



**GUIDELINES ON IMPLEMENTATION OF
THE BUILDING & OTHER CONSTRUCTION
WORKERS (RE&CS) ACT, 1996
AND
THE BUILDING & OTHER CONSTRUCTION
WORKERS WELFARE CESS ACT, 1996**

Orissa Building & Other Construction Workers' Welfare Board

Bhubaneswar

GUIDELINES ON IMPLEMENTATION OF THE BUILDING & OTHER CONSTRUCTION WORKERS (RE&CS) ACT, 1996 AND THE BUILDING & OTHER CONSTRUCTION WORKERS WELFARE CESS ACT, 1996 AND THE RULES THEREUNDER.

- 1) The Building & Other Construction Workers (RE&CS) Act, 1996 has been enacted to regulate the employment & conditions of service of building & other construction workers and to provide for their safety, health & welfare measures, etc. The Building & Other Construction Workers Welfare Cess Act, 1996 has been made to provide for the levy & collection of cess on the cost of construction with a view to augmenting the resources of the Building & Other Construction Workers Welfare Board formed under the Main Act from which Welfare measures are to be extended to the building workers.
- 2) **Sec. 2(d) main Act:- “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 drainage works), generation, transmission, and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply .Thus factories under construction are also liable for cess. State Government has included minor ports also in this list.
- 3) **Sec. 2(e). main Act:- “Building worker”** means a person who is employed to do any skilled, semiskilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person-
 - (i) who is employed mainly in a managerial or administrative capacity ; or
 - (ii) who, being employed in a supervisory capacity, draws wages exceeding one fixed for supervisor under Industrial Disputes Act(6500 pm) or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature ;

- ◆ The definition includes all DLRs / NMRs / Work Charged employees / Contractual employees in Public Authorities /Local Authorities who are engaged in building or other construction activities doing any skilled, semi skilled or unskilled, manual, supervisory, technical or clerical work. It may be remembered that maintenance is included as construction.

4) **Sec. 2(i). Main Act: - "Employer,** in relation to an establishment, means the owner thereof, and includes,-

- (i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department ;
- (ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;
- (iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor.

Here for any work directly done by a public authority i.e. a government office, the cess is to be paid by such office. Local authority includes municipalities, NAC's, Development Authorities, Improvement trust or SPA, or corporations. They are to deduct or cause to be deducted cess @ 1% from the bills.

5) **Registration of Establishments [Sec. 6. Rule 21]**

District Labour Officers have been declared as Registering Officers.

Within a period of 60 days of commencement of the Act, or the date of implementation, the employer is required to register his establishment.

6) **Procedure:-**

- (i) within a period of 60 days of the commencement of the establishment or 60 days from the date on which the Act becomes applicable, every employer is to apply for Registration of the Establishment in FORM-I in triplicate. (Rule 21 (1)).

- (ii) Application to be accompanied by a Treasury Challan showing payment of fees in the following manner-

Upto 100 worker	-	Rs. 100.00
101 to 500	-	Rs. 500.00
501 or more	-	Rs. 1000.00

- (iii) Every employer will intimate Registering officer thirty days in advance of commencement of any work with details as required.

Failure to register or construct without registration or due intimation involve prosecution with imprisonment upto three months and heavy fine.

7) REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES [Rules, 264 & 265; B & OCW (RE & CS) Rules, 2002]

District Labour Officers have been authorized to act as the Registering Officers for the construction workers also.

Building worker within the age group of 18 to 60 (Not completed 60 years of age) and who has been engaged not less than 90 days during the preceding 12 months in any construction activities is eligible for Registration as a beneficiary.

8) Procedure:

Application in Form- XXVII (Rule 265 (1); B&OCW(RE & CS) Rules, 2002) accompanied with the following documents-

- (i) Certificate of Age Proof (School leaving certificate/ Birth Certificate / Certificate issued by Government Medical Officers).or a simple declaration by the worker of his age.
- (ii) Certificate of employment proof from the employer or Regd. Trade Union Working for construction workers or Certificate by the area inspector under the Act.
- (iii) Nomination in Form- XXXI (Rules, 265 (2), 266(4)).
- (iv) 3 nos. of small size passport attested photograph,
- (v) Rs. 20, Registration Fees in cash to be paid on proper receipt to the Registering Officer.

Registering Officer, after satisfying himself of all the details, is to register the worker as beneficiary in the Register maintained by him and issue an identity card affixing the photograph of the worker in Form XXVIII (Rule, 265 (1)).

9) Levy of Cess : (Sec.3) Welfare Cess Act:- (1) There shall be levied and collected a cess for the purposes of the Building & Other Construction Workers (RE&CS) Act, 1996 at such rate not exceeding two percent, but not less than one percent of the cost of construction incurred by an employer as the Central Government may, by notification in the Official Gazette from time to time specify, The Central government has notified on 28/09/1996 cess to be collected at 1% of the project cost- The State Govt. have ordered collection with effect from 15/12/2008.

(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.

