

The Assam Highway Act, 1989

ASSAM

India

The Assam Highway Act, 1989

Act 18 of 1995

- Published on 12 September 1995
- Commenced on 12 September 1995
- [This is the version of this document from 12 September 1995.]
- [Note: The original publication document is not available and this content could not be verified.]

The Assam Highway Act, 1989 Assam Act No. 18 of 1995 Last Updated 12th February, 2020 Notification No. LGL. 46/88/336, dated the 12th September 1995. - The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information. (Received the assent of the President of India on 22nd August, 1995) An Act to provide for the regulation of road development and road transport in State of Assam. Whereas it is expedient to provide generally for the regulation of road development and road transport so as to secure for the public such conditions as will ensure the maximum efficiency of all means of road transport, and, in particular, for the prevention of Ribbon Development along roads in the State of Assam. It is hereby enacted in the Fortieth year of the Republic of India as follows, namely:-

Part I

Chapter I Preliminary

1. Short title extent and commencement.

(1) This Act may be called the Assam Highways Act, 1989. (2) It shall extend to the whole of the State of Assam. (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definition.

- In this Act, unless there is anything repugnant in the subject or context. (1) "animal" means any elephant, camel, horse, ass, mule, cattle or goat; (2) "betterment" when applied to land means the increase in the value of any land arising from the execution in its vicinity of a highway development scheme at public expense; (3) "betterment tax" means a tax levied on owners of land on the basis of

percentage of the betterment value of the land ;(4)"building line" means a line on either side of any highway or part of a highway, as determined by the highway authority under Section 12 of this Act;(5)"competent authority" means the State Government or a local authority or any officer of the State Government or local authority competent to sanction the construction of or repair to, a highway ;(6)"control line" means a line on either side of a highway or part of a highway beyond the building line, as determined by the highway authority under Section 12 of this Act;(7)"driver" means in the case of a vehicle the person in charge or control of the vehicle for the time being, and in the case of an animal, any person driving, loading riding, or otherwise managing or controlling the animal and the words drive, driving, driven shall be construed accordingly ;(8)"encroachment" means occupation of any highway or part thereof, and includes;(a)the erection of a building or any other structure, balconies, porches, chajjas or projections on over or overhanging the highway land ;(b)occupation of highway land beyond the prescribed period, if any, for stacking building materials or goods of any other description for exhibiting articles for sale, for erecting poles, awnings tents, pandals and other similar erection or for parking vehicles or stabling domestic animals or for any other purposes, and(c)excavations or embankment of any sort made or extended on any highway land ;(9)"highway" means any public thoroughfare, whether a road, street, lane, bridlepath or a foot-track, whether surfaced or unsurfaced, whether on land owned by the State Government or a local authority or on land belonging to a private person over which the public have or have acquired, a right of way by usage, and includes :(a)the slope, berm, borrow-pits, foot-paths, pavements and side drains of any such thoroughfare ;(b)all bridges culverts, causeway, carriageways or other road structures, built on or across such thoroughfares; and(c)the trees, fences, posts and other highway accessories and materials and materials stacks on the thoroughfare or on land attached to the thoroughfare but does not does not include the national highway's as defined under the National Highways Act, 1956;(10)"highway authority" means :(a)for highways maintained by the State Government, the Department of the State Government responsible for their maintenance or any other authority specially appointed by the State Government in this behalf;(b)for highways maintained by a local authority, the local authority or such other authority as may be appointed by the State Government in this behalf; and(c)form highways not include in clauses (a) and (b), the authority appointed as the "highway authority" under Section 3 or, if no such appointment has been made, the State Government itself;(11)"highway boundaries" means the boundaries of the highway whether visibly demarcated or not, within which contained the areas of land constituting the highway or land reserved or acquired for widening the highway;(12)"Limited access highway" means a highway access to which is permitted only at points specifically provided or agreed to for the purpose of by the highway authority ;(13)"middle of a highway" means, in relation to any highway from the improvement of which plans have been prepared by the highway authority, the middle of the highway as proposed to be improved in accordance with the plans, and where no such plans have been prepared, the point half-way between the boundaries of the highway;(14)"motor vehicle" means a motor, vehicle as defined in the Motor Vehicle Act. 1939;(15)"permit" means the document issued by an authority competent to issue it authorising the use of vehicle as a public vehicle ;(16)"prescribed" means prescribed in this Act, or by rules made under this Act;(17)"Public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a public vehicle ;(18)"public vehicle" mean any vehicle use or constructed or adopted to be use for the carriage of passenger or goods for hire or reward ;(19)"standard width of highway" means the width

of a highway between its boundaries as prescribed by the highway authority under Section 11 ;(20)"survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes resurvey ;(21)"survey mark" mean any mark or object erected made, employed or specified by a survey officer to indicate or determine or assist in determining the position or level of any point or points ;(22)"survey officer" means any person appointed to be a survey officer under this Act;(23)"vehicle" includes any wheeled conveyance drawn propelled or driven by any kind of power including human, animals, motor, steam or electric power, and includes any barrow, sledge plough, drag or like vehicle.

Part II

Highway Authorities, Their Powers and Functions

Chapter II

Highway Authorities

3. Appointment of highway authority.

(1)The State Government may, by notification in the Official Gazette, appoint any person, either by name or by virtue of his office, to be the highway authority for all highway in the State or for all the highways in such part of the State or for such particular highway or highways in the State and subject to such conditions and limitation as may be specified in the notification.(2)A highway authority so appointed shall exercise and discharge throughout its jurisdiction powers and functions specified in the succeeding chapters subject to such limitations as may have been imposed by the notification issued under sub-section (1).

