

**DELHI DEVELOPMENT AUTHORITY  
(E.M.'S OFFICE)**

No. EM 1 (10) 2005/Cir. /DDA/412

Dated 07.12.06

**CIRCULAR No 576**

**Sub:- Collection of Cess at source under the provisions of The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, The Building and other Construction Worker's Welfare Cess Act, 1996, The Building and other Construction Workers (Regulation of Employment and Condition of Service) Central Rules, 1998 & The Building and Other Construction Workers Welfare Cess Rules, 1998 as well as The Delhi Building and other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2002.**

- I. The Building & Other Construction Workers (Regulation of Employment and Conditions of services) Act, 1996 is a Central Act passed by the Parliament and notified vide notification no. 27 dated 19.08.1996. It extends to whole of India.**
- II. The Parliament with a view to augment the resources of the Building and other Construction Workers Welfare Board constituted under the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act-1996 enacted another legislation i.e. the Building and Other construction Workers Welfare Cess Act, 1996 vide Notification no. 28 dated 19.08.1996 which provides for levy and collection of Cess on the cost of construction incurred by an employer. The Government of India has framed and notified on 26.03.1998 the Building and other Construction Workers Welfare Cess Rules - 1998 under the aforesaid Act. The Government of India also notified "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Central Rules - 1998 vide Notification dated 19.11.1998."**
- III. Consequently, the Government of NCT of Delhi has notified, The Delhi Building and other Construction Workers (Regulations of Employment and Conditions of Service) Rule - 2002 framed under the provisions of section 62 of the aforesaid Central Act (act of Government of India) i.e the Building and other Construction Workers (Regulations of Employment and Conditions of Service) Act, 1996 vide notification no. DLC/CLA/BCW/01/19 dated 10.01.2002. The Government of NCT of Delhi, as a follow up action, had further notified the constitution of "The Delhi Building and Other Construction Workers Welfare Board under the Chairmanship of the Minister of Labour of Govt. of N.C.T of Delhi vide Notification No. 151 dated 2.9.2002."**

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- IV. CPWD vide Office Memorandum No. DGW/CON/192 dated 11/6/04 has modified clause No. 19 of General Conditions of contract of standard contract formats to be adopted in all future NIT's stipulating therein that the contractors shall also comply with the provisions of the above mentioned Acts. Under the circumstances, it has been decided to accordingly modify clause 19 in the standard contract formats PWD 7 & 8 for DDA Works also as per the enclosed Annexure-I. In all future NIT's, for DDA contracts this modified clause 19 should be adopted which stipulates that the contractors shall comply with all the provisions of above mentioned acts and the rules made there-under and as modified from time to time.
- V. Some of the salient features of the above Acts / Rules are given below:
- a) "Building" or "Other Construction work" means the construction, alteration, repairs maintenance or demotion of or in relation to Building, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works) generation, transmission and distribution of powers, water works (including channels for distribution of water), oil and gas installations, electrical lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, water-courses, tunnels, bridges, viaducts, aqueducts, 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) of the Mines Act, 1952 (35 of 1952) apply.
  - b) An "establishment" means any establishment belonging to or under the control of Govt., any body corporate or firm or any an individual or associations or other body of individuals which or who employs building workers in any building or other construction work and includes and establishment belonging to a contractor. But does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than Rs. ten Lakhs.
  - c) As per provision of Section - 3 of The Building and Other Construction Workers Welfare Cess Act- 1996 notified by the Govt. of India, Cess is to be levied and collected as follows:
    1. These shall be levied and collected a Cess for the purpose of the Building and other Construction workers (Regulation of Employment and Conditions of Services) 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.

Contd.....3



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 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 1% of the amount collected.
4. Notwithstanding anything contained in sub-section (1) or sub-section(2), the Cess leviable 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.
- d). Labour Commissioner, Govt. of NCT of Delhi as per the brief note enclosed with the meeting notice No. DLC/CLA/BCW/02/Lab./2184 dated 23/7/2003 had intimated that the Central Government has specified a Cess @ of 1% of the cost of Construction /project vide their notification dated 26.9.1996. The Cess would, therefore, be leviable at this notified rate of 1% of cost of construction project or as revised by The Competent Authority from time to time.
- e) The Cess tax shall be deducted at source from the bills paid to the contractors and the proceeds of the Cess shall be released to the Building & other Construction Workers Welfare Board constituted for the purpose by Govt. of NCT of Delhi after deducting the cost of collection not exceeding one percent of the amount collected.
- f) Ex. Engineer and Divisional Accountant shall be responsible for ensuring that necessary deductions at prescribed rate of Cess from the bills of the contractors on the gross value of work done, has been/is being effected. They shall also be responsible to maintain the monthly accounts in respect of each work in their respective Divisions/Units. Senior Accounts Officer (CAU) & A/AO (CAU) of the concerned zone shall be responsible to remit all such payments deducted on account of Cess to "The Delhi Building and Other Construction Workers Welfare Fund" Govt. of NCT of Delhi within the prescribed period of one month of deduction as per the provisions of the Act under reference and to maintain accounts at Zonal level with all relevant details.
- i. All other terms/ conditions as per above-mentioned Acts as well rules made there under & modifications issued from time to time would also apply.

