or which may become due on account of such cess shall be deemed to be an amount due under this Act.

5. [Rate of Cess, assessment and fixation of Cess year. [Substituted vide Orissa Act No. 10 of 1994.]

(1)The cess shall be assessed on the annual value of all lands on whatever tenure held calculated in the manner hereinafter appearing.(2)The rate per year at which such cess shall be levied shall be fifty per centum of the annual value of the land with effect from the 5th day of April, 1991 and seventy-five per centum of such value with effect from such date as the. State Government may, by notification appoint.]

5A. [[Omitted vide Orissa Act No. 10 of 1994.]

[* * *]

6. [[Substituted vide Orissa Act No. 10 of 1994.]

(1)Notwithstanding anything contained in any other law, the cess shall be payable by a raiyat for the land he holds to the landlord under whom he holds the land.Explanation - For the purposes of this sub-section "landlord," shall include the Government.(2)Cess shall be paid on such dates and in such manner as may be prescribed.]

7. [[Substituted vide Orissa Act No. 10 of 1994.]

The annual value of land held by a raiyat shall be the rent payable by such raiyat to the landlord under whom he holds the land :Provided that in case of lands hold on payment of rent in kind or partly in cash and partly in kind, the annual value shall be calculated according to the fates of rent assessed for neighboring lands of a similar description and quality and if such method of calculation is, in the opinion of the Board of Revenue impracticable in any particular case according to such other fair and equitable method which the said Board may approve for that case.Explanation - For the purposes of this section-(i)whatever is lawfully payable or deliverable in money or in kind of in both by a raiyat to his landlord on account of the use and occupation of the land shall be deemed to be rent, and(ii)"landlord" includes Government.]

8. Assessment of cess during settlement proceedings.

(1)Where proceedings for settlement of rent in respect of land are being carried on under the Orissa Survey and Settlement Act, 1958 (hereinafter referred to as the said Act), the Government may, by order, direct that the Cess payable under this Act in respect of any such land shall also be assessed in the course of such proceedings.(2)On an order being made under Sub-section (1) the provisions of the said Act in so far as they relate to settlement of rent shall apply as fully and effectively as it under the said provisions cess had been required to be assessed along with the rent and incorporated in the records relating to such rent.(3)The cess so assessed shall subject to the alterations, if any, in proceedings under the said Act for alteration of rent, be deemed to have been correctly assessed under this Act and shall take effect from the same date from which such rent takes effect.

9. Assessment of cess in cases of estates during settlement proceedings.

- Where proceedings under the provisions of the said Act are being carried on in any area for preparation of record-of-rights or for settlement of rent or for both, Government may, by order, direct that in course of the said proceedings the cess payable under this Act shall, subject to the rules made in that behalf be assessed in respect of lands held as in estate in the aforesaid area, which are not covered by an order under Sub-section (1) of Section 8 by such officer conducting the said proceedings and in such manner as may be specified in the said rules and the cess so assessed shall take effect from the date notified in that behalf by Government.

9A. Assessment of cess in other cases.

- The cess payable in respect of lands not covered by an order made under Sub-section (1) of Section 8 or under Section 9 shall, whenever Government, by order, so direct, be assessed or revised by the Collector in the prescribed manner, and the cess so assessed or revised shall take effect from the beginning of such year as may be fixed by the Board of Revenue.[***] [Omitted vide Orissa Act No. 10 of 1994.]

10. Application of proceeds of the cess.

- [(1) Notwithstanding anything contained in any other law, all amount collected as cess shall be credited to the Consolidated Fund of the State and shall be utilised for the following purposes, namely : (a) contribution to Grama Panchayats; and (b) contribution to Samitis.] (2) The allotment of amounts to be utilised for the purposes mentioned in [Clauses (a) and (b)] [Substituted vide Orissa Act No. 10 of 1994.] of Section (1) shall be made in such proportion as may be prescribed. Explanation - In this section "Grama Panchayat" means Grama Panchayat constituted under the Orissa Grama Panchayat Act, 1964 (1 of 1965) and "Samiti" means the Panchayat Samiti constituted under the Orissa Panchayat Samiti, Act, 1959 (7 of 1960),

10A. [Remission of cess. [Substituted vide Orissa Act No. 5/1980, w.e.f. 20. 5. 1980.]

- Whenever distress is caused to the land owners by serious drought, flood, fire, cyclone, earth-quake or any other serious natural calamity in the State of Orissa or any part thereof, Government may, by order, direct that cess payable under this Act in respect of all or any of the lands in the State or such part thereof, as the case may be, shall be remitted or realization of such cess shall be suspended for such period as may be specified in the order.

10B. Remission of forest fuel and nistar cess.

- Whenever rent or revenue payable by any person in respect of his land has been remitted or realisation of such rent or revenue has been suspended for any period, Government may, by order direct that forest cess, fuel cess or nistar cess, if any, payable by such person shall be remitted or, as

the case may be, realisation of such cess shall be suspended for the period aforesaid.] [Substituted vide Orissa Act No. 10 of 1994.]

