

Report of the Committee of Secretaries Review of Toll Policy for National Highways





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on
Review of Toll Policy for
National Highways

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Preface

Levy and collection of fee for use of the redeveloped and augmented sections of national highways was introduced in 1997 under the provisions of the National Highways Act. Over time, some deficiencies and anomalies came to light and it was, therefore, decided to review the tolling framework. The need for a comprehensive toll policy had also assumed greater significance in the context of an expanded National Highway Development Programme (NHDP) which envisaged bulk of the investment from Public Private Partnerships (PPPs) where toll revenues constitute the mainstay of financial viability.

The Committee on Infrastructure (CoI), in its meeting held on January 13, 2005 under the chairmanship of Prime Minister, decided that an Empowered Committee of Secretaries (COS) chaired by the Cabinet Secretary would review the extant toll policy. In pursuance of the CoI directive, the COS reviewed the underlying issues and constituted a Sub-committee under the chairmanship of Secretary, Department of Expenditure to undertake an in-depth review and draft the proposed toll policy for consideration of the COS.

After extensive consultations, the Sub-committee submitted a draft toll policy which *inter alia* provided for uniform user fee rates for public funded as well as BOT projects, rationalisation of the fee structure including higher rates for bypasses, major bridges, flyovers and tunnels costing more than Rs. 50 crore each, partial indexation of toll rates and exemption for local users. It also recommended levy of user charges for two-lane highways where the investment on upgradation exceeded Rs. 1 crore per km.

The recommendations made by the aforesaid Sub-committee were endorsed, with some modifications, by the COS in its meeting held on March 14, 2007. The COS also decided that an Inter-Ministerial Group chaired by Secretary, Department of Road Transport & Highways would formulate a draft of the Toll Rules to give effect to the proposed toll policy and place the same before the COS for its consideration.

The draft Toll Rules submitted by the Inter-Ministerial Group were considered and approved by the COS in its meeting held on November 6, 2007. The proposed toll policy and Toll Rules were then placed before the CoI in its meeting held on December 5, 2007. The CoI

noted the recommendations of the COS and decided that the Department of Road Transport and Highways would obtain formal approval of the competent authority for notifying the Toll Rules. Accordingly, the National Highways Fee (Determination of Rates and Collection) Rules, 2008 were considered and approved by the Cabinet Committee on Economic Affairs in November 2008 and these have since been notified on December 5, 2008. It would be evident that the process of consultation was extensive and took over three years to conclude.

It is hoped that the new Toll Policy and Toll Rules would usher transparency, predictability and uniformity in the levy and collection of user charges for vehicles using the national highways. It is also hoped that the Toll Rules notified by the Central Government would serve as a model which could be adopted by the respective State Governments with such modifications as may be necessary for addressing local conditions.



(Gajendra Haldea)

Adviser to Deputy Chairman
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April 20, 2009

1. Preamble

In India, levy of user fee* on National Highways started in a big way with the National Highways Development Project (NHDP) launched by the Government in the year 2000. Prior to that, only bridges constructed on National Highways and a few sections of highways were tolled as stand alone projects. In the year 1997, Government took a decision that all 4-laned highways would be tolled. The first major National Highway stretch brought under toll, with effect from March 30, 1998, was Kotputli-Amer section of NH-8. As on date, over 4,100 Kms of National Highways are being tolled and the revenue being generated is on an average Rs. 30 lakh per km. The estimation is that total accrual from the Golden Quadrilateral alone would be around Rs. 1500 crores per annum.

2. Current status of tolling in India

2.1 At present, user fee (toll) on National Highways is being levied and collected in accordance with the provisions of the National Highways Act, 1956 and Rules made there under. The salient features of the current policy and practices are as under:

- (a) User fee is being charged on all sections of the National Highways having four or more lanes, bridges and newly constructed bypasses. This is as per a decision taken by the Cabinet in 1997.
- (b) A ceiling for fee rate per kilometer for different type of vehicles has been prescribed for public funded projects. These rates were decided by the Cabinet taking into account

saving in vehicle operating costs, damage caused by different type of vehicles, acceptability and willingness of users to pay.

(c) User fee rates for BOT projects are notified based on project viability. By and large, the rates are similar to the rates for public funded projects but the concessions to local traffic vary.

(d) The rates notified for public funded projects are revised based on Wholesale Price Index (WPI), every five years. For BOT (toll) projects, this is done every year.

(e) Concessions have been provided in the form of lower rates for multiple journeys in a day and monthly passes for frequent users and for residents living in the nearby areas.

(f) At present, open system of tolling is being followed where the user has to pay user fee at flat rate for the notified length at a pre-determined location and not the fee for the actual length travelled.

(g) Broadly two methods of collections are being followed - departmentally, or through private contractor engaged on the basis of competitive bidding.

(h) Toll revenue accrues to the Central Government in case of Public Funded Projects. The concessionaire retains the fee in BOT projects.

2.2 Tolling in India differs from the practices in other countries in some important aspects as noted below:

* The words 'toll' or 'tolling' in this report should be considered as user fee, unless otherwise specified.

(a) In other countries the tolled roads are normally access controlled and therefore, toll is charged on the basis of distance traveled by adopting the 'closed system' with toll plaza at every entry and exit of the tolled road. In India, the tolling is generally under the 'open system', whereby fee payable is a fixed amount which is not on the basis of distance actually travelled.

(b) In most of the countries, an alternative road (generally toll free) is available and therefore, the road user has the option not to use the tolled road. In India that option is generally not available.

(c) The toll rates in India are comparatively lower in terms of actual value but higher when viewed in the context of per capita income (i.e. paying capacity).

