THE ODISHA HIGHWAYS BILL, 2014

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SCHEDULE

THE ODISHA HIGHWAYS ACT, 2015

A

BILL

to provide provisions for the construction, development, operation and maintenance of the highways, acquisition of land for highways and other roads, for, prevention & removal of encroachments, for the restriction on ribbon developments along the highways, for levy of betterment charges and for certain other matters connected therewith or incidental thereto in the State of Odisha.

Be it enacted by the legislature of the State of Odisha in the Sixty-fifth Year of the Republic of India as follows :

CHAPTER I
Preliminary

1. Short title, extent and commencement

1) This Act may be called the Odisha Highways Act, 2014.
2) It extends to the whole of the State of Odisha.
3) This Act will come into force at once.

   Provided that the State Government, may, by notification issued in like manner, exclude any road or way or class of Roads or ways situate in such area from the operation of all or any of the provisions of this Act.
4) The provisions of Sections 20 to 26 shall come into force with effect from the date of issue of a notification by the Central government under Sub-Section (2) of Section 105 of the Land Acquisition Act, 2013 (Central Act No.30 of 2013) for including this act in the Fourth Schedule thereof.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context:

(a) **"Animal"** means any domestic or captive animal;

(b) "**Building**" includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths door, steps; walls (including compound walls and fences) , advertising boards and the like;

(c) "**Building Line**" means a line on either side of any highway or part of a highway fixed in respect of such highway or part by a notification under Sub-Section(1) of Section 7;

(d) "**Cantonment**", means a cantonment established under the Cantonments Act, 1924;

(e) "**Control line**" means a line on either side of a highway or part of a highway beyond the building line fixed in respect of such highway or part by a notification under Sub-Section (1) of Section 7;

(f) **"Encroachment"** means any unauthorized occupation of any highway or part thereof, and includes an unauthorized –

(i) Erection of a building or any other permanent or temporary structure/s, balconies, porches, facades, thresholds or projections on, over or overhanging the highway;

(ii) Occupation of highway beyond the prescribed period, if any, for stacking building materials or goods of any other description, for parking automobiles for maintenance and repair, for exhibiting articles for sale for erecting poles, awnings, tents, pandals, arches, platforms, rostrums, hoardings, display boards, steps, ramps and other similar erections or structures or stabling domestic animals and poultry or for any other purpose; and

(iii) Excavations or dumps of any sort made or extended on any highway or underneath such highway;

(iv) Erection of any kind or any type of monuments of faith and belief, which includes photographs, idols, graves, entombments, statues, etc.

(g) **"Erect"** with its grammatical variations, in relation to a building means to construct, reconstruct, modify, extend or alter structurally a building;

(h) **"Excavation"** in relation to any piece of land, means piercing the surface of that piece of land and includes wells and tanks;

(i) **"Highway"** means any road, way or land which is declared to be a highway under Section 3. The expression includes –

(i) Any land acquired or demarcated with a view to construct a highway along it;

(ii) The slopes, beams, borrow-pits, foot paths, pavements and side, catch and boundary drains attached to such road or way;

(iii) All bridges, culverts, causeways, carriageways and other structures built on or across such road or way; and

(iv) The trees, fences, posts, boundary, half kilometer and kilometer stones, other highway accessories & materials and material stacked on the road or way;

(j) **"Highway Authority"** means the authority appointed as such or to which the functions of such authority are entrusted under Section 4;

(k) **"Highway boundaries"** means the boundaries of a highway fixed in respect of such highway by a notification under Sub-Section (1) of Section 7;

(l) **"Means of access"** includes any means of access, whether private or public, for vehicles or for foot passengers and includes any street;

(m) **"Middle of highway"** means the point half-way between the highway boundaries;

(n) **"Occupier"** includes-

(i) any person who for the time being, is paying or is liable to pay to the owner rent or any portion of the rent of the premises in respect of which such rent is paid or is payable;

(ii) an owner living in or otherwise using the premises;

(iii) a rent free tenant;

(iv) a licensee in occupation of any premises; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any premises;

(o) **"Operation"** in relation to a highway, includes its maintenance, repair, modification, improvement, management and regulation, and the expression "operate" shall be construed accordingly;

(p) **"Owner"** means and includes –

(a) when used with reference to any premises, the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let, and includes-

(i) an agent, manager or trustee, by whatever name called, who has control over the premises or who receives such rent on account of the owner;

(ii) an agent, manager or trustee who receives the rent of, or is entrusted with, or concerned with, any premises devoted to religious or charitable purposes.

(iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction; and

(iv) a mortgagee-in-possession;

(b) when used with reference to an institution or a body corporate, the manager of such institution or body corporate;

(c) when used with reference to a vehicle, the person who owns or controls that vehicle;

(q) **"Prescribed"** means prescribed by Rules made under this Act;

(r) **"Railway Administration"** has the same meaning as in the Indian Railways Act, 1890;

(s) **"State Government"** means the Government of Odisha;

(t) **"The Land Acquisition Act, 2013"** means the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as amended from time to time;

(u) **"Vehicle"** includes a barrow, sledge, plough, drag and a wheeled conveyance of any description capable of being used on a highway.

(v) the expressions **"land"** and **"persons interested**" used in this Act shall have the same meaning as the said expressions have in the Land Acquisition Act, 2013.

CHAPTER II
DECLARATION OF HIGHWAYS, HIGHWAY AUTHORITY AND THEIR POWER AND FUNCTIONS

3. Declaration of roads, ways or lands as highways

The State Government may, by notification in the Official Gazette declare any road way or land to be a highway and classify it as:-

(i) a State Highway (Special),

(ii) a State Highway,

(iii) a major district road,

(iv) other district road,

(v) Village road.

4. Appointment of Highway Authority

The State Government may, by notification in the official Gazette, appoint for the purpose of this Act or any of its provisions any person or any authority to be a Highway Authority for all the highways (in the State) or, in parts (thereof) or for any particular highway or highways (therein), specified in the notification.

5. Powers and functions of Highway Authority

Subject to such conditions as may be specified in the notification appointing a Highway Authority and subject to the general or special orders of the State Government, a Highway Authority shall in accordance with the provisions of this Act have the following powers and functions :

(a) to execute development schemes;

(b) to control ribbon development along highways;

(c) to prevent and remove encroachments;

(d) to exercise such powers and functions as are necessary and incidental to any or all of the above matters.

(e) to exercise such other powers and functions as may be prescribed.

Also subject to the approval of the State Government and to such general or special orders which the State Government may make in this behalf, it shall be lawful to a Highway Authority to undertake the construction, maintenance, development or improvement of highways.

6. Officers and Employees of Highway Authority

For the purpose of enabling a Highway Authority to exercise the powers conferred and to discharge the duties imposed upon it by or under the provisions of this Act, the State Government may appoint such officers and employees as it deem necessary to work under such Authority.

CHAPTER III
RESTRICTIONS OF RIBBON DEVELOPMENT ALONG HIGHWAYS

7. Power to fix Highway boundary, Building Lines and Control lines of highway

(1) In any area in which the provisions of this Act have been brought force, and

(i) where either any road, way or land has been declared to be a highway under Section 3 or the construction or development of a highway is undertaken or proposed to be undertaken, and

(ii) the State Government considers it necessary to fix, as respects such highway, the Highway boundary, the Building Line or Control Line, the State Government may, by notification in the official

(iii) Gazette, fix, as respects such highway, the Highway boundary, Building Line and the Control Line; Provided that, having regard to the situation or the requirements of a highway or the condition of the local area through which a Highway passes, it shall be lawful for the State Government to fix different Building or Control Lines in respect of any Highway, or portions thereof.