(3) The proceeds of the cess collected under sub-section (2) shall be paid by the local authority or the State Government collecting the cess to the Board after deducting the cost of collection of such cess not exceeding one per cent, of the amount collected.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess liable under this Act including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed on the basis of the quantum of the building or other construction work involved.

Cost includes all material, labour, design, consultancy fees, pay of supervisory staff, and salary of maintenance staff besides any material and labour costs. Cost of land and any compensation under workmen compensation Act is not included.

The Govt. in Labour & Employment Department vide Resolution No. 12653, dt. 15.12.08 have issued guidelines for collection of cess.

- ◆ Time & manner of collection; (Sec.3) Welfare Cess Act, 1996 read with Rule 4 of the Welfare Cess Rulfts, 1998):

(10)(1) Time of Collection:

Cess to be paid by the employer within 30 days of completion of construction work or within 30 days of its assessment finalized by the Assessing Officer which ever is earlier to the Cess Collector.

If the duration of the Construction work exceeds One year, Cess to be paid within 30 days of completion of one year and every year there after on the cost of construction incurred during the relevant period.

(10)(2) Manner of Collection [Sub Rule (2 to5) of Rule 4 of the Welfare Cess Rules, 1998]

If the construction work pertains to Govt. Departments / Public Sector Undertakings / Local Bodies / Local Authorities, the Cess is to be collected by way of deduction at source from the bills paid for such work including for any materials advanced.

Where construction work requires approval of plan by Local Authority, the employer is to pay Cess through Crossed Demand Draft in favour of the Board alongwith Application for approval to the Local authority. The assessment of cost will be made by the approving authority.

If the duration of construction exceeds One year, demand draft may be relating to one year from the date of commencement followed with subsequent year.

The employer may pay Cess in Advance basing on the estimated cost along with Notice regarding commencement of work required to be given u/S. 46 of the main Act. The advance payment is subjected to adjustment in the final assessment made by the Assessing Officer.

10(3) Transfer of Cess Proceeds to the Board

Govt. Offices, PSUs, Local Authorities, Cess Collectors shall transfer the cess proceeds within 30 days of its receipt to the Board after deduction of actual collection expenses not exceeding 1% of the total collection. The demand draft is to be deposited with DLO concerned with details but drawn in favour of the secretary, Building and Other Construction Workers Welfare Board, Bhubaneswar. The Board shall give back 1% of such total collection to the Govt. office, PSU, Local bodies, etc. as actual collection expenses (Clause 7(c) of the Resolution dt. 15.12.08).

11) **Information to be furnished by the employer to the Assessing Officer [Rule-6, Welfare Cess Rules, 1998]**

The employer is to furnish information in Form-1 to the Assessing Officer within 30 days of commencement of work or 30 days of payment of cess as the case may be.

- ◆ Central Govt. Departments, Central PSUs, Corporations, etc. executing building or other construction works are to deposit cess with the Building & Other Construction Workers' Welfare Board by deducting the cess @1% from the bills payable for all types of building or other construction, alteration, repairs, maintenance or demolition works (Rule 4 (3) Building & Other Construction Workers Welfare Cess Rules, 1998)

Examples of such agencies: Airport Authority of India, Railways, IRCON International, Rail Vikash Nigam Ltd., CPWD. BSNL, VSNL. etc.

- ◆ State Govt. Departments, State PSUs, Corporations, Collectors of the district; PD, DRDA; ITDA, Local Authorities, City Development Authorities like BDA, CDA, etc.; Block and Panchayat level Officers, Local Bodies, etc. executing building or other construction works to deposit the cess with the Building & Other Construction Workers' Welfare Board by deducting the cess @1% from all the bills payable for all types of building or other construction, alteration, repairs, maintenance or demolition works (Rule 4 (3), B & O C W Welfare Cess Rules, 1998). **The Collectors have been apprised of the provisions of the twin Acts and have been instructed to take action in a Video Conference dt. 19.02.09 held by the Commissioner-cum-Secretary to Govt., Labour & Employment Department.**

12) **Welfare Benefits to be extended by the Board:** The Orissa Building & Other Construction Workers' Welfare Board, Bhubaneswar will extend following welfare benefits to a registered beneficiary-(1) Accident Benefit (2) Medical Benefit, (3) Pensionary Benefit, (4) Insurance Benefit, (5) Skill Upgradation Assistance, (6) Tool Advance, (7) Maternity Benefit for women workers and wife of male worker, (8) Scholarship for education of children of the beneficiary, (9) Loans & Subsidies for building of houses by the beneficiaries, etc.

13) The failure to pay cess in time-

Delay in payment of cess will invite penalty equal to cess and interest at the rate 2% per month and is recoverable as arrears of land revenue.

These guidelines are given in nutshell. For details, DLO's could be contacted or Acts and Rules could be consulted. Any doubts lingering after DLO clarification may be referred to Labour & Employment Department, Government of Orissa, Bhubaneswar-751001.

Labour and Employment Department

Memo. No.

Date

Under Secretary