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- VI. Similar provision/sub-clause should also be incorporated in all other standard Contract Formats as well, which are also, at some time or the other, adopted for the purpose of getting the works executed.
- VII. These instructions are both for future NITs as well as in respect of on going works as on 10.01.2002 onwards. It is made clear that Cess, under the above-mentioned provisions of the Act, shall also be required to be deducted from all the above mentioned on going contracts from 10.01.2002 onwards, as clarified by Secretary (Labour) vide their office letter no. 17(10)BOCW/PG/Lab./05/207 dated 16.08.2005.
- VIII. For all other clarifications/information, the above mentioned Acts and the Rules made there under and/ or modifications issued from time to time may be referred to.

This issues with the approval of Vice Chairman, Delhi Development Authority in consultation with Chief Legal Advisor & Finance Member, Delhi Development Authority.

CHIEF ENGINEER (HQ)

DDA.

Copy for information and compliance to: -

1. All Chief Engineers (Civil & Elect.) i/c (HQ), (Design) & (QC), DDA
2. Chief Vigilance Officer, DDA
3. Chief Legal Adviser, DDA
4. Chief Accounts Officer, DDA
5. Project Manager (Flyover) Gr. ,DDA
6. Director (Hort.) North & South, DDA
7. Director (MM), DDA
8. All SEs (Civil & Elect. i/c Vig., QC & Design) DDA (Service through their respective Chief Engineer/ CVO)
9. All EEs (Civil & Elect. i/c Vig., QC, & Design), DDA (Service through their respective Chief Engineers/CVO/Project Manager (Flyover)/Dir.(MM), DDA.

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10. All Dy./ Jt. Director (Hort.) (Circulation through their respective Dir.(Hort.)
11. EO-I, II, III, PPC (Mont.), DDA
12. File No. EM 4 (4) 2000.

Copy to: -

1. PS to VC, DDA ]
2. PS to EM, DDA ]
3. PS to FM, DDA ]
4. Commr. (Plg.), DDA ]
5. Dir. (Buldg.), DDA ]

For kind information of the latter.

For information as well as to take necessary action for issue of guidelines in respect of levy and collection of Cess under the above mentioned Acts and rules made thereunder in relation to Building or other Construction Work where an approval of such building or construction work by DDA is given by the Building Section / Plg. Department of DDA.

CHIEF ENGINEER (HQ)  
DDA

*[Signature]*

*[Signature]*  
ME-11



**BACKGROUND NOTE ON THE BUILDING & OTHER CONSTRUCTION  
WORKERS' (RE & CS) ACT, 1996 AND THE BUILDING & OTHER  
CONSTRUCTION WORKERS' WELFARE CESS ACT, 1996**

**1. HISTORY**

93% work force population of India is in the unorganized sector. After agricultural workers, the workmen working in Building and Other Construction work are the second largest constituent of the unorganized sector. The large numbers of construction workers are migratory, socially backward and uneducated with low bargaining power. A need, therefore, was felt that a separate comprehensive legislation is essential to protect the interest of construction workers exclusively. The Govt. of India accordingly enacted Building and Other Construction Workers (RE & CS) Act, 1996, hereinafter it will be referred as "Main Act" and Building and Other Construction Workers Welfare Cess Act, 1996, hereinafter it will be referred as "Cess Act".

The Main Act provides for constitution of Building & Other Construction Workers' Welfare Board for providing medical facilities, pension, family pension, advance for purchase or construction of house, loan for purchase of tools, financial assistance for education, financial assistance for marriage, immediate assistance in case of worker's accident, maternity benefit, death benefit etc. to the building and other construction workers registered as beneficiaries with the Board.

The Cess Act provides for mandatory levy and collection of cess on the cost of construction incurred by the employers to augment the resources of the Building & Other Construction Workers' Welfare Board.

**2. DEFINITION**

"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, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, 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, or the Mines Act, 1952, apply;

"Building worker" means a person who is employed to do any skilled, semi-skilled, 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 –

who is employed mainly in managerial or administrative or in supervisory capacity.