11.

[* * *] [Deleted vide Orissa Act No. 10 of 1965.]

Chapter III

Miscellaneous

12. Interest to be paid in cases of default and limitation for realisation of arrears.

- If any instalment of cess or part thereof payable to Government or Intermediary is not paid within fifteen days from the date on which the same becomes due the amount of such instalment or part thereof together with interest at the rate of [twelve per centum] [Substituted vide Orissa Act No. 30/1992.] per annum calculated from the date on which such instalment became due and the costs of recovering the same, may be recovered at any time within-(a)three years after it becomes due, if the same is payable to an Intermediary; and(b)ten years after it becomes due, if the same is payable to Government.

13. Dues under the Act and the rules made thereunder to be recovered as arrear of land revenue.

- Every amount due, or which may become due, to the Government under the provisions of this Act or the rules made thereunder in respect of any arrears of cess, any expense incurred, any interest, fee or costs payable, any notice served, any fines imposed or any other amount shall be recoverable as an arrear of land revenue.

14. Board of Revenue to invest officers not below the rank of Sub-Deputy Collector with Collector's powers.

- The Board of Revenue may at any time invest any officer not below the rank of a Sub Deputy Collector with the powers of a Collector under this Act or the rules made thereunder to be exercised by such officer under the control and supervision of the Collector of the district or independently of such control and supervision as the Board of Revenue may direct.

15. Collector may delegate powers.

- The Collector may, with the sanction of the Board of Revenue, delegate all or any of his powers and functions under this Act or the rules made thereunder to be exercised under his control and supervision by any officer not below the rank of a Sub-Deputy Collector.

16. Power to enter upon land to make survey, etc.

- The Collector or any officer exercising the powers of a Collector under this Act may, subject to the rules made thereunder, at any time enter upon any land but not a dwelling house with such officers or other persons as he considers necessary, and make a survey or take measurement thereof or do any other act which he considers necessary for carrying out any of his duties under this Act.

17. Power to compel production of records and documents and to enforce attendance of witnesses.

- Subject to the provisions of this Act and the rules made thereunder, any officer in dealing with proceedings or making an enquiry under this Act or the rules made thereunder shall have the powers of a Civil Court under the Code of Civil Procedure, 5 of 1908 for the purpose of enforcing the attendance of witnesses compelling production of documents and examining witnesses on oath and such officer shall record the substance of the evidence, if any, taken by him.

18. Appeals.

(1)An appeal by any person aggrieved by any order made by the Collector under Section 9-A shall, if referred within thirty days from the date of the order appealed against, lie to-(a)the Collector of the district, when the order is made by an officer below the rank of such Collector; or(b)to the Revenue Divisional Commissioner having jurisdiction when it is made by a Collector of a District.(2)An appeal by any person aggrieved by an order or assessment of cess made in proceedings in pursuance of Section 9 shall, if filed within thirty days from the date of the order appealed against lie to the prescribed authority.(3)Appeals preferred under this section shall be heard and disposed of in the prescribed manner.

19. Power of revision by Board of Revenue.

- The Board of revenue may, of its own motion or on application, call for the records and revise any order passed under this Act or the rules made thereunder after giving the parties concerned an opportunity of being heard.Explanation - Nothing in this section shall apply in relation to proceedings for assessment of cess in pursuance of an order made under Section 8.

20. Protection of action taken under this Act.

(1)No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.(2)No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or the rules made thereunder or by anything in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

21. Power to make rules.

(1)The Government may, after previous publication, make rules for carrying out all or any of the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, they may make rules in respect of all or any of the matters expressly required or allowed by this Act to be prescribed.(3)In making rules under this section the Government may provide that a breach of any of the rules shall be an offence punishable with fine which may extend to two hundred and fifty rupees.[* * *] [Omitted vide Orissa Act No. 17 of 1989.]

22. Power to remove difficulty.

- If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything, not inconsistent with the provisions of this Act or the rules made thereunder, which appears to them necessary for the purpose of removing the doubt or difficulty.[Schedule] [Substituted vide Orissa Act No. 10 of 1994.]Enactments Repealed[See Section 2]

Number and year (1)	Short title (2)	Extent of Repeal (3)
1. Bengal Act, IX of 1880	The Cess Act, 1880	The whole.
2. Orissa Regulation, V of 1936	The Angul Regulation 1936	Section 54-A.
3. Order of 1948	The Administration of Orissa States Order, 1948	Paragraph 11 in so far as it is repugnant to provisions of this Act.
4. Order of 1949	The Administration of Mayurbhanj State Order, 1949	Paragraph 12 in so far as it is repugnant to the provisions of this Act.
5. Orissa Act 7 of 1960	The Orissa Panchayat Samiti & Zilia Parishad Act, 1959	Section 58-A.