3. Need for review

In view of the experience gained from tolling of various stretches/bridges in NHDP under public funded and BOT projects as well as with an increasing length of the National Highways under NHDP coming under tolling, a need was felt to review the present toll policy to have a toll regime that provides more predictability, transparency and certainty for private investors. Some critical issues necessitating review of Toll Policy were:

- (i) Concept of continuous corridors instead of stand alone sections/bridges.
- (ii) Synchronization between BOT and public funded projects to avoid variations in rates, concessions and exemptions.
- (iii) Representations from the public as well as State/Central Government Departments requesting for exemption from paying the user fee.

(iv) Demand from local/frequent users for more appropriate concessions.

(v) Adoption of a standard category of vehicles and a fee structure.

(vi) Whether 2-Lane Highways with paved shoulders, to be constructed under NHDP Phase-IV, could be tolled.

(vii) Miscellaneous other issues arising out of experience with the present toll policy such as rationalisation and indexing of fee rates, vehicle categories, distance between two toll plazas and toll on slow moving vehicles etc.

4. Formation of Sub-committee

4.1 The Committee on Infrastructure (COI) in its meeting held on January 13, 2005 had decided that an Empowered Committee of Secretaries would be set up under the Cabinet Secretary to address Inter-Ministerial, Centre-State issues and to review the toll policy. In its meeting held on September 27, 2005, COI also advised the CoS to review the following issues related to the MCA:

- (i) The proposed increase in user charges for neutralizing the rise in WPI, to the extent of 40 per cent thereof; and
- (ii) allowing changes in taxes as part of change in law.

4.2 The Department of Road Transport and Highways (DoRT&H) circulated notes to CoS on September 14, 2005 and October 6, 2005 on various issues related to review of the current toll policy. The Planning Commission also, vide its letter dated October 27, 2005 submitted its comments on these issues to CoS. The CoS in its meeting held on November 3, 2005

deliberated on various issues related to current tolling policy and decided to constitute a Sub-committee under the chairmanship of Secretary (Expenditure) to discuss and make recommendations to the Committee of Secretaries on toll policy.

4.3 DORT&H constituted a Sub-committee vide its letter dated 16.11.2005 as under:

- (i) Secretary, Department of Expenditure-Chairman;
- (ii) Secretary, Department of Road, Transport & Highways-Member;
- (iii) Chairman, National Highways Authority of India-Member;
- (iv) Representative from Planning Commission-Member;
- (v) Secretary (PWD), Govt. of Gujarat-Special invitee;
- (vi) Secretary (PWD), Govt. of Rajasthan-Special invitee; and
- (vii) Secretary (PWD), Govt. of Maharashtra-Special invitee.

5. Recommendations of the Sub-committee

5.1 The Sub-committee had detailed discussions/deliberations on the various issues relating to toll policy during its various meetings held as under:

First Meeting-December 5, 2005,

Second Meeting-January 9, 2006,

Third Meeting -March 13, 2006,

Fourth Meeting-April 19, 2006, and

Fifth Meeting-January 8, 2007.

5.2 On the basis of the deliberations, the recommendations of the Sub-committee of the CoS are as under:

Issue 1: Principles governing uniformity of tolling rates

The Sub-committee was of the view that tolling

is in its infancy and having different toll rates on different stretch of continuous corridors may confuse road users and increase resistance to tolling. However, having regard to the need for enhancing private sector investment, particularly in construction of high cost structures such as bypasses, bridges, ROBs etc. there is a need to stipulate rates for such structures. The Sub-committee recommended as follows:

(i) The toll rates for public funded and BOT projects should be the same.

(ii) Separate toll rates may be prescribed for stand alone bridges, ROBs, RUBs, bypasses, tunnels not forming part of corridor as also ring roads, expressways and port connectivity or such special projects. The threshold level for levy of user fee of stand alone structures shall be Rs.10 crore.

(iii) For structures like bridges, ROBs, RUBs, bypasses, tunnels etc, forming part of corridor, the threshold level for levy of user fee shall be Rs. 50 crore. The fee rates of such sections shall be determined by deducting the length of such structures and adding the fee rates of the structures.

(iv) In case of BOT projects, the fee rates for such structures should be specified in the Toll Rules and should be known to the entrepreneurs before the bid process.

Issue 2: Fee rates to be capping rates or fixed rates

The Sub-committee was of the view that “Capping rate” can give rise to demand by various stakeholders to levy toll at a rate less than the capping rate which may result in differential rates for different stretches.

It was, therefore, decided that instead of capping rates, the toll rate should be fixed for each category subject to revision/adjustments as recommended.

Issue 3: Classification of vehicles

The Sub-committee noted that as per the existing classification, there is no objective definition of different categories of vehicles under the National Highways Act and vehicles are subjected to tolling as per popular perception. Based on the experience of tolling, the Sub-committee noted that since the number of Heavy Construction Machinery (HCM)/Earth Moving Equipment (EME) are insignificant and have no significant revenue implications, these categories may be clubbed together with Multi Axle Vehicles (MAVs) to provide for a simple toll rate regime. Accordingly, the Sub-committee recommends as follows:

- (i) Following categorization of vehicles may be adopted.
 - (a) Car
 - (b) Light Commercial Vehicle (LCV)/Light Goods Vehicle (LGV)
 - (c) Truck/Bus
 - (d) MAV (3 to 6 Axles)/HCM/EME
 - (e) Oversized vehicles (7 or more Axles)
- (ii) The definition of above categories of vehicles should be provided in the Toll Rules, to be framed pursuant to the tolling policy.
- (iii) Two wheelers, three wheelers and tractors with or without trailer/trolley, irrespective of nature of load carried, should generally not be tolled. Despite use of tractor trolleys for commercial activities in some of the areas, for practical difficulties and to avoid

hardship to farming community generally using such vehicles, minor loss of revenue can be consciously foregone.

- (iv) Slow moving vehicles of 3 or more wheels like three wheelers, tractors with or without trailer/trolley etc may be tolled in case these choose to use main highway inspite of availability of point to point service road in entire tolling stretch.