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### **3. COMMENCEMENT OF THE ACTS**

The Govt. of NCT of Delhi has framed Delhi Building & Other Constructions Workers (RE & CS) Rules, 2002 and notified in January 2002. With the notification of these Rules, Act has come into force in the National Capital Territory of Delhi w.e.f. January 2002. Subsequently, as provided u/s 18 of the Main Act, the Delhi Building & Other Construction Workers' Welfare Board has been constituted under the Chairmanship of the Hon'ble Minister of Labour & Employment, Govt. of Delhi vide notification dated 02.09.2002.

### **4. PERSONS LIABLE TO PAY CESS: APPLICATION OF THE ACT**

The Acts apply to every establishment which employs, or had employed on any day of preceding 12 months, 10 or more building workers in any building or other construction work.

In respect of Government Departments, Public Undertakings and other Government bodies carrying out any building or other construction work, if work is carried on by them directly without any contractor, the Head of Department.

Similarly, the CEO of a Local authority, if work is carried out directly without any contractor.

If work is carried out by Government Department, Local Body, or Public Sector Undertaking etc. through a contractor, then the contractor.

In respect of individual's residential house, the owner of the house.

In case of group housing societies, the Society.

In case of big Malls and hospitals, the builders/contractors, as the case may be.

### **WHAT THEY ARE SUPPOSED TO DO**

#### **Under the Main Act**

- I. Every employer/owner/contractor to whom this Act applies shall get themselves register with the Registering Officer.
- II. An employer is required to send notice of commencement of building or other construction work at least thirty days before its commencement to the Deputy Labour Commissioner of concerned district.

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- III. Employer shall be responsible to ensure compliance with the provisions of the Act relating to safety and taking all practical steps necessary to prevent accidents, payment of wages and in case of death or disablement of the building worker, payment of compensation.

Under the Cess Act

- I. They shall make payment of the cess @ 1% of the total cost of construction incurred by them, through the demand draft in the name of "The Delhi Building & Other Construction Workers' Welfare Board." (Copy of order enclosed)
- II. In case of Government Departments/Local bodies/Public Sector Undertakings & other bodies, they shall deduct such amount from the contractors' bill and shall remit through Account Payee Cheque in the name of "The Delhi Building & Other Construction Workers' Welfare Board."
- III. Where such building or other construction work requires approval of the local authority, advance cess shall be collected by the local authority. All local authorities i.e. MCD, NDMC, Delhi Concernment Board, DDA shall obtain estimated cost of construction along with the building plan which are submitted to them by owner/contractor/builder for approval. Such bodies shall collect a front amount of one per cent of the estimated cost furnished along with the building plan.
- IV. For private constructions, the concerned employer i.e. owner/contractor/builder shall:  
  
If construction work is completed within a financial year, file a return in a prescribed format. (Copy enclosed) The Cess will be determined after adjusting the advance cess paid to the authority.  
  
In case work continues beyond the period of one year, then they shall deposit cess on the total cost of construction incurred during that year and the assessment will be made on completion of work after adjusting the cess already paid by the employer.
- V. All payments of cess is to be deposited through A/c Payee Cheque in favour of "The Delhi Building & Other Construction Workers' Welfare Board" with the Deputy Labour Commissioners of the district who are the Assessing Officers.

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## **5. AUTHORITIES**

Under the Main Act, Labour Commissioner has been appointed as Chief Inspector of inspection of Building and Construction.

All the Joint Labour Commissioners/Dy. Labour Commissioners, Asstt. Labour Commissioners, Labour Officers and Inspecting Officers, working in Labour Department have been appointed as Inspector.

All Asstt. Labour Commissioners and Labour Officers have been appointed as Registering Officers.

All Joint Labour Commissioners/Dy. Labour Commissioners have been appointed Appellate Officers.

One of the Joint Labour Commissioners of the Labour Department has been appointed as Secretary of the Board.

Under the Cess Act and the Rules framed thereunder, the Govt. of NCT of Delhi vide notification dated 08.07.2005 has appointed all Inspecting Officers and Labour Officers working in the Labour Department as Cess Collectors.

All the Dy. Labour Commissioners posted in the office of the Labour Commissioner, Govt. of NCT of Delhi have been appointed as Assessing Officers for the district under their jurisdiction and

The Labour Commissioner, Govt. of NCT of Delhi has been appointed as Appellate Authority.

