

THE ANDHRA PRADESH (NON-DELTA AREA) DRAINAGE CESS
ACT, 1986.

ACT No. 20 OF 1986

ARRANGEMENT OF SECTIONS

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THE ANDHRA PRADESH (NON-DELTA AREA) DRAINAGE CESS
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ACT No. 20 OF 1986

[2nd August, 1986]

AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF DRAINAGE CESS ON ALL LANDS COMPRISED WITHIN NON-DELTA AREAS IN THE STATE OF ANDHRA PRADESH FOR THE PURPOSE OF RAISING FUNDS TO MEET THE EXPENSES INCURRED ON DRAINAGE SCHEMES UNDERTAKEN IN NON-DELTA AREAS AND FOR MATTERS CONNECTED THEREWITH.

BE it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-seventh Year of the Republic of India as follows:

1. Short title commencement and application :- (1) This Act may be called the Andhra Pradesh (Non-Delta Area) Drainage Cess Act, 1986.

(2) It shall come into force on such date as the Government may, by notification, appoint.

(3) It shall apply, -

(i) in the first instance to the non-delta area under the Nallamada drainage basin;

(ii) to such other non-delta areas in the State on such date as the Government may, by notification appoint.

2. Definitions:- In this Act, unless the context otherwise requires, -

(a) "Board" means the Krishna, Godavari and Pennar Delta Drainage Board established under section 7 of the Andhra Pradesh (Krishna, Godavari and Pennar Delta Area) Drainage Cess Act, 1985;

(b) "Collector" means any officer in-charge of a revenue division and includes a Deputy Collector, a Sub-Collector and an Assistant Collector;

(c) "Drainage cess" means the tax leviable and collectable under section 3;

(d) "Drainage scheme" means any scheme for the improvement of drains in the non-delta area and for the formation of flood moderating reservoirs in the upland areas across the streams flowing into the non-delta area and includes any scheme relating to the following works in the non-delta area which are owned or controlled by the Government or constructed or maintained by them and not handed over to any person:-

(i) channels whether natural or artificial for the drainage of waste or surplus water and escape channels from an irrigation work together with dams, embankments, weirs, sluices, groynes, pumping sets and other works connected with or auxiliary to all such channels;

(ii) all works for the protection of lands from floods or from erosion.

Explanation:- For the purpose of this clause any part or stage of a scheme shall be deemed to be a scheme;

- (e) "Government" means the State Government;
- (f) "land" means wet or dry land;
- (g) "non-delta area" means the area comprising all the lands other than the lands in the deltas of the Krishna, Godavari and Pennar rivers irrigated whether by flow or lift under the network of canals from any drain;
- (h) "notification" means a notification published in the *Andhra Pradesh Gazette* and the work "notified" shall be construed accordingly;
- (i) "owner" in relation to any land, means the person liable to pay the public revenue due on the land and includes a ryot having a permanent right of occupancy within the meaning of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908.

Explanation: The expression "person liable to pay the public revenue" in relation to any land in respect of which no public revenue is payable means the person who would have been liable to pay public revenue had it been payable on such land;

- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "upland area" means any area other than the delta area.

3. Levy and collection of drainage cess:- (1) There shall be levied and collected by the Government for a period of five years from the date of application of this Act, as a drainage cess on every land in the non-delta area for the purposes of this Act, a tax at such rate per hectare per annum not exceeding rupees fifty as the Government may by notification specify.

(2) Nothing in sub-section (1) shall prevent the Government from levying and collecting at any time after the expiration of the period of five years mentioned in that sub-section the drainage cess or any arrears pertaining thereto which is leviable or collectable during the said period of five years.

(3) The drainage Cess leviable under this section on any land shall be payable by the owner of such land.

4. Procedure to be followed before levying drainage cess :- (1) Before levying the drainage cess in respect of any land, the Collector shall cause a consolidated notice for the entire period of five years mentioned in sub-section (1) of section 3 to be served upon the owner of the land requiring him to make payment for each year of such amount of the drainage cess and within such period as may be specified therein.

(2) A notice under sub-section (1) may be served on the owner of the land in the manner prescribed.