Issue 4: Fee rates for different categories of vehicle

The Sub-committee noted that tolling is already in practice on a large number of stretches at rates prescribed in June 1997 and adjusted for annual wholesale price index. The base toll rate for 2006-07 should therefore correspond to the existing rates with minimal changes. Multi Axle Vehicle is not classified in the existing rules. Presently it is being tolled under bus/truck category in public funded projects and separate rates higher than the rate of truck/bus is being charged in most of the Private Investment Projects. To have more clarity, uniformity and to promote the use of multi axle vehicles, toll rate for multi axle vehicles could be only about 60 per cent higher than the 2 axle vehicles under types of vehicles for the year 2006-07 based on WPI as on Dec 2005.

Following rates were recommended for different types of vehicles for the year 2006-07 based on WPI of Dec 2005 (WPI 197.2).

| | | |
|--------------------|---|----------|
| Car | : | Rs. 0.60 |
| LCV/LGV | : | Re. 1 |
| Truck/Bus | : | Rs. 2.10 |
| MAVs/HCM/EME | : | Rs. 3.25 |
| Oversized vehicles | : | Rs. 4 |

Rates for slow moving vehicles like 3-wheelers,

tractors with or without trailer/trolley, if tollable, may be decided on case to case basis but in no case be more than 50 per cent of the “Car” category.

Issue 5: Levy and collection of fee on two-lane Highways

The Sub-committee noted that under the proposed NHDP-IV, 20,000 km of 2-lane highways are to be upgraded and strengthened at an estimated cost of Rs. 27,800 crore. The Sub-committee was of the view that most of the 2-lane roads connect interior areas and enforcing tolling on all such stretches at this stage may be difficult. Tolling of 2-lane National Highways should be done only if an investment made to upgrade the road is more than a specified threshold level so that users perceive a higher level of service in return of the fee paid by them.

To levy user fee on two lane highways with paved shoulders, following norms may be adopted.

- (i) 2-lane roads with paved shoulders in which investment above a threshold level of Rs. 1 crore per km is made, may be tolled.
- (ii) The toll rate could be 70 per cent of the rate of 4-lane roads in each category.
- (iii) Stretches, which become viable with above rates and with 40 per cent viability gap funds, may be given priority for up-gradation.

Issue 6: Concessions to local traffic/frequent travellers

The Sub-committee noted that because of open system of tolling and absence of alternative links, there is a need for special concession for local users. The issue about the distinction

between personal use and local commercial traffic was also discussed. The Sub-committee was of the view that since distinction between local traffic using the road for personal use or for commercial use cannot be made precisely, the principles governing this clause should be kept as simple as possible. Moreover, the intention of Government being that local traffic should not be unduly burdened, the principle may not be defined in a restrictive manner as it would increase the resistance to tolling of highways. Similar need for concession was also felt for frequent users.

The Sub-committee recommended as under:

- (i) In case of Car/Jeep/Van, local users can be put into single a category i.e. residing within 20 km of the toll plaza and monthly pass may be given at Rs. 150 per month.
- (ii) For all other vehicles except car/jeep/van, registered within 20 km from the plaza, monthly pass @ 12 times of single journey rate applicable to that vehicle may be issued with a restriction of 50 single journeys.
- (iii) 25 per cent discount for users who make return journey within 24 hours may be allowed. This means that 2 single journeys on payment of one and half times of single journey rate will be allowed if the users return within 24 hours.
- (iv) For monthly passes, a discount of 1/3 of amount otherwise payable for 50 single journeys, to be rounded off to nearest five rupee, could be allowed. The number of journeys against such a pass would, however, be restricted to 50, to be performed within a month.
- (v) The location of Toll Plazas close to urban areas may be avoided, as far as practically feasible.

(vi) The concessions allowed should be same for both BOT and public funded projects.

Issue 7: Categories of persons/vehicles to be exempted from fee

Internationally, no body is exempted from payment of user fee on the principle that whosoever pays the user fee on behalf on some agency (government/private) can get the same reimbursed from the concerned agency. However, considering the importance of highest dignitaries and also to minimise the discretion and impart transparency to toll collection activity, the Sub-committee recommended that only following category of vehicles will be considered as exempted vehicles for the purposes of user fee:

- (i) Official vehicles transporting and accompanying the President of India, Vice President of India, Prime Minister of India, Chief Justice of the Supreme Court, Union Minister, Governors, Lt. Governors, Chief Minister, Presiding Officers of Central and State Legislatures, Judges of Supreme Court, Chief Justices of the High Courts, Ministers of State, Judges of the High Court and Foreign Dignitaries on State Visit;
- (ii) official vehicles of Central and State armed forces in uniform including para military forces and police and of Executive magistrates on duty;
- (iii) ambulances and fire tenders; and
- (iv) vehicles of persons using the highway for inspection, survey, construction, or operation and maintenance thereof.

Since there is no definition of “VIP symbol”, the words “Vehicles having VIP symbol” be deleted from list of exempted categories of vehicles.

The Sub-committee clarifies that Posts and Telegraphs Department vehicles and Central Government and State Government vehicles on duty will not qualify for treatment as exempted vehicles.

Issue 8: Revision of Fee rates

The Sub-committee noted that to impart transparency to the process and obtain the best and most competitive bids for highway projects, it might be appropriate that toll rates are indexed to wholesale price index and revision in toll rates is allowed automatically on the basis of pre-determined formula. The Committee also took note of the concern that increases in annual operational charges need to be partially neutralized. Accordingly, the Sub-committee recommended as follows:

- (i) The toll rates may be revised annually both for public funded and BOT projects.
- (ii) The basic toll rates, as recommended for the year 2006-07 may be increased by 3 per cent every year, without compounding.
- (iii) Additionally, to neutralize impact of variable cost of operation and maintenance, 40 per cent of annual increase in WPI shall be provided with respect to preceding adjusted rate without considering impact of fixed annual increase of 3 per cent.