## **6. FUNCTIONS OF THE AUTHORITIES APPOINTED UNDER THE CESS ACT**

### **Cess Collectors**

- (i) Cess Collectors shall work under the direct supervision and control of the Assessing Officer.
- (ii) He shall collect details from the local authorities of all building plans which have been approved by the local authorities since January, 2002 and from the local SHOs, the list of all construction works being maintained by them.
- (iii) They shall maintain the District Master Register giving details of returns filed by employer under section 4(1) of the Cess Act in the prescribed format.
- (iv) He shall prepare the notices under section 4(2) of the Act and put up to the Assessing Officer for his signature.
- (v) He shall maintain details of cheques collected and sent to the Office of the Labour Commissioner in the District Master Register.

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**Assessing Officer**

- (i) He shall work under the overall control and supervision of Labour Commissioner.
- (ii) He shall after receipt of returns under section 4(1) make assessment as per rules 7 of the Cess Rules. For assessment purposes separate guidelines to ensure transparency and non-discriminatory treatment, are being issued.
- (iii) He shall every month review details of payment received as per the assessment orders and in case payments have not been received shall proceed as per rule 12 and 13 of the Cess Rules.
- (iv) The Assessing Officer in order to discharge his duties shall take recourse to provisions contained in Rule 10 of the Cess Rules.
- (v) In respect of Government Departments, Public Undertakings and other Government Bodies, assessment shall be as per the information furnished or the actual payment made.

**Appellate Authority**

- (i) On receipt of the appeal, the appellate authority may call from the Assessing Officer a statement on the basis of his assessment order appealed against, and considered for disposal of the appeal.
- (ii) The Appellate Authority shall give the appellant an opportunity of being heard to the appellant.
- (iii) On being satisfied on the quantum of cess, the Appellate Authority shall confirm the order of the Assessing Officer, or shall modify the order of assessment or if in his opinion the assessment is on the lower side or if the basis of assessment is wrong he shall remand back the assessment order to the Assessing Officer along with the observations to rectify the wrong.
- (iv) No appeal shall lie against the order of the Appellate Authority.
- (v) If the Appellate Authority is of opinion that the quantum of penalty imposed is on the higher side or not correctly made, it shall suitably modify or set aside the order of the Assessing Officer, as the case may be.
- (vi) An order in appeal reducing the amount of cess shall also ask the Board to refund the excess cess.
- (vii) Order shall also specify the date by which the amount of penalty should be paid/refunded.

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## **REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES**

It is estimated to cover more than 5 lakh workers in Delhi.

**Eligibility:** - Every building worker who has completed 18 years of age, but has not completed 60 years of age and who has been engaged in any building or other construction work not less than 90 days during the preceding 12 months, shall be eligible for registration as a beneficiary under the Act.

**Registration:** - The registration shall be made by the officers authorized by the Board in this behalf. For the registration of the beneficiaries, the Delhi Building & Other Construction Workers' Welfare Board will be hiring the services of ECIL-SARK Citizen Service Bureau. It will be operating through the Employment Exchange Offices and all the nine District Labour Offices of the Govt. of NCT of Delhi as well as through the Citizens Service Bureaus of MCD.

The building worker working in the particular district can approach to the District Labour Office/Employment Exchange Office along with the prescribed documents such as age proof and the employment certificate and fill up the application form for registration.

**Fee for Registration:** - Every building worker eligible to become a beneficiary has to pay rupees twenty-five as registration fee at the time of making application.

**Contribution to the Fund:** - A beneficiary of the fund shall contribute twenty rupees per mensem to the fund and remit in advance once in three months in any of the bank specified by the Board.

## **3. BENEFITS**

Every building worker registered as a beneficiary under the Act shall be entitled to the benefits provided by the Board from its funds. Benefits are listed below. The Board will decide to start giving these benefits according to its financial position.

1. **Maternity Benefit:** The women members shall be given rupees one thousand each as maternity benefit during the period of maternity twice on an application made in Form XXXIV along with the documents.
2. **Pension:** A member of fund who has been working as a building worker for not less than one year after the commencement of these Rule shall, on completion of 60 years of age, be eligible for pension. The amount of pension shall be one hundred and fifty rupees per month. An increase of ten rupees shall be given for completed years of service beyond five years.

