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November 2, 2011

MCHI
Managing Committee
2011 - 2012

To,
All Members of MCHI & MCHI Units

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Sub: Payment of 1% of Construction Contract Value as Labour Welfare Cess

APPLICABLE FROM 1.7.2010

Dear Member,

The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 is the Central Act. Under the Building and Other Construction Workers Welfare Cess Act, 1996, the Central government has fixed the Labour Welfare Cess to 1% of Construction Contract Value. The State Government has framed rules under the Maharashtra Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2007. Under the said Act word "establishment" means;

any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes as 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 rupees ten lakhs

Under Section (7) of the said Act, it is necessary to make an application for registering the establishment from such commencement in relation to establishment to which the said Act is applied to the registration officer. The Application Form 1 is annexed. An establishment which has employed in any day, employed more than ten labourers, requires registration within a period of sixty days from such commencement.

The Registration Fee schedule is given in clause No. 26 which reads as under;

26. *Fees - (1) The fees to be paid for the grant of a certificate of registration under rule 23 shall be as specified below, namely:-*

If the number of workers proposed to be employed as building workers, for a building or other construction work on any day:-

(a) Upto 50	Rs. 250.00
(b) Exceeds 50 but does not exceeds 100;	Rs. 500.00
(c) Upto 100 but does not exceed 300	Rs. 1000.00
(d) Exceeds 300 but does not exceed 500	Rs. 2000.00
(e) Exceeds 500	Rs. 2500.00



Maharashtra Chamber of Housing Industry

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For payment the application should be sent for registration of establishment to Assistant Commissioner of Labours

Application for registration of establishment to be delivered personally or sent by Regd. Post to the Registering Officer, list of registering officer is annexed.

Certificate of Registration Certificate - The Registering Officer to issue a Certificate of registration within 15 days if such application has complied with all the requirements as laid down in the Rules. Certificate of Registration shall be non transferable.

Sec. 48. Penalty for failure to give notice of the commencement of the building or other construction work - Where an employer fails to give notice of the commencement of the building or other construction work under Section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Sec. 50. Penalty for other offences. - (1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

Levy of Cess and its payment:

Labour Cess is levied under Sec. 3(1) of the Building and other construction Workers Welfare Cess Act 1966 under welfare Cess Rules 1998, Rule (4) provides the manner of collection which reads as under :-

4. Time and manner of collection - (1) The cess levied under sub-section (1) of section 3 of the Act shall be paid by an employer, within thirty days of completion of the construction project or within thirty days of the date on which assessment of cess payable is finalized, whichever is earlier, to the cess collector.

(2) Notwithstanding the provisions of sub-rule (1), where the duration of the project or construction work exceeds one year, cess shall be paid within thirty days of completion of one year from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.

Where the approval of a construction work by a local authority is required, every application for such approval shall be accompanied by a crossed demand draft in favour of the Board and payable at the station at which the Board is located for an amount of cess payable at 1% on the estimated cost of construction.

Provided that if the duration of the project is likely to exceed one year, the demand draft may be for the amount of cess payable on cost of construction estimated to be incurred during one year from the date of commencement and further payments of cess due shall be made as per the provisions of sub-rule (2).

EXAMPLE:-

A big work of Rs.500 corers stretched over 5 yrs, there the employer should not pay the 1% Labour Cess on entire amount on Rs.500 corers in 1st year itself. You have to pay only on whatever amount of work you do in 1st year. Suppose you spend Rs.100 corers in 1st year then you have to work out on 20% of the work carried out in 1st yr. and pay respective amount i.e. 1% of 100 crore i.e. one crore and remaining will be forwarded to next year.

The Labour welfare cess is to be deposited under the Building and Other Constructions Workers (Regulation of Employment and Conditions of Service) Act, 1996, all the Demand Draft should be addressed to the "Maharashtra Construction and Other Building Labour Welfare Board", bearing the Account No. 004220110000153 in **Bank of India**. Also send a zerox copy of the Demand Draft to the Regional Registration Officer at Building and Other Construction Workers Welfare Board, Commerce Centre, Tardeo, Mumbai – 400 034.

Provided that if the duration of the project is likely to exceed one year, the demand draft may be for the amount of cess payable on cost of construction estimated to be incurred during one year from the date of such commencement and further payment of cess due shall be made as per the provisions of such-rule (2).

Advance cess paid under sub-rules (3), (4) and (5), shall be adjusted in the final assessment made by the Assessing Officer.

As per the rules the government has notified the list of Assessing Officers in Maharashtra, the list is annexed for perusal.