4. Transfer of control from one highway authority to another.

- The State Government may at any time, notification in the Official Gazette, transfer control of any highway from itself or any of its departments functioning as the highway authority to another highway authority, or from one highway authority to another, in regard to such matters dealt with by this Act and on such conditions as may be specified in the notification.(2)When a highway authority has been changed in the manner prescribed under sub-section (1), the new highway authority shall, as from the date of the notification issued under that sub-section, exercise in respect of the highway or highways of which control has been transferred, all the powers and functions of the previous highway authority subject to the previous highway authority subject to the conditions if any, specified in that notification.

Chapter III

Development and Maintenance of Highways

5. Powers to enter land for reconnaissance and preliminary survey in connection with highway scheme.

(1)The highway authority, or any officer not below the rank of supervisor of P.W.D. or Local Board authorised by the highway authority in this behalf undertake a reconnaissance survey in connection with the preparation of a highway scheme and may for this purpose-(a)enter upon any land alongwith his workmen and survey and taken measurements and levels on it;(b)mark such levels dig or bore into the subsoil do all other acts necessary to ascertain whether the land is suitable.(c)set-out the boundaries of the proposed highway by placing marks and cutting trenches; and(d)where otherwise survey cannot be completed and the levels taken and the boundaries marked, cut down and clear any part of a standing crop, fence or jungle :Provided that no person shall enter into any building or any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof without previously giving such occupier at least 48 hours' notice in writing of his intention to do so.(2)The highway authority of the authorized official shall, at the time of such entry pay or tender payment for all necessary damages to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the district, and such decision shall be final.

6. Preparation of schemes for highway development.

(1)The highway authority may of the its own accord or if expressly requested by the competent authority shall, subject to the other provisions of this Act and subject to such rules as may be framed by the State Government for this purpose, prepare and submit to the competent authority for sanction, detailed scheme for the construction of a new highway or the improvements of or repairs to an existing one.(2)such a scheme may provide for-(a)the acquisition of any land which in the opinion of the highway authority is considered necessary for its execution ;(b)the laying out or relaying out of all or any of the lands so acquired ;(c)the diversion or closure of any existing highway or a section of such highway ;(d)the construction or reconstruction of the roadway including its widening, leveling surfacing, bridging sewerage, draining, water supply and street lighting arrangement and planting of roadside trees ;(e)the laying out of foot-paths, cycle tracks and special traffic lanes for any kind or class of vehicles, the designing and sitting of parking bays and petrol filling and service stations, the location of advertisement post and bill boards ; and(f)the lay-out of access roads at suitable distances connecting the highway or the proposed highway with the adjoining properties.

7. Power to do certain action for executions of highway schemes.

- When the competent authority has sanctioned the highway schemes prepared in pursuance of Section 6 and provided the necessary finances for its execution, the highway authority shall proceed to carry out the work and may, for this purpose-(a)enter into and perform all such contracts on behalf of the competent authority as may be considered necessary ;(b)make arrangements for the acquisition of the lands required under the scheme by out right gift or purchase by agreement with

the owner or owners, or, failing such agreement, by resort to the provision of the Land Acquisition Act, 1894, amended from time to time ;(c)turn, divert or close either temporarily or permanently any existing highway or portion thereof; and(d)regulate, subject to such rules as may be prescribed in this behalf, the kind, number and speed of vehicles using any highway or portion thereof by means of barrier, diversion roads or other means.

8. Maintenance of highway plans.

(1)A highway authority shall maintain authoritative plans for the highways in its charge.(2)Such plans shall show clearly the boundaries of the highway, the detailed measurements of road widths, the distances between boundary marks and sufficient measures from fixed points to enable the refixation in position of boundary marks in case they have been displaced or tempered with.(3)The highway authority shall have all such authorities plans prepared after having a survey made of the highway lands and their boundaries in the manner prescribed in Chapter X and in accordance with the record of that survey as notified under Section 51 and modified, as may be under Section 52.

9. Demarcation of road boundaries.

(1)The highway authority shall have the boundaries of the highways in its charge demarcated with reference to the authoritative plans maintained by it, by planting stones or other suitable marks of a durable nature at intervals all along the highway in such a manner that the imaginary line joining such stones or mark shows the road boundary correctly.(2)Where there are bends or links in the road boundary, the stone or marks shall be so located as to give the correct configuration of the boundary if they are joined by straight lines.(3)The boundary stones on marks, which may be given consecutive numbers, shall be maintained on the ground as if they constitute part of the highway.(4)Where standard widths have been prescribed for any highway under Section 11, the distance between the highway boundaries so demarcated shall correspond to that width.

10. Annual check of road boundaries.

(1)It shall be the of the highway authority of conduct an annual check of the boundaries of the highway in its charge with a view to locating unauthorised encroachments if any.(2)When the highway authority is satisfied that an unauthorised encroachment has been made on highway, land, it shall take immediate steps as specified in Section 21 for the removal thereof.

Chapter IV

Prevention of Ribbon Development Along and Control of Access to Highways

11. Standard widths of highways.

(1)The highway authority may, with the previous approval of the State Government, prescribe a standard width for any highway in its charge.(2)The standard width may be different in different portions of the same highway according to local needs.(3)When a highway authority proposes to prescribe a standard width in respect of any highway or a portion thereof, it shall notify the proposal in the Official Gazette and invite the objections, if any, to be submitted to it within 60 days of the date of publication of the notification.(4)The notification shall also be published in at least two newspapers, one of which shall be in the local language circulating in the locality where the highway is situated, and in addition, copies of the notification shall be prominently displayed in a number of places in the locality.(5)All objections received within the prescribed period shall be taken into account by the highway authority before finalising its proposal for submission to the State Government.(6)The State Government may reject or sanction the proposal with or without modification, and shall publish their orders in the Official Gazette.(7)When the State Government's orders sanctioning the proposal with or without modification has been issued the highway authority shall cause further publicity to be given to the standard width, as finally approve, in the same manner as prescribed in sub-section (4), and the records so published shall thereupon be conclusive proof that the standard width so determined and recorded therein has been correctly determined and recorded.(8)In determining the standard width, the highway authority and the State Government shall take into account the requirements of public health and welfare, safety and convenience for all classes to traffic, including pedestrians and cyclists likely to use the highway.(9)The standard width so determined may at any time be altered but the procedure for such alteration shall be the same as prescribed for the determination of the original standard width.(10)The highway authority shall, as early as economically practicable after the prescription of the standard width, acquire either by direct negotiation or, failing such negotiation, by compulsory acquisition under the Land Acquisition Act, 1894 as amended from time to time all land lying within the standard width not already forming part of the highway land.

