

The Tamil Nadu Irrigation Cess Act, 1865

Act 7 of 1865

Keyword(s):

Alienation, Impartible Estate, Proprietor of an Impartible Estate, Cess for Use of Water Supplied for Irrigation

Amendments appended: 5 of 1900, 3 of 1945

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¹(TAMIL NADU) ACT No. VII OF 1865².

[THE ¹(TAMIL NADU) IRRIGATION CESS ACT, 1865.]

(Received the assent of the Governor on the 29th July 1865, and of the Governor-General on the 7th September 1865.)

An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.

WHEREAS, in several districts of the ³[State of Preamble. Tamil Nadu], large expenditure out of Government funds has been, and is still being, incurred in the construction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land; and whereas it is right and proper that a fit return should, in all cases alike, be made to Government on account

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² Short title, "The Madras Irrigation Cess Act, 1865"—see the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

See also the Tamil Nadu Irrigation Cess (Amendment) Act, 1900 (Tamil Nadu Act V of 1900) and the Bhavani Reservoir Irrigation Cess Act, 1933 (Tamil Nadu Act XVI of 1933).

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 28 of the Tamil Nadu (Transferred Territory) Ryotwari Settlement Act, 1984 (Tamil Nadu Act 30 of 1984).

³ This expression was substituted for the expression "Madras Presidency" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.



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

of the increased profits derivable from lands irrigated by such works ; It is enacted as follows :—

¹[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 ²[Government], 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 Board of Revenue, such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land, it shall be lawful for the ³[State] Government before the end of the revenue year succeeding that in which the irrigation takes place ⁴[to levy on the land so irrigated a separate cess by way of land tax for such water] (hereinafter referred to as the water-cess), and the ³[State] Government may prescribe the

¹ Section 1, as substituted for the original sections 1 and 4 by Tamil Nadu Act V of 1900, was substituted by new section 1 by section 2 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). The new section was renumbered a sub-section (1) of section 1 by section 2 (1) of the Tamil Nadu Irrigation Cess (Amendment) Act, 1945 (Tamil Nadu Act III of 1945). The two last-mentioned Acts were permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

² This word was substituted for the word " Crown " by the Adaptation Order of 1950.

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

⁴ These words were substituted for the words "to levy at pleasure a separate fee for such water" by section 2] of the Tamil Nadu Additional Assessment and Additional Water Cess Act, 1963 (Tamil Nadu Act 8 of 1963), which came into force on the 1st July 1962.

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 ^{Proviso} any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the ¹[Government] entitled to irrigation free of separate charge, no ²[water-cess] under this Act shall be imposed for water supplied to the extent of this right and no more :

³[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

¹ This word was substituted for the word "Crown" by the Adaptation Order of 1950.

² This word was substituted for the word " cess " by section 2 (1) of the Tamil Nadu Irrigation Cess (Amendment) Act, 1945 (Tamil Nadu Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

³ This proviso was inserted by *ibid.*

⁴ These words were substituted for the words " no cess shall be leviable under this Act in respect of land held under ryotwari settlement, which is classified and assessed as wet, unless the same be irrigated " by *ibid.*

*Re: Previous publication, see section 3 of Tamil Nadu Act of 1900.

(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 ¹[State] 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[(2) * * * *]

Rules for the recovery of water-cess from the landholder and the ryot.

³[1-A. (1) ⁴(In respect of water supplied or used for the irrigation of land included in an estate the water-cess due under this Act shall), notwithstanding anything contained in the ⁵(Tamil Nadu) Revenue Recovery Act, 1864, be leviable in accordance with ⁵(Tamil Nadu) such rules as the ⁶[State Government], may, after ^{Act II of 1864.} previous publication, prescribe in that behalf—

- (a) from the landholder⁷ or
- (b) from the ryot⁷ or
- (c) in shares from both.

(2) The amount payable by a landholder⁷ or a ryot⁷ under this Act shall be a first charge upon his interest in the land.

¹ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

² This sub-section was omitted by section 21 of the Tamil Nadu Additional Assessment and Additional Water-Cess Act, 1963 (Tamil Nadu Act 8 of 1963), which came into force on the 1st July 1962.

³ Section 1-A was inserted by section 4 of Madras Act II of 1913.

⁴ These words were substituted for the words "In the case of land included in an estate the cess due under this Act shall" by section 3 of the Tamil Nadu Irrigation Cess (Amendment) Act, 1945 (Tamil Nadu Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

⁵ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

⁶ The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁷ As to meaning of these words, see section 2 of Tamil Nadu Act of 1913.