Under rule 12, if the cess is not paid then, an Assessing Officer shall issue a notice to such employer that it shall be deemed to be in arrears and such Assessment Officer may after such enquiry as it deems fit to impose on such employer a penalty not exceeding such amount of cess the collector shall recover such sum under Land Revenue Code. Moreover the defaulter employer will have to pay 2% interest on the Cess amount before imposing such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing Assessing Officer will take appropriate decision.

Form 4 is annexed for giving notice of commencement for building or other construction work.

Copy of the Annual Return of Employer to be sent to the registering officer is annexed (Form XIX).

The Unique Code Number :

To create a transparency, clarification and identification, all the cess paid establishments shall be given a Unique Code number. It is 17 digit number. While getting permissions of construction, it is necessary for the employer to get this Unique Code.

An example of Unique Code is given as under:

Year Code				District Code		Taluka Code			Assessing Officer Code		Serial Number given by Assessing Officer				Stage of Construction	
2	0	0	9	2	0	0	2	0	0	4	4	0	2	5	0	1

All members are requested to follow the procedure to avoid penalty and prosecution.

Thanking you,

Yours Sincerely,

For Maharashtra Chamber of Housing Industry

Sd/-

Boiman Irani

Hon. Secretary

Encl : As above

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 16th April 2008

NOTIFICATION

BUILDING AND OTHER CONSTRUCTION WORKER'S WELFARE CESS RULES, 1998.

No. BCA. 2008/CR-907/Lab-07.— In exercise of the powers conferred by clause (f), (g) and (h) of Rule 2 of the Building and Other Construction Worker's Welfare Cess Rules, 1998 the Government of Maharashtra hereby appoints, in respect of the class of construction specified in column (2) of the Schedule appended hereto, the officers mentioned against such class in column (3) to be the Cess Collectors, for the purpose of collection of cess the officers mentioned in column (4) thereof to be the Assessing Officers for the purpose of assessment of cess payable by the employer and the officers mentioned against it in column (5) of the said Schedule to be the Appellate Authorities for the Purposes of Appeal :—

Serial No. (1)	Class of Construction (2)	Cess Collectors (3)	Assessing Officer (4)	Appellate Authorities (5)
1	Building and other Construction work of the Government.	Deputy Engineer (Public Works) Deputy Engineer (Water resources).	Executive Engineer (Public Works) Executive Engineer (Water resources).	Superintending Engineer (Public Works). Superintending Engineer (Water resources).
2	Building and other Construction work of Public Sector Undertaking.	Executive Engineer (Concerned Public Sector).	Joint Managing Director/Additional Managing Director/General Manager (Concerned Public Sector).	Managing Director (Concerned Public Sector).
3	Building and other Construction work to which approval of the Municipal Corporations is Required.	Assistant Municipal Commissioner, Ward Officer.	Deputy Commissioner.	Municipal Commissioner.
4	Building and other Construction work to which approval of the Municipal Council is required.	Tax Superintendent (Municipal Council).	Chief Officer (Municipal Council).	Deputy Collector-in-charge of Municipal Administration of the District in which Municipal Corporation is located.
5	Building and other Construction work to which approval of the Village Panchayat is required.	Gram Sevak/Village Development Officer (Village Panchayat).	Block Development Officer (Panchayat Samiti).	Chief Executive Officer (Z.P.).
6	Building and other Construction work not falling under any of the above entries.	Tahasildar	Sub. Divisional Officer.	Collector

By order and in the name of the Governor of Maharashtra,

MANOHAR BORKAR,
Joint Secretary to Government.

FORM – I

[See rule 22(1)]

Application for Registration of Establishments Employing Building Workers

1. Name and location of the Establishment where building or other construction work is to be carried on.
2. Postal address of the Establishment.
3. Full name and permanent address of the Establishment, if any.
4. Full name and address of the Manager or person responsible for the supervision and control of the Establishment.
5. Nature of building or other construction work carried/is to be carried on in the Establishment.
6. Maximum number of building workers to be employed on any day.
7. Estimated date of commencement of building or the other construction work.
8. Estimated date of completion of the building or other construction work.
9. Particulars of demand draft, enclosed (name of the Bank amount, demand draft No. and date).

Declaration by the employer - (i) I hereby declare that the particulars given above are true to the best of my knowledge and belief.

(ii) I undertake to abide by the provisions of the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the rules made thereunder.

Principal Employer

Seal and Stamp

Office of the Registering Officer appointed under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service Act, 1996 and the Maharashtra Building and other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2006 made thereunder.

