

The M.P. Upkar Adhiniyam, 1981

MADHYA PRADESH

India

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Act 1 of 1982

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The M.P. Upkar Adhiniyam, 1981(M.P. Act No. 1 of 1982)[Dated 16th December, 1981]Received the assent of the President on the 16th December, 1981; assent first published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 12th January, 1982.An Act to provide for levy of certain cesses.Be it enacted by the Madhya Pradesh Legislature in the Thirty-second Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Upkar Adhiniyam, 1981.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall [come into force on such date] [W.e.f. 1-3-1982.] as the State Government may, by notification, appoint [and different dates may be appointed for different provisions of this Act:Provided that the provisions of Part III shall come into force with effect from the 1st October, 1982, and any notification issued bringing that Part into force from any earlier date shall be and shall always be deemed never to have been issued] [Inserted by M.P. Act 35 of 1982 (w.e.f. 8-9-1982).].

Part I – Energy Development Cess

2. Definitions.

- In this part, unless there is anything repugnant in the subject or context,-(a)"cess" means the energy development cess levied under Section 3;(b)"Fund" means the energy development fund referred to in [sub-sections (2), (3) and (4) of Section 3] [Substituted by M.P. Act No. 22 of 2007.];(c)words and expressions used but not defined in this part and defined in the Madhya Pradesh Electricity Duty Act, 1949 (X of 1949), shall have the meaning respectively assigned to them in that Act.

3. [Levy of energy development cess. [Substituted by M.P. Act No. 18 of 2001 (w.e.f. 17-9-2001).]

(1) Every distributor of electrical energy shall pay to the State Government at the prescribed time and in the prescribed manner an energy development cess at the rate of [ten paise] per unit on the total units of electrical energy sold or supplied to a consumer or consumed by himself or his employees during any month : Provided that no cess shall be payable in respect of electric energy, - (i) (a) sold or supplied to the Government of India for consumption by that Government; or (b) sold or supplied to the Government of India or a railway company for consumption in the construction, maintenance or operation of any railway administered by the Government of India; (ii) sold or supplied in bulk to a Rural Electric Co-operative Society registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961); (iii) [] [Inserted by M.P. Act No. 24 of 2005.] (a) sold or supplied to the [Madhya Pradesh Power Trading Company Limited] [Substituted by M.P. Act No. 22 of 2007.] by the Madhya Pradesh Power Generating Company Limited, Jabalpur, registered under the Companies Act, 1956 (No. 1 of 1956); (b) sold or supplied to the Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited, Bhopal, the Madhya Pradesh Pashchim Kshetra Vidyut Vitran Company Limited, Indore and the Madhya Pradesh Purva Kshetra Vidyut Vitran Company Limited, Jabalpur by the [Madhya Pradesh Power Trading Company Limited.] [Substituted by M.P. Act No. 22 of 2007.] Explanation. - For the purpose of this sub-section 'month' means such period as may be prescribed. (2) [Omitted.] [Omitted by M.P. Act No. 22 of 2007.] (2) [] [Renumbered by M.P. Act No. 22 of 2007.] The proceeds of the cess under [sub-section (1)] [Substituted by M.P. Act No. 22 of 2007.] shall first be credited to the Consolidated Fund of the State and the State Government may, at the commencement of each financial year, after due appropriation has been made by law, withdraw from the Consolidated Fund of the State an amount equivalent to the proceeds of cess realized by the State Government in the preceding financial year and shall place it to the credit of a separate fund to be called the Energy Development Fund and such credit to the said fund shall be an expenditure charged on the Consolidated Fund of the State Government of Madhya Pradesh. (3) [] [Substituted by M.P. Act No. 22 of 2007.] The amount in the credit of the funds shall, at the discretion of the State Government be utilized for, - (a) research and development in the field of energy including electrical energy as well as other conventional and non-conventional sources of energy; (b) improving the efficiency of generation, transmission, distribution and utilization of energy including reduction of losses in transmission and distribution; (c) research in design, construction, maintenance, operation and materials of the equipment used in the field of energy with a view to achieve optimum efficiency, continuity and safety; (d) survey of energy sources including non-perennial sources to alleviate energy shortage; (e) energy conservation programmes; (f) extending such facilities and services to the consumers as may be deemed necessary; (g) creation of a laboratory and testing facilities for testing of electrical appliances and equipments and other equipments used in the field of energy; (h) programmes of training conducive to achieve any of the above objectives; (i) transfer of technology in the field of energy; (ii) [] [Inserted by M.P. Act No. 28 of 1985 (w.e.f. 31-12-1985).] any purpose connected with safety of electrical installations; and (j) any other purposes connected with improvement of generation, transmission, distribution or utilization of electrical and other forms of energy, as the State Government may, by notification, specify. Explanation. - In this sub-section, 'energy' includes all conventional and non-conventional forms of energy. (4) [] [Renumbered by M.P. Act No. 22 of 2007.] If any question

arises as to whether the purposes for which the fund is being utilized is a purpose falling under sub-section (4) or not, the decision of the State Government thereon shall be final and conclusive.]