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(4) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot *inter se*, under any contract, express or implied, in regard to the payment of water-cess.]

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

Rules to have effect as if enacted in the Act.

2. Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of land-revenue are or may be realized by law³ in the [State of Tamil Nadu].

Water-cess, how recoverable.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for anything done by him previous to the passing of this Act, in or relating to, the imposition or levying of any such water-rates heretofore imposed or levied with the sanction of the ⁴[State Government].

Indemnification for acts done before passing of Act.

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¹ Sub-section (3) was omitted by section 3 of Madras Act VI of 1920.

² This section was inserted by section 3 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

³ See Tamil Nadu Act II of 1864.

⁴ This expression was substituted for the expression "Madras Presidency" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

⁵ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁶ As to original section 4, see footnote to section 1 *supra*.

¹(TAMIL NADU) ACT No. V OF 1900².

[THE ¹(TAMIL NADU) IRRIGATION CESS (AMENDMENT) ACT, 1900.]

(Received the assent of the Governor on the 10th May 1900, and that of the Viceroy and Governor-General on the 10th August 1900; the Governor-General's assent was first published in the Fort St. George Gazette of the 4th September 1900.)

An Act to amend ³(Tamil Nadu Act) VII of 1865.

Preamble. WHEREAS it is expedient to amend ³[Tamil Nadu Act] VII of 1865; It is hereby enacted as follows:—

New section substituted for sections 1 and 4. 1. Sections 1 and 4 of ³[Tamil Nadu Act] VII of 1865, hereinafter referred to as the said Act, shall be read and construed as if at the time of the passing of the said Act there were and had been inserted in lieu of the said sections the following, viz.—

[Incorporated in the Principal Act—*Vide pages 183 to 187 supra.*]

Limitation on the retrospective effect of section 1. 2. No water-cess which would not have been leviable if this Act had not been passed shall be hereafter levied for any period prior to the 1st July 1899.

New rules, etc., under section 1 to be made after previous publication. 3. All rules that may hereafter be prescribed by Government under section 1 of the said Act and any alterations or amendments that may hereafter be made in the rules made under that section which are now in force shall be made after previous publication.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² Short title, "The Madras Irrigation Cess (Amendment) Act, 1900," was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

³ For Statement of Objects and Reasons, see *Fort St. George Gazette Supplement*, dated the 8th March 1898, p. 22; for Report of the Select Committee see *ibid*, dated the 3rd March 1900, p. 1; for Proceedings in council, see *ibid*, dated the 3rd May 1898, p. 34; *ibid*, dated the 12th December 1899, p. 18; and *ibid*, dated the 12th June 1900, p. 176.

³ This expression was substituted for the expression "Madras Act" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

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'[TAMIL NADU] ACT No. III OF 1945.'

[THE ¹(TAMIL NADU) IRRIGATION CESS (AMENDMENT)
ACT, 1945.]

(Received the assent of the Governor on the 10th February 1945; first published in the Fort St. George Gazette on the 20th February 1945.)

An Act further to amend the ¹[Tamil Nadu] Irrigation Cess Act, 1865.

¹[Tamil Nadu] Act VII of 1865.

WHEREAS it is expedient further to amend the ¹[Tamil Nadu] Irrigation Cess Act, 1865, for the purposes hereinafter appearing; ²[It is hereby enacted as follows :-]

1. This Act may be called the ¹[Tamil Nadu] Irrigation Cess (Amendment) Act, 1945. Short title.

⁴[2-3. * * *]

4. (1) No suit or other proceeding shall lie against the ⁵[State] 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 under section 1 of the said Act before the commencement of this Act if such act could have been done under the said section 1 as amended by this Act, and the ⁴[State] Government and all officers, servants, authorities and persons aforesaid are hereby

Indemnification for acts done before the commencement of this Act.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² For Statement of Objects and Reasons, see Fort St. George Gazette, dated the 3rd October 1944, Part IV-A, page 100.

³ These words were substituted for the paragraph containing the enacting formula with the paragraph preceding that paragraph by section 5 of the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

⁴ Sections 2 and 3 were repealed by Tamil Nadu Act XI of 1952.

⁵ This word was substituted for the word "Provincial" by the Adaptation Order of 1969.



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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 institution of the said suit or proceeding in the Court of first instance.

