

**BALUCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.**

**NOTIFICATION.**

Dated Quetta, the 18<sup>th</sup> February, 2019.

**No.PAB/Legis; V (03)/2019.** The Balochistan Infrastructure Development Cess Bill, 2019 Bill No. 03 of 2019 having been passed by the Provincial Assembly of Balochistan on 11<sup>th</sup> February, 2019 and assented to by the Governor Balochistan, on 15<sup>th</sup> February, 2019 is hereby published as an Act of the Balochistan Provincial Assembly.

**THE BALUCHISTAN INFRASTRUCTURE DEVELOPMENT CESS ACT, 2019**

**BALUCHISTAN ACT NO. III OF 2019.**

AN

ACT

to levy and collect a cess on goods entering and leaving the Province from or for outside the country through rail, road, air and sea;

**Preamble.** Whereas it is expedient to provide for the levy and collection of cess on goods entering and leaving the Province from or for outside the country through rail, road, air and sea, for development and maintenance of infrastructure of the Province;

It is hereby enacted as follows: -

**CHAPTER – I**

**PRELIMINARY**

**Short title, extent and commencement.** 1. (1) This Act may be called the Balochistan Infrastructure Development Cess Act, 2019.

(2) It shall extend to the whole Province of Balochistan.

(3) It shall come into force at once and shall be deemed to have taken effect on and from 1<sup>st</sup> July, 2018.

**Definitions.** 2. In this Act, unless there is anything repugnant in the subject or context, -

(a) **“Act”** means the Balochistan Infrastructure Development Cess Act, 2019;

- (b) **“Authority”** means the Balochistan Revenue Authority established under the Balochistan Revenue Authority Act, 2015 (Act No. VII of 2015);
- (c) **“Cess”** means the Infrastructure Development Cess levied and collected under the Act and includes penalty or default surcharge or any other sum payable under the Act or the rules made thereunder;
- (d) **“Customs Act”** means the Customs Act, 1969 (Act No. IV of 1969) and rules made, or notifications issued under that Act;
- (e) **“FBR”** means the Federal Board of Revenue established under the Federal Board of Revenue Act, 2007 (Act No. IV of 2007);
- (f) **“Goods”** means goods classifiable under the First Schedule to the Customs Act, 1969 (Act No. IV of 1969) and includes the goods defined under that Act;
- (g) **“Government”** means the Government of Balochistan;
- (h) **“Infrastructure”** includes roads, streets, bridges, culverts, lights and plantation on passage, beaches, public parks, place of public recreation or enjoyment and convenience, eating places, landscape, forests, fisheries, delta conservation, lakes, breeding places of aquatic life, wildlife and its sanctuaries, public schools, vocational and technical training centers and projects, libraries, museums and similar institutions controlled and financed by the Province, control of traffic for smooth flow and safer movement of goods, public order, police force, patrolling for safety of goods, stands for loading and unloading of goods, parking places, markets, water supply, hospitals and dispensaries and development, improvement, maintenance and protection of such infrastructure;
- (i) **“Owner”** means a person in whose name the goods are entering or leaving the Province from or for outside the country by rail, road, air and sea and includes the clearing agent.

- (j) **“Person”** includes:
- (i) an individual;
  - (ii) an association of persons;
  - (iii) a company incorporated, formed, organized or established in Pakistan or elsewhere;
  - (iv) the Federal Government;
  - (v) a Provincial Government;
  - (vi) a local authority in Pakistan; or
  - (vii) a foreign Government, political subdivision of a foreign Government, or public international organization;
- (k) **“Prescribed”** means prescribed by rules made under this Act;
- (l) **“Province”** means the Province of Balochistan;
- (m) **“Rules”** means the rules made under the Act;
- (n) **“Sales Tax Act”** means the Sales Tax Act, 1990 (Act No. VII of 1990);
- (o) **“Schedule”** means schedule appended to this Act; and
- (p) **“Value”** means the value of goods being imported or exported, as determined by an officer of customs for purposes of the Customs Act, 1969 (Act No. IV of 1969).

## **CHAPTER – II**

### **SCOPE OF CESS**

#### **Levy of cess.**

3. There shall be levied and collected a cess for maintenance and development of infrastructure, on goods upon entering or before leaving the Province from or for outside the country, through rail, road, air and sea at a fixed rate of 1% of total value of goods as assessed for customs purposes.

**Person liable to pay cess.** 4. (1) The owner shall be liable to pay the cess levied on the goods entering or leaving the Province from or for outside the country by rail, road, air and sea under section 3 of the Act.

(2) Nothing contained in this section shall prevent the collection of cess from a person who is made separately, jointly or severally liable for payment of the cess under this Act or the rules made thereunder.

**Payment of cess.** 5. (1) In case of goods entering or leaving the Province from or for outside the country, cess shall be payable in the same manner and at the same time as it was a customs duty regardless whether or not the goods are liable to such duty.

(2) The amount of cess or any other amount payable under this Act or the rules, shall be deposited in such head of account as may be specified by the Government.

(3) Notwithstanding anything contained in this section, the Authority may, in respect of any goods, category or class of goods and subject to such conditions, restrictions or limitations, if any, specify any other manner or time or mode of payment of cess.

**Exemptions.** 6. Notwithstanding anything contained in section 3 and 5, the Authority with the approval of the Government may, by a notification in the official Gazette, exempt any goods or category or class of goods from payment of whole or part of the cess payable under the Act subject to such conditions and limitations as may be specified in such notification.