(3) A separate notice to the same effect shall be served in the prescribed manner on all persons known or believed to be the owners or interested in the lands specified in the notice so far as such service may be practicable.

5. Appeal :- (1) Any person aggrieved by the levy of drainage cess under this Act may, within sixty days of the service of the notice referred to in sub-section (1) of section 4 appeal to such authority as the Government may, by notification, appoint in this behalf and the said authority may pass such order on the appeal as it thinks fit.

(2) Any order passed by the appellate authority under sub-section (1) shall be subject to the provisions of section 6.

6. Revision :- The Government may at any time either *suo motu* or on an application, call for and examine the record relating to any order passed or proceeding taken by the Collector under this Act or by the appellate authority under section 5 for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings and pass such order in reference thereto as they think fit:

Provided that no order adversely affecting any person shall be passed under this section unless such person has been given an opportunity of making his representation.

7. Powers and functions of the Board :- (1) The Board constituted under section 7 of the Andhra Pradesh (Krishna, Godavari and Pennar Delta Area) Drainage Cess Act, 1985 shall exercise such powers and perform such functions as the Government may, from time to time, assign to it under this Act.

(2) Subject to such rules as may be made in this behalf the Board shall appoint a Committee for the purpose of performing such functions as the Board may assign to it.

8. Constitution of the proceeds of drainage cess into a separate fund and its administration and application :- (1) The proceeds of the drainage cess levied and collected under this Act, reduced by the cost of collection as determined by the Government, shall after due appropriation made by the Legislative Assembly of the State by law, be constituted into a fund to be called the "Non-Delta Drainage Cess Fund".

(2) In addition to the proceeds referred to in sub-section (1) any moneys received from the State or Central Government or any source for the purposes of this Act, shall be credited to the Fund.

(3) The Fund shall vest in, and be administered by the Board in such manner as may be proscribed.

(4) The Fund, in so far as relates to the proceeds of the drainage cess levied and collected in a division shall be applied towards meeting the cost of the drainage schemes which the Board may, with the concurrence of the Government, undertake in that division. The expenses of the Board and its committees shall also be met out of the Fund:

Provided that it shall not be necessary to obtain the concurrence of the Government as aforesaid in respect of such class of drainage schemes as may be prescribed.

9. Drainage cess payable under this Act to be treated as public revenue upon the land. Act 2 of 1964 :- The drainage cess payable under this Act by an owner in respect of any land shall be deemed to be public revenue due upon the said land and the provisions of the Andhra Pradesh Revenue Recovery Act, 1964 shall apply.

10. Powers of Government to fix instalments, etc., of drainage cess :-
Where the Government are of opinion that power of it is necessary so to do, they may, by notification, fix the number of installments in which and the time within which the drainage cess shall be payable by any owner or any class of owners.

11. Exemption or reduction of drainage cess :- (1) If, in the opinion of the Government, the enforcement of all or any of the provisions of this Act causes undue hardship on account of unforeseen calamity or any other reasonable cause to an owner or class of owners in respect of any land or class of lands held by such owner or class of owners, the Government may, by notification, and for reasons to be recorded therein,-

(a) grant exemption or make a reduction in the rate of drainage cess payable,-

(i) by any owner or class of owners;

(ii) in respect of any land or class of lands held by such owner or class of owners; and

(b) cancel such exemption or vary such reduction.

(2) Any notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, on the Table of the Legislative Assembly of the State, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and shall be subject to such modification or annulment as that Assembly may make.

12. Bar of Jurisdiction of Civil Courts :- No Civil Court shall entertain any suit or other proceedings in respect of any order or decision passed by the Collector, the appellate authority or the Government under this Act or in respect of any other matter falling within the scope of any of those authorities.

13. Power to give directions :- The Government may give such directions to the Board as appear to them to be necessary for carrying out any of the provisions of this Act or of any rule, notification or order made hereunder and the Board shall comply with every such directions.

14. Power to make Rules :- (1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this section shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session, or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date, on which the modification or annulment is notified have effect only in such modified form or shall stand annulled as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. Repeal of Act 37 of 1976:- The Andhra Pradesh (Non-Delta Area) Drainage Cess Act, 1976 (Act 37 of 1976) is hereby repealed.