

**FREQUENTLY ASKED QUESTIONS
ON
ODISHA CESS ACT 1962**

Question 1. When was the Odisha Cess Act enacted and what was its objective?

Answer - The Odisha Cess Act 1962 (Act 11 of 1962) received the assent of Governor on 3rd May 1962 and was published in official Gazette on 11th May, 1962 the day on which it came into force. The objective of the Act was to consolidate and introduce an uniform pattern of cess in the entire state of Odisha.

Question 2. What is the applicability of the Cess Act?

Answer - Section 1 of the Act says that the provisions of the Act will come into force at once in the entire state of Odisha. Section 2 indicates the acts repealed from the date of coming into force of this Act and says that some Acts shall be partly repealed as provided in column 3 of the schedule to the Act. However actions taken under those laws before coming into force of this Act shall remain valid. Rules, regulations, and circulars etc earlier made and issued if consistent with the provisions of this Act shall also remain valid and would be deemed to have been made under this Act.

Question 3. How would be dues determined on the basis of repealed Acts dealt with according to cess Act?

Answer - Dues recoverable as per the provisions of earlier laws shall continue to be recovered, if necessary, as public demand.

Question 4. What is meant by the term *Estate* under the Cess Act?

Answer - According to section 3 of the Act, Estate means lands vested in intermediaries whether with or without imposition of rent, revenue free lands even not recorded and all classes of tenures and sub tenures. It also includes estates in merged territories.

Question 5. What is meant by *land revenue* under the Cess Act?

Answer - Land revenue means any sum chargeable on the land by the State Government in any form from an intermediary or in respect of any land vested or held by such intermediary.

Question 6 - What is meant by *revenue free lands* in the Cess Act?

Answer - Revenue free land is those lands in respect of which the state has power to make laws for revenue settlement and it is not settled in such manner because of existence of some special agreement.

Question 7. What is the definition of the term *intermediary* in Cess Act?

Answer - Intermediary refers to such intermediary known by any name like proprietor, sub proprietor, land lord, malguzar, thikadar, gauntia, tenure holders, under-tenure holder as well as inamdar, zamindar, jagirdar,

ilaquedar, khorposhdar, parganadar, sarbarakar, or maufidar, Rulers merged with State of Odisha and any other intermediaries. Joint intermediaries shall be treated as one intermediary for the purpose of this Act. For people under disability the heir and successors or guardians and legal curators shall be treated as Intermediary under this Act.

Question 8. What is meant by *khas possession* in Cess Act?

Answer - Khas possession is land under personal cultivation for horticulture and where fruits, flowers and vegetables.

Question 9. Define the terms *land, raiyat, and year* under the Cess Act.

Answer - Land means any land and even those covered with water but not the houses and buildings. Raiyat is a person who holds permanent and heritable occupancy rights over land for agriculture and is a raiyat under the meaning of any law. Year is as determined by the Board of Revenue.

Question 10. What are the procedure relating to imposition and application of cess under the Cess Act?

Answer - Chapter II deals with imposition and application of the Cess and has 7 sections in all from 4 through 10 and the section 11 was repealed by amendment. Section 4 says that all lands are liable to payment of cess. This section was introduced by amendment of 1978 and it says that if the land was not assessed to rent there won't be any cess payable. There will be no cess for lands assessed to holding tax under the Municipal Act 1950. Provisions of the Act shall not also apply to lands held for carrying out mining operations. If not expressly provided under this Act the provisions shall not also affect the implications of revenue determination under other existing laws. Cess will be payable in case of all revenue free and rent free lands, if they have been assessed previously for such payments or are liable to pay cess under the provisions of any other law for the time being in force.

Question 11. Is there any special provision for imposition of cess for any particular category of land?

Answer - Section 5 says that cess payable shall be 100% of rent in case of mining lands and 50% in respect of other lands. This was later changed to 75%. Date from which such cess is payable will be determined by the Board of Revenue.

Question 12. Who are the persons that are liable to pay cess?

Answer - Section 6 defines the persons who are liable to pay cess. These are -

- Raiyats;
- Intermediaries; and
- Mining lease holders.

Cess shall be payable on such dates the Government decides from time to time by notification in the manner prescribed.

Question 13 – How is the annual value of land determined under the Cess Act?

Answer - According to section 7 the annual value of land is the rent payable on the same in case of raiyati lands. In case of estates, it will be the aggregate of –

- The difference of revenue for the estate the intermediary gets and pays to Government;
- Rents payable for khas possession.

In case of mining lands the amount shall be the royalty to be paid.

Question 14. Is surcharge a part of rent and if so under what provisions of law?

Answer - Rent includes the surcharge payable under the provisions of the Odisha Revenue Re imposition Act 1975 and royalty means payable under the Mines and Minerals (Regulation and Development) Act, 1957.

Question 15. When will be the amount of cess to be payable on a land determined?

Answer - According to section 8 the cess will be determined during rent settlement under the settlement operations carried out under the Odisha Survey and Settlement Act 1958. It can also be determined under the Odisha Consolidation of Holdings and Prevention of Fragmentation of Lands Act, 1972 but it is not mentioned because the Act was not enacted when Odisha Cess Act came into force.

Section 9 deals with assessment or cess in case of estates during settlement operations.

Section 9 A says that cess can be determined for all other lands and revised by the Collector whenever Government issues a notification in this regard. Similar provisions have been laid down in case of mining lands under section 9B.

Question 16. What is the process of using the amount collected as cess?

Answer - Section 10 deals with how the cess collected shall be used. The principles are –

- All cess collected shall be credited to Consolidated Fund of the State.
- 50% of cess collected from lands other than mining lands shall be spent for –
 - Primary education;
 - Contribution to Gram Panchayats; and
 - Contribution to Panchayat Samitees.

The proportions of expenditure from Cess Grant shall be as prescribed by Government from time to time.

Question 17. Can the collection of cess be suspended on any count?

Answer – Usually the cess will be collected even when rent is suspended or written off. But there are certain times when the collection of cess can be suspended. Section 10 A empowers government to suspend collection of cess for particular period in view of distress condition or natural calamities.

Question 18. Is there any provision for collection of interests under the Cess Act?

Answer- Under section 12 of the Act interests are to be charged if someone becomes defaulter for over 15 days in respect of any amount under cess to be deposited. The amount with costs of recovery can be recovered within three years if payable to intermediary and 10 years if payable to Government.

Question 19. Does the provisions laid down in the Odisha Public Demand Recoveries Act 1962 apply in case of collection of arrear cess?

Answer - Under section 13 of the Act arrears of these dues shall be recovered as arrears of land revenue and public demand.

Question 20. What are the appellate provisions under the Cess Act?

Answer - Section 18 deals with appeals. The principles are as follows.

- For orders passed by subordinate officers the appeal will lie before the Collector of the district.
- Against the orders of Collector the appeal will lie to RDC.
- The appeal must be filed within 30 days of passing of the order.
- Appeals will be disposed according to manner prescribed by Government.

Under section 19 of the Act the Board of Revenue has the power to call for any record suo motu or on application and revise the orders passed therein. But this provision is not applicable to assessments made under section 8 of the Act during Settlement or Consolidation operations.