

# GOVERNMENT OF WEST BENGAL

## LAW DEPARTMENT

### Legislative

## West Bengal Act IV of 1993

### THE WEST BENGAL TAXATION LAWS (AMENDMENT) ACT, 1993.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 7th April, 1993.]

[7th April, 1993.]

*An Act to amend the Bengal Excise Act, 1909, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Primary Education Act, 1973, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Urban Land Taxation Act, 1976, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.*

Ben. Act V  
of 1909.  
Ben Act V  
of 1922.  
Ben. Act X  
of 1935.  
Ben. Act VI  
of 1941.  
West Ben.  
Act XLIII  
of 1973.  
West Ben.  
Act XI  
of 1974.  
West Ben.  
Act VIII  
of 1976.  
West Ben.  
Act XIV  
of 1976.  
West Ben.  
Act VI  
of 1982.

WHEREAS it is expedient to amend the Bengal Excise Act, 1909, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Primary Education Act, 1973, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Urban Land Taxation Act, 1976, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 1993.

Short title  
and  
commence-  
ment.

*(Section 2.)*

(2) It shall be deemed to have come into force on the 1st day of February, 1993.

Amendment  
of Ben. Act  
V of 1909.

2. In the Bengal Excise Act, 1909,—

- (1) in section 2, after clause (17), the following clause shall be inserted:—

'(17a) "prescribed" means prescribed by rules made under this Act;';

- (2) for section 30, the following section shall be substituted:—

"Selection of new sites for grant of licenses. 30. (1) The State Government may, subject to such conditions and restrictions as may be prescribed, select, from time to time, new sites in any local area for grant of a license for the retail sale of spirit at such new site or in the vicinity thereof having regard to public demand.

(2) Upon selection of the new sites under sub-section (1), the Collector may, subject to the provisions of section 37A, grant a license to a person for the retail sale of spirit at the new site or in the vicinity thereof for a period of settlement.";

- (3) for section 31, the following section shall be substituted:—

"Grant of licenses at existing sites. 31. Unless the State Government or the Excise Commissioner otherwise directs, the Collector may, on the expiry of the period of validity of licenses for the retail sale of spirit at the existing sites, grant licenses for the retail sale of spirit at the existing sites or, if necessary, in the vicinity thereof for the next period of settlement in such manner and subject to such conditions as may be prescribed.";

- (4) section 32 shall be omitted;

- (5) section 33 shall be omitted;

- (6) section 34 shall be omitted;

- (7) section 35 shall be omitted;

- (8) section 35A shall be omitted;

- (9) for section 36, the following section shall be substituted:—

"Application of section 30 and section 31 to licenses for retail sale of intoxicants other than spirit. 36. The provisions of sections 30 and 31 as to licenses for the retail sale of spirit shall also be applicable to the licenses for the retail sale of such other intoxicant as the State Government may, by order, specify, in West Bengal generally or in such local area as may be specified in such order.";

*(Section 3.)*

- (10) for section 37, the following section shall be substituted:—

"Exemption of 37. Notwithstanding anything contained in certain licenses from section 30 or section 36, the Collector may, in such manner and subject to such conditions and restrictions as may be prescribed, grant license to—

- (a) any person, for the retail sale of any intoxicant during any period not exceeding six months; or
- (b) any person, for the sale of any denatured spirit; or
- (c) any person, for the retail sale of any intoxicant in substitution for and for the remainder of a license which has been cancelled, withdrawn or surrendered before the expiration of the period for which it was granted or which has lapsed on the death of the person to whom it was granted; or
- (d) any medical practitioner, chemist, druggist, apothecary or keeper of a dispensary, for the retail sale of any intoxicant for medical purposes; or
- (e) any person in charge of a military canteen or a canteen established by or for the Border Security Force for sale of foreign liquor to the military personnel or the personnel of the Border Security Force."

- (11) in section 41, in sub-section (2), the words, figures and brackets beginning with "the Excise Commissioner" and ending with "section 35)" shall be omitted.

3. In the Bengal Amusements Tax Act, 1922, in section 3, after sub-section (3b), the following sub-sections shall be inserted:—

Amendment  
of Ben. Act  
V of 1922.