Issue 9: Penalties/fine for evaders/ overloaded vehicles

The Sub-committee noted that the provision for levying any such penalty can be kept only after there is a suitable legal provision for the purpose. A view was also expressed that levying penalty is a sovereign function and cannot be delegated to a concessionaire. Considering all aspects of the matter, the Sub-committee

recommends as follows:

(i) All measures (e.g. off-loading the excess load) permissible under the law may be adopted by the concessionaire or other fee collecting agencies, engaged to stop plying of overloading vehicles. Concessionaire may be authorised to take such measures under Fee Rules to be framed for the purpose.

Issue 10: Toll gates on access roads to check avoidance of toll

The Sub-committee recommended as follows:

(i) The Sub-committee was of the view that additional barriers should generally not be allowed to check the evasion of fee since it may harass the local users. Moreover, the concessionaire as a consequence may not be encouraged to provide a proper mechanism by way of adequate service lanes etc. which may lead to unnecessary confusion and congestion on main highway.

(ii) If the concessionaire approaches the Authority making a prime facie case of evasion of revenue with adequate proof that the facility used for such evasion did not exist prior to its bidding date, the Authority shall first examine/investigate the matter. If after examining/investigating, Authority is satisfied that evasion of revenue is taking place and the facility used for such evasion did not exist prior to bidding date, it will take the following steps:

- (a) Take up the matter with the respective Agency/Authority controlling the facility used for such evasion to control it; and
- (b) in case the evasion still persists, the Authority may direct the concessionaire to submit his plan to install additional barriers with detailed procedure to control the

evasion, clearly incorporating measures to ensure that:

- There will not be any harassment to the local and genuine users because of such Sadditional barriers; and
- there will not be any hindrance to the free flow of long distance travellers because of additional barriers.

The Authority after satisfying itself that the proposal submitted by the concessionaire is acceptable on the above grounds may permit such additional barriers. The Competent Authority would be the Chairman NHAI or Member designated for this purpose. Such additional barriers will not, in any case, be beyond 10 km from the toll plaza.

(iii) The Authority shall review the permission periodically and in case complaints are received about harassment of local/genuine users, and are found to be genuine, the Authority may cause such permission to be withdrawn.

Issue 11: Distance between two plazas

The existing rules specify that distance between two plazas should be 80 km. After considering various possibilities the Sub-committee recommends as follows:

(i) Average distance between two fee plazas should generally be 65 km except where it is not feasible to do so.

Issue 12: Reasonable period for commencing fee after completion

Considering that period of 21 days time is allowed for taking over after receipt of the notice from the contractor for issue of taking over certificate by the Engineer, and adequate

time is required for mobilisation of fee collecting agency as well for issuance of 2 public notices, the Sub-committee recommends that collection of toll shall commence within a maximum period of 45 days upon completion of construction of the project highway, bypass, bridge or ROB/RUB, as the case may be.

Issue 13: Applicability of revisions in toll policy to existing BOT/ongoing projects

The Sub-committee recommends that the revised new Toll Policy may also be made applicable to new BOT projects and on-going projects if no contractual complications are caused as a consequence.

Issue 14: In case service road has been provided whether slow moving vehicles should be charged if they use main carriageway

One of the views was that enforcement in respect of preventing slow moving traffic on the main carriageway or charging user fee (in cases where service lanes have been provided) should be left to the concessionaire and the Government may have no liability on this account. The Sub-committee was informed that the new MCA provides for refusal of entry to slow moving vehicles on the main carriageway except upon payment of fee. It was further noted that since slow moving vehicles have generally been exempted from levy of user charges (Recommendation 3 above), authorising the concessionaire to charge user fee on these vehicles may give rise to law and order problems and as such, this aspect may be difficult to enforce and may lead to disputes. After considering all aspects, the Sub-committee was of the view that:

- (i) Fee should not be charged from slow

moving vehicles if a point to point service road has not been provided in entire tolling length.

- (ii) However, in case point to point service road in the entire tolling stretch has been provided, nominal fee (as recommended in issue no. 4) can be collected from such vehicles to discourage them from plying on the main carriageway.

Issue 15: Separate rate for peak and off-peak hours

The Sub-committee noted that the practice of tolling is in its early stages and it may not be appropriate to have differential treatment particularly when the users do not have alternate roads. However, as traffic builds up over time and sufficient experience is gained by the tolling agencies, it may be possible to introduce differential rates for peak and non-peak traffic. In view of the difficulty in enforcement, separate rates for peak and off-peak hours were not recommended by the Sub-committee for the present.

Issue 16: Unauthorised collection of User Charges

- (i) The Sub-committee was of the view that in case any agency resorts to unauthorised collection of user charges, action should be taken against such agency for breach of contract as per the agreement. Department of Road Transport may accordingly incorporate provisions consistent with the Concession Agreement in the Fee Rules to be notified.
- (ii) DoRT&H may accordingly get the required changes made in:
 - (a) The National Highway (temporary bridges) Rules, 1964.

- (b) The National Highway (Rate of Fee) Rules, 1997.
 - (c) The National Highways (Collection of Fees by any person for the use of section of National Highways/Permanent Bridge/Temporary Bridge on National Highways) Rules, 1997.
 - (d) The National Highways (Fee for the use of National Highways Section and Permanent Bridge-Public Funded Project) Rules, 1997.
- (iii) The above proposal is submitted for approval of the Committee of Secretaries.

6. Recommendations of the Empowered CoS

The above recommendations of the Inter-Ministerial Sub-committee were considered by the Empowered Committee of Secretaries, under the chairmanship of Cabinet Secretary, in its meeting held on March 14, 2007. The CoS endorsed the recommendations of the Sub-committee with the following modifications:

- (i) In view of resistance to high toll rates in the absence of alternative routes and poor paying capacity in the rural areas, the user fee rate for 2-lane road with paved shoulders should be kept at 60 per cent of the rate for 4-lane roads in each category.
- (ii) The broad principle for exempting vehicles should be such that the number of exempted categories is limited to minimum.
- (iii) The provision of additional barriers to check avoidance of toll should be used only by way of exception by NHAI.
- (iv) The issue of allowing slow moving

vehicles on highways, in case of availability of service roads in the entire tolling stretch, should be decided progressively keeping in view the need to avoid accidents and concerns of the local people.