12. Prescription of building and control lines.

(1)The highway authority may, with the previous approval of the State Government, determine a building line and a control line in respect of any highway or part of a highway in its charge along one or both sides of the highway.(2)The distance between the middle of a highway and the building line or that between the building line and the control line, which shall be fixed with due regard to the requirement of safety and convenience for traffic and of public health and welfare, may vary in different portions of the highway according to local conditions.(3)When a highway authority proposes to determine a building and a control line in respect of a highway, the same procedure shall, as far as applicable, be followed as prescribed under sub-section (3) to (7) of Section 11 for the prescription of standard width.(4)The building and control lines as finally determined shall be demarcated on the ground by distinctive stones or other suitable marks which may be painted with different colours and serially numbered.

13. Restriction of building etc. in the area between the highway and the building line.

(1)Notwithstanding anything contained in any other law for the time being in force, it shall be unlawful for any person, except the highway authority or any person working on behalf of the highway authority-(a)to construct or lay out any means access to or from a highway;(b)to erect or re-erect any building or materially alter the outside appearance of any existing building ;(c)to make any excavation ; or(d)to construct, form or lay out any works, upon land lying nearer to the middle of a highway than a distance equal to one-half of its standard width prescribed under Section 11, or upon land lying between the boundary of a highway and the building line determined in respect of the highway under Section 12 ; provided, however, the these restrictions shall not apply to any works necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line pipe, duct or other apparatus, constructed in or upon the land before the date on which the restrictions came into force or with the consent of the highway authority, on or after that date.(2)Should any building (including a wall) or any part thereof lie within the area between the building line and the middle of a highway, the highway authority may, whenever such building or part has been either entirely or in greater part taken down or burnt down or has fallen down, by notice require such building or part when rebuilt to be set back to the building line.

14. Restriction on buildings etc. between the building and the control lines.

(1)Notwithstanding anything contained in any law for the time being in force, no person shall erect or-erect any building or structure or make or extend any excavation or construct, form or lay out any means of access to a highway upon land lying in between the building and control lines determined in respect of the highway, except with the previous permission of the highway authority in writing.(2)Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the highway authority in such form and containing such information in respect of the building excavation or means access to which the application relates, and together with fees as may be prescribed.(3)On receipt of such application, the highway authority after making such enquiries as it may consider necessary, shall by order in writing either ;(a)grant the permission, subject to sub-reasonable conditions, if any, as may be specified in the order, or(b)refuse to grant such permission.(4)The highway authority shall not ordinarily refuse permission to:-(a)the erection of building or structure or the making of or extending an excavation which conforms to the requirements of public health and welfare and of safety and convenience of traffic on the adjoining highway, or(b)the re-erection of a building or structure which was in existence on the date of which the restrictions under sub-section (1) came into force, unless such re-erection involved any material alteration to the outside appearance of the building or structure.(5)When the highway authority refuses the permission, the reasons therefore shall be recorded and communicated to the applicant.(6)In the event for refusal, the applicant may submit fresh application for permission to the highway authority avoiding the objectionable features on account of which the first application was refused and such a fresh application shall be considered by the highway authority as if it were made for the first time.(7)If at the expiration of a period of three months after an application has under sub-section (1) or sub-section (6) been made to the highway that authority, no order in writing has been passed by that authority, permission shall be

deemed to have been given without the imposition of any conditions ;Provided that no such automatic grant of permission shall be presumed if the application is one for the construction, formation or laying out of any means of access.(8)The highway authority shall maintain a register with sufficient particulars of all permission given or refused by it under this section and the register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extract therefrom.(9)Any person aggrieved by an order under sub-section (2), granting permission subject to conditions or refusing permission, may within 30 days from the date of such order, prefer an appeal to the State Government whose order in the matter shall be final.

15. Declaration of limited access highways.

(1)The highway authority may, with the written approval of the State Government, declare a highway or any portion of it to be a limited access highway.(2)When a highway authority proposes to make any such declaration under sub-section (1), the same procedure shall, as applicable, be followed as prescribed under sub-section (3) to (7) of Section 11 for the prescription of standard widths.(3)it shall be unlawful for any person to layout a new means of access to a limited access highway for vehicles or pedestrians, except with the specific permission of the highway authority.(4)The procedure for obtaining the permission of the highway authority for this purpose shall be the same as prescribed in Section 14, and in the event of refusal of permission the applicant shall have right of making a fresh application to the authority and the right of appeal to the State Government in the same manner as provided for in that section.(5)When any highway or part of it has been declared to be a limited access highway, the highway authority shall, within six months of the final publication of the declaration or such longer time as may be specially allowed by the State Government in any individual case, prepare a plan of such highway or part showing the points on which access shall if applied for in accordance with sub-section (4) be permitted.(6)A plan so prepared shall be available for inspection by the public in the office of the highway authority, free of charge at all reasonable times, and copies of its shall be made available to any member of the public on application to the highway authority and on payment of such reasonable cost as may be prescribed.

16. Regulation or diversion of existing rights of access.

(1)The highway authority may, it is considered essential in the interests of safety or convenience of traffic, regulate or divert any existing right of access to a highway across land lying between the control line and the highway boundary.(2)Where an 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)In the case of existing village tracks and lanes giving access to a highway at right angles, the alternative access that may be provided shall as far as possible have a diagonal approach to the highway.

