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Act No 15 of 1987

Pradeshiya Sabhas

Act No 15 of 1987

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF PRADESHIYA SABHAS WITH A VIEW TO PROVIDE GREATER OPPORTUNITIES FOR THE PEOPLE TO PARTICIPATE EFFECTIVELY IN DECISION-MAKING PROCESS RELATING TO ADMINISTRATIVE AND DEVELOPMENT ACTIVITIES AT A LOCAL LEVEL TO SPECIFY THE POWERS, FUNCTIONS AND DUTIES OF SUCH SABHAS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

Short title and date of operation .

1. This Act may be cited as the Pradeshiya Sabhas Act, No. 15 of 1987, and shall come into operation in respect of all or any of its provisions on such date or dates as the Minister may appoint by Order published in the Gazette.

PART I

CONSTITUTION OF PRADESHIYA SABHAS

Constitution of Pradeshiya Sabhas.

2. (1) The Minister may, with a view to facilitating the effective participation of the people in local government and development functions, by Order published in the Gazette declare any area to be a Pradeshiya Sabha area for the purposes of this Act and shall define the administrative limits of the area so declared. The administrative limits of every Pradeshiya Sabha area so declared shall, as far as possible, correspond to limits of an Assistant Government Agent's division excluding any areas comprised in a Municipality or a town (within the meaning of the Urban Councils Ordinance) which falls within the limits of such Assistant Government Agent's division. The Minister may by the same Order or by a subsequent Order, constitute a Pradeshiya Sabha for such Pradeshiya Sabha area and assign a name to such Sabha.

(2) Every Pradeshiya Sabha constituted by an Order under subsection (1) shall be a body corporate with perpetual succession and a common seal and shall have power, subject to the provisions of this Act, to acquire, hold and sell property and may sue and be sued in such name.

(3) The common seal of the Pradeshiya Sabha shall remain in the custody of the Secretary of such Sabha, and shall not be affixed to any contract or other instrument on behalf of the Pradeshiya Sabha, except in the presence of the Chairman and the Secretary of such Sabha, who shall sign their names to such contract or other instrument in token of their presence.

(4) No act or proceeding of a Pradeshiya Sabha constituted by an Order under subsection (1) shall be deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the election of a member thereof.

Functions of the Pradeshiya Sabhas.

3. The Pradeshiya Sabha constituted for each Pradeshiya Sabha area shall be the local authority within such area and be charged with the regulation, control and administration of all matters relating to public health, public utility services and public thoroughfares and generally with the protection and promotion of the comfort, convenience and welfare of the people and all amenities within such area.

Members of Pradeshiya Sabhas.

4. A Pradeshiya Sabha constituted by an Order under subsection (1) of section 2, shall consist of a Chairman, Vice-Chairman and such number of elected members as may be determined by the Minister by Order published in the Gazette, having regard to the extent, population and the level of economic development of the Pradeshiya Sabha area for which such Pradeshiya Sabha is constituted.

Term of office of members.

5. (1) The term of office of each member of a Pradeshiya Sabha elected at a general election shall (a) in the case of the first general election be calculated from the date specified by the Minister under section 6 and

(b) in the case of a member elected at a general election subsequent to the first general election, be calculated from the date of expiration of the term of office of the members of the immediately preceding Pradeshiya Sabha, and shall, unless such member vacates office earlier by death, resignation or removal be for a period of forty-eight months.

(2) The Minister may, by Order published in the Gazette-

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the date on which the term of office expires, a day of any month preceding the month on which such term of office expires in that year or in the year immediately preceding that year

(b) extend such term by appointing, in substitution for the date on which the term of office expires under subsection (1) or on the date appointed under paragraph (a) of this subsection a day of any month after the day on which the term of office expires in that year or in any year subsequent to the year so specified or appointed and thereafter from time to time extend such term by appointing in substitution for the date of expiry of such term specified in the last Order, a later date:

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is from time to time extended shall not exceed twelve months.

(3) Where a member is elected in place of a member of a Pradeshiya Sabha who dies, resigns or otherwise vacates office, he shall subject to the provisions of this Act, hold office for the unexpired period of office of his predecessor.

Commencement of term of office of Pradeshiya Sabha and date

6. The term of office of each Pradeshiya Sabha to be constituted under this Act shall commence on such date as the Minister may appoint by Order published in the Gazette. Such date shall be deemed to be the date of the constitution of such Pradeshiya Sabha for all purposes of this Act, and such Pradeshiya Sabha shall be deemed to be constituted on that date.

Vacation of office.

7. Any member of a Pradeshiya Sabha who without leave of the Pradeshiya Sabha first had and obtained fails to attend meetings of the Pradeshiya Sabha for a period of three months shall ipso facto vacate his office.

Chairman and vice Chairman.

8. (1) The Chairman of a Pradeshiya Sabha shall be the chief executive officer of the Pradeshiya Sabha, and all executive acts and responsibilities which are by this Act or any other written law directed or empowered to be done or discharged by the Pradeshiya Sabha may, unless the contrary intention appears from the context, be done or discharged

by the Chairman.

(2) The Chairman may by order in writing delegate to the Vice-Chairman or Secretary or any other officer of the Pradeshiya Sabha any of the powers, duties or functions conferred or imposed upon or vested in the Chairman by this Act or any other written law.

(3) The exercise, discharge or performance by the Vice Chairman or the Secretary or any other officer of the Pradeshiya Sabha of any power, duty or function delegated to him by order of the Chairman, shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the order: and any such delegation on may at any time be varied or cancelled by order of the Chairman.

(4) During the period of absence of the Chairman on a count of illness or other unavoidable cause, the Vice Chairman may exercise the same powers and perform the same duties as the Chairman.

Appointment, powers and duties of Secretary.

9. (1) There shall be appointed a fit and proper person to be or to act as the Secretary of the Pradeshiya Sabha.

(2) The Secretary of a Pradeshiya Sabha shall be the chief administrative officer of the Pradeshiya Sabha and shall exercise, perform and discharge such powers, duties and functions as are conferred or imposed upon him by this Act or any rules made under this Act or by any other written law for the time being in force.

(3) Where a Pradeshiya Sabha is unable to discharge its functions by reason of the Chairman and Vice-Chairman ceasing to hold office, the Secretary shall, during any period that elapses between the occurrence of the vacancies in respect of those offices and the filling of those vacancies in accordance with the provisions of the Local Authorities Elections Ordinance, have, exercise perform and discharge all the rights, privilege, powers, duties and functions vested in or conferred or imposed on, the Pradeshiya Sabha, the Chairman or Vice-Chairman by this Act or by any other written law.

Chairman or Vice Chairman to preside at meetings of the Pradeshiya Sabha.

10. The Chairman or in his absence the Vice-Chairman shall preside at all meetings of the Pradeshiya Sabha and if both the Chairman and Vice-Chairman are absent, the members present shall elect one of their own number to preside at the meeting.

MEETINGS.

11. (1) Ordinary meetings of a Pradeshiya Sabha shall be held for the despatch of business on such dates or at such intervals as may be fixed by by-laws or rules made or deemed by any written law to have been made under this Act.

(2) A special meeting of a Pradeshiya Sabha may be convened by the Chairman whenever he considers it desirable and shall be convened whenever a written requisition is presented to him signed by members of that Pradeshiya Sabha not less in number than the quorum prescribed for ordinary meetings of the Pradeshiya Sabha.

(3) The special meeting in compliance with any requisition shall be convened within seven days of the receipt of the requisition in by the Chairman.

(4) If the Chairman of any Pradeshiya Sabha refuses or willfully neglects to convene a special meeting within seven days of the receipt of any requisition persisted to him, it shall be lawful for the Assistant Commissioner to convene a special meeting at any time thereafter and to preside or to depute a public officer to preside over that meeting.