"(3c) Notwithstanding anything contained in sub-section (3a), the entertainments tax shall not be charged, levied or paid on such part of the value of each ticket for admission to any cinematograph exhibition as represents,—

- (i) in the case of a cinematograph exhibition in a cinema hall, a service charge, if any, not exceeding twenty-five paise, realised separately from any person in respect of his admission to such cinematograph exhibition for maintenance of such cinema hall and providing amenities therein;

*(Section 4.)*

- (ii) in the case of a cinematograph exhibition in an air-conditioned cinema hall, an additional service charge, if any, not exceeding twenty-five paise, realised separately in addition to the service charge referred to in clause (i) from any person in respect of his admission to such cinematograph exhibition for providing air-conditioning facilities in such cinema hall:

Provided that no claim for exemption from payment of entertainments tax shall be admissible to any proprietor of cinematograph exhibition on any sum or sums realised by him separately by way of additional service charge referred to in clause (ii) during such months of any year as the State Government may, by notification, specify.

- (3d) Notwithstanding anything contained in sub-section (3c), no claim for exemption from payment of entertainments tax shall be admissible to any proprietor of cinematograph exhibition in a cinema hall unless he proves to the satisfaction of such authority as the State Government may, by notification, specify that the sum realised separately by way of service charge has been utilised, or that adequate provision has been made in his books of accounts, for maintenance of such cinema hall or for providing air-conditioning facilities therein."

Amendment  
of Ben. Act  
X of 1935.

4. In the Bengal Electricity Duty Act, 1935,—

- (1) in section 2,—

- (a) after clause (2), the following clauses shall be inserted:—

'(2a) "energy charge" means the amount charged (whether as energy charge or some other charge) by a licensee for the supply of energy to a consumer before deduction of rebate, if any, allowed by the licensee for payment on or before such date as may be specified by the licensee;

(2b) "gross charge" means the aggregate amount of energy charge and fuel surcharge, if any, made by the licensee for the supply of energy;';

- (b) after clause (3), the following clause shall be inserted:—

'(3a) "net charge" means the amount of gross charge that remains after deduction therefrom of any rebate referred to in clause (2a) or refund of fuel surcharge, if any;';

IV of 1993.]

*(Section 4.)*

- (2) in section 3,—
  - (a) in sub-section (1),—
    - (i) for the words, figures and brackets "sub-sections (2) and (3)," the word, figure and brackets "sub-section (3)," shall be substituted;
    - (ii) for the words "on the units of energy consumed", the words "on the net charge for energy consumed or the units of energy consumed, as the case may be," shall be substituted;
    - (iii) in the first proviso, for the words "on the units of energy consumed", wherever they occur, the words "net charge for energy consumed or the units of energy consumed, as the case may be," shall be substituted;
  - (b) in sub-section (2), for the words, figure, letter and brackets "in clause (2) of article (b)", in the two places where they occur, the words, figures, letter and brackets "sub-clause (ii) of clause (b) of article (2)" shall be substituted;
  - (c) in sub-section (3), for the words "on the units of energy consumed as recorded in the meter", the words "on the net charge for energy consumed or the units of energy consumed as recorded in the meter, as the case may be," shall be substituted;
- (3) in section 5,—
  - (a) in sub-section (1), the words "units of" shall be omitted;
  - (b) in sub-section (1A), the words "units of" shall be omitted;
- (4) in section 6, after the words "units of energy", the words ", and the gross charge, fuel surcharge and net charge for energy," shall be inserted;
- (5) for the First Schedule, the following Schedule shall be substituted:—

**‘THE FIRST SCHEDULE**

[See section 3.]

**RATES OF ELECTRICITY DUTY**

**A. For energy other than energy supplied by a licensee or the State Government.**

In the case of energy, other than energy supplied by a licensee or the State Government, generated by a person liable to pay electricity duty under sub-section (4) of section 5	5 paise for each unit of energy consumed.
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(Section 4.)

**B. For industrial purposes.**

(1) *Low and medium voltage energy:*

Where low or medium voltage energy supplied by a licensee is consumed by a consumer in any premises in connection with industrial or manufacturing process including cold storage, and consumption of energy during the month to which the calculation of duty relates—

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|---|---|
| (i) does not exceed five hundred units                                    | 2.5 per<br>centum of<br>net charge<br>for energy<br>consumed; |
| (ii) exceeds five hundred units but does not<br>exceed one thousand units | 5.0 per<br>centum of net<br>charge for<br>energy<br>consumed; |
| (iii) exceeds one thousand units  | 7.5 per<br>centum of net<br>charge for<br>energy<br>consumed. |

