



## **The Jharkhand Green Energy Cess Act, 2021**

Act No. 6 of 2021

### **Keywords:**

Cess, Captive Power Plant, Unit

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## विधि (विधान) विभाग

### अधिसूचना

7 जुलाई, 2021

संख्या-एल०जी०-03/2021-40/लेज०-- झारखंड विधान मंडल द्वारा यथा पारित और माननीय राज्यपाल द्वारा दिनांक-02/07/2021 को अनुमत झारखण्ड हरित ऊर्जा उपकरण अधिनियम, 2021 का निम्नांकित अंग्रेजी अनुवाद झारखंड राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है, जिसे भारत का संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जाएगा।

### The Jharkhand Green Energy Cess Act, 2021 (Jharkhand Act - 06, 2021)

#### **An Act to levy Green Energy Cess on generation, distribution, sale and consumption of electricity in the State of Jharkhand.**

Be it enacted by the Legislature of the State of Jharkhand in the Seventy Second year of the Republic of India as follows :-

#### **1. Short title, extent and commencement :-**

- (1) This Act may be called as Jharkhand Green Energy Cess Act, 2021.
- (2) It extends to the whole of the State of Jharkhand.
- (3) It shall come into force with immediate effect.

#### **2. Definitions**

In this Act, unless the context otherwise requires:-

- (a) "cess" means a Green Energy cess under section 3 of this Act ;
- (b) "Collector" or "Inspector" means any person or authority, authorized as such by the State Government to collect tax under section 8 of this Act;
- (c) "Captive Power Plant" shall have the meaning as defined in sub-section (8) of section 2 of the Electricity Act, 2003;
- (d) "Unit" means 1 Kilowatt power consumed or generated during 1 hour;
- (e) "fund" means the Green Energy Fund established under section 6;
- (f) "generating company" means any company or corporate body or association or body of individuals, whether incorporated or not, or any individual or artificial juridical

person, which owns or operates or maintains a generating station or standby generating plant using non-renewable sources of energy;

(g) "Appellate authority" means an officer appointed as such by the State Government under section 18 of this Act;

(h) "State Government" means the Government of the State of Jharkhand;

(i) Words and expressions used but not defined in this part and defined in Jharkhand Electricity Duty Act, shall have the meaning respectively assigned in that Act.

### **3. Levy and Collection of Green Energy Cess:**

(1) The cess levied and collected would be levied as Green Energy Cess for the purpose of this Act.

#### **(2) For Generating Company:-**

Every generating company based on non renewable sources of energy located within the state of Jharkhand shall pay to the State Government at the prescribed time and in the prescribed manner a Green Energy Cess on the total units of electrical energy sold or supplied to a distribution licensee or consumer in the state of Jharkhand or consumed by itself or by its employees in the prescribed period. The levied Cess shall be payable by the generating company.

#### **(3) For Consumers operating at voltage level 33Kv and above:-**

Green Energy Cess shall be levied on the electricity supplied to consumers of the State operating at voltage level 33kV and above. The amount of Cess would be collected by Distribution Licensees and remitted to the Green Energy Fund of State Government. The levied Cess shall be payable by the Distribution Licensees.

#### **(4) For Power Generation from Captive Power Plant :-**

Every person owning or operating a captive generation plant shall pay a Green Energy cess on the total units of electrical energy sold or supplied to a distribution licensee or consumer in the State of Jharkhand or consumed by its employees during prescribed period. The levied Cess shall be payable by the Captive Power Plant.

Provided that no cess shall be payable in respect of electrical energy consumed by itself or the person owning or operating a captive generating plant.

(5) No cess shall be payable in respect of electrical energy sold or supplied by any Generating Company or Captive Power Plant to an entity in which the Government of Jharkhand has fifty one percent or more equity.

Provided that no cess shall be payable in respect of electrical energy sold or supplied or consumed by itself or its employees by any Generation Company in which the Government of Jharkhand has fifty one percent or more equity.

- (6) Such Cess as per sub-section (1) of this section shall be **upto Fifteen paisa per unit** of the electricity sold or supplied as prescribed in sub-section (2), (3) and (4). This rate of cess can be changed by the State Government by notification from time to time as per the need of the hour.