17. Compensation.

(1)Notwithstanding anything contained in any other law for the time being in force, no person shall be entitled to claim any compensation for any injury, damage or loss or alleged to have been caused

as a result of:(a)the restriction imposed against the erection or re-erection of a building or the making or-extending of any excavation of the laying out of any means of access on or across land laying in between the control line and the middle of a highway under sub-section (1) of Section 13 or sub-section (1) of Section 14.(b)the regulation or diversion under Section 16 of the existing rights of access across lands lying within the control line and the highway boundary;and(c)the refusal of permission to the laying out of new means of access to a limited access highway under sub-section (3) of Section 15 :Provided that compensation shall be payable by the highway authority :(i)where in compliance with the notice served by the highway authority under sub-section (2) of Section 13 a building or part thereof has been set back to the building line of any highway; and(ii)where permission to erect or re-erect a building in the area laying in between the control line and building line of a highway has been finally refused under Section 14 ;(2)Where compensation is payable under the proviso to sub-section (1), the claimant, may, within three months of the date of notice issued by the highway authority under sub-section (2) of Section 13 or within three months of the date of final refusal of permission under Section 14 as the case may be, prefers his claims for compensation direct to the office to the officer exercising the power of the Collector under the Land Acquisition Act, 1894 as amended from time to time.(3)Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

18. Amount of compensation how determined.

(1)When a claim is transferred for disposal under sub-section (3) of Section 17 to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894 as amended from time to time, such officer shall make an award determining the amount of compensation payable to the claimant.(2)The amount of compensation awarded under sub-section (1) shall, In no case, exceed the difference between the market value of the land when permission had been granted. Sale deeds of five consecutive years preceding the date of publication of the notification are taken into consideration in a comparative statement. Average value of the comparative statement is considered to be market value of the land in the vicinity where compensation of the land is to be determined.(3)No compensation shall be awarded under sub-section (1) :(i)unless the claiming satisfies the officer making the award that proposals for the development of the land, which at the date of application under sub-section (2) of Section 14 were immediately practicable, or would have been practicable on that date if this Act had not been passed, were prevented or injuriously affected by the restrictions imposed under this Act and that there was demand for such development, or(ii)if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so inforce at the date when the restrictions were imposed under this Act, or(iii)if compensation in respect of the same restrictions inforce under this Act or of substantially similar restrictions in force under any other enactment has already been paid in respect of the land to the claimant or to any predecessor in Interest of the claimant,(4)The Provisions of III, IV, V and VII of the Land Acquisition Act, 1894, shall, so far as may be, apply to an award made under sub-section (1) as though it were in award made under that Act.

Chapter V

Prevention of Unauthorised Occupation of Highway Land and Removal of Encroachments

19. Highway lands to be deemed State Government property.

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

20. Prevention of unauthorized occupation of highway land.

(1) No person shall occupy or encroach on any highway land without obtaining the previous permission in writing of the highway authority or any officer authorised by the highway authority in this behalf. (2) The highway authority or the authorised officer may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and rules as may be prescribed by the State Governments and on payment of such rent or other charges as may be prescribed under rules, permit any person ;(i) to place a movable encroachments on any highway in front of any building owned by him or make a movable structure overhanging the highway, (ii) to put up a temporary awning or tent, pandal or other similar erections or a temporary stall or scaffolding on any highway, or (iii) to deposit or cause to be deposited building materials, goods for sale or other articles on and highway, or (iv) to make a temporary excavation, for carrying out any repairs or improvements to adjoining buildings ; Provided that no such permission shall be deemed to be void beyond a period of one year unless expressly renewed by the highway authority or the authorised officer. (3) The permission so granted shall early specify the date up to which the person is authorised to occupy the highway land, the purposes for which occupation is authorized and the exact portion of the highway permitted to be occupied, and shall also be accompanied by a plan or sketch of that 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 any highway official and shall at the end of the period prescribed in the permit release the land occupied by him after restoring it to the same state as before 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 up to which occupation has been authorised to ensure that the land has actually been vacanted.

21. Removal of encroachment.

(1) When, as a result of the annual check of highway boundaries made under Section 10 or otherwise, it transpires that an encroachment has taken place on highway land, the highway authority or any officer authorised in this behalf shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original condition before encroachment within the period specified in the notice. (2) The notice shall specify the land encroached upon and the time limit within which such encroachment shall be removed and

shall also state that failure to comply within the prescribed period shall render the person liable to prosecution and also to summary eviction.(3)If the encroachment is not removed by the person or has representative within the time limit prescribed in the notice and no valid cause is shown by him for non-compliance, the highway, authority or the authorised official may prosecute him before the appropriate magistrate for his having made or caused the encroachment and for his failure to remove it within the prescribed time.(4)Where the encroachment is petty or of trivial nature, e.g., exposing articles for sale, opening temporary booths for vending, etc., the highway authority or the authorised official may with the help of the police if necessary have it summarily removed without the formality of issuing a notice required under sub-section (1), or in lieu of removal of the encroachment shall have the option of executing a lease in favour of the highway authority for payment of rent for the area encroached upon.

5. When the encroachment is of a temporary nature and can easily be removed but is not such as can be described as petty or trivial within the meaning indicated in sub-section (4), the highway of the authorised official may in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (3) have the encroachment summarily removed with the assistance of the police, if necessary.

(6)Where the encroachment is of such a nature that its immediate removal is considered essential in the interest of safety of traffic on tire highway or the safety of any structure forming part of the highway and no notice can be served immediately on the person responsible for the encroachment or his representative under sub-section (I) owing to his absence or for any other reason, the highway authority or the authorised official may in addition to prosecution of the person under sub-section (3), either-(i)have such protective works may be feasible at a reasonable cost carried out so as to minimise the danger to traffic on the highway, or(ii)have the encroachment removed with the help of the police, if necessary.(7)Where the encroachment is of a permanent nature and has been in existence for some time but not long enough to create as prescriptive right by adverse possession and the person responsible for the encroachment or his representative has not arranged for its removal even after he has been prosecuted under sub-section (3) and convicted a fresh notice fro its removal shall be served on him by the highway authority or the office authorised under sub-section (1), and in the event of his failure to comply what that notice also the highway authority or the authorised official shall institute a second prosecution against him and simultaneously apply to the magistrate having local jurisdiction to order the removal of the encroachment and the magistrate shall there upon have the encroachment removed.