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3. Family Pension: In the event of death of a pensioner, family pension shall be given to the surviving spouse at the rate 50% of the pension received by the pensioner or one hundred rupees, whichever is higher.
4. Advance for purchase or construction of house: An amount not exceeding rupees fifty thousand may be sanctioned for the outright purchase of a house or for the construction of house to those who have membership in the fund continuously for five years and having fifteen years service for superannuation.
5. Disability Pension: Rupees one hundred fifty per month disability pension may be sanctioned to a beneficiary who is permanently disabled due to paralysis, leprosy, T.B., accident etc. In addition to the pension, he/she shall be eligible for ex-gratia payment not more than rupees five thousand depending upon the percentage of disability.
6. Loan for purchase of tools: An amount of five thousand rupees will be sanctioned as a loan to a member of the fund for the purchase of tools who has completed three years' membership in the fund and has remitted contribution regular rules.
7. Financial Assistance for Education: Children of the member shall be eligible for such financial assistance as may be determined by the Board.
8. Financial Assistance for Marriage: A building worker having continuous membership for three years shall be eligible to get financial assistance of two thousand rupees for marriage of their two children. A female member of the fund is also eligible for this assistance for her own marriage.
9. Medical Assistance: Board may sanction financial assistance to the beneficiaries who are hospitalized for five or more days due to accident or any disease. The assistance shall be two hundred rupees for the first five days and twenty rupees each for the remaining days, subject to maximum one thousand rupees.
10. Payment of death benefit: Board may sanction an amount of fifteen thousand rupees to the nominees/dependents of a member towards the death benefit in case of death due to an accident during the course of employment.



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**GOVERNMENT OF NCT OF DELHI**  
**OFFICE OF THE LABOUR COMMISSIONER**  
**(5-SHAM NATH MARG, DELHI - 110054)**

No. 17(10)/HOCW/PG/Lab./05 /207

Dated: 16-8-05

**Order**


The Government of NCT of Delhi vide Notification No.DLC/CLA/BCW/01/19 dated 10.01 2002 notified the Delhi Building and Other Construction Workers (RE&CS) Rules, 2002 and accordingly has constituted the Delhi Building and Other Construction Workers Welfare Board vide Notification No.DLC/CLA/BCW/02/596 dated 2<sup>nd</sup> September, 2002. Accordingly, the Building and Other Construction workers Welfare Cess Act, 1996 (hereinafter referred as the Cess Act) and Building and Other Construction workers Welfare Cess Rules, 1998 (hereinafter referred as the Cess Rules) have become operative w.e.f. January, 2002 in the whole of NCT of Delhi.

Section 3 of the Cess Act provides for mandatory levy and collection of cess on the cost of construction which are covered under section 2(d) of the Building and Other Construction Workers (RE&CS) Act, 1996 (hereinafter referred as the main Act). The Government of India vide Notification No.S-61011/9/95-RW [SO.2899] dated the 26<sup>th</sup> September, 1996 has provided that the cess shall be levied at 1% of the cost of construction incurred by an employer which shall exclude the cost of land and any compensation paid or payable to a worker or his kin under the Workmen Compensation Act, 1923.

The section 3(2) of the Cess Act provides that the cess shall be collected from every employer in such a 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.

Section 2(d) is reproduced hereunder:

"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, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, 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), apply;

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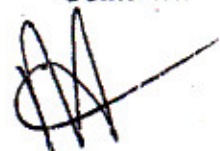


The Government of NCT of Delhi, therefore, has decided that:

- (i) All Government Departments, local bodies viz. MCD, NDMC, DDA, DJB, etc, Public Undertakings and other Government Bodies carrying out any building or other construction works which are covered under Section 2(d) of the main Act (reproduced above) shall get themselves registered under Section 7 of the main Act with the concerned District Registering Officer of the Labour Department. All Asstt. Labour Commissioner in the 9 districts have been notified as Registering Officer vide Notification No. DLC/CLA/BCW/99/334 dated 11.08.2000.
- (ii) All Government Departments, Public Undertakings and other Government Bodies carrying out any building or other construction works which are covered under section 2(d) of the main Act shall, in case the work is carried out through a contractor, deduct mandatory 1% of the amount of cost approved as per the tender notification from the bills at the time of making payment to the contractors. Such amount as are deducted from the contractors' Bills shall be remitted by way of A/c Payee Cheque, in favour of the Delhi Building and Other Construction Workers Welfare Board within 30 days of making such payment alongwith a forwarding letter addressed to the Secretary, Delhi Building & Other Construction Workers Welfare Board, Room No.51, C- Block, 5-Sham Nath Marg, Delhi - 110054.
- (iii) In case the aforesaid work is carried out internally without employing contractors, the 1% of the total cost shall be remitted by way of A/c Payee Cheque drawn in favour of the Delhi Building and Other Construction Workers Welfare Board by the Government Department/Public Undertaking/other Government Body, etc.
- (iv) Return on the prescribed format (Annexure 'I') shall be furnished to the concerned District Assessing Officer within 30 days of the completion of the project or 30 days of completion of the previous financial year as prescribed under section 4 of the Cess Act.