(2) *High voltage energy:*

- |   |   |
|---|---|
| (a) Except in cases falling under clause (b),<br>where high voltage energy supplied by a<br>licensee is consumed by a consumer in<br>any premises in connection with<br>industrial or manufacturing process<br>including cold storage | 7.5 per<br>centum of net<br>charge for<br>energy<br>consumed; |
| (b) where energy is consumed for the<br>purposes of—  | 5.0 per<br>centum of net<br>charge for<br>energy<br>consumed; |
| (i) a cottage industry or a small-scale<br>industry, by any undertaking not<br>being a factory as defined in the<br>Factories Act, 1948, or   |   |
| (ii) electrolysis or heating in electric<br>furnaces, by any industrial<br>undertaking,<br>and separate meters or sub-meters are<br>installed for indicating the quantity of<br>energy so consumed.                                   |   |

63 of 1948.

*Explanation.*—In this Part, where energy is consumed in any premises for lights and fans and for any other purposes in connection with industrial or manufacturing process, including cold storage, electrolysis or heating in electric furnaces, carried on therein, and the quantity of energy consumed

**IV of 1993.]**

*(Section 4.)*

for lights and fans is not separately indicated by meters or sub-meters, such quantity of energy consumed for lights and fans or for any other purposes shall be deemed to have been consumed for industrial purposes, and, notwithstanding anything contained in Part A or Part C, the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be, of this Part.

**C. Where a common rate is charged by a licensee for supply of energy for lights, fans and all other purposes except the purposes referred to in Part B.**

**(1) *Low and medium voltage energy:***

In the case where a common rate is charged for supply of low or medium voltage energy for lights, fans and all other purposes, except the purposes in connection with industrial or manufacturing process referred to in article (1) of Part B, in any premises, and—

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|---|---|
| (a) where such common rate is charged for low or medium voltage energy supplied by a licensee for commercial purposes to a consumer whose consumption of such energy during the month to which the calculation of duty relates— |   |
| (i) does not exceed twenty-five units   | nil;  |
| (ii) exceeds twenty-five units but does not exceed sixty units  | 2.5 <i>per centum</i> of net charge for energy consumed;  |
| (iii) exceeds sixty units but does not exceed one hundred units   | 5.0 <i>per centum</i> of net charge for energy consumed;  |
| (iv) exceeds one hundred units but does not exceed one hundred and fifty units  | 7.5 <i>per centum</i> of net charge for energy consumed;  |
| (v) exceeds one hundred and fifty units but does not exceed five hundred units  | 10.0 <i>per centum</i> of net charge for energy consumed; |
| (vi) exceeds five hundred units   | 12.5 <i>per centum</i> of net charge for energy consumed; |

*(Section 4.)*

(b) where such common rate is charged for low or medium voltage energy supplied by a licensee for any purposes, other than the commercial purposes referred to in clause (a), to a consumer whose consumption of such energy during the month to which the calculation of duty relates—

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|---|--|
| (i) does not exceed twenty-five units                           | nil;   |
| (ii) exceeds twenty-five units but does not exceed sixty units  | 2.5 <i>per centum</i> of net charge for energy consumed; |
| (iii) exceeds sixty units but does not exceed one hundred units | 5.0 <i>per centum</i> of net charge for energy consumed; |
| (iv) exceeds one hundred units                                  | 7.5 <i>per centum</i> of net charge for energy consumed. |

(2) *High voltage energy:*

In the cases where a common rate is charged for high voltage energy supplied by a licensee to a consumer for purposes, other than the purposes in connection with industrial or manufacturing process referred to in article (2) of Part B, in any premises, and—

- |   |   |
|---|---|
| (a) where such common rate is charged for high voltage energy for commercial purposes to a consumer   | 12.5 <i>per centum</i> of net charge for energy consumed; |
| (b) where such common rate is charged for high voltage energy for purposes, other than the commercial purposes referred to in clause (a), to a consumer | 10.0 <i>per centum</i> of net charge for energy consumed; |



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(Section 4.)

- (3) In respect of all premises where the supply of energy by a licensee is unmetered for—

	<i>Paise per month</i>
every lamp of less than 30 watts	20;
every lamp of 30 watts or more but less than 40 watts	29;
every lamp of 40 watts or more but less than 60 watts	37;
every lamp of 60 watts or more but not exceeding 100 watts	50; and
for every additional 15 watts or fraction thereof in excess of 100 watts in any lamp	10.