#### **4. Registration**

- (1) Whoever generates electricity i.e. generating company and captive generation plant situated in the State and selling and supplying power to Distribution licensees or consumers in the state or distribution licensees selling power to such consumers operating at voltage level 33kV and above shall be required to apply for and obtain a registration certificate from the Collector or Inspector of Green Cess.
- (2) The application for the registration shall be made in such form and within such period as prescribed.
- (3) On receipt of an application for registration under sub-section (2) of section 4, the Collector or Inspector on its satisfaction, may issue a certificate of registration in such form as may be prescribed.
- (4)

#### **5. Crediting of proceeds to consolidated fund of the State:-**

The proceeds of the cess, interest and penalty recovered under this Act shall first be credited to the Consolidated Fund of the State, and after deduction of the expenses of collection and recovery there from shall, under appropriation duly made by law in this behalf, be entered in and transferred to a separate fund called the Green Energy Fund, for being utilized exclusively for the purposes of this Act.

#### **6. Establishment of Green Energy Fund**

- (1) There shall be established a fund called "Green Energy Fund" for the purpose of this Act.
- (2) The Fund shall be under the control of the State Government and there shall be credited therein:-
- (a) any sums of money paid under section 5
- (b) the sums by way of any grant by the State Government.

## **7. Utilization and Management of the Fund**

- (1) The fund shall be utilized for the following purposes:-
  - (a) promoting the generation of electricity through renewable energy sources,
  - (b) purchase of non-conventional energy and purchase of RECs (Renewable Energy Certificates), and
  - (c) taking initiatives for protecting environment in the State.
- (2) The Fund may be expended for executing schemes for development and improvement of generation of electricity by renewable and non-conventional sources of energy and improvement and development of power supply in the State.
- (3) The State Government shall have the power to administer the Fund and shall take such decisions as may be required for the proper utilization of the Fund.
- (4) The State Government shall also have the power to allocate and disburse such sums from the Fund as it considers necessary to the concerned Departments responsible for achieving the objective of this Act.

## **8. Cess authorities**

- (1) For carrying out the purpose of this Act, the State Government shall appoint a person to be the Collector or inspector of Green Energy Cess for the whole of the State of Jharkhand and such other officers and employees to assist the Collector or Inspector as the State Government thinks fit who shall exercise such powers and perform such duties as may be conferred or imposed on them by the Collector or Inspector.
- (2) The State Government may by notification in the Official Gazette, appoint any person as it thinks fit to be Collector or Inspector for the purposes of this Act who shall exercise such powers and perform such duties as may be conferred or imposed on them by or under this Act within the limits of such area as the State Government may specify therein.

## **9. Power and Duties of Cess authorities:-**

- (1) The Collector or the Inspector may for the purposes of this Act:-
  - (a) Can inspect such books and records as may be necessary for ascertaining or verifying the amount of Cess leviable under this Act;

(b) enter and search any premises where electricity is or is believed to be generated for the purpose of:

- (i) verifying the statements made in the books of account kept, and returns submitted,
- (ii) reading and getting tested the various meters and generator panels in the prescribed manner,
- (iii) verifying the particulars required in connection with the levy of cess,

(c) Exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made there under.

(d) if any generator or Captive Power Plant or Distribution Licensee (consumers operating at voltage level of 33 kV and above), as the case may be, does not comply with such requisition or fails to give true information, it shall be precluded from objecting to any assessment made by the assessing authority in respect of such project or building or commercial establishment.

(2) All searches made under sub-section (1) of section 9 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

#### **10. Account, Books, returns and assessment:-**

- (1) Each generating company or Captive Power Plant that is liable to pay cess as per sub-section (2) and (4) of section 3 shall install a meter for recording gross generation of electricity as provided in Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and same shall be maintained and operated in a manner as may be prescribed.
- (2) Each generating company or Captive Power Plant liable to pay cess as per the provisions of this Act, shall keep and maintain books of account in the prescribed form and shall submit to the Collector, returns in such form and at such times as may be prescribed, showing the units of energy generated, the amount of Cess payable and that paid, fuel used and such other details as may be prescribed.
- (3) Distribution Licensees shall keep and maintain books of account of all consumers operating at voltage level of 33 kV and above of Jharkhand in the prescribed form and shall submit to the Collector or Inspector, returns in such form and at such times as may be prescribed, showing the units consumed by the consumers of the state operating at the voltage level 33kV and above, the amount of Cess payable and that paid and such other details as may be prescribed.

