

Rajasthan Highways Act, 1995

RAJASTHAN

India

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Act 27 of 1995

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Rajasthan Highways Act, 1995(Act No. 27 of 1995)RJ91[Received the assent of the President on the 6th Day of November 1995].An Act to provide for the declaration of certain highways to be State Highways. to provide for restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters.Be it enacted by the Rajasthan State Legislature in the Forty-sixth year of the Republic of India as follows.-

Chapter I Preliminary

1. Short title, extent and commencement:

(1)This Act may be called the Rajasthan Highways Act, 1995.(2)It extends to the whole of the State, Rajasthan.(3)It shall come into force on such date' as the State Government may. by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act or for different areas of the State.

2. Definitions:

In this Act, unless there is anything repugnant in the subject or context. -(a)"building" includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, door-sets, walls (including compound walls and fences). advertisement boards and the like;(b)"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 6;(c)"Collector" means the Collector of a district and includes any officer specially appointed by the State Government to perform the functions of a Collector under this Act;(d)"Control line" means a line on either side of any 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 6;(e)"Court" means a principal civil court of original jurisdiction, unless the State Government has appointed a special judicial officer within any specified local limit to perform the functions of Court under this Act;(f)"to erect" with its grammatical variations in relation to a building means to construct, reconstruct, extend or alter structurally a building;(g)"excavation" in relation to any piece of land does not include any working which does not pierce the surface of that piece of land, but includes walls and tanks;(h)"Highway Authority" means to authority appointed as such or to which the functions of such authority are entrusted under section 4;(i)"highway boundaries" means the boundaries of a highway fixed in respect of such highway by a notification under sub-section (1) of section 6(j)means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes any street;(k)"middle of highway" means the point half-way between the highway boundaries;(l)"highway" means any road or way over which the public have a right of way or are granted access and which is declared to be a highway under section 3 and the expression includes.-(i)any land acquired or demarcated with a view to construct a highway long it:(ii)the slopes, berms, borrow-pits, foot-paths, pavements and side, wrath 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, meter and Kilometre stones, and other highway accessories and materials stacked on the road or way:(m)"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 his 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;(n)"owner" means.-(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 or trustee who receives such rent on account of the owner;(ii)an agent 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 mortgage in possession;(b)when used with reference to an institution or a body corporate, the manager of such institution or body corporated.(o)"prescribed" means prescribed by rules made under this Act;(p)"vehicle" includes a barrow, sledge, plough, drag and a wheeled or tracked conveyance of any description capable of being used on a highway.(q)the expression "land" and "person interested" used in this Act shall have the same meanings as the said expressions have in the Land Acquisition Act, 1894 (Central Act 1 of 1894).

Chapter II

Declaration of Highways, Highway Authorities and their Powers 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, or.(v)a village road.

4. Appointment of Highway Authorities.

- 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 part of the State or for any particular highway or highways in the State. specified in the notification.

5. Powers and duties of Highway Authorities.

- 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 exercise powers and discharge duties in accordance with the provisions of this Act for the restriction of ribbon development along highways, for prevention and removal of encroachment and for all matters necessary and incidental to any or all of the above subjects. 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 for a Highway Authority to under-take the construction maintenance, development or improvement of highways.

Chapter III

Restriction of Ribbon Development

6. Power to fix highway boundaries, building line and control line of highway.

(1)In any area in which the provisions of the Act have been brought into force, and(a)where any highway has been declared to be a highway under this Act; or(b)where the construction or development of a highway is under taken;the State Government may, by notification in the Official Gazette, fix as respects such highway, the highway boundaries, the building line and the control line:Provided that having regard to the situation or the requirement of a highway or the condition of the local area through which a highway passes, it shall be lawful for the State Government,(i)to fix different building line or control line or(ii)not to fix building line or control line, 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 tehsil and the 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 land situated between the highway boundary and the building line and between the building line and the control line proposed to be fixed under such notification together with a notice requiring all persons affected by such notification, who may wish to make any objections or suggestions or suggestions in writing to the Highway Authority or appear before such authority within one month of the Publication of the notification in the Official Gazette or within fifteen days 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 enquiry, if any, as it may think necessary, forward to the State Government a copy of the record of the 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 objection 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 suggestion 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 a notification under sub-section (1) or(b)issue the notification under sub-section (1) with such modifications: if any. as it may think 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.