(2) Not less than sixty days before issuing a notification under Sub-Section (1), the State Government shall cause to be published in the Official Gazette, and in the prescribed manner in the village and at the headquarters of the block, subdivision and district in which the highway is situated, a notification stating that it proposes to issue a notification in terms of Sub-Section (1) and specifying therein all the lands situated between the highway boundary and the Control Line proposed to be fixed under such notification and in the case of new works, also lands benefiting by the construction or development of the highway, as the case may be. A notice shall also be issued simultaneously requiring all persons affected by such notification, who wish to make any objections or suggestions with respect to the issue of such a notification to submit their objections or suggestions in writing to the Highway Authority or appear before such Authority, within two months of the publication of the notification in the official Gazette, or within one month from the date of the publication of the notification in the village, whichever period expires later.

(3) The Highway Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further inquiry, if any as it thinks necessary, forward to the State Government a copy of the record of its proceedings held by it together with a report setting forth its recommendations on the objections or suggestions.

(4) If, before the expiration of the time allowed by Sub-Section (2) for the filing or hearing of objections or suggestions, no objections or suggestion has been made, the State Government shall proceed at once to issue the notification under Sub-Section (1). If any such objection or suggestions has been made, the State Government shall consider the record and the report referred to in Sub-Section (3) and may either –

(a) abandon the proposal to issue the notification under Sub-Section (1), or

(b) issue the notification under Sub-Section (1) with such modification/s, if any as it thinks fit.

(5) In considering the objections or suggestions, the decision of the State Government on the question of issuing the notification under Sub-Section (1) shall be final and conclusive.

8. Map to be prepared and maintained

Within two months from the date of publication of the notification under Sub-Section (1) of Section 7 fixing the highway boundary, Building Line and Control Line with respect to any highway, the Highway Authority shall cause a map to be made of the area through which such highway passes and shall cause to be marked thereon the highway boundaries and Building and Control Lines and any other particulars necessary for the purposes of this Act and within one month from the date of making any alteration or addition thereto cause the

said map to be corrected and such map with the date indicated thereon of the last time when the same shall have been so corrected shall be kept in the office of the Highway Authority. Such map, which shall bear the seal of the Highway Authority, shall be open to inspection. Copies of such map shall also be kept for inspection at such other places as may be prescribed.

9. Restrictions on buildings

(1) Notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, on or after the appointed day the following restrictions shall, subject to the provisions of this Act, be in force, that is to say

No person shall, without the previous permission in writing of the Highway Authority :-

(a) Upon any land lying between the highway boundary and the Building Line purposed to be fixed under Sub-Section (2), or fixed under Sub-Section (1) , of Section 7 as the case may be

(i) construct from layout any means of access to, or from a highway, or

(ii) erect any building, or

(iii) materially alter any existing building, or

(iv) make or extend any excavation, or

(v) construct, form or layout any works, or

(b) Upon any land lying between the Building Line and the Control Line proposed to be fixed under sub-section (2), or fixed under Sub-Section (1), of Section 7, as the case may be

(i) construct, form or layout any means of access to, or from a highway, or

(ii) erect any building, or

(iii) materially alter any existing building.

(c) Use any building or alter the use of any building already erected in a manner which in the opinion of the Highway Authority will, in any manner whatsoever, infringe any of the provisions of this Act, or interfere with the use of a highway adjoining the land on which such building is erected.

(2) Every person desiring to obtain such permission under sub-section (1) shall make an application in writing to the Highway Authority in such form and containing such information as may be prescribed in respect of the Building, alternation, excavation, works or means of access, as the case may be, to which the application relates.

(3) On receipt of such application, the Highway Authority, after making such inquiries as it may consider necessary, shall order in writing and either –

a. grant the permission, subject to such conditions, if any, as may be specified in the order, or

b. refuse to grant such permission.

Provided that –

(i) Permission under Clause (a) of Sub-Section (1) of making of any excavation or construction, formation or laying out of work in land for the purpose of repairing, renewing, enlarging or maintaining any underground sewer, drain-electric line,

pipe duct or other apparatus shall not be withheld nor be made subject to any conditions save such as may be necessary for securing that the sewer, drain electric line, pipe, duct or other apparatus shall be laid in such manner and at such levels that the construction, development, maintenance, improvement of a road there over will not be prevented or prejudicially affected thereby.

(ii) Permission under Clause (b) of Sub-Section (1) to the erection or alteration of a building or laying out any means of access to a highway which conform to the requirements of public health and welfare & of safety and convenience of traffic on the adjoining road shall neither be withheld nor made subject to unreasonable conditions.

(iii) Provided that in the case of means of access required for agricultural purposes such permission shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only.

(iv) Permission under Clause (b) of Sub-Section (1) to the re-erection or alteration of a building which was in existence before the appointed day shall neither be withheld nor made subject to restrictions unless such re-erection or alteration involves any material alteration to the outside appearance of the building.

(4) When the Highway Authority refuses permission, the reasons therefore shall be recorded and communicated to the applicant.

(5) If at the expiration of a period of three months after an application for such permission specifying the name and address of the applicant has been made to the Highway Authority, or such further period not exceeding 3 (three) months as may have been notified by the Highway Authority has lapsed and no decision has been notified in writing posted or delivered to the applicant at the given address, then (except as may otherwise be agreed in writing between the Highway Authority and the applicant) permission shall be deemed to have been given without the imposition by the Highway Authority of any conditions.

(6) The Highway Authority shall maintain a register with sufficient particulars of all permission given or refused by it under this Section and the register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts therefrom.

Explanation – For the purpose of this Section, the "appointed day" shall with reference to any highway boundary, Building Line or Control Line, mean –

(i) the day on which a notification is published in the official Gazette under Sub-Section (2) of Section 7 proposing to fix such highway boundary, Building Line or Control Line and

(ii) if any modification is made in such highway boundary, Building Line or Control Line, the day on which the notification is published under Sub-Section (1) of Section 7 modifying such highway boundary, Building Line or Control Line.

10. Appeal

(1) If any applicant is aggrieved by any decision of the Highway Authority under Section 9 of either withholding permission or imposing any condition, he may appeal to the

State Government within 30 (thirty) days from the date on which such decision was communicated to him.

(2) The State Government may, after giving an opportunity to the applicant to be heard, make such order as it thinks fit upon appeal and the decision of the State Government shall be final.

11. Exemptions for works in progress etc.

(1) No restriction in force under Section 9 shall apply to the erection or making of a building or excavation or to the construction, formation or laying out, of any means of access or works begun before the appointed day referred to in Section 9.

(2) No restrictions in force under Section 9, except restriction as to the construction, formation or laying out, or means of access, shall apply to any land forming part of a burial or cremation ground or other place for the disposal of the dead being which has, before the passing of this Act, been used for such purpose.

(3) No restriction in force under Section 9 shall apply to any excavation or works necessary in connection with any drains, ditches, or other drainage works for agriculture purposes or to any work necessary for the repair, renewal enlargement or maintenance of any sewer, drain, electric line, pipe, duct, or other apparatus, constructed in or upon the land before the date on which the restrictions came into force or with the consent of the Highway Authority on or after that date.