(5) Not less than two days notice of the date appointed for each special meeting under this section and of the business to be transacted thereat shall be given to, or left at the residence of, each member of that Pradeshiya Sabha.

Pradeshiya Sabha to appoint Committees.

12. (1) A Pradeshiya Sabha may, from time to time, appoint committees consisting either of members of the Sabha or partly of members of the Sabha and partly of other inhabitants of the Pradeshiya Sabha area, and of the Chairman of the Gramodaya Mandalayas established within such Pradeshiya Sabha area for the purpose of advising the Sabha with reference to any of its powers, duties and functions, 'Or any matter under the consideration of the Sabha, and may, from time to time, subject to such conditions as it may determine, delegate any of its powers and duties to such committees other than the power to raise any loan, to levy any rate or to impose any tax.

(2) A separate Committee shall be appointed under subsection (1) to advise the Pradeshiya Sabha on each of the following subjects:

- (a) finance and policy making
- (b) housing and community development
- (c) technical services and
- (d) environment and amenities.

Subject to the foregoing, any number of Committees may be appointed under subsection (1).

Quorum.

13. The quorum for any meeting of a Pradeshiya Sabha shall be one-third of the number of members in office on the date of that meeting. Where one-third of such number is an integer and fraction, the integer immediately higher to that integer and fraction shall be deemed to be the one-third for the purposes of this section.

Powers of Pradeshiya Sabhas to be vested in the majority.

14. (1) All matters or questions authorized by this Act or by any other written law to be decided by a Pradeshiya Sabha shall be decided upon by the majority of members present at any meeting of the Pradeshiya Sabha held in accordance with the provisions of this Act

(2) Where the votes of the members present at any meeting are equally divided in regard to any question, the Chairman, Vice-Chairman or other member presiding at the meeting shall, in addition to his vote as a member, have a casting vote.

Minutes.

15. All proceedings, decisions, orders and acts of a Pradeshiya Sabha shall be entered in a book of minutes, and upon their confirmation - with such amendments as may be necessary at the next succeeding meeting of the Pradeshiya Sabha, shall be signed by the Chairman and a copy certified by the Chairman, of any record so entered and signed, shall be admissible in evidence in any court or tribunal in Sri Lanka.

PART II

STATUS, POWERS AND DUTIES OF PRADESHIYA SABHAS

Vesting of movable and immovable property and assets and liabilities in a Pradeshiya Sabha.

16. (1) All such movable or immovable property vested in a Development Council and situated or used, in Pradeshiya Sabha area, on the day preceding the date a pointed under section 1, as may be determined by the Minister or by any officer authorized in that behalf in writing shall vest in the Pradeshiya Sabha constituted for such Pradeshiya Sabha area, with effect from the date of such determination.

(2) Any dispute as to whether any movable or immovable property is a movable or immovable property to which subsection (1) applies, shall be referred to the Secretary to the Ministry of the 'Minister and his decision thereon shall be final.

(3) All assets and liabilities acquired, or incurred, by a Development Council in the exercise of its local government powers with respect to a Pradeshiya Sabha area, shall, with effect from the date appointed under section 1, stand transferred to, and vest in, the Pradeshiya Sabha constituted for that Pradeshiya Sabha area.

(4) All rates, taxes, duties, fees or other charges levied, by a Development Council, under the Town Councils Ordinance or the Village Councils Ordinance or any other law relating to local government, in respect of any land or thing in a Pradeshiya Sabha area and remaining unpaid on the date appointed under section 1, shall be paid, from and after that date, to the Pradeshiya Sabha constituted for that Pradeshiya Sabha area.

Methods of vesting administration &c. of such land.

17. (1) A vesting order, certificate or other record, signed by the persons authorized to make over any property referred to in section 16 and by an officer of the Pradeshiya Sabha authorized to receive or accept such property on behalf of a Pradeshiya Sabha shall be sufficient, and shall be deemed at all times to have been sufficient to vest such property and all rights, title and interest in such property in such Pradeshiya Sabha.

(2) Nothing in section 16 or in the provisions of this section shall be deemed

- (i) to affect or prejudice any right or title of the state to any such property, or the right of the State at any time to resume or dispose of such property for public purposes or

(ii) to affect or prejudice any right, title or interest which any military or other authority, in which lands are vested on behalf of the State, has or may have in such property or

(iii) to empower the Pradeshiya Sabha to sell or otherwise dispose of any such property otherwise than in accordance with such terms and conditions as may be set out in the aforesaid vesting order, certificate or other record relating to such property

(3) All property vested in Pradeshiya Sabhas shall be administered, and the revenue thereof shall be employed and made use of, for the purposes of this Act.

Other property vested in Pradeshiya Sabhas.

18. There shall be further vested in each Pradeshiya sabha for the purposes of this Act, the following classes of property :

- (a) all public parks, gardens and open spaces acquired by or otherwise transferred to the Pradeshiya Sabha, and all erections and other structures therein and the equipment thereof, subject always to the terms of any trust or the conditions in any instruments by which any such property may have been transferred to the Pradeshiya Sabhas
- (b) all public roads, streets, canals and bridges except such roads, streets, canals and bridges vested in any other authority under any other enactment together with the lands used for the purpose thereof, and all the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided therefor
- (c) all public markets and all works, erections or structures for the benefit or convenience of the public which may be constructed, erected or provided under this Act, or which may have been constructed, provided or erected under any repealed enactment, or may be otherwise transferred, or have been transferred to the Pradeshiya Sabhas and all sites, appurtenances, materials, furniture and equipment thereof, subject always to any such trust or condition as aforesaid
- (d) all other public buildings constructed or provided in whole or in part out of the funds of the Pradeshiya Sabha or which may be otherwise transferred to the Pradeshiya Sabha, and all the sites, appurtenances, materials, furniture, and equipment thereof, subject always to any such trust or condition as aforesaid
- (e) the property of and in all the lamps, lampirons, lamp posts, sluices, dams, pipes, posts, chains, piles, rails and other similar erections and things in, about, or belonging to the roads, streets, and public places vested in the Pradeshiya Sabha and of and in all the materials, furniture and things belonging thereto, except in so far as the same shall be otherwise regulated by contract with the Sabha or shall be otherwise shown to be private property or subject to private rights.

Powers of the Pradeshiya Sabha.

19. (1) For the purpose of the performance of its duties under this Act, a Pradeshiya Sabha (without prejudice to any other powers specially conferred upon it) shall, subject to the other provisions of this Act and to any rules made thereunder and the Local Government Service Law, No. 16 of 1974, have the following powers:

- (i) to create all such posts or offices as it may deem necessary and to assign to any such post or office, such salary, allowance or remuneration as the Pradeshiya Sabha may deem fit, subject however, to the prior approval in writing of the Commissioner regarding such creation and assignment of salary
- (ii) to make appointments to any post or office in the service of the Pradeshiya Sabhas
- (iii) to remove any officer or servant of the Pradeshiya Sabha
- (iv) to abolish any post or office in the service of the Pradeshiya Sabha
- (v) to grant pensions to officers and servants of the Pradeshiya Sabha on their retirement from service
- (vi) to enter into any agreement with any other Pradeshiya Sabha or other local authority for the joint execution of any work or for the employment and remuneration of any officer or servant, of such Pradeshiya Sabha
- (vii) to spend any part of the Pradeshiya Sabha Fund on maternity and child-welfare services, health education, maintenance of primary health centres, the training of midwives for the purpose of any maternity service established by the Pradeshiya Sabha, housing schemes, such charities or such measures for the relief of distress caused by rain, floods, gales, fire, earthquake, famine or epidemics, or such other purposes as may be approved by the Minister
- (viii) to purchase or take on lease any land or building
- (ix) to receive and hold property in trust for the inhabitants of the area for which such Pradeshiya Sabha is constituted or any section of such inhabitants, or for the purposes of any public service administered by the Pradeshiya Sabha, and to otherwise act as trustee for any public purpose
- (x) to sell or exchange with the prior approval in writing of the Minister, any land or building belonging to the Pradeshiya Sabha or vested in it otherwise than by virtue of section 16 and subject to the terms and conditions of the instrument by which such land or building was transferred to the Pradeshiya Sabha
- (xi) to let or lease with the prior approval in writing of the Minister, any land or building vested in the Pradeshiya Sabha by virtue of section 16 or section 18 and not required for a public purpose and subject to the terms and conditions of the instrument by which such land or building was transferred to or vested in the Pradeshiya Sabha
- (xii) to let or lease any land or building belonging to the Pradeshiya Sabha or vested in such Pradeshiya Sabha, otherwise than by virtue of section 16 or section 18 and subject to the terms and conditions of the instrument by which such land or building was transferred to or vested in the Pradeshiya Sabha Provided that no lease of any such land or building for a period exceeding three years shall be executed, without the prior approval in writing of the Minister
- (xiii) to enter into any contract with any person for any work to be done, service to be rendered, goods or materials to be supplied
- (xiv) to spend any part of the Pradeshiya Sabha Fund for the construction or alteration, improvement or maintenance of village works, and for the purpose of administering any property vested in or acquired by or otherwise transferred to the Pradeshiya Sabha, or of carrying out the provisions of this Act or any by-law made or deemed by virtue of any written law to have been made thereunder
- (xv) to establish ferries, to impose and to levy or to lease the right to collect tolls at any ferry established or maintained by the Pradeshiya Sabha, and for the protection of such ferry, to prohibit or restrict private ferries by by-laws made in that behalf
- (xvi) in the case of a ferry established or maintained between any place within the limits of any Pradeshiya Sabha and any place within the limits of any other Pradeshiya Sabha or within the administrative limits of any other local authority, to distribute the tolls that may be imposed or levied in respect of any such ferry, in such manner or proportion as may be fixed by agreement entered into with any other Pradeshiya Sabha or with such local authority, as the case may be, and to spend any part of the Pradeshiya Sabha Fund for any work of construction or maintenance to be carried out beyond the limits of the Pradeshiya Sabha area in connection with any such ferry
- (xvii) to spend any part of the Pradeshiya Sabha Fund in the conduct of experiments in agriculture and the breeding of domestic animals and in the maintenance of experimental farms and studies for that purpose
- (xviii) to spend any part of the Pradeshiya Sabha Fund in the promotion of religious and cultural activities, including the making of contributions towards the costs of the organization of religious ceremonies and festivals, the maintenance of Dhamma Schools and Sasana Rakshaka Mandalayas, the establishment of cultural centres, the organization of literary and cultural festivals, the publication of books of literary and cultural value and the award of prizes to artists, authors and craftsmen
- (xix) to-
 - (a) prepare and submit to the appropriate authority, a programme for the provision of educational facilities, such as buildings, furniture, playgrounds, hostels, teachers quarters, sports materials and library facilities, in the Pradeshiya Sabha area
 - (b) recommend to the appropriate authority, the opening, closing, amalgamation, naming and upgrading of, schools in the Pradeshiya Sabha area
 - (xx) to organize employment programmes for the inhabitants of the Pradeshiya Sabha area
 - (xxi) to implement any scheme or work delegated to it by the Development Council established for the administrative district within the limits of which the Pradeshiya Sabha area is situated
 - (xxii) to spend any part of the Pradeshiya Sabha Fund, in promoting rural women's development activities, integrated development of selected villages, community development projects, and in making grants for rural development projects, Gramodaya Mandalayas and rural development organizations qualified to be represented on Gramodaya Mandalayas
 - (xxiii) to spend any part of the Pradeshiya Sabha Fund, in the provision of relief to poor people, the

rehabilitation and care of destitute persons and physically, mentally or socially handicapped persons

(xxiv) with the prior approval of the Minister

(a) to engage in commercial and industrial enterprises for the manufacture and production of such machinery, equipment, articles, materials and goods, as may be required for the public services or the public utility services, as the case may be, which may be established and maintained by any Municipal Council or Urban Council under the Municipal Councils Ordinance or the Urban Councils Ordinance respectively, or under any other written law and

(b) to sell such machinery, equipment, articles, materials or goods to any Urban Council or Municipal Council or to the public at such prices as may be determined by the Pradeshiya Sabha and approved by the Minister

(xxv) to make by its officers authorized in that behalf and the servants or workmen accompanying them, all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisance, the detection prevention and abatement of all contraventions of this Act or of by-laws or rules made thereunder, or for the performance of acts required to be done under this Act in respect of which the owner or occupier is, or may be deemed to be, in default

(xxvi) by its Chairman or other officers authorized by him, to hold all inquiries which the Chairman may deem necessary for any of the purposes of this Act, and for the purpose of all such inquiries, to administer oaths and summon witnesses

(xxvii) to set apart such contributions from the Pradeshiya Sabha and as the Minister may approve towards the cost of any association of local authorities for the consideration of matters relating to local administration

(xxviii) to spend any part of the Pradeshiya Sabha Fund in the payment of allowances to the Chairman, Vice-Chairman and other members at such rates as may be prescribed by rules

(xxix) to spend any part of the Pradeshiya Sabha Fund in the payment of travelling allowances to members of the Pradeshiya Sabha, for attendance at meetings of the Pradeshiya Sabha, or to members or officers of the Pradeshiya Sabha attending, with the approval of the Pradeshiya Sabha any meeting or conference of members or officers of Pradeshiya Sabhas for the consideration of matters relating to local administration

(xxx) to institute or defend any legal proceedings which the Pradeshiya Sabha may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Pradeshiya Sabha or of the public or of protecting its members or officers in the execution or intended execution of their duties

(xxxi) to enforce by-law made or deemed to have been made by it under this Act and to enter prosecutions in the Magistrate's Court for breaches of such by-laws and

(xxxii) generally to do all things necessary for the effective exercise of the powers and duties of the Pradeshiya Sabha.

(2) (a) The Minister may approve any commercial or industrial enterprise under paragraph (XXIV) of subsection (1) having regard to

(i) the economic viability of such enterprise

(ii) the benefits that may accrue to any Pradeshiya Sabha and the public by the operation of such enterprise

(iii) the financial position of the Pradeshiya Sabha engaging in such enterprise.

(b) No sums of money appropriated or granted to a Pradeshiya Sabha by Parliament under paragraph (c) or (d) or (i) of subsection (2) of section 129 shall be utilized by such Sabha for the purpose of establishing or maintaining any commercial or industrial enterprise.

(c) Where the Minister is of the opinion that the continued operation of any commercial or industrial enterprise of any Pradeshiya Sabha would be prejudicial to the interest of such Sabha by reason of mismanagement or that it is likely to involve financial loss to the Sabha, he may, after consultation with the Sabha, by Order published in the Gazette terminate the operation of such enterprise and direct the Sabha to take charge of all books, records and assets of the enterprise and to take such measures that may be necessary to give effect to such Order.

(3) The Minister or the Commissioner may, from time to time, give any Pradeshiya Sabha engaged in any commercial or industrial enterprise general or special directions as to the carrying on or transaction of its business and such directions shall be carried out by the Sabha.

(4) The Minister or the Commissioner may, from time to time, direct the Sabha in writing to furnish him in such form as he may require, returns, accounts and other information with respect to the business of such enterprise, and the Sabha shall carry out recovery such direction.

Power to authorize surveys.