## 11. Self-Assessment

- (1) On commencement of this Act, every generating company or captive power plant or Distribution Licensees (for consumers operating at voltage level of 33kV and above) that are liable to pay cess as per Section 3 under this Act, shall make self-assessment of cess in such manner and shall file a return for the period, for which cess is to be paid, in such form, as may be specified by the State Government by notification.
- (2) Every generating company or Captive Power Plant or Distribution Licensees (for consumers operating at voltage level 33 kV and above), as the case may be, liable to pay cess under this Act, shall pay to the collector or Inspector, the full amount of cess, as assessed by him according to the provision of this Act.
- (3) If any generating company or Captive Power Plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, who has made self-assessment under sub section (1) of section 11, later on discovers any bona-fide error or omission in the self-assessment, he may rectify such error or omission as such rectification results in a higher amount of cess due than the original cess, he shall make payment to the additional amount of cess within a period of 30 days from the date of rectification. In case the cess paid is more than the cess due, the excess payment of cess shall be refundable on filing an application to the Collector or Inspector by the generating company or the Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be.
- (4) With a view to ascertain the correctness of returns the collector may check the returns, documents or information submitted by the generating company or Captive Power Plant or the distribution licensees (for consumers operating at voltage level 33kV and above), as the case may be, liable to pay cess under this Act.
- (5) (a) Where, after filing a return under Sub-Section (1) of Section 11, it is found that even after adjustment of any cess paid on the basis of such returns, an additional cess is still due, an intimation in this regard shall be sent to the generating company or the distribution licensees (for consumers operating at voltage level 33kV and above), as the case may be, by the collector or Inspector, specifying therein, the amount of cess so payable and such intimation shall be deemed to be a demand notice.  
  
(b) Notwithstanding anything contain in clause (a) of sub-section 5 of section 11, the collector or Inspector on his own motion or on the basis of information received by him,

may, make an assessment to the best of his judgment, of the cess, payable by the generating company or the Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, where –

- (i) generating company or Captive Power Plant or the Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, fails to file a return under sub-section (1) of Section 11; or
- (ii) there is definite reason to believe that a return filed under sub-section (1) of Section 11 by the generating company or Captive Power Plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, is not correct or complete.
- (c) If, after making assessment under clause (b) of Section 11, the collector comes to the conclusion that a cess become due from the generating company or captive power plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, it shall send an intimation to the generating company Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, by specifying therein the amount of due cess, which shall deemed to be a demand notice.
- (d) The amount of cess under clause (a) or (c) of sub-section 5 of section 11, shall be paid by the generating company or captive power plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be, within a period of 30 days from the date of issue of demand notice.

Provided that before directing the Generating company or Distribution Licensees (for consumers operating at voltage level 33kV and above) or captive power plant, as the case may be, to pay the amount of cess under Clause (a) or (c) of sub-section 5 of section 11, he shall be given an opportunity of being heard by the collector or Inspector.

- (6) The notice, demand notice or any order, passed under this Act shall be deemed to be duly served, if the same is sent on the address of the Generating Company or Captive Power Plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), as the case may be
  - (a) by registered post; or
  - (b) delivered by any person deputed by the collector or Inspector; or
  - (c) delivered to the concerned generator or consumer through courier; or



(d) by e-mail.

## **12. Recovery**

- (1) Where a generating company or captive power plant or Distribution Licensees (for consumers operating at voltage level 33kV and above), which is liable to pay cess in the prescribed time, does not pay such amount of cess within such time limit, that shall be paid by such generating company or captive power plant or Distribution licensees (for consumers operating at voltage level 33kV and above), for the period commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of cess, simple interest at the rate as may be prescribed, not exceeding eighteen percent per annum.
- (2) All sums payable as cess or interest under this Act, if not paid within the prescribed period shall be deemed to be in arrears, and thereupon the amount of cess along with amount of interest to be levied under this Act shall be recoverable.
- (3) Where any generating company or captive power plant or distribution licensees (for consumers operating at voltage level 33kV and above), is liable to pay any amount on account of this cess, penalty or interest, and it pays amount less than amount due, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards penalty and thereafter the balance, if any, towards the amount of cess.

## **13. Penalty:-**

If the Generating company or Captive Power Plant or the distribution licensees (for consumers operating at voltage at 33kV and above), as the case may be, fails to pay the cess in accordance with the provisions of this Act, it shall be liable to pay in addition to the cess so payable, a penalty thereon at the rate of two percent per month on the cess payable.

## **14. Penalty for failure to keep books of accounts.**

If any generating company or Captive Power Plant or Distribution Licensees (for consumers operating at voltage level 33kV and above):-

- (a) fails to keep books of account or to submit returns in accordance with the provisions of this Act and rules made there under, or
- (b) produces false accounts, registers or documents, or knowingly furnishes false information, or
- (c) willfully obstructs the Collector or inspector in the exercise of the powers conferred upon him by or under this Act, or

(d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section, shall on conviction, be punished with penalty as per the provision of section 13.