- (v) An Inter-Ministerial Committee under Secretary, Department of Road Transport and Highways including representatives from Planning Commission, Ministry of Finance (Department of Expenditure) and Ministry of Law (Department of Legal Affairs) would finalise the draft rules and bring it before the CoS before going to COI for approval.

7. Developments Subsequent to the Report of Empowered CoS

- (i) Based on the Tolling Policy approved by the Empowered CoS, an Inter-Ministerial Group chaired by Secretary, Road Transport and Highways finalised the draft Toll Rules for consideration of the CoS. The draft Toll Rules were considered and approved by the CoS in its meeting held on November 6, 2007. Subsequently, the proposed Toll Rules were vetted by Ministry of Law and Justice.
- (ii) The Committee on Infrastructure, in its meeting held on December 5, 2007, noted the recommendations of CoS and decided that the Department of Road Transport and Highways would obtain formal approval of the competent authority for notifying the Toll Rules.
- (iii) The Cabinet Committee on Economic Affairs, in its meeting held on November 20, 2008, approved the National Highways Fee (Determination of Rates and Collection) Rules, 2008 which have since been notified on December 5, 2008. A copy is appended at Annex-I.



Annex



[Published in Part-II, Section-3, Sub-section (i) of the Gazette of India]
MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS
(Department of Road Transport and Highways)

NOTIFICATION

New Delhi, the 5th December, 2008

G.S.R. 838(E).-In exercise of the powers conferred by section 9 of the National Highways Act, 1956 (48 of 1956) and in supersession of the National Highways (Temporary Bridges) Rules, 1964, the National Highways (Collection of Fees by any person for the Use of Section of National Highways/Permanent Bridge/Temporary Bridge on National Highways) Rules, 1997, the National Highways (Fees for the Use of National Highways Section and Permanent Bridge - Public Funded Project) Rules, 1997 and the National Highways (Rate of Fees) Rules, 1997, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules for collection of fee for use of sections of national highways, permanent bridges, bypasses and tunnels, namely:-

1. Short title and commencement

- (1) These rules may be called the National Highways Fee (Determination of Rates and Collection) Rules, 2008.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) They shall not apply to agreements and contracts executed and bids invited prior to the publication of these rules.

2. Definitions

- (1) In these rules, unless the context otherwise requires:
 - (a) “**Act**” means the National Highways Act, 1956;
 - (b) “**base year**” means the period from 1st April 2007 to 31st March 2008;
 - (c) “**bypass**” means a section of the national highway bypassing a town or city;
 - (d) “**concessionaire**” means a person with whom an agreement has been entered into under section 8A of the Act;
 - (e) “**elevated highway**” means any section of national highway raised above ground level through support of piers or columns;
 - (f) “**executing authority**” means an officer or authority notified by the Central Government under

section 5 of the Act;

(g) “**expressway**” means a national highway having a divided carriageway suitable for high speed traffic and with control of access;

(h) “**financial year**” means the year commencing on the 1st day of April of a year and ending on 31st day of March of the succeeding year;

(i) “**gross vehicle weight**” in respect of any vehicle means the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle under the Motor Vehicles Act, 1988 (59 of 1988);

(j) “**lane**” means a lane forming part of the main carriageway and having a minimum width of three meters and fifty centimeters;

(k) “**mechanical vehicle**” means any vehicle driven under its own power including a motor vehicle as defined under the Motor Vehicles Act, 1988;

(l) “**notification**” means a notification published in the Official Gazette;

(m) “**private investment project**” means a project relating to section of national highway, permanent bridge, bypass or tunnel, as the case may be, for which an agreement is entered into with a concessionaire;

(n) “**public funded project**” means a project which is not a private investment project, as defined in clause (m) above and includes a private investment project in respect of which the agreement has expired; and

(o) “**toll plaza**” means any building, structure or booth made for collection of fee.

(2) Words and expressions used herein and not defined but defined in the National Highways Authority of India Act, 1988 shall have the meanings respectively assigned to them in that Act.

3. Levy of fee

(1) The Central Government may by notification, levy fee for use of any section of national highway, permanent bridge, bypass or tunnel forming part of the national highway, as the case may be, in accordance with the provisions of these rules:

Provided that the Central Government may, by notification, exempt any section of national highway, permanent bridge, bypass or tunnel constructed through a public funded project from levy of such fee or part thereof, and subject to such conditions as may be specified in that notification.

(2) The collection of fee levied under sub-rule (1) of rule 3, shall commence within forty-five days from the date of completion of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, constructed through a public funded project.

(3) In case of private investment project, the collection of fee levied under sub-rule (1) shall be made in accordance with the terms of the agreement entered into by the concessionaire.

(4) No fee shall be levied for the use of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, by two wheelers, three wheelers, tractors and animal drawn vehicles:

Provided that three wheelers, tractors and animal-drawn vehicles shall not be allowed to use the section of national highway, permanent bridge, bypass or tunnel, as the case may be, where a service road or alternative road is available in lieu of the said national highway, permanent bridge, bypass or tunnel:

Provided further that where service road or alternative road is available and the owner, driver or the person in charge of a two wheeler is making use of the section of national highway, permanent bridge, bypass or tunnel, as the case may be, he or she shall be charged fifty per cent of the fee levied on a car.

Explanation 1 - For the purposes of this rule:

(a) “alternative road” means such other road, the carriageway of which is more than ten meters wide and the length of which does not exceed the corresponding length of such section of national highway by twenty per cent thereof;

(b) “service road” means a road running parallel to a section of the national highway which provides access to the land adjoining such section of the national highway.

(5) The fee notified by the Central Government under these rules shall be rounded off and levied in multiple of the nearest rupees five.