20. (1) Whenever it appears to the Chairman of any Pradeshiya Sabha that an examination or a survey of any private land, building, or premises is necessary for any public purpose in the area for which the Pradeshiya Sabha is constituted, it shall be lawful for the Chairman to direct any officer or servant of the Pradeshiya Sabha to make such examination or survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter such land, building or premises and to do thereon all of the following acts:

(a) to make a survey and to take levels

(b) to dig or bore into the sub-soil

(c) to do other acts to ascertain whether the land, building, or premises is or are adaptable to such public purpose

(d) to set out the boundaries of any land which is to be acquired, or street lines, or the lines of any work proposed to be carried out

(e) to make such levels, boundaries, or lines, by placing permanent marks on existing buildings, trees, posts, walls, fences or other fixed objects, or by fixing new marks, or by cutting trenches as the case may require

(f) and where otherwise a survey cannot be complete or levels taken, or the boundaries and the line marked, to cut down, and clear away any obstructions interfering with the execution of such work.

(2) Where any damage is caused to any land or to anything thereon by the performance of any of the acts referred to in subsection (1), full compensation shall be paid by the Pradeshiya Sabha to the owner or other person entitled thereto.

(3) No person shall enter any building or any enclosure attached to a dwelling house for the purposes of subsection (1) except with the written consent of the occupant thereof, or if such consent is withheld with the written sanction of the Chairman of the Pradeshiya Sabha.

(4) Every mark fixed on any land under this section shall be deemed to be the property of the Pradeshiya Sabha.

PART III

POWERS AND DUTIES AS TO THOROUGHFARES

Pradeshiya Sabha to be the general authority for thorough fares and communications.

21. (1) Subject to the powers and responsibilities by law committed to any other authority, the Pradeshiya Sabha shall be the general administrative authority for the purpose of all thoroughfares and communications, other than principal thoroughfares, within its administrative limits, with all such powers as are vested in it under this Act, the Housing and Town Improvement Ordinance, and any other enactment from time to time enacted in that behalf.

(2) Subject to such directions as may be given by the Minister from time to time by Order published in the Gazette, the Pradeshiya Sabha shall be the administrative authority for the purposes of the protection of any principal thoroughfare that may be situated within its area, and shall be entitled for such purpose to exercise or perform in relation to any such principal thoroughfare, any of the powers or duties conferred or imposed by sections 43 to 67 (both inclusive) relating to buildings along thoroughfares, obstruction to thoroughfares, encroachments on thoroughfares, injuries to thoroughfares and nuisances on thoroughfares.

General powers of Pradeshiya Sabha with regard to thorough fares and open spaces.

22. Subject to the powers and responsibilities by law belonging to any other authority, it shall be the duty of the Pradeshiya Sabha and every such Pradeshiya Sabha is hereby empowered, to take all necessary measures for securing and maintaining all public rights, interests, and amenities arising out of, or in connection with, all thoroughfares or upon spaces within its area and for utilizing, regulating, adapting, and developing such thoroughfares or open spaces for public purposes.

Thorough fares vested in Pradeshiya Sabha.

23. All thoroughfares within the Pradeshiya Sabha area, other than principal thoroughfares, except insofar as such thoroughfares are already vested by virtue of any other enactment, shall be deemed to be vested in the Pradeshiya Sabha of that area.

Pradeshiya Sabha to demarcate and publish a list of roads and paths.

24. (1) It shall be the duty of every Pradeshiya Sabha within three years of the coming into force of these provisions or within such further period as may in the special circumstances of any case be allowed by the Minister

(a) to demarcate by permanent marks the limits of the roads and paths maintained by the Pradeshiya Sabha and cause to be prepared plans of all such roads and paths and

(b) to cause notices to be published in the prescribed manner setting out a list of such roads and paths.

(2) Upon the publication of such notices any party claiming to be the owner of land from which such road or paths have been demarcated shall within the time prescribed by such notice institute an action in the appropriate court for establishing his title to such land.

(3) After the expiration of a period of three months and before the expiration of a period of six months from the date on which the notice under subsection (1) is published in the Gazette, the Pradeshiya Sabha shall cause to be published a notice in the prescribed manner setting out a list of all such roads and paths as set out in the notice published under subsection (1)

(a) excluding those roads and paths or portions of roads and paths in respect of which no final determination had been made in any action instituted as required by subsection (2) and

(b) with the necessary alterations made in the demarcation of the limits of such roads and paths and in such plans in respect of which a final determination had been made in any action instituted as required by subsection (2).

(4) Where a final determination has been made on any action instituted as required by subsection (2) after the publication of the notice under subsection (3), the Pradeshiya Sabha shall cause a notice to be published in the prescribed manner, setting out a supplementary list of such roads and paths or portions of roads and paths. Before the publication of this notice the necessary alterations shall be made in the demarcation of the limits of other roads and paths and in the plans on the basis of the final determination made in respect of any action instituted as required by subsection (2).

(5) Upon the publication of such notice under subsection (3) or (4), all such roads and paths or portions of such roads and paths as defined in such notices and depicted by such plans shall be deemed to be vested in the Pradeshiya Sabha.

(6) Whenever any road or path or any portion of any road or path vested in a Pradeshiya Sabha ceases to be used as a road or path the Pradeshiya Sabha shall publish an amendment to the notice under subsection (3) or (4).

Prescription.

25. Neither the provisions of the Prescription Ordinance, nor those of any other law relating to the acquisition of rights by virtue of possession or user, shall apply in the case of the roads within the limits of any Pradeshiya Sabha and no person shall be entitled to any exclusive rights of ownership, possession or use over or in respect of any such road or any portion thereof by reason of his having, either before or after the coming into operation of this Act, had possession, or use of any description whatsoever of such road or portion thereof.

Notices how served

26. Every notice required to be given under this part may be served either personally upon such person, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Power of Pradeshiya Sabha to construct new and improve existing thoroughfares.

27. The Pradeshiya Sabha of each Pradeshiya Sabha area may within that area

(a) layout and construct new roads, streets, bridges, tunnels or other thoroughfares

(b) widen, open, enlarge or otherwise improve or turn, divert, discontinue, or stop up, whether in whole or in part, any public street or thoroughfare, not being a principal thoroughfare, and with the sanction of the Minister in charge of the subject of highways, any principal thoroughfare, making due compensation to the owner or occupier of any property required for such purposes, or any person whose legal rights are thereby infringed.

Acquisition of lands for diversions or enlargements.

28. (1) If in connection with the turning, diversion, widening, opening, enlargement, or improvement of any thoroughfare it becomes necessary for any Pradeshiya Sabha to take possession, for public use, of the land of any person, it shall be lawful for such Pradeshiya Sabha to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former thoroughfare, or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Pradeshiya Sabha in pursuance of any agreement under subsection (1) shall vest in the Pradeshiya Sabha without any formal transfer thereof, and the certificate of the Chairman that a person has been allowed by the Pradeshiya Sabha to possess any part of the ground of any former road or any land given in exchange under subsection (1), together with a survey thereof, shall be sufficient proof of the right of such person to such ground or land.

(3) Where a Pradeshiya Sabha cannot agree with the owner of any land as to the compensation to be paid under subsection (1), or where such owner cannot be found, or where the Pradeshiya Sabha does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land and for compensating to the owner, in the manner prescribed by section 128.

(4) Every agreement under subsection (1) shall be in writing, and section 2 of the Prevention of Frauds Ordinance shall not apply to any such agreement or to any certificate issued under subsection (2).

Gifts of lands required for diversion or enlargement of thoroughfare.

29. If in connection with the turning, diversion, widening, opening, enlargement or improvement of any thoroughfare, it becomes necessary for any Pradeshiya Sabha to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a gift of the land to the Pradeshiya Sabha for such purpose, a record in writing to that effect duly signed by such person in the presence of the Chairman or of a person authorized by the Chairman in writing in that behalf shall be sufficient to vest the land in the Pradeshiya Sabha. No such record shall be deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

Power to dispose of discontinued street. 30. Whenever any street or chief thoroughfare or any part of any street or thoroughfare vested in a Pradeshiya Sabha ceases to be used as a street or thoroughfare, the Pradeshiya Sabha, with the prior approval of the Minister, may sell, lease or exchange such street or other thoroughfare or part thereof.