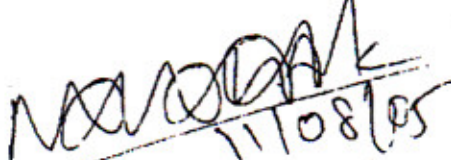
So far as private constructions are concerned, all local authorities i.e. MCD, NDMC, Delhi Cantonment Board, DDA shall obtain estimated cost of the construction along with the building plans which are submitted to them for approval by the concerned employers i.e. owners/contractors, builders etc. Such bodies shall collect upfront an amount of 1% of the estimated cost furnished along with building plans and remit by way of a A/c Payee Cheque drawn in favour of the Delhi Building and Other Construction Workers Welfare Board to the Labour Commissioner at 5-Sham Nath Marg, Delhi - 110054 along with a forwarding letter within 30 days of its collection in terms of Rules 5(3) of the Cess Rules. While remitting the amount, details as per the list enclosed as Annexure 'II' shall be furnished. The local bodies, before remitting the amount of cess to the Office of Labour Commissioner, can deduct 1% of the total amount collected for meeting their administrative expenses.

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In case of individual residential building plans, the 1% cess shall be collected only when the estimated cost is more than Rs. 10 lakh. In respect of Group Housing Societies, the Managing Committee of the Society is liable to pay the cess. Where the building is built by the builders, builder shall be liable. In the cases of collaboration agreements where builder is constructing or has constructed the building in collaboration with the owner of the land/original building on sharing basis, the cess would be recovered from the builder or owner or both as per the collaboration agreement. It shall be ensured that no building plan is approved of by such local bodies without collecting 1% cess.

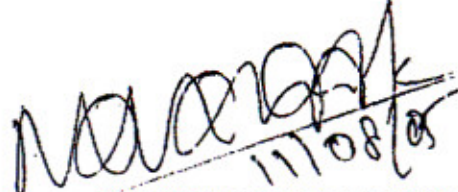
  
11/08/05  
(NARENDRA KUMAR)  
SECRETARY (LABOUR)

No. 17(10)/BOCW/PG/Lab./05 / 207

Date: 16-8-05

Copy to:

1. All Secretaries to Government of India.
2. All HODs of the Govt. of NCT of Delhi.
3. Secretary to the Lt. Governor of Delhi.
4. Secretary to the Chief Minister, Delhi.
5. Chief Secretary, Delhi.
6. All CEOs/HODs of the Local authorities/PSUs.
7. Secretary to the Minister of Labour, Govt. of NCT of Delhi.
8. All JLCs/DLCs/ALCs/LOs/IOs.
9. Asstt. Director (Planning), Labour Deptt., Govt. of NCT of Delhi
10. P.A. to L.C.
11. Guard File.

  
11/08/05  
SECRETARY (LABOUR)



**Proforma**

(Please also see explanation before preparing the affidavit)

**Affidavit**

I, \_\_\_\_\_, S/o \_\_\_\_\_, aged \_\_\_\_\_ years, resident of \_\_\_\_\_, registered under Section 7 of the Building and Other Construction Workers' (RE & CS) Act, 1996 vide registration no. \_\_\_\_\_ dated \_\_\_\_\_ for construction work at \_\_\_\_\_, do hereby solemnly affirm that the details of aforesaid construction work furnished below are true and correct to the best of my knowledge and belief:

1. The type of building is : \_\_\_\_\_
2. The date of commencement of construction : \_\_\_\_\_
3. Date of completion of work : \_\_\_\_\_
4. Total constructed covered area (in sq. meters) (up to four storeys including mezzanine floor but excluding basement) : \_\_\_\_\_
5. Additional constructed covered area constructed beyond four storeys (in sq. meters) : \_\_\_\_\_
6. Total constructed covered area of basement (in sq. meters) : \_\_\_\_\_
7. Total cost of civil work in case of repairs/ alteration/maintenance : Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
8. Total cost of demolition work of old structure: Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
9. Type of flooring is \_\_\_\_\_ having total area of \_\_\_\_\_ sq. meters with cost @ Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) per sq. mtr.
10. Total cost of Wood Paneling work is : Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
11. Total cost of woodwork other than wood paneling is : Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
12. Total cost of false ceiling work is : Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
13. Total cost of Central Air Conditioning is : Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)

Contd.....



