

THE WEST BENGAL TRANSPORT INFRASTRUCTURE
DEVELOPMENT FUND ACT, 2002¹
(West Bengal Act XXI of 2002)

[3rd January, 2003]

An Act to establish a fund to create, develop, maintain or improve transport infrastructure in West Bengal and for such purpose to levy and collect a cess on sale of motor spirit commonly known as petrol, high speed diesel oil and liquefied petroleum gas and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to establish a fund to create, develop, maintain or improve transport infrastructure in West Bengal and for such purpose to levy and collect a cess on sale of motor spirit commonly known as petrol, high speed diesel oil and liquefied petroleum gas and to provide for matters connected therewith or incidental thereto;

It is hereby enacted in the fifty-third Year of Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal Transport Infrastructure Development Fund Act, 2002.

(2) It extends to the whole of West Bengal.

(3) It shall be deemed to have come into force on the 21st day of August, 2002.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “cess” means the cess levied and collected under section 4;
- (b) “Fund” means the West Bengal Transport Infrastructure Development Fund established under sub-section (1) of section 5;
- (c) “goods” means the goods specified in column (2) of the First Schedule;
- (d) “notification” means a notification published in the *Official Gazette*;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “Schedule” means the Schedules to this Act;
- (g) “State Government” means the Government of West Bengal.

1. Published in Kolkata Gazette, Extraordinary, Part III, dated 3-1-2003.

CHAPTER II

Authorities for the purposes of levy and collection of cess

3. Cess authorities.—(1) The State Government shall, by notification, appoint an authority (hereinafter referred to as the prescribed authority), and shall appoint such other persons, being the officers of the State Government, to assist the prescribed authority as the State Government may think fit, for carrying out the purposes of this Act.

(2) The prescribed authority and the persons appointed under sub-section (1) to assist him shall have jurisdiction over the whole of West Bengal.

(3) The persons appointed to assist the prescribed authority shall exercise such powers as may be delegated to them by the prescribed authority.

(4) The prescribed authority and the persons appointed to assist him under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

(5) No suit, prosecution or other legal proceedings shall lie against the prescribed authority or the persons appointed under sub-section (1) to assist him for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

CHAPTER III

Incidence and levy of cess, rate of cess and payment of cess

4. Incidence of cess, rate thereof, payment of cess and furnishing of return.—²(1) There shall be levied and collected, for the purposes of this Act, a cess on every sale in West Bengal—

(a) by any person, other than the persons referred to in clause (b), of goods which have not been purchased by such person in West Bengal,

(b) by any of the persons, namely,—

(i) Indian Oil Corporation Limited,

(ii) Hindusthan Petroleum Corporation Limited,

(iii) Bharat Petroleum Corporation Limited,

(iv) IBP Company Limited,

(v) Indian Oil Corporation Limited (Assam Division),

(vi) Indian Oil Petronas Private Limited,

(vii) Reliance Petroleum Private Limited,

³(viii) Numaligarh Refinery Limited,]

⁴[(ix) Bongaigaon Refinery and Petrochemicals Limited,

(x) Essar Oil Limited,

(xi) Oil and Natural Gas Corporation,]

2. Subs. by W.B. Act VI of 2004, s. 10, w.e.f. 21-8-2002.

3. Subs. for "(viii) Reliance Petro Marketing Private Limited," by W.B. Act III of 2007, s. 9(1), w.e.f. 1-4-2007.

4. Ins. by W.B. Act XVIII of 2006, s. 11, w.e.f. 1-4-2006.

⁵[(xii) Haldia Petrochemicals Limited,
(xiii) Reliance Industries Limited,]
made to any person, other than those referred to in sub-clause (i)
to sub-clause (xiii),⁶ of goods—

(A) which have been purchased in West Bengal by the
person referred to in sub-clause (i) to sub-clause (xiii)⁶
from any other person to referred to, or

(B) which have not been purchased in West Bengal by the
person referred to in sub-clause (i) to sub-clause (xiii)⁶,

at the appropriate rate specified in column (3) of the First Schedule:

Provided that, subject to such condition as may be prescribed, the
State Government may exempt, with prospective or retrospective effect,
any sale of goods from levy of cess.]

(2) The cess leviable under sub-section (1) shall be payable by the person
who sells such goods in West Bengal.

(3) The person referred to in sub-section (2) shall furnish a return to
such authority in such form, in such manner and at such interval, as may
be prescribed and such person shall, in the prescribed manner, pay the
full amount of cess before furnishing such return.

(4) The cess leviable under sub-section (1) shall be in addition to any
tax or duty, by whatever name called, leviable on sale of the goods under
any other law for the time being in force in West Bengal.

CHAPTER IV

West Bengal Transport Infrastructure Development Fund

5. Establishment of Fund.—(1) There shall be established for the
purposes of this Act, a Fund to be called the West Bengal Transport
Infrastructure Development Fund.

(2) The Fund shall be under the control of the State Government and
there shall be credited thereto—

- (a) any sum of money credited under section 6;
- (b) any sum of money credited under section 7;
- (c) any sum realised by the State Government in carrying out its
functions under this Act or in the administration of this Act;
- (d) any fund provided by the Central Government for the creation,
development, maintenance or improvement of transport infra-
structure.

(3) The balance to the credit of the Fund shall not lapse at the end
of the financial year.

5. Ins. by W.B. Act III of 2007, s. 9(2), w.e.f. 1-4-2007.

6. Amended by *ibid*, s. 9(3)-(5), w.e.f. 1-4-2007.

6. Crediting of cess to the Fund.—The proceeds of the cess levied under section 4 shall first be credited to the Consolidated Fund of West Bengal, and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of this Act.

7. Grants and loans by State Government.—The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the Fund, by way of grants or loans, such sums of money as the State Government may consider necessary.

8. Utilisation of Fund.—The Fund shall be utilised for—

- (a) the creation, development, maintenance or improvement of transport infrastructure, including roads, bridges and flyovers;
- (b) the improvement of traffic operations and road safety;
- (c) the purposes of such other projects as may be prescribed.

CHAPTER V

Management of the Fund

9. Maintenance of accounts.—The State Government shall maintain proper accounts and other relevant records in such form, and in such manner, as may be prescribed.

10. Administration of the Fund.—The State Government shall administer the Fund and take such decisions regarding investment in projects of transport infrastructure, traffic operation and road safety as it considers necessary.

CHAPTER VI

Miscellaneous

11. Power to make rules.—(1) The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed, or to be provided for, by rules.

12. Amendment of West Ben. Act XLIX of 1994.—The West Bengal Sales Tax Act, 1994 shall be amended in the manner specified in the Second Schedule to this Act.

13. Repeal and saving.—(1) The West Bengal Transport Infrastructure Development Fund Ordinance, 2002 (West Ben. Ord. I of 2002) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under the corresponding provisions of this Act.

THE W. B. T. I. DEVELOPMENT FUND ACT, 2002

The First Schedule

[See section 4.]

Sl. No.	Name of goods	Rate of cess
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol.	Rupee one per litre.
2.	High speed diesel oil.	Rupee one per litre.
3.	Liquefied petroleum gas used for commercial and industrial purposes.	Rupee one per kilogram.

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Amending Acts.

Sl. No.	Amending Act	Effective from	S.T.A. reference (St.)
1.	W.B. Act VI of 2004	1-9-04	44 S.T.A. 48
2.	W.B. Act XV of 2004	1-9-04	45 S.T.A. 22
3.	W.B. Act XVIII of 2006	1-4-06	48 S.T.A. 81
4.	W.B. Act III of 2007	1-4-07	49 S.T.A. 29