7. Map to be prepared and maintained.

- within two months from the date of publication of the notification under sub-section (1) of section 6 fixing the highway boundary, building line and control line with respect to any highway, the Highway Authority shall cause a map to be made showing the alignment of the highway, the highway boundaries, 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 indicate, thereon of the last time when the same shall have been so corrected 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.

8. Restriction on buildings between highway boundary and building line and between building line and control line.

(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, proposed to be fixed under sub-section (2) or fixed under sub-section (1) of section 6, as the case may be.-(i)construct, form or lay out any means of access to or from 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 lay out 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 6. as the case may be.-(i)construct, form or lay out 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 a highway. or(c)use any building or alter the use of any building already erected in a manner. which 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, alteration, 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 further enquiries as it may consider necessary, shall by order in writing. 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:(i)permission under clause (a) of sub-section (1) to the making of any excavation or construction, formation or laying out of works 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 such sewer. drain , electric line, pipe, duct or other apparatus shall be laid in such manner and at such levels that the construction, development or maintenance of a road thereover 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 the making or extending of any excavation which conform to the requirements of public health, welfare and safety and convenience of traffic on the adjoining road shall be neither withheld nor made subject to unreasonable conditions;(iii)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 be neither 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 refuse permission . the reasons therefore shall be recorded and communicated to the applicant :Provided that nothing therein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features communicated to 'him as aforesaid on account of which such permission was refused.(5)If, at the expiration of the 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 after such further period not exceeding three months, as may have been notified by the Highway Authority, has elapsed and no decision has been notified in writing, posted or delivered to the applicant at that 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 permissions given or refused by it under this section and such register shall be available for inspection free of charge by all persons interested and such persons shall be 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 the notification is published in the Official Gazette under sub-section (2) of section 6 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 6 fixing such highway boundary, building line or control line.

9. Appeal.

(1)If any applicant is aggrieved by any decision of the Highway Authority under section 8, withholding permission or imposing any condition, he may appeal to the concerning superintending Engineer, within thirty days from the date on which such decision was communicated to him.(2)The Superintending Engineer may, after giving an opportunity to the appellant to be heard, make such order as he may think fit and the decision of the Superintending Engineer shall be final.

10. Exemption for works in Progress.

(1) No restrictions in force under section 8 shall apply to the erection or making of a building or excavation or the construction, formation or laying out of any means of access or works begun before the appointed day referred to in section 8. (2) No restriction in force under section 8 shall apply to any excavation or works necessary for the repair, renewal, enlargement or maintenance or 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.

11. Setting back or Building to building line or control line.

- Whenever any building or any part thereof erected before the appointed day referred to in section 8 lies between the building line and the middle of a 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.

12. 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 highway across the land lying between the control line and the highway boundary: Provided that any existing right of access shall not be diverted until alternative access has been given. (2) Where any 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 may, 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.

13. Powers of Highway Authority and its officers and servants in respect of surveys.

- For the purpose of carrying out any of the provisions of this Act the Highway Authority and its officers and servants may, - (a) enter upon, survey and take measurements and levels of any land; (b) mark such levels, dig or bore into the sub-soil of any land; (c) lay out the building and control line by placing marks in different colours and cutting trenches; (d) If the survey cannot otherwise be made, or measurement or level taken or building or control lines laid down, cut down and clear away any standing crop, tree, fence or jungle or any part thereof; (e) do all other acts necessary in this behalf, Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of its officers or servants to enter any premises without previously giving such occupier at least twenty-four hours notice in writing of its intention to do so.

14. Acquisition of land.

- if any time, on the application of the Highway Authority, the State Government is satisfied that any land required for the purpose of a Highway should be compulsorily acquired, it shall be acquired under and in accordance with the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894),

15. Notice for extinguishment of right or interest in land.

(1) If at any time, on the request of the Highway Authority, the State Government is satisfied that any right or interest of any person in any land be extinguished for the purposes of a highway and such extinguishment did not amount to acquisition of land as specified in the Land Acquisition Act, 1894 (Central Act 1 of 1894), the State Government shall cause a public notice to be given by pasting at a convenient place on or near the land or by publication in two daily newspapers having circulation in the locality of which one shall be in the Hindi language, stating that the State Government intends to extinguish any right or interest in the land and that all claims to compensation for such right or interest to be extinguished may be made to the Collector. (2) The notice to be given under sub-section (1) shall state the particulars of the right or interest in the land to be extinguished and shall require all persons having such right or interest to appear personally or by agent before the Collector on a day not earlier than fourteen days after the publication of such notice. Nature of the rights or interests in the land to be extinguished, the amount and particulars of claim to the compensation and the objections, if any, may be required to be stated in writing.