22. Injunction on the highway authority desist from removal of encroachment.

- Where the person on whom notice to remove an encroachment has been served under sub-section (1) of Section 21, lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a prescriptive right over it by virtue of adverse possession, he shall within the time limit prescribed in the notice for the removal of the encroachment, file a suit in a

competent civil court and also get an injunction on the highway authority to desist from taking further action in the matter till the suit has been disposed of.(2)When such an injunction has been issued, the highway authority or the authorised officer shall suspend further action until the suit filed by the person has been disposed of.

23. Recovery of cost of removal of encroachment.

(1)Whenever a highway authority or the officer authorised under sub-section (1) of Section 21 has under the provisions of the section removed any encroachment or carried out any protective work in respect of any encroachment the actual expenditure involved, together with 15 per cent for overhead charges shall be recovered from the person responsible for the encroachment in the manner hereinafter provided.(2)A bill representing the actual expenditure and the over head charges, shall be served by the highway authority or the authorised officer as the case may be on the person responsible for the encroachment or his representative with a direction to pay up the total amount within a specified date to the authority mentioned in the bill.(3)The bill shall be accompanied by a certificate from the highway authority or the authorised officer to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred and shall not be questioned in any civil court.(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 bill by him but in the event of his failure to pay up the bill within the specified date, the materials may be auctioned and after deducting the amount of the bill from the proceeds the balance, if any, shall be made over to him.(5)If the proceeds of the auction sale do not cover the total billed amount, the excess over the amount realised by the sale of materials or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for encroachment within the prescribed date the entire amount of the bill shall be recovered as arrears of land revenue.

Chapter VI

Improvement and Maintenance on Village Roads

24. State Government to direct highway authority to take over village tracks for development and maintenance.

(1)The State Government may whenever it deems necessary in the public interest, by notification in the Official Gazette, direct a highway authority to take over for road construction or maintenance of any land constituting a village road or track on which the public have, or have established by long usage, a permanent right of way irrespective of whether such village road or track has been shown in the settlement records as a public way or not and whether the ownership of such land vests in the State Government or any landlord or a proprietary body.(2)Such notification shall be given proper publicity such as by beating of drums, distributing pamphlets, displaying on sign-boards etc. in the locality of the village road or track.(3)All such lands taken over by the highway authority as a result of the notification issued under section (I) as are not already deemed to be State Government property, shall be so deemed for purposes of Chapter' V, and the provisions of that Chapter shall

apply fully to such land.

25. Highway authority require proprietor of village road dan to repari the road property where he is under obligation to do so.

(1)Where there is any obligations by law or by custom or otherwise on any land-lord or proprietary body to maintain a village road or track on which the public have or have acquired a permanent right of way and such road or track is not, in the opinion of any highway authority properly maintained that authority may issue a notice to the landlord or the proprietor to repair the road or track within such a reasonable time and in such manner as may be specified in the notice.(2)If at the end of the specified period the repairs have not been carried out in the manner specified, and the landlord or the proprietor has not furnished any satisfactory explanation for non-compliance, the highway authority may move the State Government to transfer control of the road or track to it or to any other highway authority under sub-section (1) of Section 24.(3)The State Government while directing the transfer of control of such village road or tack to any highway authority, may determine whether any, and if so what portion of the cost of repair which the highway authority may incur shall be recovered from the landlord or the proprietor in discharge of his obligation to maintain the road or track.

26. Highway authority to acquires reversionary right of proprietors in village road land.

(1)Where the control of a village road or track has been taken over by a highway authority as a result of a notification issued under sub-section (1) of Section (I) 24 and the owner of the land constitution the road or track vests in a landlord or proprietary body, the highway authority shall acquire by direct negotiation or, failing negotiation by resort to the Land Acquisition Act, 1894, as amended from time to time, the reversionary right, if any, of the landlord or proprietary body to the land by paying suitable compensation.(2)In determining the compensation payable under sub-section (1), regard shall be had to the fact that the reversionary right is very remote.(3)The amount, If any, payable by the proprietor under sub-section (3) of Section 25 may be set off against the compensation payable to him under sub-section (1).

Part III

Control of Land Development In Areas Adjacent to Highways and Levy of Betterment Tax

Chapter VII

Control of Roadside Lands

27. Appointment of planning boards for control of development in areas adjoining highways.

(1)The State Government shall, by notification in the Official Gazette, appoint a Planning Board (hereinafter referred to as the Board) for the control of township development in the State in areas adjoining highways outside the territorial jurisdiction of Municipalities, Corporations, City Improvement Trust or like Bodies not being District Board :Provided that the State Government may, if it considers a single Board to be inadequate for handling the work in the whole State appoint more than one such Board, each for a specified region in the State.(2)The State Government may, at any time by notification in the Official Gazette, and to or reduce the area of jurisdiction of a Board.(3)A Board, so appointed, shall be a body corporate and having perpetual succession and a common seal and shall sue and be sued by its own name.

28. Constitution of the Planning Boards and transaction of business by it.

(1)A Board shall consist of such number of members, official or non-official, being not less than three, as the State Government may, from time to time determine by notification in the Official Gazette.(2)One of the members of the Board shall be a Highway Engineer the second. Town Planner with knowledge of architecture, and the third with experience in land valuation.(3)The Board shall meet and transact business in accordance with such rules as may be prescribed by the Government in this behalf.(4)Such rules referred to in sub-section (3), shall also provide for the appointment of a Chairman from among the technical members of the Board, the payment of remuneration and travelling allowance to him and to the other members, and the appointment of staff for the Board.(5)If any member of a Board owns, or has any interest in, land lying in any area the development of which is controlled by such a Board, he shall take no part in the proceedings of the Board relating to such area.(6)The Board shall be provided by the State Government with such funds as may be required for the proper discharge of its function and shall maintain regular accounts in accordance with such rules as may be prescribed by the State Government in this behalf.