4. Base rate of fee

(1) The rate of fee for use of the section of national highway, permanent bridge, bypass or tunnel constructed through public funded project or private investment project shall be identical.

(2) The rate of fee for use of a section of national highway of four or more lanes shall, for the base year 2007-08, be the product of the length of such section multiplied by the following rates, namely:-

| Type of Vehicle | Base rate of fee per km (in rupees) |
|--|--|
| Car, Jeep, Van or Light Motor Vehicle | 0.65 |
| Light Commercial Vehicle, Light Goods Vehicle or Mini Bus | 1.05 |
| Bus or Truck | 2.20 |
| Heavy Construction Machinery (HCM) or Earth Moving Equipment (EME) or Multi Axle Vehicle (MAV) (three to six axles) | 3.45 |
| Oversized Vehicles (seven or more axles) | 4.20 |

Explanation - For the purposes of this rule:

(a) “**car**” or “**jeep**” or “**van**” or “**light motor vehicle**” means any mechanical vehicle the gross vehicle weight of which does not exceed seven thousand five hundred kilograms or the registered passenger carrying capability as specified in the certificate of registration issued under the Motor

Vehicles Act, 1988 does not exceed twelve excluding the driver;

(b) “**light commercial vehicle**” or “**light goods vehicle**” or “**mini bus**” means any mechanical vehicle with a gross vehicle weight exceeding seven thousand five hundred kilograms but less than twelve thousand kilograms or the registered passenger carrying capability as specified in the certificate of registration issued under the Motor Vehicles Act, 1988, exceeds twelve but does not exceed thirty two excluding the driver;

(c) “**truck**” or “**bus**” means any mechanical vehicle with a gross vehicle weight exceeding twelve thousand kilograms but less than twenty thousand kilograms or the registered passenger carrying capability as specified in the certificate of registration issued under the Motor Vehicles Act, 1988, exceeds thirty two, excluding the driver;

(d) “**heavy construction machinery**” or “**earth moving equipment**” or “**multi axle vehicle**” means heavy construction machinery or earth moving equipment or mechanical vehicle including a multi axle vehicle with three to six axles or vehicle with a gross vehicle weight exceeding twenty thousand kilograms but less than sixty thousand kilograms; and

(e) “**oversized vehicle**” means any mechanical vehicle having seven or more axles or vehicle with a gross vehicle weight exceeding sixty thousand kilograms.

(3) The rate of fee for use of a section of national highway, having two lanes and on which the average investment for up gradation has exceeded rupees one crore per kilometer, shall be sixty per cent of the rate of fee specified under sub-rule (2) of rule 4.

(4) The rate of fee for use of permanent bridge, bypass or tunnel constructed with the cost exceeding rupees ten crore, shall, for the base year 2007-08, be as follows:-

Base rate of fee (rupees per vehicle per trip)

| Cost of permanent bridge, bypass or tunnel (rupees in crore) | Car, Jeep, Van or Light Motor Vehicle | Light Commercial Vehicle, Light Goods Vehicle or Mini Bus | Truck or Bus | HCM, EME or MAV | Oversized Vehicle |
|---|---------------------------------------|---|--------------|-----------------|-------------------|
| 10 to 15 | 5 | 7.50 | 15 | 22 | 30 |
| For every additional rupees five crore or part thereof, exceeding rupees fifteen crore and up to rupees one hundred crore. | 1 | 1.50 | 3 | 4.50 | 6 |
| For every additional rupees five crore or part thereof, exceeding rupees one hundred crore and upto rupees two hundred crore. | 0.75 | 1.15 | 2.25 | 3.40 | 4.50 |
| For every additional rupees five crore or part thereof, exceeding rupees two hundred crore. | 0.50 | 0.75 | 1.50 | 2.25 | 3 |

Provided that while computing fee for the section of national highway on which a permanent bridge, bypass or tunnel costing rupees fifty crore or more is situated, the length of such permanent bridge, bypass or tunnel shall be excluded from the length of such section of national highway and fee shall be levied at the rates specified for such permanent bridge, bypass and tunnel:

Provided further that where the cost of such permanent bridge, bypass or tunnel, as the case may be, is less than rupees fifty crore, and the said permanent bridge, bypass or tunnel, form part of the section of national highway, then instead of above rate of fee, the rate of fee specified under sub-rule (2) of rule 4 shall be applicable for such permanent bridge, bypass or tunnel.

Explanation - For the purpose of this sub-rule:

- (a) the cost for private investment project, shall be the cost as assessed by the executing authority prior to invitation of bids from the concessionaire;
- (b) the cost for public funded project shall be the cost as assessed by the executing authority six months prior to completion thereof.

5. Annual revision of rate of fee

(1) The rates specified under rule 4 shall be increased without compounding, by three per cent each year with effect from the 1st day of April, 2008 and such increased rate shall be deemed to be the base rate for the subsequent years.

(2) The applicable base rates shall be revised annually with effect from April 1 each year to reflect the increase in wholesale price index between the week ending on January 6, 2007 (i.e. 208.7) and the week ending on or immediately after January 1 of the year in which such revision is undertaken but such revision shall be restricted to forty per cent of the increase in wholesale price index.

(3) The formula for determining the applicable rate of fee shall be as follows:-

$$\text{Applicable rate of fee} = \text{base rate} + \text{base rate} \times \left\{ \frac{\text{WPI A} - \text{WPI B}}{\text{WPI B}} \right\} \times 0.4$$

Explanation - for the purposes of this sub-rule:

- (a) applicable rate of fee shall be the rate payable by the user;
- (b) base rate shall be the rate specified in rule 4 read with sub- rule (1) of rule 5;
- (c) WPI A means the wholesale price index of the week ending on or subsequent to 1st January immediately preceding the date of revision under these rules; and
- (d) WPI B means the wholesale price index of the week ending on 6th January, 2007 i.e. 208.7.

