

PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

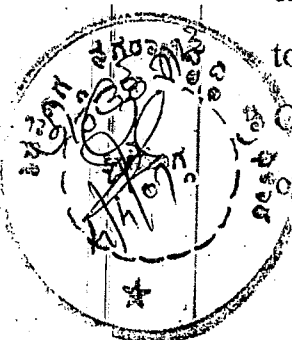
Sub: Collection of Cess at the rate of 1 % of the cost of the Construction incurred by the builder/employer etc; under the Building & Other Construction Workers Welfare Cess Act, 1996.

Read: 1] Central Government Notification dated 26th September 1996.
2] Government Notification No. LD 153/LET/2004 dated 1st November 2006.

Preamble:

The Government of Karnataka with a view to enforce the provisions of the Building & Other Construction Workers [Regulation of Employment & Conditions of Service] Act 1996 [hereinafter referred to as the main Act] has formulated rules namely the Building and Other Construction Workers [Regulation of Employment & Conditions of Service] Rules, 2006 vide Govt. Notification read at [2] above.

The Central Government has enacted a legislation namely the Building & Other Construction Workers Welfare Cess Act, 1996 and framed Rules there under, which provides for the levy and collection of cess on the cost of construction incurred by employers / builders for augmenting the resources of Building and Other Construction Workers Welfare Board constituted under the main Act. The Central Government's Notification has prescribed collection of cess at the rate of 1% of the cost of construction incurred by employer which shall exclude the cost of land and any compensation paid or payable to a worker or his kin under Workmen Compensation Act 1923. Levying and collection of cess is on the cost of construction in respect of Building or other Construction Works as defined under Section 2[d] of the main Act.



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The levying and collection of cess from the employer to whom the provisions of the main Act is applicable shall be mandatory and such of the employer are required to pay the cess amount to the Board constituted under the main Act. Section 3[2] of the Cess Act 1994 provides for collection of cess. The Section 3[2] is reproduced hereunder:

3[2] "The cess levied under sub-section [1] shall be collected from every employer in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority is required, as may be prescribed"

Similarly, the definition given under Sec-2[d] of the main Act, also reproduced hereunder:

2[d] "building or other construction work" means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works [including storm water drain works], generation, transmission and distribution of power, water works [including channels, distribution of water], oil and gas installations, electric lines, wireless, radio, television, telegraph, teletype and overseas, communications, airfields, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, communication towers, transmission towers and such other work may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which

- II. In respect of the local Authority, where work is carried out directly or through a contractor, the Chief Executive Officer of that establishment.
- III. In respect of the individual residential house, the owner himself.
- IV. In case of group housing, big malls, hospitals, and apartments, the builders or the contractors as the case may be.

Though, the Building & Other Construction Workers Welfare Cess Act 1996, came into operation with effect from 3rd day of November 1995, the Government has decided to collect cess now with immediate effect. In this background, following is the Government Order.

G.O.No.LD 300 LET 2006 Bangalore,
dated: 18-1-2007

In the light of the decision taken by the Government to enforce the provisions of the Building & Other Construction Workers Welfare Cess Act, 1996 it is ordered that:-

- a) All government departments, public sector undertakings and other governmental agencies / bodies carrying out any building or other construction works which are covered under Section 2[d] of the main Act shall, in case the work is carried out through a Contractor deduct 1% of the amount of the cost approved as per the tender notification from the bill at the time of making payment to the contractors and such amount so deducted from the contractors' bill shall be remitted by way of account payee cheque in favour of the Karnataka State Building & Other Construction Workers Welfare Board within 30 days of making

the provisions of the Factories Act, 1948 [63 of 1948] or the Mines Act, 1952 [35 of 1952] apply.

The main Act applies to every establishment, which employs or had employed on any day of the preceding 12 months, 10 or more workers in any building or other construction work. Thus every establishment to whom this Act applies whether appropriate government in respect of such establishment is either the Central Government or State Government, employer of such establishment shall have to collect and pay the cess amount to the Karnataka State Construction Workers Welfare Board in the manner as laid down under the Building and Other Construction Workers Welfare Cess Act, 1996 and its rules there under.

As per the provisions of the Cess Act, 1996 the following persons are liable to pay the Cess:-

- I. In respect of the government departments, public sector undertakings and other government agencies, such as BDA, BWSSB, KPTCL, KESCOM's, Railway Authorities, Airports Authorities, Land Army, Construction Corporations etc; where work is carried on by them directly without any contractor, the head of the Department and if the work is carried on through a contractor, the Authority specified in this behalf or where no Authority is specified, the Head of the Department.