14. Cost incurred in installation of lift is :Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
15. Total cost incurred on Boundary Wall and Gates etc. is :Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
16. Total cost of swimming pool, if constructed is: Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
17. Total cost of electric work along with fittings & fixtures is :Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
18. Total cost of plumbing work along with cost of fittings & fixtures is :Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)
19. Total cost of other developmental works including sewerage, external roads, approach roads, landscaping, firefighting etc. is :Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)

...DEPONENT

### VERIFICATION

Verified at New Delhi/Delhi on this \_\_\_\_\_ day of \_\_\_\_\_, 2005 that the contents of the above affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

...DEPONENT

### EXPLANATION FOR PREPARING THE AFFIDAVIT

1. For Sl. No. 1, the type of building please indicate any of the following which is applicable:

- |                |                           |
|----------------|---------------------------|
| a) Residential | (e) Hotel                 |
| b) School      | (f) Shopping Mall/Complex |
| c) Hospital    | (g) Any other specify     |
| d) Guest House |                           |

2. For type of flooring, please indicate any of the following which is applicable:

- |                     |                        |
|---------------------|------------------------|
| (a) Ceramic Tiles   | (e) Granite            |
| (b) Vitrified Tiles | (f) Wooden Tile        |
| (c) Marble Local    | (g) Any other, specify |
| (d) Marble Imported |                        |



(To be furnished within 30 days of completion of the project or within 30 days of the previous financial year under section 4 of the Building & Other Construction Workers Welfare Cess Act, 1996)

Proforma of Return to be submitted

1. Name of the owner/employer :
2. Address of the owner/employer :
3. Registration No. :  
(If registered under section 7 of Building & Other Construction Workers (RE & CS) Act, 1996)
4. Address of the site of construction work :
5. Date of approval of Building plan by the local authority :  
(Attach a copy of approved Building plan)
6. Date of commencement of work : Date \_\_\_\_ Month \_\_\_\_ Year \_\_\_\_
7. Estimated period of work : Month \_\_\_\_ Year \_\_\_\_
8. Estimated cost of construction of building :  
(Please attach copy of relevant documents such as Agreement, Award of Contract, Estimates etc.)

Stages	Cost of Construction
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
Total	

9. Amount & date of Advance cess deposited with the local authorities (Attach a copy of receipt) :

Stages	Amount of Cess	Challan No. & Date	Advance – A Deduction at source – D Final – F
1 <sup>st</sup> year			
2 <sup>nd</sup> year			
3 <sup>rd</sup> year			
Total			

10. Indicate if construction of building has been completed fully during the previous financial year : Yes/No

Contd.....



11. If yes, give details of cost of construction of building along with an Affidavit in the enclosed proforma
12. For any other type of construction work covered under Sec. 2 (d) of the Building & Other Construction Workers' (RE & CS) Act, 1996, (Reproduced overleaf), please give specific details and cost incurred in an Affidavit in the enclosed proforma
13. Total cost of construction incurred during the previous financial year for an ongoing project  
(Attach audited accounts, in support)
14. Detail of payment of final amount of Cess payable during the previous financial year after adjusting advance tax deposited with the local authority  
(Attach a copy of challan)

Employer's Signature:

Name:

Date:

\*\*\*\*\*

Please see overleaf

\*\*\*\*\*



**Section 2(d) of the Building & Other Construction Workers'  
(Regulation of Employment & Conditions of Service) Act, 1996**

**"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, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aquaducts, 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;



**Annexure - II**

**Details of Cess collected at source by the local body (please specify)  
under Section 3(2) of Cess Act and rule 4(4) of the Cess Rules.**

<u>S.No.</u> (1)	<u>Name of Employer/Contractor with Address</u> (2)	<u>Address of Construction Site</u> (3)	<u>Amount of Cess Collected</u> (4)
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DELHI DEVELOPMENT AUTHORITY  
EM's OFFICE

No. EM 1(10)2005/ Cir./ 69/

Dated 28/2/06

CIRCULAR No. 577

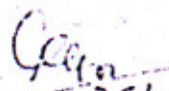
**Sub: - Execution of Street light**

In CPWD Works Manual, Para 17.3 of Section 17, shows the list of specialized items/jobs/works for Civil & Electrical works, wherein the work of street lighting does not appear in the list of specialized job.

Whereas Project Manager (Elect.), Flyover Project, Dwarka had sought permission from the Engineer Member for declaring the work of street lighting of sectorial roads, (roads below 30m width) at Dwarka as specialized job. Necessary approval for roads below 30 M wide was conveyed to Project Manager (Elect.), Flyover Project, Dwarka vide letter No. EM.4(2)2000/Elect./8056, dt. 18/7/02. This circular was misinterpreted by some Executive Engineers (Elect.) and treated the work of street lighting as specialized one which is not correct.

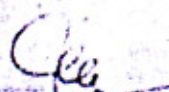
It is enjoined upon all Electrical Engineers that the work of street light shall be not considered as a specialized work in future except the list of specialized items/jobs/works mentioned in CPWD Works Manual 2003.