Power to take land adjoining new street for building purposes.

31. In laying out or constructing any new street or thoroughfare, or in turning, diverting, widening, opening, enlarging, or otherwise improving, any street or thoroughfare, a Pradeshiya Sabha may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street or thoroughfare, and may sell, lease or otherwise dispose of the same, subject to the provisions of paragraphs (x), (xi) and (xii) of section 8 and subject to such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as the Pradeshiya Sabha may think fit.

Other powers of a Pradeshiya Sabha.

32. It shall be lawful for a Pradeshiya Sabha without prejudice to any other powers vested in it, to do any of the following acts:

(a) to water the streets

(b) to remove encroachments and obstructions in or upon any street or thoroughfare subject to the condition that where the person responsible therefore is known to the Pradeshiya Sabha such action shall be taken by the Pradeshiya Sabha only after notice has been given to him, and he fails to remove such encroachments or obstructions within such time as may be specified in the notice or with due diligence

(c) to paint up the names of streets and the numbers of houses or tenements on any private property

(d) to shut up and secure deserted houses

(e) to recover in the manner hereinafter provided, the expenses incurred by any action taken under paragraphs (b) and (d) hereof from the person whose act or neglect shall have rendered such action necessary.

Roads for benefit of individual property owners.

33. The Pradeshiya Sabha may, at the request of the owner or owners of anyone or more estates or industrial enterprises situated within its limits, in any case in which the Pradeshiya Sabha is of opinion that the public interest would not otherwise justify the construction or maintenance of a road in such a locality, contract with such owner or owners, for the construction or maintenance of a road for the service of the estate or estates, or the enterprise or enterprises in question, subject to the payment of such contribution towards the expenses of such construction or maintenance as may be approved by the Pradeshiya Sabha and subject to the condition that by an appropriate instrument such road is constituted a public road and is vested in the Pradeshiya Sabha, and all such agreed contributions shall be deemed to be special rates imposed upon the lands benefited, and shall be recoverable in the same manner as a rate imposed under this Act, and all the provisions of this Act relating to rates shall apply thereto.

Public vehicular communications.

34. A Pradeshiya Sabha may, subject to such prohibition or restriction as may be imposed in respect thereof by any other law, and, in so far as any principal thoroughfare may be thereby affected, subject to the approval of the Minister in charge of the subject of highways, organize and maintain, either by itself and its officers, or by agreement with any promoter or promoters any form of public vehicular communication for the service of the inhabitants of any area within the administrative limits of the Pradeshiya Sabha.

Houses in a ruinous and dangerous state.

35. If any house, building, boundary wall or gateway adjoining any street or thoroughfare in any area or anything affixed thereon, be deemed by the Pradeshiya Sabha of that area to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Pradeshiya Sabha shall immediately if it appears to be necessary, cause a proper hoarding or fence to be put up for the protection of persons using such street or thoroughfare, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway or thing affixed thereon, as the case may require.

Failure to comply with notice.

36. If any person, on whom a notice is served by or on behalf of a Pradeshiya Sabha under section 35, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Pradeshiya Sabha shall cause all or so much of the work as it may think necessary to be carried out, and all the expenses incurred by the Pradeshiya Sabha shall be paid by such person and shall be recoverable as hereinafter provided.

Sale of materials of ruinous houses.

37. If any house, building or wall, or any part thereof be pulled down by any Pradeshiya Sabha under section 36, the Pradeshiya Sabha may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall. Provided always that, in case no demand for such surplus is made within twelve months by any person entitled to make such demand, the Pradeshiya Sabha shall be at liberty to pay the amount of such surplus to the credit of the Fund of the Pradeshiya Sabha, and shall be freed from any liability to pay or answer for or in respect of such unclaimed surplus.

Provided, further, that the Pradeshiya Sabha, notwithstanding that it may have sold such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the expenses as may remain due after the application of the proceeds of the sale, as by this Act are given to it for compelling the payment of the entirety of the expenses.

Maintenance and repair of thoroughfares.

38. It shall be lawful for the proper officer of the Pradeshiya Sabha and for the servants, workmen, and labourers employed by or under him, at all time, and with all necessary and proper carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare within that area, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Act.

Power to take materials.

39. It shall be lawful for the proper officer of the Pradeshiya Sabha and for the servants, workmen, and labourers employed by or under him, at all reasonable times, and with all necessary and proper carriages, carts, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving or fencing any existing or intended thoroughfare in that Pradeshiya Sabha are or of building, excavating, repairing, clearing or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, carts, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the land of any person, without being deemed a trespasser: Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue, to a house, or lawn or any enclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or amended grounds, in which case the said officer may take any of such materials where he can conveniently procure them: Provided, also, that reasonable compensation for all materials so taken and for the damage done in taking and carrying away the materials, shall be made to the owner thereof: Provided, further, that such officer shall rail or fence off any quarry or pit from which any such materials may be taken, so that it may not be dangerous to any person or animal.

Power to erect buildings and keep cuticle &c.

40. It shall be lawful for the proper officer of the Pradeshiya Sabha or any areawhen tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare within that area or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith (a) to make and erect temporary buildings and any land adjacent or near thereto for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work and (b) to keep all such animals as may be employed by him duly tethered and stabled upon any land near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary: Provided that no such building shall be erected, nor any such animal kept on any land which is under cultivation or is situated in any area where there are neighbouring waste lands or common or abandoned grounds available for the purpose:

Provided, further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

Power to throw rubbish upon adjacent lands.

41. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving of any existing or intended thoroughfare within any Pradeshiya Sabha or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of any Pradeshiya Sabha of the area to throw upon any lands adjacent or near to the thoroughfare such earth, rubbish, or materials as it may seem necessary to remove from the place of any such work: Provided that all earth, rubbish or materials thrown upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

Power to make temporary road.

42. It be lawful for the proper officer of the Pradeshiya Sabha to make a temporary road through the grounds adjacent or

near to any existing or intended thoroughfare within the limits of the Pradeshiya Sabha during the execution of any work thereupon or any work in any way connected therewith:
 Provided that such road shall not be made over any ground whereon any building stands or over any enclosed garden or yard.

Power to cut trees.

43. It shall be lawful for the proper officer of the Pradeshiya Sabha to cut and remove, and place upon any adjacent or neighbouring land, any trees, bushes or shrubs, and all leaves or branches or roots of trees that shall grow or overhang any thoroughfare within the limits of the Pradeshiya Sabha or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping or removing of such trees, bushes, shrubs, leaves, branches or roots:

Provided that all trees, bushes, or shrubs, and all leaves or branches or roots of trees placed upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

Power to put up fences.

44. It shall be lawful for the proper officer of the Pradeshiya Sabha to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare within the limits of the Pradeshiya Sabha, whenever to him it shall appear necessary, and the owner or occupier of each land adjoining such fences, hedges, ditches, drains, or banks shall, and he is hereby required to keep them in good and substantial repair and order.

Power to make and keep ditches &c. and to lay trunks, &c.

45. The proper officer of the Pradeshiya Sabha shall have power to make, secure, cleanse, and keep open all ditches, gutters, drains or watercourses along any thoroughfare within the limits of the Pradeshiya Sabha and also to make and lay such drains, watercourses, trunks, tunnels, plats, or bridges, as he may deem necessary for the protection, preservation, improvement, repair, or construction of any thoroughfare or intended thoroughfare and through any lands or grounds adjoining or lying near to such thoroughfare or intended thoroughfare.

Power to lay stones &c.

46. The proper officer of the Pradeshiya Sabha shall have power to lay any heap of stone or gravel, or any log of wood or any other matter or thing whatsoever, upon any thoroughfare within the limits of the Pradeshiya Sabha, and to allow such matter to remain there during the time such road is under repair, and for such time before the repairs are commenced and after the repairs are completed, as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired road, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such road.