Illustration:

If the revision is to be made for the year 2008-09 by applying the wholesale price index of the week ending on 5th January 2008 (i.e. 216.6), then the rate for car, jeep or van will be 0.6796 as computed below:

$$\text{Applicable rate of fee: } 0.6695 + 0.6695 \times \left\{ \frac{216.6 - 208.7}{208.7} \right\} \times 0.4 = 0.6796$$

(4) Annual revision of rate of fee under this rule shall be effective from first of April every year.

6. Collection of fee

(1) Fee levied under these rules shall be collected by the Central Government or the executing authority or the concessionaire, as the case may be, at the toll plaza.

(2) Every driver, owner or person in charge of a mechanical vehicle shall for the use of the section of national highway, permanent bridge, bypass or tunnel, before crossing the toll plaza, pay the fee specified under these rules.

(3) The fee collected under these rules shall be paid either in cash or through smart card or on board unit (transponder) or any other like device:

Provided that no additional charges shall be realised for making the payment of fee by use of a smart card or on board unit (transponder) or any other such device.

(4) Any driver, owner or person in charge of a mechanical vehicle who opts for the installation of on board unit (transponder) or any other such device for payment of fee, shall deposit a refundable security equivalent to the cost of the equipment with the Central Government, the executing authority or the concessionaire, as the case may be, for such installation and no interest shall accrue on such security deposit.

(5) The person receiving such fee under sub-rule (2) of rule 6, shall issue to the driver, owner or person in charge of mechanical vehicle a receipt, specifying therein the date and time of such receipt of fee, total amount received, and the class of vehicle for which the fee has been received:

Provided that where the fee is paid through smart card or on board unit (transponder) or any other such device, a receipt shall be issued on demand only.

(6) The fee shall be collected in perpetuity by the Central Government or the executing authority, as the case may be, and for a specified period in accordance with the terms of the agreement entered into by the concessionaire.

(7) In respect of public funded projects the fee levied under these rules shall be collected by the Central Government, or the executing authority, as the case may be, through its own officials or through a contractor.

7. Remittance and appropriation of fee

(1) In case of public funded projects, the fee collected under the provisions of these rules by every executing authority shall be remitted to the Central Government:

Provided that the Central Government may by notification allow any or all executing authorities to appropriate the whole or any part of the fee for such purposes and subject to such conditions as may be specified in the said notification:

Provided further that in case of private investment projects, the fee collected under the provisions of these rules shall be appropriated by the concessionaire in accordance with the provisions of and for the performance of its obligations under the agreement entered into by such concessionaire.

(2) Every executing authority shall remit to the Central Government, the amount of fee collected over and above the amount permitted to be appropriated by the executing authority under sub-rule (1) of rule 7, within ninety days from the date of the closing of the financial year along with an annual return showing the amount collected and the expenditure incurred on collection of fee, including the administrative and management expenses.

(3) The Central Government shall by notification determine the administrative and management expenses which may be allowed to be deducted and retained by the executing authority.

8. Location of toll plaza

(1) The executing authority or the concessionaire, as the case may be, shall establish a toll plaza beyond a distance of ten kilometers from a municipal or local town area limits:

Provided that the executing authority may, for reasons to be recorded in writing, locate or allow the concessionaire to locate a toll plaza within a distance of ten kilometers of such municipal or local town area limits, but in no case within five kilometers of such municipal or local town area limits:

Provided further that where a section of the national highway, permanent bridge, bypass or tunnel, as the case may be, is constructed within the municipal or town area limits or within five kilometers from such limits, primarily for use of the residents of such municipal or town area, the toll plaza may be established within the municipal or town area limits or within a distance of five kilometers from such limits.

(2) Any other toll plaza on the same section of national highway and in the same direction shall not be established within a distance of sixty kilometers:

Provided that where the executing authority deems necessary, it may for reasons to be recorded in writing, establish or allow the concessionaire to establish another toll plaza within a distance of sixty kilometers:

Provided further that a toll plaza may be established within a distance of sixty kilometers from

another toll plaza if such toll plaza is for collection of fee for a permanent bridge, bypass or tunnel.

9. Discounts

(1) The executing authority or the concessionaire, as the case may be, shall upon request provide a pass for multiple journeys to cross a toll plaza within the specified period at the rates specified in sub-rule (2) of rule 9.

(2) A driver, owner or person in charge of a mechanical vehicle who makes use of the section of national highway, permanent bridge, bypass or tunnel, may opt for such pass and he or she shall have to pay the fee in accordance with the following rates, namely:-

| Amount payable | Maximum number of one way journeys allowed | Period of validity |
|---|--|--|
| One and half times of the fee for one way journey | Two | Twenty four hours from the time of payment |
| Two-third of amount of the fee payable for fifty single journeys. | Fifty | One month from date of payment |

(3) A person who owns a mechanical vehicle registered for non-commercial purposes and uses it as such for commuting on a section of national highway, permanent bridge, bypass or tunnel, may obtain a pass, on payment of fee at the base rate for the year 2007-2008 of rupees one hundred and fifty per calendar month and revised annually in accordance with rule 5, authorising it to cross the toll plaza specified in such pass:

Provided that such pass shall be issued only if such driver, owner or person in charge of such mechanical vehicle resides within a distance of twenty kilometers from the toll plaza specified by such person and the use of such section of national highway, permanent bridge, bypass or tunnel, as the case may be, does not extend beyond the toll plaza next to the specified toll plaza.

Provided further that no such pass shall be issued if a service road or alternative road is available for use by such driver, owner or person in charge of a mechanical vehicle.

(4) No pass shall be issued or fee collected from a driver, owner or person in charge of a mechanical vehicle that uses part of the section of a national highway and does not cross a toll plaza.