This issues with the approval of Engineer Member, DDA.

  
(V.K. Chandra)  
EO III to EM

Copy to:-

1. All Chief Engineers i/c Elect. & Q.C., DDA
2. All Superintending-Engineers (Elect.), DDA
3. All Executive Engineers (Elect.)
4. File 27 (Misc.) G C- 632/05/Vig/EE Vig.I

  
EO III to EM



**DELHI DEVELOPMENT AUTHORITY**  
**EM's OFFICE**

No. EM 1(10)2005/ Cir. / 1069

dt: 20/3/06

**CIRCULAR No. 578**

As per Terms & Conditions of the agreement, in case a contractor fails to abide by the time schedule given in clause 5 of the Agreement, the contractor is liable for action under clause 2 of the agreement, the decision of SE on which is final and binding regarding levy of compensation and is not arbitrable.

In such cases, the penalty being excepted matter was not adjudicated upon by the Court as well as by the Arbitrators, wherein it was decided that the amount due to the Department should be recovered by filing a recovery suit in case the same can not be recovered from his available dues. Such action is required to be taken-up promptly by EEs concerned as soon as the compensation is decided by SE. But instances have come to notice where EEs have delayed such matters abnormally and recovery suit, not filed.

It is necessary on the part of the EEs to review the progress of work from time to time and recover the specified sum from the contractor if he fails to meet the milestones but such review is not done and EOTs are processed much later after the completion of the work. Further, while recommending the Extension of time cases to SE, EEs have to examine each and every hindrance claimed by the contractor very carefully and accept only those hindrances which are really beyond the control of the contractor. EEs have also to point out the hindrances on the part of the contractor such as deployment of inadequate labour, plant and machinery, materials and stoppage of work etc., so as to enable SE to take balanced view at the time of deciding the compensation. But it has been observed that the EOTs are granted by SEs without levy of compensation in disregard to the delays on the part of the contractor. As a result the Arbitrators have granted huge compensation to the contractors saying that the entire delays were on the part of the Department and the Department could not defend such cases in Court of Law.

The matter was examined in detail by the Legal Cell, who are of the opinion that action under clause 2 of the Agreement is to be taken as self imposing provision and the Superintending Engineer has to monitor the progress of the work continuously stage by stage and determine the compensation to keep the contractor under pressure to complete the work in stipulated time or to delay it



at his own cost and peril. This clause does not bar periodically assessment of delay during the execution of work. Once delay occurs, to be assessed in continual manner, recovery of compensation for damage/penalty would present no problem as payment of the contractor is available with the Department when the work is still under progress and DDA is secured by way of bank guarantee or other securities in its hand. Such recoveries can be adjusted against the final bills and security deposits of contractor.

Attention is also invited to EM's Circular No. 114, dt. 24/9/85, wherein it has been emphasized that while notifying the contractor regarding delay in execution of work and having rendered himself liable to pay compensation in accordance with clause 2 of the contract, it should be informed by EE that the quantum of compensation to be actually levied shall be decided in due course. Attention is also drawn to instructions contained in Section 28 and para 32.1 of Section 32 of CPWD Works Manual 2003, which are self explanatory. It is enjoined upon all Superintending Engineers/Ex. Engineers to comply with the instructions strictly. The Superintending Engineer shall be held responsible for any lapses on account of above.

This issues with the approval of EM as recorded in file no. F.2 (987)94/HIC/Legal/Part file.

(A.P. Singh)  
Chief Engineer (HQ)

Copy to:-

1. All CEs (Civil/Elect.) DDA with 20 spare copies for further distribution amongst SEs and EEs, Jt. CAO/FO & CE (HQ), DDA
2. CE (QC), DDA with 10 spare copies for circulation among SEs and EEs under his control.
3. CE (Design), DDA with 10 spare copies for circulation among SEs and EEs under his control.
4. CVO, DDA with 16 spare copies for circulation among SEs and EEs under his control.
5. CAO, DDA
6. Project Manager (Flyover) Gr., I and II, DDA with 7 spare copies each for circulation among EEs and FOs.
7. Director (Systems) for necessary action.
8. Director (Hort.), North and South, DDA with 10 spare Copies each for circulation among Jt./Dy. Directors
9. Director (MM), DDA with 7 spare copies for circulation among EEs and FOs under his control.
10. Director (Works), DDA, Director (PR), DDA
11. EO-I, II, III, EE (PPC), DDA
12. A.O (Plan), DDA
13. F4 (4)2000 /Part file.
14. Hindi officer for Hindi version please.

Copy also forwarded to -

1. PS to VC for kind information of the latter
2. PS to EM for kind information of the latter