16. Matters to be considered in determining compensation.

(1) In determining the amount of compensation for extinguishment of right or interest, the Collector shall take into consideration the damage sustained by any person interested owing to, - (a) the fixation of control line under section 6; (b) the imposition of restrictions under section 8; (c) the setting back of any building or part thereof under section 11; (d) the regulation or diversion of any right of access to a highway under section 12; (e) the entry, survey, measurement and doing any other acts in or on an land under section 13; (f) the closure of any highway or part thereof under section 51. (2) Notwithstanding anything contained in sub-section (1), no compensation shall be claimed or awarded if in so far as the land is subject to substantially similar restrictions in force under some other law, for the time being in force, as are imposed under this Act. (3) No compensation shall be awarded for extinguishment of any right or interest in land to any person if compensation in respect of the same restrictions as are imposed under this Act, has already been paid while imposing substantially similar restrictions under any other law in respect of the land to the claimant or to predecessor in interest of the claimant.

17. Determination of the amount of compensation.

(1) On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall give the claimant or claimants an opportunity of being heard in person or by any person

authorised by him in this behalf or by pleader and shall, after hearing all the claims and after making such further enquiry, if any, as he thinks necessary, determine the amount of compensation in respect of extinguishment of right or interest in the land for which notice under section 15 was issued/published and the determination so made by the Collector shall be final :Provided that no such determination of compensation shall be made by the Collector under this sub-section without the previous approval of the State Government or such other officer, as the State Government may authorise in this behalf :Provided further that it shall be competent for the State Government to direct that the Collector may make an order of the determination of compensation without such approval in such class of cases as the State Government may specify in this behalf(2)The determination of compensation for extinguishment of any right or interest in any land under sub-section (1) shall not in any way affect the determination of any compensation for extinguishment of right or interest in respect of other lands in the same locality or elsewhere in accordance with the provisions of the Act.(3)The Collector shall make an order of determination of compensation under sub-section (1) within a period of two years from the date of publication of notice under section 15 and if no determination is made within that period, the entire proceeding for extinguishment of right or interest of right or interest in land shall lapse.Explanation. In computing the period of two years referred to in this section. the period during which any action or proceeding to be taken in pursuance to that notice is stayed by an order of the court shall be excluded.(4)Whenever any order of determination of compensation is made by the Collector under sub-section (1) such determination shall be final and conclusive evidence as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not. of the true nature of land in which the right or interest is sought to be extinguished and the amount of compensation among the persons interested.(5)The Collector shall give immediate notice of the determination made by him under sub-section (1) to such of the persons interested as are not present personally or by their representative when the determination is made.

18. Rights and interest when to be extinguished.

(1)Whenever an order of determination is made by the Collector under sub-section (1) of section 17 and becomes final under the provisions of that section, the Collector shall tender payment of compensation determined by him to the persons entitled thereto according to the said determination unless prevented by the contingency mentioned in the next sub-section.(2)If the persons entitled to receive the compensation shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of compensation in the court to which a reference under section 19 would be submitted :Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 19.Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of compensation determined under this Act, to pay the same to the person lawfully entitled thereto.(3)Whenever the amount of compensation is tendered, paid or deposited in the court, the right or interest in the land sought to be extinguished under section 15 shall thereupon stand extinguished free from all encumbrances and the State Government or the Highway Authority shall be free to enforce the provisions of this

Act over such lands.

19. Reference to court.

(1) Any person interested who has not accepted the order awarding compensation may, by written application to the Collector, require that the matter be referred by the Collector for determination of the Court, whether his objection be to the measurement of the land, the amount of compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. (2) The application shall state the ground on which objection to the determination of compensation is taken: Provided that every such application shall be made.-(a) if the person making it was present before the Collector at the time when he made his determination under section 17, within six weeks from the date of the Collectors' determination; (b) in other cases, within six weeks of the receipt of notice from the Collector under sub-section (5) of section 17. or within six months from the date of order of determination made by the Collector. whichever period shall first expire.