12. Getting back to Building Line or Control Line

Whenever any building or any part thereof erected before the appointed day referred to in Section 9 lies between the Building Line and the middle of the Highway, the Highway Authority may, whenever any such building or part thereof has either entirely or in greater part been taken down, burnt down or fallen down, by notice require such building or part thereof when re-erected, to be set back to the Building Line or Control Line.

13. Regulation or diversion of right of access to highway

(1) The Highway Authority may, if it is considered essential in the interest of safety or convenience of traffic, regulate or divert any existing right of access to a highway across the land lying between the Control Line and the highway boundary:

Provided that the existing right of access shall not be diverted until alternative access has been given.

(2) Where the existing right of access is diverted, the point at which alternative access is given to the highway shall not be unreasonably distant from the existing point of access.

(3) The Highway Authority shall, by notification in the Official Gazette, publish the date on which the existing right of access has been diverted and alternative access has been given.

14. Powers of Highway Authority and officers and employees appointed under Section 6 in respect of surveys

For the purposes of carrying out any of the provisions of this Act, the Highway Authority and the officers and employees appointed under Section 6 may -

a. enter upon, survey and take measurements and levels of any land.

b. mark such levels, dig or bore into the subsoil of any land and to do all other acts necessary to ascertain whether the land is suitable or not.

c. demarcate the boundaries of the highway by planting stones or other suitable marks in different colours of a durable nature at intervals all along the highway in such a manner that the imaginary line joining such stones or marks shows the road boundary correctly.

d. where there are bends or kinks on the road boundary, locate/ place the stones or marks in different colours so as to give the correct configuration of the boundary if they are joined by straight lines.

e. give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constituted part of the highway.

f. layout the building and control lines by placing marks in different colours and cutting trenches.

g. if the survey cannot otherwise be made, or measurements or levels taken or boundaries marked and lines laid out, cut down and clear away any standing crop, tree, fence or jungle or any part thereof.

h. do all other acts necessary in that behalf.

Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of the officers or employees to enter any premises without previously giving such occupier at least forty eight hours, notice in writing of its intention to do so.

Provided further that the State Government shall pay reasonable compensation to the occupier for the damage caused by him to such building, land or other structures.

15. Powers to acquire land etc.

(1) Any land required by the Highway Authority for discharging its function under this Act shall be deemed to the land needed for a public purpose and such land may on a request being received from the Authority, be acquired by the State Government for the said Authority under the provision of this Act.

(2) On the Highway Authority approaching the State Government as provided under Sub-Section (1) with such requisition and the State Government being satisfied that for a public purpose any land is required for the construction, maintenance, management or operation of a highway or part thereof, it may, by notification in the official gazette, declare its intention to acquire such land.

Provided that, if the land intended to be acquired is situated in the Scheduled Area, before declaring its intention to acquired such land, the State Government of the officer authorized in this behalf shall consult the following, in such manner as may be laid down by the State Government by a general or special order issued in this behalf

i. The *Gram Panchayat* concerned, if the land is falling within the limits of a village.

ii. The *Panchayat Samiti* concerned, if the land is falling within the limits of more than one village in a Block.

iii. The *Zilla Parishad* concerned, if the land is falling within the limits of more than one Block, in a District.

Explanation – For the purposes of this Sub-Section –

(a) The expressions "*Gram Panchayat*" and "Scheduled Area" shall have the meaning respectively assigned to them in the Odisha Gram Panchayat Act, 1964.

(b) The expressions "*Panchayat Samiti*" and "*Zilla Parishad*" shall have the meaning assigned to them in the Orissa Panchayat Samiti Act, 1959 and Odisha *Zilla Parishad* Act, 1991 respectively.

(3) Every notification issued under Sub-Section (2) shall give a brief description of the land.

(4) Any officer authorized by the State Government, by notification in the official Gazette, for acquisition of land for the purposes of this Act (hereinafter called as the "Competent Authority"), shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

16. Power to enter on land for survey etc.

(1) On the issue of the notification under sub-section (2) of Section 15, it shall be lawful for the Competent Authority, to –

a. make any inspection, survey, measurement, valuation or inquiry,

b. take levels,

c. dig or bore into sub-soil,

d. set out boundaries and intended lines of work,

e. mark such levels boundaries and lines by placing marks and cutting trenches; or

f. do such other acts or things as may be prescribed in this behalf by the State Government.

Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of the officers or employees to enter any premises without previously giving such occupier at least forty eight hours, notice in writing of its intention to do so.

Provided further that the State Government shall pay reasonable compensation to the occupier for the damage caused by him to such building, land or other structures.

(2) The State Government may, upon issue of a notification under Sub-Section (2) of Section 15, acquire any land specified therein by outright gift or purchase by agreement with the owners, or failing such agreement, by recourse to the provisions of this Act.

17. Hearing of objections

1. Any person interested in the land other than the persons whose objections or suggestions have already been considered or heard by the Highway Authority in response to the notification issued by the Highway Authority under Section 7 may, within twenty one days from the date of publication of the notification under Sub-

Section (2) of Section 15, object to the use of the land for the purpose or purposes mentioned in that Sub-Section.

2. Every objection under Sub-Section (1) shall be made to the Competent Authority in writing and shall set out the grounds thereof and the Competent Authority shall give the objector an opportunity of being heard, either in person or, through a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the Competent Authority thinks necessary by order, either allow or disallow the objections.
3. Any order made by the Competent Authority under Sub-section (2) shall be final.

18. Declaration of acquisition

1. Where no objection under Sub-Section (1) of Section 17 has been made to the Competent Authority within the period specified therein or where the Competent Authority has disallowed the objection under Sub-Section (2) of the said Section the Competent Authority shall, as soon as may be, submit a report accordingly to the State Government and on receipt of such report, the State Government shall declare, by notification in the Official Gazette, that the land shall be acquired for the purpose or purposes mentioned in Sub-Section (2) of Section 15.
2. On the publication of such declaration under Sub-Section (1), the land shall vest absolutely in the State Government free from all encumbrances.
3. Where in respect of any land, a notification has been published under Sub-Section (2) of Section 15 of its acquisition but no declaration under Sub-Section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect.

   Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under Sub-Section (2) of Section 15 is stayed by an order of a court, shall be excluded.
4. A declaration made by the State Government under sub-section (1) shall not be called in question in any court or by any other authority.

19. Power to take possession

(1) Where any land has been vested in the State Government under Sub-Section (2) of Section 18, and the amount determined under Section 23 with respect to such land has been deposited in the manner prescribed under Sub-Section (1) of Section 24 with the Competent Authority by the State Government, the Competent Authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the Competent Authority or any person duly authorized by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under Sub-Section (1), the Competent Authority shall apply to the Deputy Commissioner of the concerned District, and the Deputy Commissioner shall enforce the surrender of the land, to the Competent Authority or to the person duly authorized by it.

Such transfer would be followed by a correction in the Jamabandi register of which a copy would be sent to the Competent Authority free of charges within 15 days of each transfer.

20. Right to enter into land where land vested in State Government

Where the land has been vested in the State Government under Section 18, it shall be lawful for the Competent Authority or any person authorized by it in this behalf, to enter and do other act necessary upon the land for carrying out the development, operation, maintenance or management of a highway, any other road, or part therefore, or any other work connected therewith.