28A. Specification of areas where control is to be exercised over development.

(1)Whenever a highway authority has reason to believe that an area adjacent to a highway outside the territorial limit of a Municipality, Municipal Corporation or City Improvement Trust or other like body not being a District Board, is likely to develop into building or industrial area and that such development if left unregulated is likely in course of time to affect the highway adversely, it shall, in writing request the State Government to direct if the Board have been Appointment in the State to control the development in that area.(2)On receipt of the such request from a highway authority or at its instance, or at the instance of any class of public, and after making such enquiries as may, by notification in the Official Gazette direct, the Board or the appropriate Board if there is more than one in the State to exercise control over development in such area:Provided that the State Government may at its discretion direct the adjoining Municipality, City Corporation, City Improvement Trust or other like body to exercise control over such area in accordance with the law

under which such body functions within its own limits of jurisdiction.

29. Survey and demarcation of the area and the preparation layout plan for its development.

(1)The Board shall, as soon as possible it has been notified to exercise control over development in any area, have a survey made of such area and shall have the boundaries thereof demarcated with reference to the survey.(2)The boundaries so demarcated shall be notified by the Board in the office Gazette in such detail as may be necessary for the proper identification of the area.(3)Within a year of the date of the notification issued under sub-section (2) or such longer period as may be specially permitted by the State Government in this behalf, the Board shall prepare a lay out plan of the area showing the sites of proposed roads, parks, play-fields, residential localities, industrial areas, access lanes to the adjacent highway.(4)The access points to the adjacent highway and the general layout plan shall be fixed in consultation with the highway authority concerned.(5)The layout plan so prepared shall be deposited by the Board with the principal Revenue Officer of the district in which such area is located and also in its own office and in the office of the highway authority concerned, and the plan so deposited shall be available for inspection by the public free of charges at all reasonable times.(6)Copies of the plan shall be made available to any interested member of the public on application to the Board and on payment of such reasonable cost as may be fixed by the Board.

30. Regulation of development in the area.

(1)It shall be unlawful after notification has been issued by the Board under sub-section (2) of Section 29, to construct or re-construct any building in the area so notified, or to layout any means of access in that area towards the adjacent highway without obtaining the prior permission of the Board.(2)Every person willing to construct or reconstruct any structure or to layout any means of access in that area shall apply to the Board for permission in such form and with such details and plans and together with such fees, if any as may be prescribed by the Board.(3)The Board shall as soon as possible after the receipt of an application by order in writing either-(a)grant the necessary permission, with or without such reasonable conditions as may be specified in the order, if the proposal of the applicant is not inconsistent with the layout of the area planned or contemplated, and is otherwise unobjectionable, or(b)refuse the permission.(4)If at the expiration of three months from the date of application no order in writing has been passed by the Board, permission shall be deemed to have been given without the imposition of any conditions:Provided, however that no such automatic grant of permission shall be presumed if the application is for the laying-out of any means of access towards the adjacent highway.(5)In the event of refusal of permission, the Board shall communicate to the applicant the defects of the objectionable features of the proposal responsible for its rejection.(6)The applicant may-submit the proposal to the Board after removing the defects or objectionable features and such application shall be disposed of by the Board under sub-section (3) as if it were a fresh application.(7)If in course of execution of any work after obtaining the permission of the Board the applicant desires to make any substantial alteration in the approved plan, a fresh application shall be made to the Board as if the modified plan constituted as fresh proposal and, pending the disposal of such fresh application by the Board under sub-section (3), the

construction work shall be suspended by the applicant.(8)Any person feeling aggrieved by an order issued by the Board under sub-section (3) sanctioning any proposal subject to conditions or rejecting it, may, within three months of the date of the order of the Board, prefer any appeal to the State Government whose order in the matter shall be final.(9)If any person constructs or re-constructs any structure or lays out any means of access without obtaining the permission of the Board, or where permission of the Board has been obtained, makes, in course of execution of the work any substantial deviation from the approved plan, the Board may, without prejudice to any other proceeding which may be taken against him have the structure removed or the means of access closed and recover from him the expenditure involved, together with 15% departmental charges, in accordance with the procedure prescribed under Section 23, in so far as that procedure is applicable.(10)The Board shall be the sole judge of what constitutes substantial deviation from the approved plan for purposes of sub-section (9).

31. Planning Board to acquire land for planned development, where necessary.

(1)Where after the issue of a notification under sub-section (2) of Section 29, it appears to the Board that the planned development of the notified area can be secured only by acquiring land in that area, it may with the prior consent of the State Government, acquire entire or such part of its as may be considered necessary, either by direct negotiation with the owner or failing such negotiation, by resort to the provision of the Land Acquisition Act, 1984 as amended from time to time.(2)Such area, as may be acquired under sub-section (1), shall be property laid out by the Board, the necessary improvement effected and sites assigned, sold or leased to the public for a specified period not exceeding 90 years for construction according to approved plans.

Chapter VIII

Levy of Betterment Tax

32. Planning Board to decide on levy of betterment tax with consent of the State Government who shall determine the rate of levy.