*Explanation I.*—For the purposes of this Part, where the electricity duty is charged, levied or paid in accordance with the provisions contained in the third proviso to sub-section (1) of section 3, the expression "consumption of energy" shall mean the consumption of energy as arrived at on the basis of average monthly consumption in accordance with the said proviso.

*Explanation II.*—For the purposes of this Schedule,—

- (i) the expression "low or medium voltage energy" means any energy supplied, the voltage of which does not exceed 650 volts under normal conditions, subject to the percentage variation allowed under the Indian Electricity Rules, 1956;
  - (ii) the expression "high voltage energy" means any energy supplied, the voltage of which exceeds 650 volts under normal conditions, subject to the percentage variation allowed under the Indian Electricity Rules, 1956.
- (6) in the Second Schedule, for *Explanation (4)*, the following *Explanation* shall be substituted:—

*Explanation (4).*—For the purposes of exemption (10), the expression "rural area" means an area other than an area to which the Cantonments Act, 1924, or the Cooch Behar Town Committee Act, 1903, or the Bengal Municipal Act, 1932, or the Chandernagore Municipal Act, 1955, or the Howrah Municipal Corporation Act, 1980, or the Calcutta Municipal Corporation Act, 1980, applies or an area declared as a notified area under section 93A of the Bengal Municipal Act, 1932.

2 of 1924.  
Cooch Behar  
Act IV of  
1903.  
Ben. Act XV  
of 1932.  
West Ben.  
Act XVIII  
of 1955.  
West Ben.  
Act LVIII of  
1980.  
West Ben.  
Act LIX of  
1980.

(Section 5.)

Amendment  
of Ben. Act  
VI of 1941.

5. In the Bengal Finance (Sales Tax) Act, 1941,—

- (1) in section 6D, after sub-section (1), the following sub-section shall be inserted:—

"(1a) The Commissioner, after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard, shall fix the date on and from which such dealer shall become liable to pay tax under clause (b) of sub-section (1).";

- (2) after section 6D, the following section shall be inserted:—

"Deduction at source from the payment to a dealer against execution of works contract.

6E. (1) Notwithstanding anything contained in section 10 or any rules made thereunder or any term of a contract to the contrary, any person responsible for paying any sum to any dealer for execution of a works contract referred to in section 6D wholly or partly in pursuance of a contract between such dealer and—

- (a) the Central or a State Government,
- (b) a local authority,
- (c) a corporation or body established by or under a Central or State Act,
- (d) a company incorporated under the Companies Act, 1956, including a Central or State Government undertaking,
- (e) a co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, or
- (f) an educational institution,

1 of 1956.

West Ben.  
Act XLV of  
1983.

shall, at the time of payment of such sum in cash or by issue of a cheque or draft or any other mode of payment, deduct an amount towards tax equal to two *per centum* of such sum being paid in respect of such works contract:

Provided that no deduction under sub-section (1) shall be made where—

- (a) the payment is made as advance on account of the execution of such works contract;
- (b) no transfer of property in goods (whether as goods or in some other form) is involved in the execution of such works contract; or
- (c) where the dealer produces a certificate from the Commissioner under section 21B that he has no liability to pay tax under section 6D or that he has paid tax payable by, or due from, him under that section:

*(Section 5.)*

Provided further that no deduction under sub-section (1) shall be made in respect of that part of payment to a dealer which represents his contractual transfer price of the declared goods as referred to in clause (a) of sub-section (2) of section 6D where such dealer declares in writing to that effect and claims such exemption.

(2) Where a deduction of tax is made under sub-section (1), the person making such deduction shall, within fifteen days from the date of such deduction, deposit the sum so deducted into a Government Treasury or the Reserve Bank of India in such form of challan as may be prescribed.

(3) After the deposit of the sum under sub-section (2), the person who makes the deduction and deposit shall, within fifteen days of such deposit, issue to the dealer a certificate in the prescribed form for each deduction separately and send a copy thereof to the Commissioner.

(4) On furnishing a certificate of deduction referred to in sub-section (3), the deposits, referred to in sub-section (2), shall be adjusted by the Commissioner towards tax liability under section 6D of the dealer and shall constitute a good and sufficient discharge of the liability of the person making deduction to the dealer to the extent of the amount deposited.

(5) Where any person, while making any payment, contravenes the provisions of sub-section (1), sub-section (2) or sub-section (3), he shall be personally liable for such contravention and the Commissioner may, after giving him an opportunity of being heard, by an order in writing and in such manner as may be prescribed, impose on such person a penalty not exceeding twice the amount required to be deducted and deposited by him into the Government Treasury or the Reserve Bank of India.