4. Madhya Pradesh Act No. X of 1949 and rules made thereunder to apply.

- The provisions of [Sections 3-B to 9] [Substituted by M.P. Act No. 22 of 2007.] (both inclusive) of the Madhya Pradesh Electricity Duty Act, 1949 (X of 1949) and the rules made thereunder shall mutatis mutandis apply to cess under this Act as they apply to levy of duty on sale or consumption of electrical energy under that Act and for that purpose reference to "duty" or "electricity duty" in the said Act or the rules made thereunder, as the case may be, shall be construed as reference to "cess".

Part II – Urban Development Cess

5. Definitions.

- In this part, -(a) "cess" means urban development cess levied under Section 6; (b) "law relating to local authority" means -(i) in the case of a Municipal Corporation, the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956); (ii) in the case of a Municipal Council or a [Nagar Panchayat] [Substituted by M.P. Act No. 11 of 2007.], the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961); (iii) in the case of a Special Area Development Authority, the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973); (iv) in the case of Cantonment Board, the Cantonment Act, 1924 (II of 1924); (c) "local authority" means a Municipal Corporation, Municipal Council, [Nagar Panchayat] [Substituted by M.P. Act No. 11 of 2007.], Special Area Development Authority or a Cantonment Board, as the case may be. constituted or deemed to have been constituted under the law relating to local authority concerned; (d) "municipal area" means the area comprised within the limits of a local authority; (e) "Sampatti Kar Adhiniyam" means the Madhya Pradesh Nagariya Sthawar Sampatti Kar Adhiniyam, 1964 (No. 14 of 1964); (f) "Urban Area" means the area of commercial or industrial importance having population of ten thousand or above according to last census and which is not a municipal area; (g) words and expressions used but not defined in this part and defined in the law relating to local authority or the Sampatti Kar Adhiniyam, shall have the meanings respectively assigned to them in the said law or the Sampatti Kar Adhiniyam, as the case may be.

6. Levy of cess on lands and buildings.

(1) There shall be charged, levied and paid for each year an urban development cess on all lands or buildings or both situated in municipal area or urban area at the rate of [2] [Substituted by M.P. Act No. 11 of 2007.] per centum of the annual letting value or annual value : Provided that where the lands or buildings or both are in occupation of the owner himself, the rate of cess shall be one half of the rate aforesaid : [Provided further that no cess shall be charged, levied and paid in respect of lands or buildings or both, for which properly tax is not leviable under the provisions of the law relating to local authority or the Sampatti Kar Adhiniyam. as the case may be.] [Substituted by M.P. Act No. 11 of 2007.] (2) The cess charged and levied under sub-section (1) shall be in addition to tax

charged and levied on lands or buildings or both in respect of annual letting value or annual value thereof under the law relating to local authority or the Sampatti Kar Adhiniyam, as the case may be, and shall be payable by the owner in the same manner as that tax.(3)Subject to the provisions of this part, the provisions of the law relating to local authority or the Sampatti Kar Adhiniyam, as the case may be, and the rules made thereunder shall apply to the cess as if the cess were a tax levied under the said law or the Sampatti Kar Adhiniyam, as the case may be.

7. Collection of cess, etc.

(1)Subject to the other provisions of this part and the rules made thereunder the authorities for the time being empowered to assess reassess, collect and enforce payment of tax on lands or buildings or both in respect of the annual letting value or annual value thereof in municipal area or urban area, under the law relating to local authority or the Sampatti Kar Adhiniyam, as the case may be, shall, on behalf of the State Government assess, reassess, collect and enforce payment of cess, including any penalty payable by the owner and for this purpose they may exercise all or any of the powers, they have under the said law or Adhiniyam.(2)[The proceeds of the cess collected by a local authority shall be divided between local authority and the State Government in such ratio as may be prescribed, and the amount due to the State Government shall be credited to the account of the State Government at such intervals and in such manner as may be prescribed and shall be applied to urban development schemes.] [Substituted by M.P. Act No. 11 of 2007.]