1% of the total amount collected for meeting their administrative expenses.

d) The provisions of the Act is not applicable to individual residential house whose total cost does not exceed Rs.10 lakhs. In other cases, they are liable to pay the cess.

e) It is mandatory for every employer of the establishment to whom the provisions of the main Act is applicable to furnish a return in Form-I to the concerned assessing officer in terms of Section-4 of the Building & Other Constructions Workers Welfare Cess Act, 1996 and its Rules there under 1998.

By Order and in the name of the
Governor of Karnataka

Vimala Kumari
[VIMALA KUMARI]

Under Secretary to Government,
Labour Department.

To

The Compiler, Karnataka Gazette, Bangalore for publication in the next of Gazette and to supply 600 copies. [200 copies to Government, 200 to the Commissioner of Labour and 200 to the Secretary of the Board]

Copy to:

1. The Secretary to Government of India, Ministry of Labour & Employment, Shram Shakthi Bhavan, Rafi Marg, New Delhi
2. All Principal Secretaries / Secretaries, Government of Karnataka.
3. All Chief Executive Officers of Zilla Panchayats / Heads of the Department
4. All Commissioners of City Corporations / Municipal Corporations / Town Municipalities.
5. All Public Sector Undertakings
6. Chairman / Managing Directors of all Corporations / Boards
7. Secretary to Hon'ble Chief Minister, Government of Karnataka
8. PS to Hon'ble Minister for Labour and Minorities Welfare, Bangalore
9. GPA to Principal Secretary to Government, Labour Department
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such payment along with a forwarding letter addressed to the Secretary cum Chief Executive Officer, Karnataka State Building & Other Construction Workers Welfare Board, 3rd Stage, Karmika Bhavan, Bannerghatta Road, Bangalore-29.

Where tender has been submitted or finalized and work is entrusted to a contractor prior to 1-11-2000, in such cases, 1% cess has to be paid by the concerned department to Board as mentioned supra.

b) In case the aforesaid work is carried out internally or departmentally without engaging contractors, the 1% of the total cost shall be remitted by the Chief Executive of the department/organization by account payee cheque drawn in favour of the Karnataka State Building and other Construction Workers Welfare Board by the Government Departments, Public Sector Undertakings and other government bodies.

c) Where the approval of the construction work by local authority is required, all local authorities mainly Bangalore Mahanagara Palike, and all City Corporations, Municipal Corporations and Town Municipalities, Panchayats etc; shall obtain estimated cost of the construction along with building plans, which are submitted for approval by concerned employers, i.e., owners / contractors / builders etc; such bodies shall collect upfront an amount of 1% of the estimated cost furnished along with building plans, and remit by way of a crossed demand draft payable in favour of the Karnataka State Building & Other Construction Workers Welfare Board, along with forwarding letter within 30 days in terms of Rules 5[3] of the Cess Rules 1998. The local bodies before remitting the amount of cess to the board can deduct

GOVERNMENT OF KARNATAKA

No:LD 300 LET 2006

Karnataka Government Secretariat,
Vikasa Soudha,
Bangalore, dated 28-2-2007.

CORRIGENDUM

In order portion of the G.O.No.LD 300 LET 2006 dated 18-1-2007, the Para No.(c) is deleted and the following para is substituted.

- c) " Where the approval of the construction work by local authority is required, all local authorities mainly Bangalore Mahanagara Palike, and all City Corporations, Municipal Corporations and Town Municipalities, Panchayats etc; shall obtain estimated cost of the construction along with building plans, which are submitted for approval by concerned employers, i.e., owners / contractors / builders etc; such bodies shall collect by way of demand draft in favour of Karnataka State Building & Other Construction Workers Welfare Board upfront an amount of 1% of the estimated cos furnished along with building plans, and remit the demand draft to the Karnataka State Building & Other Construction Workers Welfare Board, along with forwarding letter within 30 days in terms of Rules 5[3] of the Cess Rules 1998. The Board shall give back 1% of the such total collection to the local body for the services rendered."

By order and in the name of the
Governor of Karnataka

Vimala Kumari
(VIMALA KUMARI)

Under Secretary to Government,
Labour Department.

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