(6) Where the dealer from whose account any sum has been deducted under sub-section (1) and deposited under sub-section (2) proves to the satisfaction of the Commissioner that he is not liable to pay tax under section 6D and such sum was not wholly or partly payable by him under this Act, the Commissioner shall refund or adjust the amount refundable to the dealer in such manner as may be prescribed.”;

(Section 5.)

- (3) in section 21B, for sub-section (1), the following sub-sections shall be substituted:—

"(1) Notwithstanding anything contained in any other law for the time being in force,—

- (a) no Government, local authority, educational institution or corporation or body established by or under a Central or State Act shall place order with, or make purchases of any goods from, any dealer or make any payment to such dealer for such purchases, or
- (b) no Government, local authority, educational institution, corporation or body established by or under a Central or State Act, or company incorporated under the Companies Act, 1956, or co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, shall enter into any works contract with any dealer for execution by him of such works contract and shall make payment to such dealer for execution of works contract,

1 of 1956.

West Ben.  
Act XLV of  
1983.

unless the Commissioner certifies in the prescribed manner that such dealer—

- (i) has no liability to pay tax or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all tax payable under this Act, the West Bengal Sales Tax Act, 1954, or the Central Sales Tax Act, 1956,
- (ii) has not defaulted in making payment of tax otherwise payable by, or due from, him under this Act, the West Bengal Sales Tax Act, 1954 or the Central Sales Tax Act, 1956, or
- (iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise,

West Ben.  
Act IV of  
1954.  
74 of 1956.

as the case may be:

Provided that the provisions of this sub-section shall not apply to any payment referred to in clause (b) where any amount is deductible from such payment under sub-section (1) of section 6E.

*(Section 5.)*

- (1A) Where an application made by a dealer in the prescribed form, the Commissioner, after making such enquiry as he deems fit and proper, is satisfied and issues a certificate in the prescribed form to the effect that such dealer is not liable to pay tax under section 6D or that he has paid tax payable by, or due from, him under that section, payment may, notwithstanding anything contained in sub-section (1), be made to such dealer for execution by him of a works contract referred to in section 6D on production by him of such certificate of the Commissioner.”;
- (4) in section 26, in sub-section (2),—
- (a) after clause (ddddd), the following clause shall be inserted:—
- “(ddddd-1) the form of challan, form of certificate, manner of imposition of penalty and the manner of refund or adjustment of amount refundable, under section 6E;”;
- (b) in clause (pp), for the words “the forms”, the words “the manner of issue of certificate, the forms” shall be substituted;
- (5) in section 26A, after sub-section (2B), the following sub-section shall be inserted:—
- “(2C) Notwithstanding any judgement, decree or order of any Court, Tribunal or authority, any amount levied, paid, collected or recovered or purported to have been levied, paid, collected or recovered before the commencement of the West Bengal Taxation Laws (Amendment) Ordinance, 1993, on sales of agricultural implements, other than tractors and power-tillers, operated by power, and spare parts, accessories and component parts thereof as tax under the provisions of this Act or the rules made thereunder shall be deemed always to have been validly levied, paid, collected or recovered in accordance with the provisions of this Act or the rules made thereunder; and, accordingly, no suit or other proceeding shall be maintained or continued in any Court or before any Tribunal or authority for, and no enforcement shall be made by any Court, Tribunal or authority of any decree or order directing, the refund of any such tax which has been collected or recovered:

*(Section 6.)*

Provided that nothing in this sub-section shall be construed as preventing any person—

- (i) from questioning in accordance with the provisions of this Act, the assessment, re-assessment, levy or collection of the tax on sales of agricultural implements, other than tractors and power-tillers, operated by power, and spare parts, accessories and component parts thereof, or
  - (ii) from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under this Act.”;
- (6) in Schedule I, in the entry in column 2 against item 13, the words “tractors, power-tillers and other” shall be omitted and shall be deemed to have been omitted with effect from the first day of October, 1982;
- (7) in Schedule II, after serial No. 44 and the corresponding entries under the heading “Description of Goods”, the following serial No. and entries under the heading “Description of Goods” shall be added:—
- “45. All kinds of dyes (other than textile dyes) and pigments.”.

Amendment  
of West Ben.  
Act XLIII of  
1973.