20. Collector's statement to the court.

(1) In making the reference the Collector shall state for the information of the court in writing under his hand, -(a) the situation and extent of land, with particulars of any building, structure etc.: (b) the names of persons whom he has reason to think interested in land: (c) the amount of compensation determined under section 17: (d) the amount paid or deposited under section 18: and (e) if the objection be to the amount of compensation, the grounds on which the amount of compensation was determined. (2) To the said statement shall be attached a schedule giving the particulars of notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

21. Service of notice :

The Court shall thereupon cause a notice specifying the day on which the Court shall proceed to determine the objection and directing their appearance before the court on the day, to be served on the following persons, namely.-(a) the applicant. (b) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation determined: and (c) if the objection is in regard to the area of the land or to the amount of compensation, the Collector.

22. Restriction of scope.

- The scope of the enquiry in every such proceeding shall be restricted to the consideration of the interests of persons affected by the objection.

23. Proceedings to be in the open court.

- Every such proceeding shall take place in the open court, and all persons entitled to practice in any civil court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding.

24. The amount of compensation by court not to be lower than the amount determined by the Collector.

- The amount of compensation awarded by the court shall not be less than the amount determined by the Collector under section 17.

25. Form of award :

Every award of compensation by the court under this section shall be in writing signed by the judge and shall specify the amount awarded and every such award, a judgement within the meaning of section 2, clause (2), and section 2 clause (9), respectively, of the Code of Civil Procedure, 1908 (5 of 1908).

26. Costs.

- While deciding every reference the court shall state the amount of costs incurred in the proceedings before it and by what persons and proportions they are to be paid :Provided that when the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the court shall be of the opinion that the claim of the applicant was so extravagant or he was negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

27. Interest on excess compensation.

- If the sum which in the opinion of the court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the court may direct that the Collector shall pay interest on such excess at the rate of nine percentum per annum from the date on which the rights or interest over such land were extinguished wider the provisions of section 18 to the date of payment of such excess into court :Provided that the award of the court may also direct that where such excess or part thereof is paid into court after the date of expiry of one year from the date on which the right of interest over such land were extinguished under the provision of section 18, interest at the rate of fifteen percentum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into the court before the date of such expiry.

28. Re-determination of the amount of compensation on the basis of the award of the court.

(1)where in any determination, the court allows to the applicant any amount of compensation in excess of the amount determined by the Collector under section 17, the persons interested in all other land covered by the sale notification under section 15, sub-section (1) and who are also aggrieved by the determination made by the Collector may, notwithstanding that they had not made an application to the Collector under section 19, by written application to the Collector within three months from the date of award of the court require that the amount of compensation awarded by the court. Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the determination was made by the court and the time requisite for obtaining a copy of the determination shall be excluded. (2)The Collector shall, on receipt of an application under sub-section (1), conduct an enquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard and make an order determining the amount of compensation payable to the applicants. (3)Any person who has not accepted the order of determination made under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court and the provisions of sections 19 to 27 shall, so far as may be, apply to such reference as they apply to a reference under section 19.

29. Special powers in cases of urgency.

(1)In case of urgency whenever the State Government so directs, the collector, though no determination of compensation for extinguishment of right or interest in the land has been made under sub-section (1) of section 17. may, on the expiration of fifteen days from the publication of notice under section 15. declare that the provisions of this Act are to be enforced on the land urgently and that the rights and interest in the land for which a notice under section 15, sub-section (1) was issued or published, shall stand extinguished free from all encumbrances. (2)Before making any declaration under sub-section (1), the collector shall, without prejudice to the provisions of section 15, 17 and 18. (a) tender payment of eighty percentum of the compensation for extinguishment of right or interest in the land as estimated by him to the persons interests thereto, and (b) pay to them unless prevented by some one or more of the contingencies mentioned in section 18, sub-section (2) and where the Collector is so prevented. the provisions of section 18 sub-section (2) except the second provision thereto shall apply to the payment of compensation under that section. (3)The amount paid or deposited under sub-section (2) shall be taken into account for determining the amount of compensation under section 17, sub-section (1) and which may be required to be tendered under section 18, sub-section (1), and where the amount so paid or deposited exceeds the compensation determined by the Collector under section 17, sub-section (1). the excess may unless refunded, within three months. from the date of collector's award, be recovered as an arrear of land revenue. (4)In cases of urgency whenever it appears to the State Government that the land is required for temporary occupation by the Highway Authority, it may direct the Collector to procure the occupation and use of the same for the Highway Authority, as per provisions contained in section 35. 36 and 37 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

Chapter IV

Prevention of Unauthorised Occupation of and Encroachment on a Highway and Removal of Encroachment.