(1)Where a Board is of the opinion that the value of land in any area in its charge is likely to increase as a result of the development at public expense of any area adjoining a highway, it may, with the previous consent of the State Government, decide to levy a betterment tax in respect of such area.Provided that where in pursuance of Section 31, the Board has acquired any area and has had it properly laid out and sold or leased to the public no betterment tax shall be levied in respect of such area.(2)The State Government, when approached by the Board under sub-section (9), for its consent to the levy of betterment tax in any area, shall while giving such consent determine percentage rate, not exceeding 80% of the betterment value, at which the tax shall be levied in such area and communicate the same to the Board.(3)Where it is decided to levy, a betterment tax in respect of any area, the Board shall cause the decision to be notified in the Official Gazette and shall also secure further publicity to the notification in the manner prescribed under subsection (4) of Section

11.(4)The notification shall specify:- (a) exact area in which the betterment tax is to be levied ; (b) the date on which the prevailing land value shall be deemed to be the basic value for purposes of commuting betterment; and (c) the percentage rate of betterment value at which betterment tax shall be levied, as determined by the State Government under sub-section (2); (5) When the development or improvement of the area adjoining the highway has been completed or, in the opinion of the Board has reached a stage sufficiently advanced to enable the resulting betterment to be determined, the Board shall notify in the Official Gazette the date on which the execution of the scheme has been completed or shall be deemed to have been completed and shall also cause further publicity by to such notification in the manner prescribed under sub-section (4) of Section 11.

33. Computation of betterment value.

(1) For land which has already been built upon or on which permission to build has already been accorded before the date notified under sub-section (5) of Section 32, betterment value shall be the value on that date less the basic value as computed with reference to the date notified under sub-section (4) of that section less, the estimated cost of improvement work, if any, carried out by the owner between the two dates. (2) For land which on the date notified under sub-section (5) of Section 32 has neither been built upon nor in respect of which permission to build has been accorded before that date, the betterment value shall be the value on the date when permission to build is granted less the basic value as computed with reference to the date notified under sub-section (4) of Section 32, less the estimated value of improvement, if any carried out by the owner between the two later dates.

34. Assessment of betterment tax.

(1) The Board shall, at any time after a month of the publication of the notification under sub-section (5) of Section 32, assess the amount of betterment tax payable by every individual owner of land, and shall serve a notice on him in writing in the prescribed manner, specifying the amount of tax payable by him the details of calculation, the instalments if any which payment may be made, to date or dates on or before which payment of the full amount of the installment shall be made, and the authority to whom payment shall be tendered. (2) Any person on whom a notice for payment of betterment tax has been served under sub-section (1) may within one month from the date of service of such notice, file an objection before the Board in respect of assessment made against him, provided that the Board shall have discretion to entertain objections even after the expiry of the period of one month if it is satisfied that the failure to file such objections in time was due to causes beyond the control of the objector. (3) After an opportunity has been given to the objector or of being heard in person or through pleader the Board may confirm, modify or cancel the assessment made under sub-section (1). (4) Any person aggrieved by the order issued by the Board under sub-section (3) may within two months from the date of such order, appeal to the appropriate civil court. (5) If any person on whom a notice has been served under sub-section (1) fails to file any objection under sub-section (2) the assessment shall be conclusive and shall not be questioned in any court of law.

35. Betterment tax to be made a charge on his interest in the land.

(1)The person liable to pay a betterment tax may at his option instead of making a lump-sum payment or payment by instalments where allowed by the Board, execute an agreement with the Board or any other authority specially authorised by the State Government in this behalf to leave the said liability outstanding as a charge on his interest in the land subject to the payment in perpetuity of interest at the rate of 6% per annum.(2)A person who has exercised his option under sub-section (1) may at any time after giving six months notice of his intention so to do, redeem the charge of paying the assessed amount of betterment tax or such part of it as may have been outstanding against him at the time he executed the agreement under sub-section (1).

36. Arrear of betterment tax to be recovered as arrears of land revenue.

- Arrears of betterment tax shall be realised in the manner provided for the recovery of arrears of land revenue.

37. Appropriation of the proceeds of betterment tax.

- The proceeds of the betterment tax, levied in any areas, shall after deduction of the assessment and collection charges, be made over by the Board to the State Government.

Part IV

Miscellaneous and Supplemental Provisions

Chapter IX

Supplemental Provisions to Secure Safety of Traffic and Prevention of Damage to Highway

38. Prevention of cover structure view of distraction of attention of persons using any highway.

(1)Where a highway authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view or distraction of the attention of persons using any highway, specially at any bend or corner of the highway, it may serve a notice upon the owner or occupier of land along side or at the bend or corner of such highway to alter or remove altogether, within such time and in a such a manner as may be specified in the notice, the height or character or any existing wall (Not being a well forming, part of a permanent structure), fence hedge, tree, advertisements post, bill board or any other object thereon, so as to eliminate or minimise the apprehended danger.(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 14 days of its receipt send to the highway authority his

objection in writing stating the grounds thereof.(3)The highway authority shall within 14 days of the receipt of the objection considers the grounds advanced and shall by order in writing either withdraw the notice or amend or confirm it.(4)If a person is aggrieved by an order issued by a highway authority under sub-section (3) he may prefer an appeal within 7 days of the date of such order to the Collector or Chief Revenues Officer of the district, 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) or (4), the highway authority may take action to alter or remove the object causing obstruction or distraction of view at its own expense and such expenditure together with 15% departmental charges, shall be recovered from such person in accordance with the provisions of Section 23 without prejudice to any other action which may be taken against him.

39. Highway Authority to regulate traffic when highway is deemed unsafe.

(1)If at any time it appears to a highway authority that any highway in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reasons 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 of vehicles using the highway.

40. Prohibition of use of heavy vehicle on certain highway.

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

41. Power of highway authority to control traffic to be exercised through the authority appointed under Part V to control traffic.

(1)Where, in pursuance of sub-section (c) to and (d) of Section 7 or in exercise of the powers under Section 39 or Section 40 the highway authority desires temporarily to close any highway or part of it to traffic or to restrict or regulate traffic thereon in any manner, it shall in writing request the authority authorised to control traffic under Part V of this Act to enforce restrictions in the said manner.(2)Where such a request has been received from a highway authority, the authority empowered under Part V to control traffic shall take all necessary measures to enforce the said restriction in accordance with the provisions of that part.