6. In the West Bengal Primary Education Act, 1973,—

- (1) after section 78B, the following section shall be inserted:—

“Special mode of recovery. 78BB. (1) Notwithstanding the issue of a requisition under the proviso to clause (f) of section 78A or under the proviso to clause (g) of section 78B for realisation of cess, penalty or interest as arrears of land revenue, the notified authority or the prescribed authority, as the case may be, may, at any time or from time to time by notice in the prescribed form, require any person from whom money is due or may become due to the owner referred to in section 78A or section 78B, as the case may be, or any person who holds or may subsequently hold money for or on account of such owner, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by such owner in respect of the arrears or the whole of the money when it is equal to or less than the amount due.

*(Section 6.)*

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for or on account of the owner jointly with any other person and, for the purposes of this section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the owner at his last address known to the notified authority or the prescribed authority, as the case may be, and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post-office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim with respect to any property in relation to which a notice under this section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the notified authority or the prescribed authority, as the case may be, that the sum demanded or part thereof is not due to the owner or that he does not hold any money for or on account of the owner or that the money demanded or any part thereof is not likely to be due to the owner or be held for or on account of the owner, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The notified authority or the prescribed authority, as the case may be, may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

*(Section 6.)*

(8) The Treasury or the Bank shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying shall be fully discharged from his liability to the owner to the extent of the amount so paid.

(9) Any person discharging any liability to the owner after receipt of a notice under this section shall be personally liable to the notified authority or the prescribed authority, as the case may be, to the extent of his own liability to the owner so discharged or to the extent of the owner's liability for any sum due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be an owner in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The notified authority or the prescribed authority, as the case may be, may apply to the Court in whose custody there is money belonging to the owner for payment to him of the entire amount of such money or, if it is more than the tax due, an amount sufficient to discharge the tax:

Provided that any dues or property exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition made under this section.”;

5 of 1908.

- (2) in PART IV, after CHAPTER X, the following chapter shall be inserted:—

**“CHAPTER XA**

**Offences and Prosecutions**

Offences and  
prosecutions.

78D. (1) Whoever—

- (a) fails to pay the full amount of education cess payable under sub-section (1) of section 78 in respect of a coal-bearing land referred to in clause (b) of sub-section (2) of that section for any period in accordance with clause (a) of section 78A, or
- (b) submits a false declaration, or fails without reasonable cause to furnish a declaration, under clause (b) of section 78A, or



IV of 1993.]

*(Section 6.)*

- (c) fails to make payment of interest payable under clause (ga), clause (gb) or clause (gc) of section 78A, or
- (d) fails to pay the full amount of education cess payable under sub-section (1) of section 78 in respect of a tea estate referred to in sub-section (2A) of that section for any period in accordance with clause (a) of section 78B, or
- (e) submits a false return, or fails without reasonable cause to furnish a return, under clause (c) of section 78B, or
- (f) fails to make payment of interest payable under clause (ha), clause (hb) or clause (hc) of section 78B,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and, when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of continuance of the offence:

Provided that no prosecution for an offence enumerated in this sub-section shall be instituted in respect of the same facts in respect of which a penalty has been imposed under clause (c) of section 78A or under clause (d) of section 78B, as the case may be.

- (2) No Court shall take cognizance of any offence—
  - (a) under clause (a), clause (b) or clause (c) of sub-section (1), except with the previous sanction of the notified authority referred to in clause (b) of section 78A, or
  - (b) under clause (d), clause (e) or clause (f) of sub-section (1), except with the previous sanction of the prescribed authority referred to in clause (b) of section 78B,

and no Court inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

- (3) The offences punishable under sub-section (1) shall be cognizable and bailable.

**Liability to prosecution.** 78E. (1) Where an offence under clause

(a), clause (b) or clause (c) of sub-section (1) of section 78D has been committed by an owner of a coal-bearing land or an offence under clause (d), clause (e) or clause (f) of sub-section (1) of that section has been committed by an owner of a tea estate, as the case may be, every person who, at the time the offence was committed, was in-charge of such coal-bearing land or tea estate, as the case may be, and was responsible to such owner, for the

(Sections 7, 8.)

conduct of the business of such coal-bearing land or tea estate, as the case may be, as well as the owner, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 78D, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 78D has been committed by an owner of a coal-bearing land or tea estate, as the case may be, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the coal-bearing land or tea estate, as the case may be, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”.

Amendment  
of West Ben.  
Act XI of  
1974.