21. Determination of compensation by Competent Authority

(1) Where any land is acquired from any person under this Act, there shall be paid to such person a compensation which shall be determined in accordance with the provision of this Section by the Competent Authority.

(2) Where the right of user or any right in the nature of an easement on any land is acquired under this Act, there shall be paid to the person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount equal to ten per cent of the amount determined under sub-section (1) above, for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the Competent Authority shall give a public notice, published in two State level newspapers having wide circulation, at least one of which shall be in vernacular language, inviting claims from all persons interested in the land to be acquired.

(4) A notice under sub-section (3) shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in Sub-Section (2) of Section 17, before the Competent Authority, at a designated time and place and to state the nature of their respective interest in such land.

(5) Upon hearing the interested persons and considering the material on record, the Competent Authority shall by order make an award under this Section within a period of one year from the date of the publication of the notification under Sub-Section (4) of Section 15 and if no award is made within that period, it may make the award within an extended period which shall not exceed one year:

Provided that where an award is made within the extended period, the entitled person shall be paid an additional compensation for the extended period, at the rate of one and a quarter per cent of the value of the award, for each month of such extended period.

22. Determination of compensation by arbitrator

(1) If the amount determined by the Competent Authority under Section 21 is not acceptable to either of the parties, the amount shall, on an application by either of the parties be determined by an arbitrator to be appointed by the State Government from amongst persons who have retired as District and Session Judge.

(2) Subject to the provisions of this Act, the provision of the Arbitration and Conciliation Act, 1996 shall apply to every such arbitration under this Act.

23. Determination of amount payable as compensation

(1) While assessing and determining the market value of land for making an award under Section 21 or Section 22, as the case may be, the Competent Authority or the arbitrator shall adopt the criteria specified in Section 26 of the Land Acquisition Act, 2013:

Provided that the factor by which the market value of land is to be modified in pursuance of the provisions of sub-section (2) of that section shall be 1 (one), save and except that in rural areas beyond a distance of 20 (twenty) kilometres form an urban area, the aforesaid factor shall be 1.25 (one point two five).

(*As per sl. no. 2 of the tabulation under First Schedule of the LARR Act, this factor has been stated to be in between 1.00 to 2.00 and is based on the distance of project from urban area. The distances are to be notified by the appropriate Governments.*

(2) The Competent Authority having determined the market value of the land acquired shall calculate the total amount of compensation to be paid to the land owner, whose land has been acquired, by including all assets attached to the land.

(3) In determining the amount of compensation to be awarded for any land acquired under this Act, the Competent Authority shall take into consideration the criteria and factors specified in Section 28 of the Land Acquisition Act, 2013.

(4) In determining the market value of the building, other immovable property or assets, trees and plants or damage to the standing crops attached to the land or building which is to be acquired, the Collector may use the services of specialists or experienced persons as specified in Section 29 of the Land Acquisition Act, 2013.

(5) The Competent Authority having determined the total compensation to be paid, shall, to arrive at the final award, impose a solatium amount in accordance with the provisions of Section 30 of the Land Acquisition Act, 2013.

24. Deposit and payment amount

(1) The amount determined under Section 23 shall be deposited by the State Government in the prescribed manner, with the Competent Authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under Sub-Section (1), the Competent Authority shall, on behalf of the State Government, pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under Sub-Section (1), the Competent Authority shall determine the persons who in his opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part there of or to any person to whom the same or any part thereof is payable, the Competent Authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under Section 22 by the Arbitrator is in excess of the amount determined by the Competent Authority, the arbitrator may award interest which shall not be less than the prevailing bank interest rates, subject to a maximum of 9% (nine percent) per annum on such excess amount from the date of taking possession under Section 19 till the date of the actual deposit thereof.

(6) The amount determined by the arbitrator in excess of the amount determined by the Competent Authority, the excess amount together with interest, if any, awarded under Sub-Section (5), shall be deposited by the State Government, in the prescribed manner, with the Competent Authority and the provisions of Sub – Section (2) to (4) shall apply to such deposit.

25. Competent Authority to have certain powers of civil court

The Competent Authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following Land matters namely:-

a) summoning and enforcing the attendance of any person and examining him on oath,

b) requiring the discovery and production of any document,

c) reception of evidence on affidavits,

d) requisitioning any public record from any court or office,

e) issuing commission for examination of witness.

26. Resettlement and Rehabilitation Award

The award for rehabilitation and resettlement of all affected families shall be determined in accordance with the provisions of Sections 31 to 42 of the Land Acquisition Act, 2013 read with Second Schedule and Third Schedule thereof.

CHAPTER IV
PREVENTION OF UNAUTHORIZED OCCUPATION AND ENCROACHMENT ON A HIGHWAY AND REMOVAL OF ENCROACHMENT

27. Land forming part of highway deemed to be Government Property

All lands forming part of highway which do not already vest in State Government shall for the purpose of this Chapter, be deemed to be the property of the State Government.

28. Prevention of unauthorized occupation of highway

(1) No person shall occupy of encroach on any highway within the highway boundaries without obtaining the previous permission in writing of the highway Authority or an officer authorized in this behalf by the Highway Authority.

(2) The Highway Authority or an officer authorized by the Highway Authority in the behalf may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and such Rules as may be prescribed by the State Government and on payment of such rent or other charges as may be prescribed under such Rules, permit any person.

(i) to place a temporary encroachment on any highway in front of any building owned by him or make a temporary structure overhanging the highway or

(ii) to put up a temporary awning or tent, *pandal* or other similar erection or a temporary stall or scaffolding on any highway, or

(iii) to deposit or cause to be deposited building materials, good for sale or other articles on any highway or

(iv) to make a temporary excavation for carrying out any repairs or improvement to adjoining building.

Provided that no such permission shall be deemed to be valid beyond a period of one year unless expressly renewed by the Highway Authority or the authorized officer.

(3) The permission so granted shall, clearly specify the date when the permission expires i.e. up to which the person is authorized to occupy the highway, the purposes for which occupation is authorized and the exact portion of the highway permitted to be occupied and shall also be accomplished by a plan sketch of that portion of the highway, if necessary. The sketch shall contain the expiry date, reference number and the seal and endorsement of the Highway Authority duly authorized for this purpose.

(4) The person in whose favour such a permission has been given shall produce the permit for inspection whenever called upon to do so by the Highway Authority or any officer by a general or special order empowered in that behalf and shall at the end of the period specified in the permit release the land occupied by him.

(5) The Highway Authority or the officer issuing the permission shall maintain a complete record of all such permission issued and shall also cause a check up to be made in every case at the expiration of the period up to which occupation has been authorized to ensure that the land has actually been vacated.

29. Power to cancel permit

1. The Highway Authority may, within the period of validity of the permit, cancel any permission granted under Section 28 –
   a. if any rent or charge is not duly paid.
   b. if the purpose for which the permission was given has ceased to exist.
   c. in the event of any breach by the holder of such permission or of any terms and conditions of such permission.
   d. if the land on which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.

   Upon cancellation of the validity of the permit so granted, the person to whom the permission was granted shall, within the period specified by an order cancelling the permit, shall within the period specified in the order by such officer restore the portion of the highway specified in the permit in such condition as it was immediately before the issuing of such permit and deliver such possession within such period and in the event of failure to do so, he shall be deemed to be in unauthorized occupation of the highway land for the purposes of this Section and Section 32.