BUILDING ALONG THOROUGHFARES

Notice of intended building along a thoroughfare.

47. (1) It shall not be lawful for any person to commence any building, boundary wall, gateway or fence along any thoroughfare within the limits of any Pradeshiya Sabha or to erect any temporary fence or enclosure on any such thoroughfare for the purpose of commencing or repairing any such building, boundary wall or gateway without giving one calendar month's previous notice in writing to the Pradeshiya Sabha.

(2) Any person neglecting to give the notice prescribed by subsection (1) or to remove any building, boundary wall, gateway or fence erected without such notice when he is required in writing to do so by the Pradeshiya Sabha under this sub-section, shall be guilty of an offence, punishable with a not exceeding five rupees, and with a further fine not exceeding twenty rupees for each day he suffers or allows such building, boundary wall, gateway or fence to remain after he is required to remove as aforesaid.

(3) It shall be lawful for the Pradeshiya Sabha to remove or cause to be removed any building, boundary wall, gateway, fence or enclosure, commenced or erected without the notice prescribed by subsection (1) and to recover the costs of such removal in the manner provided in section 59 for the recovery of the costs therein mentioned.

(4) Nothing herein contained shall be deemed to deprive any Pradeshiya Sabha of the power, hereinafter conferred on such Pradeshiya Sabha, of removing any such building, boundary wall, gateway, fence, or enclosure, which may subsequently be discovered to be an encroachment on a thoroughfare, notwithstanding that no proceedings may have been taken by the Pradeshiya Sabha on the notice given in respect of such building, boundary wall, gateway, fence or enclosure under subsection (1).

Erection of temporary fences and enclosures.

48. (1) Nothing contained in section 47 shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, or to prevent the Pradeshiya Sabha from granting a licence to the inhabitants of the Pradeshiya Sabha area for the erection of temporary fences and enclosures on any thoroughfare, in connection with the building, pulling down, or referring of their houses and other buildings, or for temporary decorations within that area on such terms and conditions as the Pradeshiya Sabha may deem proper, including conditions as to-

(a) the length, breadth and height of such enclosure

(b) the space to be allowed for carriages and carts, or boats, to pass along the thoroughfare and

(c) the exhibition by the person obtaining such licence, daily between sunset and sunrise throughout the period during which the fence or enclosure is maintained or continued by him, of a light sufficient to indicate clearly the exact situation of the fence or enclosure or any obstruction caused thereby.

(2) Every holder of a licence granted under subsection (1) who commits a breach of any of the conditions of such licence and every person who removed or extinguished any light placed and kept in accordance with the requirements of the conditions of such licence, shall be guilty of an offence, punishable with a fine not exceeding ten rupees.

Building limits along roads.

49. Notwithstanding anything contained in the Housing and Town Improvement Ordinance, or other law it shall not be lawful for any person

(a) to erect any building, boundary wall or gateway within a limit (hereinafter referred to as the "building limit") of twenty-five feet from the centre of any road which is used or intended for vehicular traffic within the limits of any Pradeshiya Sabha and in respect of which street lines providing for a roadway exceeding fifty feet in width have not been defined under this Act or the Housing and Town Improvement Ordinance:

Provided, however, that the Pradeshiya Sabha, shall have power to authorize the erection of a boundary wall or gateway on condition that the owners of the premises shall execute an undertaking that no compensation shall be payable in respect of such boundary wall or gateway in the event of the land on which such wall or gateway is situated being required for a public purpose or

(b) except under the authority of a licence granted by the Pradeshiya Sabha to re-erect or to make any addition to any such building, boundary wall or gateway within such limit:

Provided always that nothing contained in this subsection shall apply to any repairs effected in any building, boundary wall or gateway existing at the date of the constitution of the Pradeshiya Sabha or in the case of

(i) any street which is intended for foot traffic only and is not less than twenty feet in width or

(ii) any back lane or other service passage which is intended only for the purposes of scavenging or conservancy or other special sanitary purpose and is not less than ten feet in width where such street, lane or passage has been defined or approved by the Pradeshiya Sabha.

For the purpose of the foregoing provisions of this subsection, "repairs" shall not be deemed to include any work of re-erection or re-construction or the addition of any new part.

Demarcation of building limits.

50. (1) It shall be the duty of every Pradeshiya Sabha, within three years after the date of the constitution thereof or within such further period as may in the special circumstances of any case be allowed by the Minister or upon the directions of the Minister, and within such period of time if any, which he may allow

(a) to demarcate by permanent marks the building limit prescribed by section 49 on every road referred to in that section

(b) in the case of each road on which the building limit has been so demarcated, to ascertain and record the value of each building, boundary wall, or gateway or part thereof situated or extending within such limit and

(c) in the case of any road on which the building limit has not been demarcated, to ascertain and record the value of each building, boundary wall or gateway in respect of which a licence under section 49 is granted by the

Pradeshiya Sabha for the purposes of any re-erection or addition.

(2) The value of any building, boundary wall or gateway shall, for the purposes of subsection (1)

(a) be fixed by agreement between the Pradeshiya Sabha, and the owner or owners of the building, boundary wall or gateway or

(b) where it is not so fixed by agreement, be determined by the arbitration of two arbitrators, one nominated by the owner or owners of the building, boundary wall or gateway and the other by the Pradeshiya Sabha, or if such arbitrators cannot agree upon the said value, by an umpire chosen jointly by the two arbitrators.

(3) In determining the value of any building, boundary wall or gateway or any part thereof for the purposes of subsection (2), the following principles shall be followed :

(a) where any building, boundary wall or gateway, or any part thereof, the removal of which would render the remaining part useless, is situated within the building limit of any road, and, where, for that reason, at the time of the widening of the road the removal of the entire building, boundary wall or gateway will become necessary, the value of the entire building, boundary wall or gateway shall be determined and such value shall be the difference between the market value of the premises, that is to say, of the building, boundary wall or gateway together with the land attached thereto, at the time of the demarcation of the building limit, and the market value at that time of the land as distinct from the building, boundary wall or gateway

(b) where only a part of a building, boundary wall or gateway is situated within the building limit of any road, and after the severance and removal of such part the remaining part will be capable of adaptation either to the original purpose of the building, boundary wall or gateway or to any other purpose permitted by law, the value of the part within the building limit shall alone be determined and such value shall be the aggregate of

(i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway and

(ii) the estimated cost, in the case of a building of adapting the part of the building which will then

remain to the purpose for which the building is used at the time of the demarcation of the building limit,

and in the case of a boundary wall or gateway, of completing such additions or repairs as may be necessary

(iii) where, at the time of the demarcation of the building limit on any road, the value of any building, boundary wall or gateway is found to have been increased by any alteration or improvement effected in the building, boundary wall or gateway after the date of the constitution of the Pradeshiya Sabha, then notwithstanding that the alteration or improvement may have been authorized by a licence under section 49, the amount of the increase shall not be taken into account unless the alteration or improvement was necessary for the maintenance of the building, boundary wall or gateway in a proper state of repair.

(4) Every award or agreement made or entered into, at the case may be, under subsection (2) in respect of the value of any building, boundary wall or gateway or part thereof, shall specify the particular paragraph or paragraphs of subsection (3) in accordance with which the value aforesaid was fixed or determined.

(5) The value of each building, boundary wall or gateway or part thereof situate within a building limit, fixed or determined as provided in subsection (2) shall be recorded in the office of the Pradeshiya Sabha together with all agreements or awards by which the value so recorded may be verified.

(6) For the purpose of demarcating the building limit of any road it shall be lawful for any officer, servant or workman of the Pradeshiya Sabha, to enter upon any private land, adjoining the road and to erect permanent marks at convenient places, taking all such precautions as may be necessary to ensure that as little damage as possible is caused to the land compensation shall be paid by the Pradeshiya Sabha for any damage so occasional.