Date of Receipt of application:

FORM – IV

[See rule 25(3) and 52(1)]

Notice of Commencement/Completion of Building or other Construction Work

- (1) (i) Name and address (Permanent) of the establishment
(ii) Name of the Employer and address
- (2) Name and situation of place where the building and other construction work is proposed to be carried on.
- (3) Number and date of Certificate of registration
- (4) Name and address of person incharge of the construction work.
- (5) Address to which the communications relating to building; or other construction work may be sent.
- (6) Nature of work involved and the facilities including plant or machinery provided.
- (7) The arrangement of storage of explosives, if any, to be used in building or other construction work.
- (8) In case the notice is for commencement of work, the approximate duration of work. I/we hereby intimate that the building or other construction work (Name of work) having registration No. dated is likely to commence / is likely to be completed with effect from (date)/on (date)

Signature of the Employer

FORM – XIX

[See rule 55]

Annual Return of Employer to be sent to the Registering Officer

Year ending 31st December

1. Full name and full address of the establishment of the buildings and other construction work (Place, Post Office, District).
2. Name and permanent address of the establishment.
3. Name and address of the employer.
4. Nature of building and other construction work carried on.
5. Full name of the Manager or person responsible for supervision and control of the establishment.
6. Number of building workers ordinarily employed.
7. Total number of days during the year on which building workers were employed.
8. Total number of man-days worked by building workers during the year.
9. Maximum number of building workers employed on any day during the year.
10. The number of accident that took place during the year as under:
 - (a) The total number of accidents.
 - (b) The number of accidents resulting in disablement of building workers for less than 48 hours, the number of building workers involved and the number of man-days lost.
 - (c) The number of accidents resulting in disablement of building workers beyond 48 hours but not resulting in any permanent partial or permanent total disablement, the number of building workers involved, and the number of man-days lost on account of such accidents.
 - (d) The number of accidents resulting in permanent partial or total disablement, the number of building workers involved and the number of man-days lost on account of such accidents.
 - (e) The number of accidents resulting in death of building workers and the number of resultant deaths.

The Chief Inspector or Inspectors appointed by the State Government under the Act shall direct the owners of establishments registered under this Act to send the copies of Annual Returns submitted by the employers of registered establishments in respect of the concerned State Government or appropriate Government to the Chief Inspector by virtue of provisions of section 60 of the Act.

The Chief Inspector or Inspectors appointed under this Act by a State Government shall direct the owners of such establishments as are registered under this Act by registering officers appointed by the concerned State Government to send copies of the Annual returns to the Chief Inspector by virtue of provisions of section 60 of the Act.

11. Change, if any, in the management of the establishment, its location, or any other particulars furnished to the Registering Officer in the application for Registration indicating also the dates.

Employer

Place

Date

LIST OF REGISTERING OFFICERS NOTIFIED BY THE GOVERNMENT

SCHEDULE

Sr.No.	Persons	Area
1.	Assistant Commissioner of Labour Mumbai.	Brihan Mumbai.
2.	Assistant Commissioner of Labour, Thane.	Thane District.
3.	Assistant Commissioner of Labour, Kalyan.	Thane District.
4.	Assistant Commissioner of Labour, Raigad at Panvel	Raigad District.
5.	Assistant Commissioner of Labour, Ratnagiri	Ratnagiri and Sindhudurg District
6.	Assistant Commissioner of Labour, Nashik.	Nashik District.
7.	Assistant Commissioner of Labour, Jalgaon.	Jalgaon and Dhule District.
8.	Assistant Commissioner of Labour, Ahmednagar.	Ahmednagar.
9.	Assistant Commissioner of Labour, Pune.	Pune District.
10.	Assistant Commissioner of Labour, Kolhapur.	Kolhapur District.
11.	Assistant Commissioner of Labour, Sangli.	Sangli District.
12.	Assistant Commissioner of Labour, Satara.	Satara District.
13.	Assistant Commissioner of Labour, Solapur.	Solapur District.
14.	Assistant Commissioner of Labour, (Nagpur Division), Nagpur	Wardha District.
15.	Assistant Commissioner of Labour, (Nagpur District), Nagpur	Nagpur Division
16.	Assistant Commissioner of Labour, Chandrapur	Chandrapur and Gadchiroli Districts.

17.	Assistant Commissioner of Labour, Gondia.	Bhandara District.
18.	Assistant Commissioner of Labour, Bhandara.	Bhandara District.
19.	Assistant Commissioner of Labour, Amravati.	Amravati and Yavatmal Districts.
20.	Assistant Commissioner of Labour, Akola	Akola and Buldhana Districts.
21.	Assistant Commissioner of Labour, Aurangabad	Aurangabad and Jalna Districts.
22.	Assistant Commissioner of Labour, Nanded.	Nanded and Parbhani Districts.
23.	Assistant Commissioner of Labour, Latur.	Latur, Beed and Osmanabad Districts.