30. Prevention of encroachment

(1) When as a result of check of highway boundaries made or otherwise it transpires that an encroachment has taken place on a highway, the Highway Authority or the officer authorized under Sub-Section (1) of Section 28 shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment restore the land to its original conditions before the encroachment within the period specified in the notice.

(2) The notice shall specify the land encroached upon and the time limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction

(3) If the encroachment is not removed within the time-limit specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorized officer referred to in Sub-Section (1) may prosecute such person before the appropriate Magistrate of his having made or caused the encroachment and for his failure to remove it within the specified time.

(4) Where the encroachments made for the purpose of exposing articles for sale, opening temporary booths for vending or other like purpose of trivial nature the Highway Authority or the authorized officer referred to in Sub-Section (1) may with the help of the police, if necessary, have such encroachment summarily removed without issuing a notice as required by Sub-Section (1), or in lieu of removal of the encroachment may give the person responsible for the encroachment option of executing a lease in favour of the Highway Authority on payment of rent for the area encroachment upon.

(5) When the encroachment is of a temporary nature and can easily be removed but is not such as can be describe as trivial within the meaning of Sub-Section (4), the Highway Authority or the authorized officer referred to in Sub-Section (1), may in addition to or in lieu of prosecuting the person responsible for the encroachment under Sub-Section (3) have the encroachment summarily removed with the assistance of the police, if necessary

(6) Where the encroachment is of such a nature that its immediate removal is, considered essential in the interests of safety of traffic, on the Highway of the safety of any structure forming part of the highway, the Highway Authority or the authorized officer referred to in Sub-Section (1) may, in addition to prosecution of the person under Sub-Section (3) either –

i. have such protective work, as may be feasible & at reasonable cost, carried out so as to minimize the danger to traffic on the highway, or,

ii. have the encroachment removed with the help of the police, if necessary.

30A. A copy of such notice issued under Section 30 shall be sent to the various public utilities agencies like electricity telephone water, supply sewerage board Municipal/ Local Self Governing authorities who shall initiate processes of cancellation of such facilities granted to that plot/ premises as per law.

31. Appeal against notices served under Sub-Section (1) of Section 30

Where the person on whom notice to remove an encroachment has been served under Sub-Section (1) of Section 30 lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a right over it by virtue of adverse possession or otherwise he shall within the time limit prescribed in the notice for the removal of the encroachment, file an appeal before the Deputy Commissioner under intimation to the Highway Authority or the officer authorized under Sub-Section (1) of Section 28, as the case may be. The Deputy Commissioner shall after due inquiry record his decision in writing and communicates the same to the appellant and the Highway Authority or such officer. The Highway Authority or such officer shall desist from taking further action in the matter till the receipt of the communication of the Deputy Commissioner.

32. Recovery of cost for removal of encroachment

1. Whenever the Highway Authority or the officer authorized under sub-section (1) of Section 28 has under the provisions of Section 30 removed any encroachment or carried out any protective work in respect of any encroachment, the expenditure involved shall be recovered from the person responsible for the encroachment in the manner hereinafter provided.
2. A bill, representing the expenditure incurred shall be served by the Highway Authority or the authorized officer referred to in Sub-Section (1) on the person responsible for the encroachment or his representative with a direction to pay up the amount within a specified period to the authority mentioned in the bill.
3. The bill shall be accompanied by a certificate from the Highway Authority or the authorized officer referred to in Sub-Section (1) to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred.
4. The materials, if any, recovered as a result of the removal of any encroachment shall be handed over to the person responsible for the encroachment on payment of the amount of the bill by him, but in the event of his failure to pay up the amount within the specified period, the materials may be auctioned and after deducting the amount of the bill from the proceeds, the balance, if any, shall be made over to such person.
5. If the proceeds of the auction sale do not cover the total amount billed for, the excess over the amount realized by the sale of materials, or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for the encroachment within the specified period, the entire amount of the bill shall be recovered from such person as an arrear of land revenue.
6. In case the encroachment is done by any group or organization, each of the trustees and employees working with or in association of the encroacher shall be liable to pay the proceeds and in case of non-receipt, the same can be recovered as an arrear of land revenue (certificate proceedings). Such proceedings can simultaneously be initiated in the place of the offense, in the home district of the persons (s) or wherever the person has immovable property in his own name or in the name of his associates.

After the Control-Line has been redefined, the owner/ controller of any utility-line or structure that includes, electricity, water-supply, telephone, OFC etc. shall at their own cost remove/ shift the same to a safe alignment that would not interfere with the purpose of the highway. The safe alignment for this purpose shall be determined by the Highway Authority.

CHAPTER V

COMPENSATION

33. Doing minimum damages in certain cases and compensation

While exercise the powers under the following provisions by the Highway Authority or any officer or employee appointed under Section 6 or any other person authorized by or under this Act by the State Government it shall be ensured that as little damage as can be is done and compensation in the manner prescribed by or under this Act, shall be paid to any person who sustains damage in consequence of the exercise of such power namely-

(a) the imposition of restrictions under Section 9.

(b) the setting back of any building or part thereof under Section 12.

(c) the regulation or diversion of any right of access to a highway under Section 13.

(d) the entry, survey measurement and doing of any of the acts on any land under Section 14.

(e) the closure of any highway or part thereof under Section 59.

34. Determination of amount of compensation by agreement

The amount of compensation payable under Section 33, the persons to whom it is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Highway Authority or any officer authorized by the State Government and the person or persons claiming interest therein.

35. Determination of amount of compensation in default of agreement

In default of any agreement under Section 34, the Highway Authority or the officer authorized by the State Government shall subject to the provisions of this Act, after holding an inquiry make an award determining-

a. the amount of compensation to be paid under Section 33.
b. the apportionment if any, of such compensation among all persons known or believed to be entitled thereto.

Provided that no award allowing compensation exceeding such amount as the State Government may, be general or special order specify, shall be made without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.

36. No compensation if similar restrictions in force under any other law or if any compensation already received :

No compensation shall be awarded-

(i) if and in so far as the land is subject to substantially similar restriction in force under some other law which was in force on the date on which the restrictions were imposed by the Act.

(ii) if compensation in respect of same restrictions imposed under this Act or substantially similar restrictions in force under any other law has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

37. Compensation in cases of refusal of permission

When permission to erect any building has been refused under Section 9 or 10, the amount of compensation shall not exceed the difference between the value of the land as determined by Section 23 of this Act and the value which it would have had if the permission had been granted. In determining such value any restrictions to which the land is subject under any other law for the time being in force in regard to the right of person claiming compensation to erect a building on the land or otherwise to use, hold or dispose of the same shall be taken into consideration.

38. Compensation for diversion of access not to exceed cost of alternative access

Where the right of access to a highway has been destroyed as a result of the diversion or closure thereof and an alternative access has not been given, the amount of compensation shall in no case exceed the cost of laying a new means of access from the property of the claimant to such alternative route.

39. Compensation for cutting of standing crops, trees etc.

1. At the time of an entry, survey or measurement or doing of any of the things under Section 14, the officer making the entry, survey or measurement or doing any other thing shall pay or tender to any person entitled compensation for all necessary damage done as a result of such entry, survey, measurement or execution of the work including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land. If the sufficiency of the amount so paid or tendered is disputed, the officer concerned shall at once refer the dispute to the Highway Authority and the said Authority shall with the least practicable delay decide the dispute and pay to the person entitled the amount determined as compensation. The decision of the Highway Authority shall be final.
2. If at the time of taking possession of the land under Section 19 if there are any standing crops, trees or temporary structures on the land, the Highway Authority shall pay or tender to the person entitled the amount of compensation for such standing crops, trees or temporary structures. If the sufficiency of such amount is disputed, the value of such crops, trees and temporary structure shall be taken into consideration in determining the amount of compensation for the land under Section 23.