30. Land forming part of highway deemed to be Government property.

- All land forming part of a highway, which do not already vest in the State Government, but certain rights and interest therein have been extinguished under the provisions of section 18, shall, for the purpose of this chapter, be deemed to be the property of the State Government.

31. Prevention of unauthorised occupation of highway.

(1) No person shall occupy or encroach upon any highway within the highway boundaries without obtaining the previous permission in writing of the Highway Authority or an officer authorised in this behalf by the Highway Authority. (2) The Highway Authority or an officer authorised by the Highway Authority in this 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 under such rules, permit any person.-(i) to place a temporary encroachment on or along any highway in front of any building owned by him or to make a temporary structure over-hanging the highway, or (ii) to put up a temporary owning, tent, pandal or other similar erection or a temporary staff or scaffolding on any highway, or (iii) to deposit or cause to be deposited building materials, goods for sale or other articles on highway, or (iv) to make a temporary excavation for carrying out any repairs or improvements in the 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 said authorised officer. (3) The permission so granted shall clearly specify the date up to which the person is authorised to occupy the highway, the purpose for which occupation is authorised and the exact portion of the highway permitted to be occupied and shall also be accompanied by a plan or sketch of the portion of the highway, if necessary. (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 after restoring it to the same state as it existed before its occupation by him. (5) The Highway Authority or the officer issuing the permission shall maintain a complete record of all such permissions issued, and shall also cause a check-up to be made in every case at the expiration of the period upto which occupation has been authorised to ensure that the land has actually been vacated.

32. Power to cancel permit.

(1) The Highway Authority may cancel any permission granted under section 31.-(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 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.(2)Where the permission has been cancelled under clauses (b) or (d) of sub-section (1), any rent or charge paid in advance shall be refunded to the holder of such permission less the amount, if any, due to the State Government.

33. Removal of encroachment.

(1)When as a result of a checking of the highway boundaries or otherwise it is found that an encroachment has taken place on a highway, the Highway Authority or the officer authorised under sub-section (1) of section 31 shall serve a notice on the person responsible for the encroachment or on his representative requiring him to remove such encroachment and restore the land to its original condition, as it existed before the said 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 is to be removed and shall also state that the failure to comply within the period specified therein will render the person liable to prosecution and also to summary eviction.(3)If the encroachment is not removed within the period specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorised officer referred to in sub-section (1) may request in writing to the Collector to remove the encroachment and thereupon the Collector shall take action for summary eviction as if the matter falls within the scope of section 64.(4)When the encroachment is of such a nature that its immediate removal is considered essential in the interest of safety of traffic on the highway or the safety of any structure forming part of the highway, the Highway Authority or the authorised officer referred to in sub-section (1) may, in addition to prosecution work, as may be feasible at a reasonable cost, carried out so as to Minimize the danger to traffic on the highway.

34. Appeal against notice served under sub-section (1) of section 33.

- Where the person on whom notice to remove an encroachment has been served under sub-section (1) of section 33 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 Collector under intimation to the Highway Authority or the officer authorized under sub-section (1) of section 31, as the case may be. The Collector shall after due enquiry record his decision in writing and communicate the same to the appellant and the Highway Authority or such officer. The Highway Authority or such officer shall till then desist from taking further action in the matter.

35. Recovery of cost of removal of encroachment.

(1)Whenever the Highway Authority or the officer authorised under sub-section (1) of section 31 has, under the provision of section 33, 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 authorised officer referred to

in sub-section (3) 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 authorised 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 of the fact that the charges have actually been incurred.(4)The material, 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 within the specified period and if such payment is not made, the material 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 material or if there are no material to dispose of and 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 arrear of land revenue.