**15. Penalty for tampering with meters.**

(1) Whoever (in case of Generating company or Captive Power plant), dishonestly: -

(a) tampers with a meter, installs or uses a tampered meter, installs or uses current reversing transformer, loop connection or resorts to any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity generated is not correctly recorded; or

(b) damages or destroys an electric meter, apparatus, equipment's or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering and recording of electricity for the purpose of this Act; or

(c) uses such means which can lead to the obstruction of the correct reading of the electricity generated, shall be punishable with penalty which shall not be less than on the first detection, the financial gain on account of such transgression and in the event of second or subsequent detection the penalty imposed shall not be less than two times the financial gain on account of such transgression.

(2) For calculation of such financial gain, it shall be presumed that such Generating company or Captive Power Plant has been generating electricity continuously for a period of-

(a) 1 year in case where aggregate installed capacity is less than 10MW, and

(b) 2 years in other cases,

Immediately preceding the date of inspection or detection, whichever is earlier, unless contrary is proved. It shall also be presumed that such generating company was generating electricity at full installed capacity throughout such period.

**16. Power to Seal:-**

If the cess and penalty payable under this Act, are not paid by the generating company or captive power plant or distribution licensees (for consumers operating at voltage at 33kV and above), as the case may be, within a period of 60 days from the date of issue of demand notice, the collector, or Inspector shall seal the project or building or institution, as the case may be. The sealing shall remain effective till the cess and penalty are recovered.

**17. Authority competent to impose penalty:-**

The collector or inspectors shall be competent to impose penalty under this Act. No penalty shall, however, be imposed, unless the person or institution concerned is afforded an opportunity of being heard.

**18. Appeal**

(1) Any generating company or Captive Power Plant or distribution licensees (for consumers operating at voltage at 33kV and above) aggrieved by the decision of the Collector or Inspectors under sections 11, 12, 13, 14, 15 and 16 may prefer an appeal to the appellate authority nominated by State Government within sixty days from the date of such decision.

Provided that no appeal against an order of assessment under section 16 shall be entertained by the State Government unless such appeal is accompanied by satisfactory proof of payment of fifty percent of cess directed to be paid by the Collector or Inspectors in respect of which an appeal has been preferred.

The appellate authority may, after giving an opportunity of being heard to the appellant and to the cess authorities pass such order, as it may deem appropriate by recording reasons in writing, and the order of the appellate authority so passed, shall be final, unless revised by the State Government.

(2) Where no appeal is preferred against a decision of the Collector or Inspector or cess authorities, the State Government may of its own motion or otherwise within one year from the date of any order passed by the Collector or Inspector or cess authorities, call for and examine the record of any proceedings of the Collector or Inspector or cess authorities, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of the Collector or Inspector or cess authorities, and pass such order thereon as it thinks fit.

In discharging its functions, the appellate authority shall have all the powers of a Civil Court.

(3) The order passed by the State Government in appeal or review shall be final and shall not be called in question in any court of law.

**19. Penalty not to affect other liabilities:-** The penalty imposed under this Act shall be in addition to, and not in derogation of, any offence or liability in respect of any contravention of the provisions of any other Act.

- 20. Officers and employees to be public servants:-** The Collector or Inspector and other officers and employees appointed under this Act shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.
- 21. Bar to suits:-** No suit, prosecution or other legal proceedings shall lie against Collector or Inspector under this Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made there under.
- 22. Bar on jurisdiction:-** No civil court shall have any jurisdiction in any manner, in respect of which, the State Government or any other person or authority is empowered by this Act to take cognizance, and dispose it of, and the manner in which the State Government or such person or authority, may exercise any power, vested in it or him by or under this Act.
- 23. Rules**
- (1) The State Government may make by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-
- (a) manner and rate for levy and collection of cess under section 3;
  - (b) other powers and duties of cess authorities under section 9;
  - (c) manner and form for maintaining books of accounts and returns and submission of returns under section 10;
  - (d) manner in which the audit and verification shall be made by the Collector or Inspector;
  - (e) rate of simple interest payable under section 12;
  - (f) form of application for registration and period under section 4;
  - (g) form of certificate of registration under section 4;
  - (h) such other matters which is to be or may be, prescribed under this Act.
- (3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*:  
Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.
- (4) All rules made under this section shall be laid before the State Legislature as soon as may be after it is made.
- (5) Any rescission or modification made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

**24. Power to remove difficulties:-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removal of difficulty.

झारखंड राज्यपाल के आदेश से,

संजय प्रसाद,  
प्रधान सचिव-सह-विधि परामर्शी  
विधि विभाग, झारखंड, राँची ।

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