

## Finance Act 2007

### Chapter VI - Secondary and Higher Education Cess

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(1) Without prejudice to the provisions of sub-section (12) of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Secondary and Higher Education Cess, to fulfil the commitment of the Government to provide and finance secondary and higher education.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of money of the Secondary and Higher Education Cess levied under sub-section (12) of section 2 and this Chapter for the purposes specified in sub-section (1) as it may consider necessary.

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#### Section 137 - Definition

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The words and expressions used in this Chapter and defined in the Central Excise Act, 1944(1 of 1944), the Customs Act, 1962(52 of 1962) or Chapter V of the Finance Act, 1994(32 of 1994), shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be.

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#### Section 138 - Secondary and Higher Education Cess on excisable goods

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(1) The Secondary and Higher Education Cess levied under section 136, in the case of goods specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1985), being goods manufactured or produced, shall be a duty of excise (in this section referred to as the Secondary and Higher Education Cess on excisable goods), at the rate of one per cent., calculated on the aggregate of all duties of excise (including special duty of excise or any other duty of excise but excluding Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004(2 of 2004) and Secondary and Higher Education Cess on excisable goods) which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under the provisions of the Central Excise Act, 1944(1 of 1944) or under any other law for the time being in force.

(2) The Secondary and Higher Education Cess on excisable goods shall be in addition to any other duties of excise chargeable on such goods, under the Central Excise Act, 1944(1 of 1944) or any other law for the time being in force and the Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004(23 of 2004).

(3) The provisions of the Central Excise Act, 1944(1 of 1944) and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on excisable goods as they apply in relation to the levy and collection of the duties of excise on such

goods under the Central Excise Act, 1944(1 of 1944) or the rules made thereunder, as the case may be.

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### **Section 139 - Secondary and Higher Education Cess on imported goods**

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(1) The Secondary and Higher Education Cess levied under section 136, in the case of goods specified in the First Schedule to the Customs Tariff Act, 1975(51 of 1975), being goods imported into India, shall be a duty of customs (in this section referred to as the Secondary and Higher Education Cess on imported goods), at the rate of one per cent., calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962(52 of 1962) and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including -

(a) the additional duty referred to in sub-section (5) of section 3 of the Customs Tariff Act, 1975(51 of 1975);

(b) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975(51 of 1975);

(c) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975(51 of 1975);

(d) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975(51 of 1975);  
and

(e) the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004(23 of 2004) and Secondary and Higher Education Cess on imported goods.

(2) The Secondary and Higher Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962(52 of 1962) or any other law for the time being in force and the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004(23 of 2004).

(3) The provisions of the Customs Act, 1962(52 of 1962) and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962(52 of 1962) or the rules or the regulations made thereunder, as the case may be.

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### **Section 140 - Secondary and Higher Education Cess on taxable services**

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(1) The Secondary and Higher Education Cess levied under section 136, in the case of all services which are taxable services, shall be a tax (in this section referred to as the Secondary and Higher Education Cess on taxable services) at the rate of one per cent., calculated on the tax which is levied and collected under section 66 of the Finance Act, 1994(32 of 1994).

(2) The Secondary and Higher Education Cess on taxable services shall be in addition to the tax chargeable on such taxable services, under Chapter V of the Finance Act, 1994(32 of 1994) and the Education Cess chargeable under section 95 of the Finance (No. 2) Act, 2004(23 of 2004).

(3) The provisions of Chapter V of the Finance Act, 1994(32 of 1994) and the rules made thereunder, including those relating to refunds and exemptions from tax and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

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#### **Section 141 - Amendment of Act 23 of 2004**

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In the Finance (No. 2) Act, 2004,--

(1) in section 93, in sub-section (1), for the words "excluding Education Cess", the words "excluding Education Cess, and Secondary and Higher Education Cess levied under section 136 of the Finance Act, 2007" shall be substituted;

(2) in section 94, in sub-section (1), in clause (d), for the words "Education Cess", the words "Education Cess, and Secondary and Higher Education Cess levied under section 136 of the Finance Act, 2007" shall be substituted.