Chapter V

Supplemental Provisions Relating to Compensation

36. Determination of amount of compensation by agreement.

- After the issuance of notice under section 15 and before the determination of amount of compensation under section 17, the Collector may enter into an agreement for setting the amount of compensation, including apportionment of such amount among persons interested, with any person interested in the land wherein the rights and interests are sought to be extinguished for the purposes of the highway and as and when such an agreement is concluded, the Collector shall intimate to the Highway Authority the fact of conclusion of the agreement with a certified copy thereof and thereafter the Collector shall stop further proceedings with regard to determination of the amount of compensation under section 17 and shall make payment to the person or persons interested in accordance with the said agreement. Provided that no such agreement shall be concluded by the Collector under this section without the previous approval of the State Government or such officer as the State Government may authorize in this behalf.

37. 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 been given, the amount of compensation shall in no case exceed the cost of laying new means of access from the property of the claimant to such alternative route.

38. Compensation for cutting of standing crops; trees etc.

- At the time of any entry, survey or measurement or doing of any of the things under section 13, the officer making the entry, survey or measurement or doing any other thing shall prepare a detailed report of the damage done as a result of such entry, survey, measurement or execution of work including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land and forward it to the Collector for consideration at the stage of determination of compensation under section 17.

39. No compensation for unauthorised erections.

- If any person has unauthorisedly erected, re-erected, added or altered any building on any land which is required for the purpose of a highway, then any appreciation in the utility of the land from such erection, re-erection, addition or alteration shall not be taken into account in determining the amount of compensation under section 17.

40. No compensation for removal of encroachment.

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

41. Payment by adjustment.

- All payments 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 in such person's account regarding betterment charges, if any, due from such person under Chapter VI.

Chapter VI

Levy of Betterment Charges

42. Notice to owners and persons interested.

- Where any work which a Highway Authority is empowered to undertake on a highway by or under the provisions of this Act, is undertaken, the officer authorised 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 land benefited by such work, requiring, them to appear before him either personally or by an agent at a time and place therein mentioned such time not being earlier than thirty days from the date of notice and 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 Highway Authority, 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.

43. Inquiry and order.

- On the date fixed under section 42 or on such other date to which the inquiry may be adjourned, the officer authorised under section 42 shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by notice under section 42, make an order. The order shall specify.-(a)the lands benefited by the construction of the works;(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: and(d)the date from which such betterment charges shall be leviable. Provided that no betterment charges shall be leviable in respect of any land.-(i)which is unsuitable for development as a building site; or(ii)which is situated beyond a distance of two hundred meters the middle of the highway on either side.

44. 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 and the betterment charges shall be one half of such Increase in value. Explanation.- For the purpose of this section, the State Government by notification in the Official Gazette, specify.-(a)the date of commencement of the construction of any work; and(b)the date of completion of such work.

45. Reference against order of authorised officer under section 43.

(1)Any person aggrieved by the order fixing the betterment charges may, by a written application to the officer authorised under section 42, require that the matter be referred to the court.(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 section 5, 12 and 14 of the Indian Limitation Act, 1963 (Central Act 36 of 1963) shall apply to the computation of the time fixed for reference under sub-section (2).(4)The officer authorised under section 42 shall make the reference in such manner as may be prescribed.

46. Finality of order fixing betterment charges and of decision on reference.

- From the .date specified in the order fixing the betterment charges as the date from which such charges shall be leviable or from such date as may be otherwise specified by the Authority under section 45 as the date from which such charges shall be leviable and the betterment charges recoverable in respect of any land. if not paid on demand within the specified period, shall be recoverable as arrears of land revenue.

47. 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 such date as may be otherwise specified by the Authority under section 45 as the date from which such charges shall be leviable and the betterment charges recoverable in respect of any land, if not paid on demand within the specified period, shall be recoverable as arrears of land revenue.

48. Payment of betterment charges.

- The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 69: 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 instalments together with interest at such rate and within such period as may be prescribed.

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

- Notwithstanding anything contained in section 48, 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.

50. Prevention of obstructions of view of person using any highway.

(1) Whenever the Highway Authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway, specially at any bend or corner of the highway, it may, same as otherwise provided in section 10, serve a notice upon the owner or occupier of land in such manner as may be specified in the notice, the high or character of any existing wall not being a wall forming part of a permanent structure, fence, hedge, trees, advertisement-posts, 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, he may, within one month of the 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. 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 fifteen days from the date when such order was communicated to him, to the Collector, 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 at its own expense, and such expenditure shall be recovered from such person in accordance with the provisions of section 35, without prejudice to any other action which may be taken against him.