(7) Where the building limit of any road has been demarcated under this section, nothing in any of the provisions of this Act shall be deemed to preclude the Pradeshiya Sabha, from letting or leasing any part of the road not included within such building limit for the purpose of affording lighting facilities along the road, or from using or permitting the use of any such part for any public purpose prior to the use of any such part for any public purpose.

(8) Nothing in this section shall apply to, or in the case of any road in respect of which street lines providing for a roadway exceeding fifty feet in width have been defined under this Act or the Housing and Town Improvement Ordinance or any other law.

Condition to be attached to all Licences under section 49.

51. (1) It shall be a condition of any licence granted by a Pradeshiya Sabha under section 49 for the re-erection or for any addition to any building, boundary wall or gateway within the building limit of any road that in the event of the land on which the building, boundary wall or gateway is situated being acquired at any time thereafter for the purpose of the widening of the road, the compensation payable in respect of such building, boundary wall or gateway shall be determined in accordance with the provisions of section 53.

(2) (a) Full particulars of every licence containing a condition of the description set out in subsection (1) and of the land and the building, boundary wall or gateway to which the condition relates, shall be entered by the Pradeshiya Sabha in a register to be kept for the purpose at the office of the Pradeshiya Sabha and the Chairman shall cause a certified copy of the entry so made in respect of each land and building, boundary wall or gateway and the condition of the licence relating thereto, to be registered in the office of the Registrar of Lands. The Registrar of Lands shall register all such copies free of any charge or duty.

(b) Upon the registration of any entry under this subsection the condition of the licence set out in such entry shall be binding upon the land or building or boundary wall or gateway affected thereby, in accordance with the tenor of such condition, into whomsoever ownership or possession of the land or building or boundary wall or gateway may at any time pass.

(c) The register kept at the office of the Pradeshiya Sabha shall be made available for inspection to any person interested, at any time when the office is open for the transaction of business.

(d) The provisions of section 2 of the Prevention of Frauds Ordinance shall not apply to any entry or copy of an entry referred to in this subsection.

(3) Subject to the condition referred to in subsection (2) any person who is otherwise entitled to re-erect or make any addition to any building, boundary wall or gateway shall be entitled to a licence to re-erect or make such addition to such building, boundary wall or gateway within the building limit specified in section 49 : Provided that no part of the building, boundary wall or gateway so re-erected or added to shall, upon such re-erection or addition, extend nearer to the centre of the road than it so extended in its original condition.

(4) The expression "re-erect", with reference to a building, includes the restoration of any wall forming part of the building or of any support to the building which has been demolished or otherwise destroyed to or within a distance of five feet from the ground, but does not include any operation, which, in the opinion of the Pradeshiya Sabha may reasonably be considered to be a repair to the wall or support.

Power of Pradeshiya Sabha to deal with building boundary wall or gateway erected in contravention of law.

52. If any person erects or re-erects any building, boundary wall or gateway, or makes any addition to any building, boundary wall or gateway, within the limits of any Pradeshiya Sabha in contravention of any of the provisions of section 49, the Pradeshiya Sabha shall be entitled to cause such building, boundary wall or gateway, or such addition, to be demolished or removed by any officer or eleven, and for that purpose the Pradeshiya Sabha shall have the same rights of entry and survey, and shall have the same power of removal, abatement and recovery of costs as are vested by this part in a Pradeshiya Sabha for the purposes of the abatement or removal of any construction or encroachment or supposed obstruction or encroachment upon a thoroughfare, and the provisions of this Part relating to such obstructions or encroachments, as far as they are applicable, shall apply accordingly with such modifications as may be necessary.

Principles of assessing compensation in respect of land developed by building.

53. (1) Where any land which is situated within the building limit demarcated on a road, and which has been developed by the erection of any building wholly or partly within that building limit is acquired for the purposes of the widening of that road, the determination or the compensation payable in such case under the Land Acquisition Act shall be subject to the following special provisions notwithstanding anything to the contrary contained in that Act

(a) no compensation shall be allowed in respect of any building, boundary wall or gateway which at any time after the date of the constitution of the Pradeshiya Sabha has been erected in contravention of section 49 or re-erected or added to without the licence required by that section :

(b) the value assigned to the land as distinct from the buildings thereon shall be the market value of the land at the time of the acquisition

(c) where the land is only a portion of any premises belonging to any person or group of persons

(i) if the remaining portion of such premises is a building of the same character as the building which is to be acquired, the market value assigned to the land shall be one half of the value at that time, of similar land in the vicinity possessing a road frontage and

(ii) if the remaining portion of such premises is not of sufficient depth for the purpose mentioned in sub-paragraph (i), the market value assigned to the land shall be the value at that time of similar land in the vicinity possessing a road frontage

(d) regard shall be had to any increase, in the value of any other land or building belonging to the same owner or owners, which is likely to accrue from any widening of the road carried out after the acquisition of the land or the demolition of any building, boundary wall or gateway situated thereon

(e) no additional compensation shall be allowed in respect of the compulsory nature of the acquisition whether in the case of the building or in the case of the land.

(2) In any case referred to in paragraph (c) (ii) of subsection (1), the owner shall have the option of requiring the Pradeshiya Sabha to acquire the entirety of his premises at the rate at which the portion which the Pradeshiya Sabha originally proposed to acquire, was valued under that paragraph.

Power of Pradeshiya Sabha to acquire adjacent land for owner of land within building limit.

54. The Pradeshiya Sabha may, at the request of any person whose right to build upon any land abutting upon a road within its limits restricted by the building limit demarcated up to that road, and who desires to erect a building upon the land, acquire for such owner at his expense any land, situated at the rear of such first-mentioned land and of sufficient extent to afford him building facilities of the same nature as he would have enjoyed but for such restriction. All lands required for any such purpose shall be deemed to be required for a public purpose and the provisions of section 53 shall apply to the valuation of such land.

Power to demand production of title deeds.

55. (1) Whenever it appears to any Pradeshiya Sabha that any building, enclosure, or obstruction has been raised or made in any thoroughfare under the control of the Pradeshiya Sabha, or on any waste or other land immediately adjoining such road and belonging to the State, it shall be lawful for the Pradeshiya Sabha by written notice served on the person claiming to be the owner of the premises on which such building, enclosure, or obstruction has been raised 'Or made, to demand the production of every deed, document and instruments upon which such person found such claim.

(2) In any of the following cases, that is to say

(a) where the occupier of any premises, not being himself the alleged owner, refuses to give full information respecting the name and residence of the alleged owner upon being requested so to do by the Pradeshiya Sabha or

(b) where the alleged owner of any premises refuses to produce within ten days, after being requested so to do, every deed document, and instrument upon which he founds his claim to the premises and which is in his possession or

(c) where the alleged owner of any premises, not being in possession of any such deed, document, or instrument refuses to give full information to the Pradeshiya Sabha upon being requested so to do, of the name and residence of the person in whose possession they are or

(d) where any person having in his possession any such deed, document, or instrument refuses to produce it within ten days after having been requested so to do in writing by the Pradeshiya Sabha, every such occupier, alleged owner, or person so refusing shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees.

Demand of production of deed to include power of examination.

56. (1) Every deed, document or instrument the production of which is demanded by a Pradeshiya Sabha under section 55 shall be produced on the premises to which it relates, or at such other place as the Pradeshiya Sabha may require and the power given by that section to demand the production thereof, shall be deemed to include the power to make such examination and copies of such deeds, documents, and instruments as may be necessary.

(2) Every person refusing or failing to permit any person authorized by the Pradeshiya Sabha to examine any deed, document, or instrument, or to take copies thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Power to make survey of premises.