7. In West Bengal Motor Spirit Sales Tax Act, 1974, in section 8, after sub-section (2), the following sub-section shall be inserted:—

“(2A) Notwithstanding anything contained in sub-section (2), the dealer shall pay into a Government Treasury or the Reserve Bank of India, the full amount of tax leviable under this Act in respect of the motor spirit sold by him during the period commencing on and from the first day of March to the twenty-fifth day of March every year, on or before the twenty-eighth day of March of that year and shall, before submitting the return under sub-section (2) for the month of March of that year, pay the balance of the full amount of tax due from him according to such return and furnish along with the return for such month a receipt or receipts from such Treasury or Bank showing payment of the full amount of tax.”.

Amendment  
of West Ben.  
Act VIII of  
1976.

8. In the West Bengal Urban Land Taxation Act, 1976,—

- (1) section 7 shall be omitted;
- (2) in section 32, in sub-section (1), clause (a) shall be omitted.

IV of 1993.]

(Section 9.)

9. In the West Bengal Rural Employment and Production Act, 1976,—

Amendment  
of West Ben.  
Act XIV of  
1976.

(1) after section 4A, the following section shall be inserted:—

“Special mode of recovery. 4AA. (1) Notwithstanding the issue of a requisition under the proviso to clause (f) of sub-section (3) of section 4 or under the proviso to clause (f) of section 4A for realisation of cess, penalty or interest as arrears of land revenue, the prescribed authority or the notified authority, as the case may be, may, at any time or from time to time by notice in the prescribed form, require any person from whom money is due or may become due to the owner referred to in sub-section (3) of section 4 or section 4A, as the case may be, or any person who holds or may subsequently hold money for or on account of such owner, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by such owner in respect of the arrears or the whole of the money when it is equal to or less than the amount due.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for or on account of the owner jointly with any other person and, for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the owner at his last address known to the prescribed authority or the notified authority, as the case may be, and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post-office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

*(Section 9.)*

(5) Any claim with respect to any property in relation to which a notice under this section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority or the notified authority, as the case may be, that the sum demanded or part thereof is not due to the owner or that he does not hold any money for or on account of the owner or that the money demanded or any part thereof is not likely to be due to the owner or be held for or an account of the owner, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The prescribed authority or the notified authority, as the case may be, may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Treasury or the Bank shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying shall be fully discharged from his liability to the owner to the extent of the amount so paid.

(9) Any person discharging any liability to the owner after receipt of a notice under this section shall be personally liable to the prescribed authority or the notified authority, as the case may be, to the extent of his own liability to the owner so discharged or to the extent of the owner's liability for any sum due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be an owner in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The prescribed authority or the notified authority, as the case may be, may apply to the Court in whose custody there is money belonging to the owner for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax:

*(Section 9.)*

5 of 1908. Provided that any dues or property exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition made under this section.”;

(2) after section 6, the following sections shall be inserted:—

“Offences and penalties. 6A. (1) Whoever—

- (a) fails to pay the full amount of rural employment cess payable under sub-section (1) of section 4 in respect of a tea estate referred to in sub-section (2A) of that section for any period in accordance with clause (a) of sub-section (3) of that section, or
- (b) submits a false return, or fails without reasonable cause to furnish a return, under clause (c) of sub-section (3) of section 4, or
- (c) fails to make payment of interest payable under clause (g1), clause (g2) or clause (g3) of sub-section (3) of section 4, or
- (d) fails to pay the full amount of rural employment cess payable under sub-section (1) of section 4 in respect of a coal-bearing land referred to in clause (b) of sub-section (2) of that section for any period in accordance with clause (a) of section 4A, or
- (e) submits a false declaration, or fails without reasonable cause to furnish a declaration, under clause (b) of section 4A, or
- (f) fails to make payment of interest payable under clause (ga), clause (gb) or clause (gc) of section 4A,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and, when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence:

Provided that no prosecution for an offence enumerated in this sub-section shall be instituted in respect of the same facts in respect of which a penalty has been imposed under clause (cc) or clause (g) of sub-section (3), as the case may be, of section 4.

(2) No Court shall take cognizance of any offence—

- (a) under clause (a), clause (b) or clause (c) of sub-section (1), except with the previous sanction of the prescribed authority referred to in sub-section (3) of section 4, or

*(Section 10.)*

- (b) under clause (d), clause (e) or clause (f) of sub-section (1), except with the previous sanction of the notified authority referred to in clause (b) of section 4A,

and no Court inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

(3) The offences punishable under sub-section (1) shall be cognizable and bailable.

