

CHAPTER 11

WATER POLLUTION CESS ACT

11.1 Introduction

In order to implement the legislation relating to protection of water resources against pollution, the Government has enacted a separate law, authorising the imposition of a "cess" in order to meet the expenses of administering the pollution laws regarding water. In this Chapter, salient features of the legislation are proposed to be dealt with.

11.2. Extent

The Water (Prevention and Control of Pollution) Cess Act, 1977 (No. 36 of 1977) extends to all States to which the Water Pollution Act, 1974 applies and also to the Union territories.

11.3. Levy of cess

According to Section 3 of the Water Cess Act, 1977, a cess is to be levied and collected for the purposes of the main Act and for utilisation thereunder from every person carrying on any specified industry and from every local authority. The specified industry is listed in the First Schedule to the Water Cess Act. The cess is calculated on the basis of the water consumed for the purposes specified in the Second Schedule, column 1. The maximum rate of cess is laid down in the Second Schedule, column 2 and within this maximum, the Central Government can, by notification in the Official Gazette, specify the rate from time to time.

11.4. Affixing of meters

For measuring and recording the quantity of water consumed, meters are required to be affixed by section 4 of the Act.

11.5. Administrative provisions

Sections 5 to 10, etc. of the Water Cess Act provide for various administrative matters.

11.6. Penalty for non-payment

Under section 11 of the Water Cess Act, where the cess as levied under the Act is in arrears, the prescribed authority may, after the prescribed inquiry, impose a penalty not exceeding the amount of cess in arrears. But the penalty is not to be imposed if, after hearing, the said authority is satisfied that the default was for any good and sufficient reason. Section 13 provides a right of appeal to the prescribed authority.

11.7. Penalties regarding returns : Need to amend

Section 14(1) of the Act punishes the furnishing of a false return, while section 14(2) of the same Act punishes wilful evasion of cess. Curiously, there is no penalty for failure to furnish the returns.¹

By section 14(3), cognizance of an offence under section 14 cannot be taken without a complaint made by or under the authority of the Central Government.

11.8. Offences by companies : Need to amend

Section 15 of the Water Cess Act is the usual provision regarding offences by companies. There is no similar provision regarding local authorities.² Of course it can be argued that they are also corporations.

11.9. Schedules and Rules : Need to amend

Section 16 of the Water Cess Act empowers the Central Government by notification to add industries in the First Schedule. The notification must be laid before Parliament. Section 17 of the same Act confers on the Central Government power to make rules for carrying out the purposes of the Act. Curiously, the requirement to *notify* the rules had been left out.³

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1. Point for amendment (Section 14).
 2. Point for amendment (Section 15).
 3. Point for amendment (Section 17).