

**ORISSA ACT VII OF 1947**  
**THE MADRAS IRRIGATION CESS (ORISSA**  
**AMENDMENT) ACT, 1947**

[Received the assent of the Governor on the 18th March 1947, first  
published in the Orissa Gazette on the 22nd March 1947]

AN ACT FURTHER TO AMEND THE MADRAS IRRIGATION CESS ACT, 1865,  
FOR CERTAIN PURPOSES IN ITS APPLICATION TO THE  
PROVINCE OF ORISSA

WHEREAS it is expedient further to amend the Madras Madras Act  
Irrigation Cess Act, 1865 in its application to the Province VII of 1865,  
of Orissa for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Madras Irrigation Cess  
(Orissa Amendment) Act, 1947.

(2) It shall come into force at once.\*

Substitution  
of new  
section for  
section 1,  
Madras Act  
VII of 1865.

2. For section 1 of the Madras Irrigation Cess Act, 1865 Madras Act  
(hereinafter referred to as the said Act), the following section VII of 1865.  
shall be substituted, namely:—

Power to  
levy water-  
cess in  
addition to  
assessment  
on loan.

“1. (1) (a) Whenever water is supplied or used for purposes  
of Irrigation from any river, stream, channel, tank or work  
belonging to, or constructed by or on behalf of the Crown, and

(b) Whenever water from any such river, stream, channel,  
tank or work, by direct flow or percolation, or by indirect flow,  
percolation or drainage from or through adjoining land irrigates  
any land under cultivation, or flows into a reservoir and thereafter,  
by direct flow or percolation, or by indirect flow, percolation or  
drainage from or through adjoining land, irrigates any land under  
cultivation, and in the opinion of the Revenue Officer empowered  
to charge water-cess, subject to the control of the Collector and  
the Revenue Commissioner, such irrigation is beneficial to, and  
sufficient for the requirements of, the crop on such land,

it shall be lawful for the Provincial Government before the  
end of the revenue year succeeding that in which the irrigation  
takes place to levy at pleasure a separate fee for such water  
(hereinafter referred to as the water-cess), and the Provincial  
Government may prescribe the rules under which and the rates  
at which, such water-cess shall be levied, and alter or amend  
the same from time to time :

Provided that where a zamindar or inamdar or any other  
description of landholder not holding under ryotwari settlement  
is by virtue of engagements with the Crown entitled to irrigation  
free of separate charge, no water-cess under this Act shall be  
imposed for water supplied to the extent of this right and no  
more :

\*Extended to the partially-excluded areas of Ganjam Agency and  
Koraput district by notification No. 4233-R., dated the 7th June 1947 (Vide  
Orissa Gazette, dated the 13th July 1947, Part III, page 183).

Provided further that a Zamindar or inamdar or any other description of landholder not holding under ryotwari settlement shall be liable to pay the water-cess under this Act except to the extent to which he is entitled to irrigation free of separate charge under the first proviso:

Provided also that no water-cess shall be leviable under this Act in respect of water supplied or used for the irrigation of land held under ryotwari settlement which is classified and assessed as wet, unless the land be irrigated, whether voluntarily or involuntarily and whether wholly or in part—

(i) from any source hereinbefore mentioned, not being a source which has been assigned by the Revenue-authorities or adjudged by a competent Civil Court as the source of irrigation of such land; or

(ii) from any source assigned or adjudged as aforesaid in respect of such land, otherwise than in accordance with any notification or order of the Provincial Government or of any authority subordinate to them regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge.

(2) For the avoidance of doubt it is hereby declared that water-cess leviable under this Act is not a tax on land but is a fee for the water supplied or used for the irrigation of land.

Amendment of section 1-A, Madras Act VII of 1865.

3. In sub-section (1) of section 1-A of the said Act, for the words "In the case of land included in an estate the cess due under this Act shall", the words "In respect of water supplied or used for the irrigation of land included in an estate the water-cess due under this Act shall" shall be substituted.

Insertion of new section 1-B, Madras Act VII of 1865.

4. After section 1-A of the said Act, the following section shall be inserted, namely:—

Rules to have effect as if enacted in the Act.

"1-B. All rules made under this Act shall have effect as if enacted in this Act."

Indemnification for acts done before the commencement of this Act.

5. (1) No suit or other proceeding shall lie against the Provincial Government, or any officer or servant of the said Government, or any authority subordinate to them, or any person acting under the authority of or with the permission of the said Government, officer, servant or authority, in respect of any Act done or purporting to be done before the commencement of this Act under section 1 of the said Act, if such act could have been done under the said section 1 as amended by this Act, and the Provincial Government and all officers, servants, authorities and persons aforesaid are hereby indemnified and discharged from all liability in respect of all such acts in so far as they could have been done under the said section 1 as amended by this Act.

(2) Any suit or other proceeding instituted before the commencement of this Act in respect of any act done or purporting to be done under section 1 of the said Act shall be disposed of as if the said section 1 as amended by this Act had been in force at the time of the institution of the said suit or proceeding in the Court of first instance.