40. No compensation for unauthorized erections

If any person has unauthorizedly erected, re-erected, added or altered any building on any land which is acquired for the purpose of a highway, then any increase in the value of the

land from such erections erection, re-erection, addition or alteration shall not be taken into account in estimating the value of the land.

41. No compensation for removal of encroachment

No compensation shall be payable for the removal of any encroachment.

42. Reference against award of Highway Authority or authorized officer under Section 35

1. Any person aggrieved by the award of the Highway Authority, or the Officer authorized under Section 35, shall by a written application to the Highway Authority, or such officer, require that the matter be referred, to Arbitrator appointed under Section 22.
2. Any such application shall be made within six weeks from the date of the award, and shall in such form as may be prescribed.
3. The Highway Authority or the Officer authorized shall make the reference in such manner as may be prescribed.

43. Procedure and power of the authorities empowered to decide reference under Sections 42 and 51

(1) Reference under Sections 42 and 51 shall be deemed to be proceedings within the meaning of Section 141 of the Code of Civil Procedure, 1908 and in the trial thereof the authorized person is empowered to decide such references and may exercise all the powers of a civil court under that Code.

(2) The scope of the inquiry in a reference under Sections 42 of 51 shall be restricted to a consideration of the matters referred to the authorities mentioned in Sub-Section (1) in accordance with the provisions of this Act.

44. District Superintendent of Police to enforce, surrender or remove any encroachment

If the Highway Authority or any officer or employee faces opposition or impediment in executing any work or in removing any encroachment under this Act, the Highway Authority or officer or employee concerned shall apply to the District Superintendent of Police or such officer as empowered by State Government in this behalf, and the District Superintendent or the Officer so empowered shall enforce the surrender removal or execution, as the case may be.

45. Decisions of authorities under Sections 42 & 51 to be enforced as decree of Civil Court

The decisions of the authorities empowered to decide reference under Sections 42 & 51 shall be enforceable as a decree of a civil court.

46. Payment of compensation awarded

1. On the determination of compensation by agreement under Section 34, or
2. On the making of an award under Section 35, or
3. On making a reference under Section 42 such award.

The Highway Authority shall make the payment of the compensation awarded to the person entitled thereto in accordance with the agreement, its award or the decision of the Authority empowered to decide reference under Section 42 as the case may be. The provisions of Section 24 shall, mutatis mutandis, apply to such payment.

47. Payment by adjustment

All payment due to be made to any person by way of compensation by the Highway Authority under this Act, shall, as far as possible, be made by adjustment of betterment charges, if any, due from such person under Chapter VI.

Chapter VI

LEVY OF BETTERMENT CHARGES

48. Notice to owners and persons interested

Where any work which the Highway Authority is empowered to undertake by or under the provisions of this Act is undertaken, the officer authorized by the State Government in this behalf shall give notice to the persons known or believed to be the owners of or interested in the lands benefited by such work requiring them to appear before it either personally or by an agent a time and place therein mentioned (such time not being earlier than thirty days from the date of notice) to state their objections, if any, to the imposition and recovery of betterment charges on such lands.

Provided that no such notice shall be given unless the Deputy Commissioner with the previous sanction of the State Government, has declared that the value of such lands is likely to increase or has increased by reason of the construction of such work.

49. Inquiry and Order

On the date fixed under Section 48 or on such other date to which the inquiry may be adjourned, the officer authorized under Section 48 shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by notice under Section 48, make an order. The order shall specify:-

(a) The lands benefited by the construction of the work.

(b) The increase in the value of such lands by the proposed construction.

(c) The amount of the betterment charges leviable on each of the said lands.

(d) The date from which such betterment charges shall be leviable.

Provided that no betterment charges shall be leviable in respect of any land.

a) Which is unsuitable for development as a building site, or

b) Which is situated beyond a distance of one *furlong* (220 yards or about 200m) from the middle of the highway on either side.

50. Increase in value and betterment charges

The increase in value on account of the construction of such work shall be the amount by which the value of the land on the date of the completion of the proposed work is likely to

exceed or has exceeded the value of the land on the date of the commencement of the said work. The betterment charge shall be on behalf of such increase in value.

Explanation – for the purpose of this section, the State Government shall, by notification in the Official Gazette, specify-

a) The date of commencement of the construction of any work.

b) The date of completion of such work.

51. Reference against order of authorized officer under Section 48.

1. Any person aggrieved by the order fixing the betterment charges may, by a written application to the officer authorized under Section 48, require the matter be referred to the Civil Judge (Senior Division) of the District within the limits of whose jurisdiction the land is situated.
2. Any such application shall be made within six weeks from the date on which the order of the officer referred to in Sub-Section (1) was communicated to such person and shall be in such form as may be prescribed.
3. The provisions of Sections 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the time fixed for reference under Sub-Section (2).
4. The Officer authorized under Section 48 shall make the reference, in such manner as may be prescribed.

52. Finality of the order fixing betterment charges and of decision on reference

The order fixing the betterment charges shall be made under Section 49, subject to a reference to the Authority under Section 51 and the decision of the Authority on reference under Section 51 shall be final.

53. Betterment charges to be first charge on land next to land revenue

From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable or from the such date as may otherwise be specified by the Authority under Section 51 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall subject to the prior payment of the land revenue, if any, due to the State Government thereon. The land revenue shall be first charge on the land in respect of which such betterment charges are leviable.

54. Payment of betterment charges

The betterment charges shall be payable on the date fixed under the Rules made by the State Government under Section 79.

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual installments together with interest at such rate and within such period as may be prescribed.

55. Relinquishment of or exchange of land in lieu of payment of betterment charges

Notwithstanding anything contained in Section 54, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in lieu of payment of the charges, in favour of the State Government on such conditions as may be prescribed.

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

CHAPTER VII

SUPPLEMENTAL PROVISIONS TO SECURE SAFETY OF TRAFFIC AND PREVENTION OF DAMAGE TO HIGHWAYS

56. Prevention of Danger arising from obstruction of view etc. of persons using any highway

1. Whenever the Highway Authority is of the opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway [or from distraction of attention of such person], especially at any bend or corner of the highway, if may save as otherwise provided in Section 11, serve a notice upon the owner or occupier of land alongside or at the bend or corner of such highway to alter within such time and in such manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure), fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to cause it to conform with any requirements specified in the notice.
2. If any person upon whom a notice has been served under Sub-Section (1) objects to comply with any requirement of such notice, may, within one month of its receipt, send to the Highway Authority his objection in writing stating the grounds thereof.
3. The Highway Authority shall, within one month of the receipt of the objection consider the grounds advanced and shall, by order in writing, either withdraw the notice or amend or confirm it.
4. If a person is aggrieved by an order issued by the Highway Authority under Sub-Section (3), he may prefer an appeal within 15 days from the date when such order was communicated to him, to the Deputy Commissioner whose decision in the matter shall be final.
5. If any person fails to comply with the notice served on him under Sub-Section (1) as amended or confirmed, as the case may be, under Sub-Section (3) the Highway Authority may take action to alter the object causing obstruction of view or distraction or attention at its own expenses, and such expenditure shall be recovered from such person in accordance with the provisions of Section 32, without prejudice to any other actions which may be taken against him.