Liability to prosecution. 6B. (1) When an offence under clause (a), clause (b) or clause (c) of sub-section (1) of section 6A has been committed by an owner of a tea estate or an offence under clause (d), clause (e) or clause (f) of sub-section (1) of that section has been committed by an owner of a coal-bearing land, as the case may be, every person who, at the time the offence was committed, was in charge of such tea estate or coal-bearing land, as the case may be, and was responsible to such owner for the conduct of the business of such tea estate or coal-bearing land, as the case may be, as well as the owner, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 6A, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 6A has been committed by an owner of a tea estate or coal-bearing land, as the case may be, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

Amendment  
of West Ben.  
Act VI of  
1982.

10. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, in section 4A, after sub-section (4), the following sub-sections shall be inserted:—

*(Section 10.)*

- "(5) Where the holder of a video cassette recorder set or the holder of a video cassette player set, who has been liable to pay luxury-cum-entertainment and amusement tax under this section, intends to claim exemption from liability to pay such tax on the ground that he will not make any public performance or exhibition of films through such set referred to in sub-section (1) or clause (b) of sub-section (3) during any week or such performance or exhibition of films referred to in sub-section (2) or clause (a) of sub-section (3) during any year or transmit for exhibition of performances referred to in sub-section (4) during any week, he shall furnish to the prescribed authority within the prescribed time a declaration in the prescribed form containing such particulars as may be prescribed:

Provided that where such holder fails to furnish such declaration, if the prescribed authority, on an application for exemption from liability to pay tax under this section for a week or a year made by such holder after the expiry of such week or year, as the case may be, and after making such enquiries as it may consider necessary, is satisfied that the holder could not furnish the declaration within the prescribed time for reasons and in the circumstances beyond his control and the holder did not make public performance or exhibition or did not transmit for exhibition of performances, during such week or year, as the case may be, it may exempt such holder from liability to pay such tax in respect of such week or year, as the case may be.

- (6) If it is found on enquiry made by the prescribed authority that the holder, who has furnished declaration under sub-section (5) in respect of a video cassette recorder set or video cassette player set for any week or year, as the case may be, has made any public performance or exhibition of films during such week or year through such set or has transmitted for exhibition of performances during such week through such set, the prescribed authority shall assess, in the prescribed manner, tax payable for such week or year, as the case may be, for such set in accordance with the provisions of this section and, in the case of failure by a holder to inform the prescribed authority before making the performance, exhibition or transmission as aforesaid without any reasonable cause, he may impose a penalty not exceeding fifty *per cent* of the tax payable for such week or year after giving the holder a reasonable opportunity of being heard.

*(Section 11.)*

- (7) When an assessment of tax has been made or a penalty has been imposed under sub-section (6), the prescribed authority shall issue a notice in the prescribed form directing the holder to pay the tax or penalty, as the case may be, on or before the date specified in the notice."

Repeal and  
saving.

11. (1) The West Bengal Taxation Laws (Amendment) Ordinance, 1993, is hereby repealed.

West Ben.  
Ord. I of  
1993.

(2) Notwithstanding such repeal, anything done or any action taken under the Bengal Excise Act, 1909, or the Bengal Amusements Tax Act, 1922, or the Bengal Electricity Duty Act, 1935, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Primary Education Act, 1973, or the West Bengal Motor Spirit Sales Tax Act, 1974, or the West Bengal Urban Land Taxation Act, 1976, or the West Bengal Rural Employment and Production Act, 1976, or the West Bengal Entertainment-cum-Amusement Tax Act, 1982, as amended by the said Ordinance, shall be deemed to have been validly done or taken under the Bengal Excise Act, 1909, or the Bengal Amusements Tax Act, 1922, or the Bengal Electricity Duty Act, 1935, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Primary Education Act, 1973, or the West Bengal Motor Spirit Sales Tax Act, 1974, or the West Bengal Urban Land Taxation Act, 1976, or the West Bengal Rural Employment and Production Act, 1976, or the West Bengal Entertainment-cum-Amusement Tax Act, 1982, as amended by this Act, as the case may be.

Ben. Act V  
of 1909.  
Ben. Act V  
of 1922.  
Ben. Act X  
of 1935.  
Ben. Act VI  
of 1941.  
West Ben.  
Act  
XLIII of  
1973.  
West Ben.  
Act  
XI of 1974.  
West Ben.  
Act  
VIII of 1976.  
West Ben.  
Act  
XIV of 1976.  
West Ben.  
Act  
VI of 1982.