10. Rate of fee for overloading

(1) Without prejudice to the liability of the driver, owner or a person in charge of a mechanical vehicle under any law for the time being in force, a mechanical vehicle which is loaded in excess of the permissible

load specified for its category under sub-rule (2) of rule 4, shall be liable to pay fee at such rate which is applicable for the next higher category of mechanical vehicles:

Provided that the payment of such fee for overloading shall not entitle a driver or owner or a person in charge of a mechanical vehicle to make use of such national highway and his or her vehicle shall be prevented from using the national highway or crossing the toll plaza until the excess load has been removed from such mechanical vehicle.

(2) The weight of a mechanical vehicle, as recorded at a weighbridge installed at the toll plaza, shall be the basis for levying the fee for overloading under this rule:

Provided that where no weighbridge has been installed at the toll plaza, no fee for overloading shall be levied and collected under this rule and the driver, owner or person incharge of the mechanical vehicle shall be liable to pay fee applicable for such vehicle only.

11. Exemption from payment of fee

(1) No fee shall be levied and collected from a mechanical vehicle:

(a) transporting and accompanying,-

- (i) the President of India;
- (ii) the Vice-President of India;
- (iii) the Prime-Minister of India;
- (iv) the Chief Justice of India;
- (v) the Governor;
- (vi) the Lieutenant Governor;
- (vii) the Union Minister;
- (viii) the Chief Minister;
- (ix) the Judge of Supreme Court;
- (x) the Chairman of the Council of State;
- (xi) the Speaker of the House of People;
- (xii) the Chairman of the Legislative Council of the State;
- (xiii) the Speaker of the Legislative Assembly of the State;
- (xiv) the Chief Justice of High Court;
- (xv) the Judge of High Court;
- (xvi) Ministers of States; and
- (xvii) Foreign dignitaries on State visit.

- (b) used for official purposes by:
 - (i) the Ministry of Defence including those which are eligible for exemption in accordance with the provisions of the Indian Toll (Army and Air Force) Act, 1901 and rules made thereunder, as extended to Navy also;
 - (ii) the Central and State armed forces in uniform including para military forces and police;
 - (iii) an executive Magistrate;
 - (iv) a fire-fighting department or organisation;
 - (v) the National Highway Authority or any other organisation or person using such vehicle for inspection, survey, construction or operation and maintenance thereof; and
- (c) used as ambulance.

12. Display of Information

- (1) The executing authority or the concessionaire, as the case may be, shall publish a notice specifying the amount of fee to be charged from the mechanical vehicle, in at least one Newspaper, each in English and vernacular language, having a wide circulation in such area.
- (2) The executing authority shall prominently display in Hindi and English one thousand meters ahead of the toll plaza and in English and local language five hundred meters ahead of the toll plaza:
 - (i) the amount of fee payable for each class of vehicles and the discounts available under rule 9;
 - (ii) the categories of vehicles exempted from payment of fee; and
 - (iii) the name, address and telephone or contact number of the executing authority or the concessionaire, as the case may be.
- (3) The height of the display boards, their quality and size of lettering shall be clearly visible and legible to the users.

13. Unauthorised collection

- (1) An officer authorised by the Central Government or by the executing authority, as the case may be, may assess the excess fee collected, if any, by the executing authority or the concessionaire, as the case may be, and recover the same from such authority or concessionaire, along with an additional sum equal to twenty five per cent of the excess fee collected:

Provided that no recovery of such excess fee shall be made unless an opportunity of hearing has been given to the executing authority or concessionaire, as the case may be.

- (2) Any driver, owner or person incharge of a mechanical vehicle aggrieved by unauthorised collection

of fee, may lodge a complaint with the officer authorised by the Central Government or the executing authority, as the case may be, in this behalf, who shall after hearing the parties pass an order on such complaint for refund of excess payment and damages for the inconvenience suffered by such user within thirty days.

14. Failure to pay fee

(1) If any driver, owner or person in charge of a mechanical vehicle does not pay or refuses to pay the fee for use of national highway, permanent bridge, bypass or tunnel, his or her vehicle shall not be allowed to use such section of national highway, permanent bridge, bypass or tunnel and in case such vehicle obstructs the normal flow of traffic, the executing authority or the concessionaire, as the case may be, may get such obstructing vehicle removed from the national highway, permanent bridge, bypass or tunnel, as the case may be.

(2) Where the driver or the person in charge of a mechanical vehicle refuses or fails to pay the fee levied under these rules, the same shall be recovered from the registered owner of the mechanical vehicle.

(3) Where the Central Government, executing authority or the concessionaire, as the case may be, has reason to believe that a mechanical vehicle is plying on a section of the national highway, permanent bridge, bypass or tunnel without payment of fee due, it may stop such vehicle for the purpose of verifying the payment thereof and collect the fee due from such vehicle.

15. Power of Central Government to verify records

An officer duly authorised by the Central Government or the executing authority, as the case may be shall have the power to verify the collection of fee, and inspect any document, records, other information, receipts or reports of the executing authority or the concessionaire, as the case may be.

16. Collection of fee in respect of Private Investment Project

(1) The fee levied under the provisions of sub-rule (3) of rule 3 shall be collected by the concessionaire till its agreement is in force.

(2) On and from the date of expiry of the agreement specified under sub-rule (3) of rule 3, the fee levied shall be collected by the Central Government or the executing authority, as the case may be.

17. Bar for installation of additional barrier

No barrier shall be installed at any place, other than at the toll plaza, except with the prior permission in writing of the Central Government or the executing authority, as the case may be, who after being satisfied that there is evasion of fee, may allow on such terms and conditions as it may impose, the installation of such additional barrier by the Central Government, the executing authority or the concessionaire, as the case may be, within ten kilometers from the toll plaza, to check the evasion of fee:

Provided that the Central Government or the executing authority, as the case may be, may, at any time, for reasons to be recorded in writing, withdraw such permission.

Provided further that where the Central Government or the executing authority, as the case may be, do not allow installation of an additional barrier by the concessionaire, the reasons for such refusal shall be communicated to such concessionaire within a reasonable period.

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