57. Highway Authority to regulate traffic when highway declared unsafe

If at any time it appears to the Highway Authority that any highway in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such Rules as may be prescribed in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of vehicles using the highway.

58. Prohibition of use of heavy vehicles on certain highways

Where the Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on or across any highway, is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed in this behalf, it may, subject to such rules as may be prescribed in that behalf, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

59. Procedure to be followed when Highway Authority desires permanently to close any highway

(1) Where in exercise of the powers conferred on it on by Section 57, the Highway Authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the Official Gazette. The notification shall also be published in at least two local newspapers one of which shall be in the regional language.

(2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence and shall also invite objections, if any, to the proposal to be submitted within such time as maybe specified.

(3) The Highway Authority shall finalize its proposal to close down any highway or part of it after considering the objections if any, received within the specified time and shall submit the final proposal to the State Government for approval together with such objections as may have been received against the proposal.

(4) The State Government may either approve the proposal, with or without modification or reject it.

(5) When the State Government has approved the proposal, it shall publish its orders in the Official Gazette.

(6) When the orders of the State Government have been published in the Official Gazette, the Highway Authority shall arrange for further publicity to be given to the order in at least two local newspapers one of which shall be in the regional language of the place in which such highway is situate, and the highway or part thereof shall then be closed.

(7) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled otherwise than as a mere member of the public, to use such highway or part thereof as a means of access to or from his property and has suffered damage due to such closure.

60. Consent of Highway Authority to do certain acts on highways

(1) Notwithstanding anything contained in any other enactment for the time being in force but subject to the provisions of Section 79, no person other than the Highway Authority or an person authorized by it shall construct or carry any cable, wire, pipe, drain, sewer, or channel of any kind through, across, under or over any highway, except with the permission in writing of the Highway Authority.

(2) In giving its consent, the Highway Authority may impose such conditions as it may deem to be necessary and may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

(3) If any person constructs or carries out any work in contravention of Sub-Section (1), the Highway Authority may arrange for the removal of such work and restoration of the Highway to its former conditions in accordance with the provisions of Section 30 as if the work constituted an encroachment on the highway, and such expenses as the Highway Authority may incur for this purpose, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure in Section 32 in so far as that procedure is applicable.

61. Prevention and rectification of damaged highway

(1) No person shall willfully cause, or allow any vehicle or animal in his charge to cause any damage to any highway.

(2) Where in contravention of Sub-Section (1) any damage has been caused to any highway, the Highway Authority shall have the damage repaired and the expenses involved shall, without prejudice to any other action that may be taken against the person responsible for contravention of Sub-Section (1) be recovered from him in accordance with the procedure provided in Section 32 in so far as that procedure is applicable.

CHAPTER VIII

PENALTIES

62. Disobedience of orders, instructions and refusal to give information etc.

Whoever willfully disobeys any direction lawfully given by any authorized person or authority empowered under this Act to give such direction, or obstructs any person or authority from discharge of any functions that such person or authority is required or empowered under this Act to discharge, or being required by or under this Act to supply any information withholds such information or gives information which he knows to be false or which he does not believe to be true shall, on conviction be punished with fine which may extend to five thousand rupees.

63. Contravention of restrictions relating to access or erecting any building etc.

Whoever erects, alters or extends any building, or makes any excavation or constructs any means of access to or from a highway or does any other work in contravention of the provisions of Section 9, shall, on conviction, be punished with imprisonment which may extend to six months, or with fine which may extend to one lakh rupees, or with both, and in case of a continuing offence, with a daily fine which may extend to ten thousand

rupees; and if it is proved that any means exists for causing such access, it shall be presumed, until the contrary is proved, that such access has been knowingly and willfully caused by such person.

64. Unauthorized occupation of highways

(1) Whoever –

(a) occupies or makes any encroachment on any highway in contravention of the provisions of Sub-Section (1) of Section 28, or

(b) fails to comply with the notice served on him under Sub-Section (1) of Section 30 for no valid reason,

shall on conviction, be punished with imprisonment which may extend to six months, or with fine which may extend to one lakh rupees, or with both, and in case of a continuing offence, with a daily fine which may extend to ten thousand rupees.

(2) If any person, who has been evicted from any unauthorised occupation on a highway land under this Act, again occupies any highway land without permission for such occupation under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two thousand rupees per square metre of the so occupied highway land but which shall not exceed two times the cost of private land adjacent to the highway land, or with both.

(3) Any court, convicting a person under sub-section (2), may make an order for evicting that person from such occupied highway land summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him.

65. Causing damage to highways, defacing road signs and signals

(1) Whoever in contravention of Sub-Section (1) of Section 61 willfully causes or allows any vehicle in his charge to cause any damage to any highway, shall on conviction be punished with fine which may extend to twenty thousand rupees.

(2) Whoever maliciously or willfully damages, defaces, alters, modifies or removes any road sign, signal, indicator, or apparatus on the highway shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both; and if it is proved that any means exist for causing such damage, defacing, alteration, modification or removal, it shall be presumed, until the contrary is proved, that such damage, defacing, alteration, modification or removal, as the case may be, has been maliciously or willfully caused by such person.

66. General provision for punishment of offences

Whoever contravenes any provision of this Act or of any rule or order made there under shall if no other penalty is provided for the offence on conviction, be punished:

a. for a first offence with fine which may extend to fifty thousand rupees, and

b. for a subsequent offence with fine which may extend to two lakh rupees.

NOTE- Whenever, whoever fails to deposit the fine on conviction under the provisions of Sections 62, 63, 64, 65 and 66 of this Act- shall attract the provisions of Sections 67 & 68 of the Indian Penal Code, 1860.

67. Power to compound offence

Any offence committed under this Act, may be compounded by the Highway Authority and if any proceeding have been instituted against any person in any criminal court, then on the terms of the compromise being carried out, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or any property of such person with reference to the same facts.

CHAPTER IX
MISCELLANEOUS

68. Power and duties of police

Every police officer shall forthwith furnish information to the nearest Highway Authority or the nearest Officer subordinate to the Highway Authority of any offence coming to his knowledge which has been committed against this Act or the Rules made under this Act, and shall be bound to assist the Highway Authority and its officers and employees in the exercise of their lawful authority.

69. Duties of village officials

Every village headmen, village accountant, village watchmen or other village official by whosoever name called, shall forthwith inform the nearest police station or the nearest Highway Authority or any officer duly authorized by the Highway Authority, whenever he becomes aware that any survey mark or any boundary, mark of any highway or any marks showing the building or control line determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tempered with, or that any damage to any highway or encroachment on any highway has been made.

70. Power to utilize highway for other than road purposes

The Highway Authority may utilize land forming part of a highway which is not immediately required for the passage of traffic temporarily for other than road purposes and dispose of the produce of such land.

71. Summary eviction

Any person wrongfully occupying any such land-

a. which is a part of highway,

b. the occupation of which contravenes any of the provision of this Act and the said provision do not provide for the eviction of such person,

shall be summarily evicted by the Deputy Commissioner in the manner provided in the law relating to land revenue in force in any part of the State, as the case may be on being required to do so by the Highway Authority or any officer authorized in this behalf by the State Government.