57. In any case referred to in section 55 (1), it shall be lawful for any person authorized thereto by the Pradeshiya Sabha to make such survey of the premises on which the building, enclosure, or obstruction has been raised or made, as may be necessary, to enable the Pradeshiya Sabha to ascertain whether an encroachment has been made there by upon any thoroughfare or on any State land adjoining any thoroughfare and for the purpose of such survey to enter upon such premises and upon any other premises whatsoever which it may in its opinion be necessary to enter.

Proof of right to apparent encroachment to rest upon the owner

58. (1) "Whenever it appears to any Pradeshiya Sabha that the line of any thoroughfare under the control of the Pradeshiya Sabha has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, the Pradeshiya Sabha shall give notice in writing to the occupier of the land from off which the thoroughfare is alleged or suspected to have been turned, or upon which such stoppage or obstruction or encroachment is alleged or suspected to have been made, that a survey of the premises has been made by the direction of the Pradeshiya Sabha, and is open to the inspection of such occupier at a place to be mentioned in the notice, and that unless within one month from the service of the notice, he, or the person under whom he holds, takes legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the Pradeshiya Sabha may proceed with the removal thereof in manner provided by section 59.

(2) If no legal proceedings are taken within the time specified in subsection (1), or being taken are not duly prosecuted, it shall be the duty of the Pradeshiya Sabha to cause any such obstruction or encroachment to be forthwith removed as provided by section 59.

(3) Where legal proceedings are taken, it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare is alleged to have been altered or turned, or upon which the stoppage or obstruction or encroachment is alleged to have been made, to prove his title to such land.

Removal of obstructions or encroachments.

59. (1) It shall be lawful for any Pradeshiya Sabha through any person authorized by the Pradeshiya Sabha in that behalf, to give orders verbally or by notice in writing, to any person obstructing or encroaching upon any thoroughfare under the control of the Pradeshiya Sabha forthwith to remove or abate the obstruction or encroachment and if any person to whom such order is given refuses or neglects to comply therewith within a reasonable time, or, if there be any doubt as to who is the proper person to whom such order should be given after such notice has been affixed for a reasonable time to such obstruction or encroachment, it shall be lawful for the Pradeshiya Sabha to cause any such obstruction or encroachment to be forthwith removed or abated.

(2) For the purpose of removing or abating any obstruction or encroachment under subsection (1) it shall be lawful for the Pradeshiya Sabha, or any person authorized in writing by the Pradeshiya Sabha to enter into any house, garden, enclosure, or other premises, together with such persons and with such implements and materials as may be necessary, and to proceed to do or take therein or cause to be done or taken all such acts or measures as may be necessary for such removal or abatement.

(3) "The costs incurred by the Pradeshiya Sabha in the removal or abatement of any obstruction or encroachment shall be payable by the person whose failure to comply with an order under subsection (1) caused such costs to be incurred and such costs, where they are not paid by such person on demand, shall be certified by the Chairman of the Pradeshiya Sabha to the Magistrate's Court having jurisdiction over the area where such person resides and shall be recovered by that court in like manner as a fine imposed by the Court. All moneys so recovered shall be paid by the Court into the Pradeshiya Fund.

(4) Where the removal or abatement of any obstruction or encroachment is effected after the due production of all deeds, documents, and instruments effecting the title to such premises and such premises are nevertheless adjudged to be the property of the party laying claim to the same, such party shall be entitled to compensation from the Pradeshiya Sabha for all loss and injury occasioned thereby but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents and instruments, or if such deeds, documents and instruments shall not be produced within ten days after application in that behalf, and any such Pradeshiya Sabha shall nevertheless have caused the removal of such building, enclosure, or encroachment, then, in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof, such party shall not be entitled to any compensation for any loss or injury occasioned thereby.

Injuries to thoroughfares, &c.

60. Every person who Destroying milestone bridge &c.

(i) wilfully or negligently destroys, pulls up, defaces, throws down, breaks, or injures any milestone, mile-post, demarcation stone, demarcation post, lamp-post or direction post, or any bridge, culvert, parapet, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain or fence belonging to any thoroughfare, or erected at or near any pit or quarry opened or used for getting road materials or
 (ii) wilfully and unnecessarily removes any fence, post, stone, log, or other thing laid or erected by the direction of any competent authority on or in any thoroughfare for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair
 (iii) without the permission of a competent authority gathers or heaps up, or takes away, any stones, gravel, sand, or other material or any clutch dirt drift, or soil from any thoroughfare
 (iv) leads or drives any elephant, ox, horse, pig, or other animal or any vehicle from or off or on or into any thoroughfare in such manner as to cause injury to the thoroughfare or shall suffer any such animal to damage the thoroughfare
 (v) being the owner or occupier of any land contiguous to any thoroughfare suffers the passage through or into his land of the water from such road, or from any ditch or drain leading therefrom, to be obstructed, or suffers any water, filth, or other substance or thing to flow or run from such land or house into or upon any such thoroughfare, or suffers any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water
 (vi) without the previous consent of the Pradeshiya Sabha, by any act on his land interferes with the free passage of water along or from any drain or culvert of any thoroughfare

(vii) hauls or draws upon any thoroughfare any timber stone, or other thing, otherwise than upon a wheeled carriage, or suffers any timber, stone, or other thing carried principally or in part upon a wheeled carriage to drag or trail upon such thoroughfare to the damage thereof
 (viii) makes or causes to be made any dam, ditch, drain, or watercourse upon or across, or otherwise breaks up, or injures, the surface of any thoroughfare
 (ix) erects, sets up, lays down, or constructs, either permanently or temporarily in, along, under, or over any thoroughfare, any post, pillar, lamp, wire, pipe rails or other plant, material or work without the permission of the Pradeshiya Sabha or otherwise than in accordance with the terms and conditions of such permission or
 (x) attaches additions to his house so as to project over the outer edge of the side drain of any thoroughfare, or by means of temporary supports or otherwise exposes goods or wares of any description over any portion of a thoroughfare or its side drain, or by causing carts to be loaded or unloaded in front of his dwelling in any way injures the side drain.
 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Prohibition of riding or driving any animal or vehicle

61. Upon the construction of a new thoroughfare or upon the execution of any repair to an existing thoroughfare, it shall be lawful for the Pradeshiya Sabha having control of such thoroughfare, by notice exhibited upon or so as to be visible from the thoroughfare, to prohibit the riding or driving of any animal or vehicle on the thoroughfare for a specified period not exceeding one month after the completion of the work of construction or repair and every person doing any act in contravention of such notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Owner or occupier bound to have bridge, and over drains leading to his house.

62. If the owner or occupier of any house or premises adjoining any thoroughfare, by the side of which a drain has been made or excavated, requires means of access to such house or premises from such thoroughfare, he shall be bound to place over the drain, to the satisfaction of the Pradeshiya Sabha a bridge, platform, or arch, which shall in no case cover less than three feet of the length of such drain and it shall be lawful for the Pradeshiya Sabha on being satisfied that any house or premises so situated and that such bridge, platform or arch should be provided, to call upon the owner or occupant of the house or premises forthwith to construct such bridge, platform or arch, and if he fails to do so within a reasonable time, to cause the work to be done, and to recover the costs thereof in the manner provided by section 59 for the recovery of the costs therein mentioned.

Allowing tress to grow in such a way as to injure thoroughfares.

63. Any person who allows any tree, upon any premises of which he is the owner or of which he is in occupation, to grow in such a way as to cause injury to any thoroughfare after the service of a notice upon him by the Pradeshiya Sabha calling upon him to take the necessary measures to abate such injury, and after the expiration of such reasonable time as may be specified in the notice for the purpose shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees, and in any such case the Magistrate before whom the offender is convicted may, in default of the necessary measures being taken by the offender, direct that such measures shall be taken by the Pradeshiya Sabha and that the costs thereof shall be recovered in the manner provided in section 59 for recovery or the costs therein mentioned.

Damage to thoroughfares through clearing draining, or opening up neighboring land.

Cont..

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