### CHAPTER – III OFFENCES AND PENALTIES

**Default surcharge.** 7. (1) Where any person who fails to pay any amount of cess due under this Act, he shall, in addition to the cess due or any other amount payable under the Act, be liable for default surcharge at a rate of two percent of the amount unpaid per month.

(2) Where necessary, the amount of default surcharge shall be prorated but in a case the period of default is less than one month, the amount of default surcharge shall not be prorated.

*Explanation.* For the purposes of this section, the cess due does not include penalty.

- Penalty.** 8. Where the goods are removed, transported or shipped without payment of cess, the owner shall, without prejudice to any other action to be taken against him, be liable to a penalty not more than the amount of cess evaded.
- Waiver of default surcharge or penalty.** 9. The Authority may, subject to such conditions as it deem appropriate, waive the payment of default surcharge on cess under section 7 or penalty under section 8 in any case or class of cases.

#### **CHAPTER-IV MISCELLANEOUS**

- Appeals.** 10. Any person aggrieved by any decision or order passed by any officer of the Authority in pursuance of this Act or the rules, may within thirty days of the date of receipt of such decision or order, prefer an appeal to the Commissioner (Appeals). All provisions of Chapter-IX of the Sales Tax on Services Act, 2015 (Act No. VI of 2015) shall, mutatis mutandis apply.
- Revision.** 11. The Authority may, at any time, on its own motion, or on an application made to it within ninety days of passing of any decision or order, call for the record of any case pending before, or disposed of by any officer of the Authority, for review and make an appropriate order.
- Claim of refund.** 12. No refund of the cess claimed to have been paid or over-paid through inadvertence, error or misconstruction shall be allowed unless such claim is made within three months of the date of payment of such cess.
- Utilization of cess.** 13. The proceeds of the cess shall be utilized for maintenance and development of infrastructure and other activities ancillary thereto, in such manner as may be prescribed.

- Bar on adjustment.** 14. The amount of cess payable or paid under this Act shall not be adjusted against any other tax, levy or cess payable under any other law, and vice versa.
- Application of provisions of other laws.** 15. (1) In case of goods imported into or exported out of the Balochistan, the Customs Act, 1969 (Act No. IV of 1969) shall, as nearly as possible, apply to the assessment, collection, payment and administration of the cess in so far as it relates to-
- (a) time, manner and mode of payment;
  - (b) declarations, processing and management;
  - (c) keeping of records, accounts and documents;
  - (d) enforcement and adjudication including appeals;
  - (e) penalties and prosecution; and
  - (f) all other ancillary matters.
- Validation.** 16. Notwithstanding anything contained in any law, rules or judgment, order or decree of any court, the cess, penalty, default surcharge or any other amount levied, assessed, charged, adjudged, realized, collected and recovered by the Authority or any functionaries of the Authority in pursuance of this Act or the rules, shall be deemed to have been validly levied, assessed, charged, adjudged, realized, collected and recovered under this Act.
- Indemnity.** 17. Anything done, action taken, assessment and collection made, order passed or purported to have been done, under this Act or the rules in relation to cess, shall be deemed to have been validly done, taken, made, or passed and shall be deemed always to have effect accordingly.
- Jurisdiction barred.** 18. No provision of this Act or any order made thereunder shall be called in question by or before any Court.
- Power to make rules.** 19. The Authority may, with the approval of the Government and by notification in the official Gazette, make the rules for carrying into effect the purposes of this Act and to prescribe the procedure for the assessment, collection and payment of cess and exemption from the cess levied under this Act.

- Intersystem connectivity.** 20. The Authority may enter into such arrangements for real time connectivity of its computerized system with the system of FBR or any other department, organization, institution or authority as it may deem proper for the purpose of regular or efficient monitoring of the collection and payment of the cess.
- Savings.** 21. Where the Government or the Authority takes any action, makes any decision or orders, issues any instructions, directions, clarifications or notifications in pursuance of or in exercising of powers conferred under any provision in respect of any matter relating to the cess and allied issues covered under this Act or the rules, such actions, decisions, orders, instructions, directions, clarifications and notifications shall be deemed to have been validly issued to serve the purposes of this Act and the rules.
- Overriding effect.** 22. This Act shall have overriding effect notwithstanding anything contained in any other law, for the time being in force.

**(SHAMS-UD-DIN)**

Secretary.

No. PAB/Legis. V (03)/2019.

Dated Quetta, the 18<sup>th</sup> February, 2019.

A copy is forwarded to the Chief Controller, Government Printing Press, Balochistan Quetta for favor of publication in Extra-ordinary issue of Gazette of Balochistan. Before final printing, a copy thereof be sent to this Secretariat for Proof reading. Fifty copies of the Act may please be supplied to this Secretariat for record.

**(SYED DAD MUHAMMAD AGHA)**

Deputy Secretary (Legis;).

No. PAB/Legis. V (03)/2019.

Dated Quetta, the 18<sup>th</sup> February, 2019.

**A copy is forwarded for information to: –**

1. The Principal Secretary to Governor, Balochistan, Quetta.
2. The Principal Secretary to Chief Minister, Balochistan, Quetta.
3. The Secretary Government of Balochistan, Finance Department Quetta.
4. The Chairperson, Balochistan Revenue Authority (BRA), Quetta.
5. The Secretary, Government of Balochistan, Law & Parliamentary Affairs Department, Quetta.
6. The Director General, Public Relations, Balochistan, Quetta for favor of publication.
7. The System Analyst, Balochistan Provincial Assembly.

**Deputy Secretary (Legis;).**