72. Inquiries to be held summarily

(1) The Highway Authority or the officer authorized by the State Government in this behalf shall, if he desires to make any inquiry for the purposes of this Act, make the

inquiry in the manner provided for holding a summary inquiry under any law relating to land revenue in force in any part of the State, and all the provisions contained in the said Act or Code or law relating to the holding of a summary inquiry, shall, so far as may be, apply;

Provided that, where in any such law, there is no provision for holding inquiry in a summary manner, such inquiry shall be held in such other manner as is provided in that law.

(2) The Highway Authority and an officer authorized by the State Government or the Highway Authority under this Act, shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under any law relating to land revenue in force in any part of the State.

73. Registration of map made under section 8 not required

(1) Nothing in the Indian Registration Act, 1908 shall be deemed to require the registration of any map made under Section 8.

(2) All such maps shall, for the purposes of Sections 56 and 57 of the Indian Registration Act, 1908, be deemed to have been registered in accordance with the provision of that Act.

Provided that the maps shall be accessible to the public in the manner prescribed.

74. Certain persons to be public servants

The Highway Authority and the officers and other persons authorized or appointed under this Act, shall be deemed to be Public servants within the meaning of Section 21 of the Indian Penal Code.

75. Bar of Jurisdiction

No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Highway Authority, the Deputy Commissioner, an officer or person authorized under this Act, any Authority under Section 42 or Section 51, or the State Government.

76. Protection of persons acting in good faith and limitation of suit or prosecution

1) No Suit, prosecution or other legal proceedings shall be instituted against any public servant or officer or person duly authorized under this Act in respect of anything done in good faith or intended to be done under this Act, or the rules or orders made thereunder.

2) No suit or prosecution shall be instituted against any public servant or officer or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

77. Services of notices and bill

1) Every notice or bill issued or prepared under this Act, may be served or presented:

a. by delivering or tendering it or sending it by post to the person to whom it is addressed, or to his agent, or
b. if such a person or his agents is not found then by leaving it at his usual or last known place of abode or by delivering or tendering it to some adult male member of his family or by causing it to be fixed on some conspicuous part of the building or land, if any, to which it relates.

2) Where a notice under this Act is required to be served upon an owner or occupier of a building or land, it shall be necessary to name the owner or occupier, and the service thereof may be effected either-
   a) by delivering or tendering the notice or sending to by post to the owner or occupier or if there be more owners or occupiers than one, to any one of them, or
   b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.
3) Whenever the person to whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

78. Application of the Odisha State Roads Development Fund

In accordance with the provision pertaining to Odisha State Roads Development Fund contained in The Odisha State Roads Tolls (Amendment) Act, 2014, the State Government shall earmark the funds collected under that Act in any year, for the development and maintenance of state highways to the extent specified in that section.

79. Power to make rules

1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make Rules to carry out all or any of the purposes of this Act.
2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters:-
   a) the manner in which the notification may be published in the Village and at the headquarters of the district, block, or sub division under Sub-Section(2) of Section 7;
   b) the other places at which copies of map may be open to inspection under Section 8;
   c) the form of application and its contents under Sub-Section (2) of the Section 9;
   d) other acts and things which may be done by the person authorized by the State Government under Section 16;
   e) the manner in which the amount shall be deposited under Section 24;
   f) the conditions on which and the amount of rent or charge on payment of which encroachments may be made on a highway;
   g) the manner in which a reference shall be made under Section 42 or 51;

h) fixation of the date on which the betterment charges shall be payable under Section 54 and installments together with the rate of interest and the period within which such installments shall be paid under the provision to the said section;

i) the conditions on which any land may be relinquished or delivered in exchange in favour of the State Government under Section 55;

j) rules subject to which any highway or portion of it may be closed to any class of traffic or the number and speed or weight of the vehicles using the highway may be regulated under Section 57;

k) rules subject to which plying of vehicles may be prohibited under Section 58;

l) the prevention of danger arising from obstruction of view to persons using highway or from distraction of their attention and the prevention of annoyance, danger or injury to the public;

m) the prevention of obstruction, encroachment and nuisances on or near and of damages to highways;

n) the proper maintenance of boundary marks demarcating highway boundaries and building and control lines;

o) the prescription of various forms of applications required to be made and the forms of notices and bill required to be served on person, the charges to be made for the supply of copies of maps, and the rent or other charges to be imposed or levied under the provisions of this Act;

p) the general guidance of the Highway Authority in the discharge of its functions under this Act;

q) regulation or diversions of existing rights of access;

r) any other matter which is to be or may be prescribed.

80. Savings

1) Subject to the provisions of this section, nothing in this Act, shall affect:-

   (a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain water course or other work; or

   (b) the rights of any authority appointed under any law for the time being in force for gas, water, electricity, telephone, railways, tramways or trolley vehicles to erect any support or make any excavation for the purpose of laying making, altering, repairing or renewing any mains, pipe, sluice, weir, electric line, duct, drain or other apparatus; or

   (c) any land belonging to a railway administration or belonging to or used by a person holding a license or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910, when such land is held or used by the railway administration or such person, as the case may be, for the purpose of its railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto; or

(d) any land within the limits of a cantonment or a port declared by or under any law made by Parliament or under any existing law;

(e) any land within the jurisdiction of local authority under the administrative control of the Central Government;

Provided that-

i. any restrictions in force under Section 9 as to construction, formation or laying out of means of access to or from any road, shall without any such consent as aforesaid, extend to any such land as is specified in clause (c) in so far as the restrictions relate to means of access over or under such land to, or from, land other than land so specified, and

ii. any consent required for the purposes of this section shall not be unreasonably withheld and the question whether or not the consent so required is unreasonably withheld shall be determined by the State Government and the decision of the State Government on the question shall be final.

2) Nothing in this Act shall affect any powers and duties of the telegraph authority under the provisions of the Indian Telegraph Act, 1885.

81. Provision of this Act or Rules prevail over inconsistent provision in other laws

Save as provided in Section 79, the provisions of this Act or rules made thereunder in regard to any matter dealt with thereby shall prevail over the provisions of any other law made by the State Legislature or any law which the State Legislature is competent to make or to amend, in so far as such law is inconsistent with the said provisions or rules, and such law to the extent of such inconsistency shall cease to apply or shall not apply to any such matter.

82. Buildings and Control Lines along national highways and levy of betterment charges

For the avoidance of doubt it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under any law made by Parliament to be national highways;

Provided that if any highway is declared to be a national highway by or under any law made by Parliament, it shall be lawful for the State Government to fix the building and control lines for different portions of the said highway under Section 7 or to levy betterment charges under Section 49 on lands the value of which has increased by reason of the construction or proposed construction of such highway; and thereafter the provisions of this Act in so far as they apply to the restrictions on buildings between the highway boundary and the Building Line or between the Building Line and the Control Line and other provisions relating to such building and Control Lines, as the case may be, the provisions of this Act relating to the levy of betterment charges shall, mutatis mutandis, apply.

83. Removal of difficulties

(1) If any practical difficulty arises in giving effect to the provisions of this Act, the State Government, as occasion may require, by notification published in the Official Gazette, do anything not inconsistent with the provisions of this Act for purpose of removing the difficulty.

(2) Should any doubt arise as to the construction and interpretation of any provision of this Act, the same may be referred to the road construction department of the State Government.

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