Part III – Cess on Transfer of Vacant Land and Land used for the Purpose of Agriculture

8. Definition.

- In this part,-(a)"vacant land" means open land, not being mainly used for the purpose of agriculture;(b)expressions "agriculture" and "land" shall have the meanings assigned to these expressions in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

9. Levy of cess on transfer of vacant land.

- [(1) There shall be charged, levied and paid a cess on transfer by way of sale, gift, lease for a period of thirty years or more or usufructuary mortgage, of vacant land and land used for the purpose of agriculture [at the rate of five per centum of the amount of stamp duty with which instrument of each such transfer is chargeable in accordance with the relevant article in Schedule 1-A of the Indian Stamp Act, 1899 (No. 2 of 1899)] [Substituted by M.P. Act No. 35 of 1982, (w.e.f. 1-10-1982).] :Provided that exemption under the Indian Stamp Act, 1899 (2 of 1899) shall, mutatis mutandis apply to the same extent in relation to cess under this Act as it applies to duty chargeable under that Act as if the cess were a duty chargeable under that Act.][x x x] [Explanation omitted by M.P. Act No. 9 of 1984 (w.e.f. 7-4-1984).](2)The cess charged and levied under sub-section (1) shall be paid and recovered along with the registration of instrument of transfer of the vacant land and land used for the purpose of agriculture. [The payment of the cess, shall be indicated on the instrument of

transfer by means of stamps issued under the Indian Stamp Act, 1899 (II of 1899)] [Added by M.P. Act No. 35 of 1982, (w.e.f. 1-10-1982).](3)The cess shall be payable by the person by whom the stamp duty is payable under the Indian Stamp Act, 1899 (II of 1899).(4)Notwithstanding anything contained in the Registration Act, 1908 (XVI of 1908), no officer thereunder shall admit to registration any document unless the cess charged and levied under sub-section (1) is paid in full.[(4-a) The provision of Section 48 of the Indian Stamp Act, 1899 (II of 1899) shall apply to recovery of cess under this Part as it applies to recovery of duties and penalties under this Act.] [Inserted by M.P. Act No. 35 of 1982 (w.e.f. 1-10-1982).](5)The proceeds of the cess shall be applied to rural development specially for providing employment in rural areas.[Part IV] [Parts IV Substituted by M.P. Act No. 35 of 1982 (w.e.f. 1-10-1982).] [Cess On Land Held In Connection With Mineral Rights] [Substituted by M.P. Act No. 21 of 1987 (w.e.f. 1-10-1982).]

10. [Definitions. [Substituted by M.P. Act No. 21 of 1987 (w.e.f. 1-10-1982).]

- For the purposes of this part,-(a)"land" means land situate in the State and held under a mining lease for undertaking mining operations in relation to major mineral including operations for raising, winning or extracting coal;(b)"major minerals" shall include the minerals defined in the Mines and Minerals (Regulation and Development) Act, 1957 (No. LXVII of 1957) but shall not include the minor minerals as defined therein;(c)"minerals rights" means rights conferred on a lessee from the State under a mining lease granted for mining operations in relation to major mineral including operations for raising, winning or extracting coal.

11. Levy of cess on land held in connection with mineral rights.

(1)There shall be levied and collected a cess on land held in connection with mineral rights at such rate as may be notified by the State Government per (on of major mineral raised therefrom subject to the maximum of rupees ten per ton of major mineral raised and the rate of cess prevailing in respect of the coal during the period commencing from the date of commencement of the principal Act and ending on the date of commencement of the Madhya Pradesh Upkar (Sanshodhan) Adhiniyam, 1987, shall be deemed to be the rate of cess notified under this sub-section in respect of coal :Provided that subject to the limitation mentioned above, the State Government may, by notification, increase or reduce the rate of cess at an interval of not less than one year, where the rate is increased it shall not be in excess of fifty per cent of the rate for the time being in force :Provided further that every notification under the above proviso shall be laid on the Table of the Legislative Assembly and the provisions of Section 24-A of the Madhya Pradesh General Clauses Act, 1957 (No. 3 of 1958) shall apply thereto as they apply to a rule.(2)The rate of cess to be notified for the first time in exercise of the powers conferred by sub-section (1) shall be effective from the 1st April, 1987.(3)The cess levied under sub-section (1) shall, subject to and in accordance with the rules made in this behalf, be assessed and collected by such agencies and in such manner as may be prescribed.(4)The agencies prescribed under sub-section (3) shall for the purpose of assessment, collection and recovery of cess and all matters connected therewith, exercise such of the powers conferred upon the authorities specified in Section 3 of the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) for the purposes aforesaid in respect of sales tax under the said Act and the rules made thereunder, as may be prescribed as if such agencies were the authorities specified in the

said Section 3 and the cess on land held in connection with mineral rights were the tax levied under the said Act.]

12.

[x x x] [Omitted by M.P. Act No. 9 of 1989 (w.e.f. 1-10-1982).][Part V [Inserted by M.P. Act No, 35 of 1982, (w.e.f. 1-10-1982).] Miscellaneous

13. Power to make rules.

(1)The State Government may, after previous publication, make rules to carry out the purposes of this Act.(2)All rules made under this section shall be laid on the Table of the Legislative Assembly.

14. Power to remove difficulty.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provision of this Act remove the difficulty.]