51. Highway Authority to regulate traffic when highway declared unsafe.

- If any, time, if 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.

52. Prohibition of use of heavy vehicles on certain highway.

- Where the Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert, or cause way built on or across any highway is not designed to carry vehicles of which 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.

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

(1)Where in exercise of the powers conferred on it by section 51 the Highway Authority desires to close down any highway or part thereof permanently. it shall give notice of its intention so to do in the Official Gazette. The notification shall also be published in at least two newspapers. one of which shall be in the Hindi 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 may be 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 modifications, or reject it.(5)When the State Government has approved the proposal, it shall publish its order 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 orders in at least two newspapers one of which shall be in the Hindi language 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 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 for such closure.

54. Consent of Highway Authority required to do certain acts on highway.

- Notwithstanding anything contained in any other enactment for the time being in force but subject to the provisions of section 70, no person other than the Highway Authority or any person authorised by it shall construct or carry any cable, wire, pipe, drain, sewer. 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 land forming part of the highway, occupied by or applied to the proposed . work.(3)If any person constructs or carries out anywork 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 condition in accordance with the provisions of section 32 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 persons, be recovered from him in accordance with the procedure provided in section 35 in so far as the procedure is applicable.

55. Prevention and rectification of damage to highway.

(1)No person shall wilfully 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 to the contravention of sub-section (1) be recovered from him in accordance with the procedure provided in section 35 in so far as that procedure is applicable.

Chapter VIII

Penalties

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

- Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs any person or authority in the 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, withhold such information or gives information which he knows to be false or which he does not believe to be true shall, on conviction be punishable with fine which may extend to two thousand rupees.

57. Contravention or 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 8, shall, on conviction, be punishable.- (a) with fine which may extend to five thousand rupees; and (b) with further fine which may extend to one thousand rupees for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

58. Unauthorised occupation of highway.

- Whoever.- (a) occupies or makes any encroachment on any highway in contravention of the provisions of sub-section (1) of section 31; or (b) fails to comply with the notice served on him under sub-section (1) of section 33 for no valid reason, shall on conviction be punishable.- (i) for first offence with fine which may extend to five thousand rupees; and (ii) for a subsequent offence in relation to the same encroachment with fine which may extend to ten thousand rupees, and (c) for persistent encroachment, imprisonment upto two months plus a further fine not exceeding live hundred rupees per day on which such occupation of the highway or encroachment continues. Explanation.- For the purposes of this sub-clause. "persistent encroachment" shall mean continuance or committing of encroachment by any person on the same portion or place of the highway for which he was punished earlier under sub-clause (b) of this section.

59. Causing damage to highways.

- Whoever, in contravention of sub-section (1) of section 55. wilfully. causes or allows any vehicles or animal in his charge to cause any damage to any highways, shall on conviction, be punishable with fine which may extend to one thousand rupees or imprisonment upto two months.

60. General provisions for punishment of offences.

- Whoever contravenes any provision of this Act or any rule or order made thereunder shall, if no other penalty is provided for the offence, on conviction, be punishable.- (a) for a first offence with fine which may extend to one hundred rupees; and (b) for a subsequent offence with fine which may extend to five hundred rupees.

61. Power to compound offences.

- Any offence committed under this Act may be compounded by the Highway Authority and if any proceedings 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

62. Powers 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 for any offence coming to his knowledge which has been committed against this Act or any rule made under this Act, and shall be bound to assist the Highway Authority and its officers and servant in the exercise of their lawful authority.

63. Duties of village officials.

- Every village headman, village watchman or other village official by whatever name called, shall forthwith inform the nearest police station or the nearest Highway Authority or any officer duly authorised by the Highway Authority whenever he becomes aware that any survey mark of any highway or any mark showing the building or control line determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tampered with or that any damage to any highway has been made.

64. Eviction.

- Any person wrongfully occupying any land.- (a) which is a part of a highway; (b) the occupation of which contravenes any provision of this Act and the said provision do not provide for the eviction of such person; shall be evicted under and in accordance with the provisions of this Act and said provision do not provide for the eviction of such person; shall be evicted under and in accordance with the provisions of the Rajasthan Public Premises, (Eviction of Unauthorised Occupants) Act, 1964 (Act No. 2 of 1965).

65. Registration of map made under section 7 not required.

(1) Nothing in the Indian Registration Act, 1908 (Central Act XVI of 1908) shall require the registration of any map made under section 7. (2) All such maps shall, for the purpose of sections 49 and 50 of the Indian Registration Act, 1908 (Central Act XVI of 1908) be deemed to have been registered in accordance with the provisions of that Act: Provided that the maps shall be accessible to the public in the manner prescribed.

66. Certain persons to be public servants.

- The Highway Authority and all the officers and other persons authorised or appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 1860 (Central Act XLV of 1960).

67. 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 Collector, an officer or person authorised under this Act, or the State Government.

68. 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 authorised under this Act in respect of anything in good faith done 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 authorised 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.

69. 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 at the headquarters of the tehsil and district under sub-section (2) of section 6; (b) the other places at which copies of map may be kept for inspection under section 7; (c) the form of application and its contents under sub-section (2) of section 8; (d) the manner of publishing the notification under section 15; (e) the conditions on which and the amount of rent or charge on payment of which encroachments may be made on a highway; (f) fixation of the date on which the betterment charges shall be payable under section 48 and instalments together with the rate of interest and the period within which such instalments shall be paid under the proviso to the said section; (g) the conditions on which any land may be relinquished or delivered in exchange in favour of the State Government under section 49; (h) rules subject to which a highway or portion of it may be closed to traffic or any class or traffic or the number and speed or weight of vehicles using the highway may be regulated under section 51; (i) rules subject to which plying of vehicles may be prohibited under section 52; (j) the prevention of obstruction of view of persons using highways and of annoyance, danger or injury to the public; (k) the prevention of obstruction encroachment and nuisance on or near and of damages to highway; (l) the proper maintenance of boundary marks, demarcating highway boundaries and building and control lines; (m) the prescription of various forms of applications required to be made and the forms of notices and bills required to be served on persons, 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; (n) the general guidance of the Highway Authority in the discharge of its functions under this Act; (o) regulation or diversions of existing rights of access; (p) the manner in which the notice or bills may be served or presented; and (q) any other matter which is to be or may be prescribed. (3) Every rule made under this section shall be laid, as

soon as may be after it is made, before the House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the State Legislature agrees in making any modification in the rule or agrees that the rule should not be made, the rule shall thereafter have effect only in such modification or annulment shall be without prejudice to the validity of anything previous done under that rule.

70. Savings.

(1) Subject to the provisions of this section, nothing in this Act shall effect.-(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; (b) the rights of any authority appointed under any law for the time being in force for gas, water, electricity, railways, telephone to erect any support or make any excavation for the purpose of laying, making altering, repairing or renewing any main pipe, sluice, wire, electric-line, cable, duct, drain or other apparatus; (c) any land belonging to railway administration or belonging to or used by a person holding a licence or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910 (Central Act IX 1910), when such land is held or used by the railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto; (d) any land within the limits of a cantonment; (e) any land within the jurisdiction of a local authority under the administrative control of the Central Government: Provided that.-(i) any restriction in force under section 8 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 land other than land so specified; and (ii) any consent required for the purpose 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 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, 1985 (Central Act XIII of 1885).

71. Provisions of this Act or rules to prevail over inconsistent provisions in other law.

- Save as provided in section 70, 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: Provided that if any highway is declared to be a National Highway under the National Highway Act, 1956 (Central Act XLVIII of 1956), it shall be lawful for the State Government to fix the building and control lines for different portions of the said highway under section 6 or to levy betterment charges under section 41 on lands the value of which has increased by reasons of the construction or proposed constructions of such highway and thereafter the provision 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 shall, or as the case may, the provisions of this Act relating to the levy of betterment charges shall. mutatis mutandis, apply.

72. Act not to apply to national highway.

- Save as otherwise provided in proviso to section 71, or the removal of doubt, it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under the National Highway Act, 1956 (Central Act XLVIII of 1956), as national highways.

73. Repeal and Savings.

- The Bombay Highways Act, 1955 (Bombay Act LV 1955) as in force in Abu Area now forming part of the State of Rajasthan is hereby repealed but not so as to. affect as previous operation.