42. Procedure to be followed when highway authority wishes permanently to close any highway.

(1)Where, in pursuance of sub-section (c) of Section 7 or in exercise of Section 39, a highway authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the Official Gazette, and shall cause further publicity to be given to the notice in the manner prescribed under sub-section (4) of Section 11.(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 objection, if any, to the proposal to be submitted within such time as may be specified.(3)The highway authority shall finalise its proposal to close down by 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 any 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 orders in the Official Gazette.(6)When the orders of the State Government have appeared in the Official Gazette, the highway authority shall arrange for further publicity to be given to the orders in the manner prescribed under sub-section (4) of Section 11, and the highway or part thereof shall then be closed.(7)Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled otherwise than as a mere or member of the public to use such highway part as a means of access to or from his property and has suffered damage for such closing.(8)Where an alternative route has been provided or is already in existence the amount of compensation payable to any person under sub-section (7) shall, in no case exceed the cost, of laying a new means of access from his property to such alternative route.(9)Where compensation is payable under sub-section (7), the claimant shall, within 3 months of the closing of the highway or part, make to the State Government his claim for compensation, and such claim shall be disposed of in accordance with the provision of sub-section (3) of Section 17 and sub-section (1) of Section 18.

43. Consent of highway authority required to do certain act on highways.

(1)Notwithstanding anything contained in any other enactment for the time being in force, no person other than a highway authority or its authorised agent shall construct or carry any cable wire pipe, drain sewer or channel of any kind through, across under or over any highway, except with the specific consent of the highway authority.(2)In giving its consent the highway authority may impose such conditions as it may deem to be necessary and, may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.(3)If any person constructs or carried out any work in contravention of sub-section (1), the highway authority may arrange for the removal of such work and restoration of the highway to its former condition in accordance with the provisions of Section 21 as if the work constituted an encroachment on the highway and such expense as the highway authority may incur for this purpose, together with 15% departmental charges thereon, shall without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure prescribed under Section 23 in so far as that procedure is applicable.

44. Prevention and rectification of damage to highway.

(1) No person shall wilfully or negligently cause, or allow any vehicle or animal in his charge to cause any damages 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, together with 15% departmental charges, shall, without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (1), be recovered from him in accordance with that procedure prescribed under Section 23 in so far that procedure is applicable.

Chapter X

Survey of Highway Lands and Highway Boundaries for Preparation of Authoritative Plans

45. State Government to order survey and appoint Survey Officer when so requested by the highway authority.

(1) Where in pursuance of sub-section (3) of Section 8, a highway authority wishes to have a survey made with a view to the preparation of authoritative plan or plans for any highway in its charge, it shall request the State Government in writing to order the survey and appoint a Survey Officer for the purpose. (2) If, on receipt of such request and after making such further enquiries as may be deemed necessary, the State Government is satisfied about the need for such survey, it may, by notification published in the Official Gazette, order that the proposed survey shall be made and shall simultaneously appoint a Survey Officer for the purpose.

46. Survey Officer to publish notification.

(1) When a survey has been ordered under Section 45, the Survey Officer appointment for the purpose shall publish a notification in the Official Gazette inviting all persons having or claiming to have any interest on the lands adjoining the highway or its boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and time and from time thereafter when called upon for the purpose of pointing out the boundaries and supplying information in connection there with. (2) The Survey Officer shall cause further publicity to be given to the notification issued by him under sub-section (1) in the manner prescribed in sub-section (4) of Section II. (3) A notification published in accordance with sub-section (1) and further published in accordance with sub-section (2) shall be held to be valid notice to every person having or claiming to have any interest in the land or boundaries of which the survey has been ordered.

47. Survey Offices to give special notice to highway authority to made repairs sanitation it necessary.

(1)The Survey Officer shall give a special notice to the highway authority concerned intimating the date and time from which the survey of the highway shall be carried out.(2)The highways authority shall on receipt of such special notice take such steps as may be deemed necessary to watch the survey proceedings and to make representation to the Survey Officer whenever it has reason to believe that the interests of the highway are being or likely to be adversely affected.

48. Power of Survey Officer to determine and record undisputed boundary.

(1)The Survey Officer shall have power to determine and record as undisputed any boundary in respect of which no dispute is brought to his notice.(2)Notice of every decision of the Survey Officer under subsection (1) shall be given in the prescribed manner to the registered holders of the land the boundaries of which may be affected by the decision and also to the highway authority concerned.

49. Power of Survey Officer to determine and record a disputed boundary.

(1)Where a boundary is disputed, the Survey Officer after making such enquiry as he considers necessary, shall determine the boundary and record it in accordance with his decision and shall also record in writing the reasons for his decision.(2)Notice of every decision of the Survey Officer under sub-section (1) shall be given in the prescribed manner to the parties to the dispute, to the highway authority and to the other registered holder of the land the boundaries of which may be affected by the decision.

50. Appeal against order of the Survey Officer under Sections 48 and 49.

(1)The highway authority or any other person affected by the decision under Section 48 or Section 49 may, within three months of the date of service of notice under those sections appeal to the Collector or the Chief Revenue Officer of the district and the decision of such Officer shall be recorded in writing and notice of such decision given in the prescribed manner to the parties to the appeal. Any modification of the Survey Officer's decision ordered by the appellate authority shall be noted in the record prepared under Section 48 or Section 49 as the case may be.(2)No appeal preferred after the expiry of the said period of three months shall be admitted :Provided that the time taken to obtain a copy of the decision and the map under sub-section (3) shall not be taken into account in calculating the said period of three months.(3)A copy of the order and copy of the map recording the boundaries as determined under Sections 48 or 49 or sub-section (1) of this section, shall be furnished to the highway authority or to any person interested in such order or map, as the case may be or the application to the Survey Officer on payment of such reasonable cost as may be fixed.

51. Completion of demarcation to be notified by the Survey Officer.

- When the survey of any highway land or its boundaries which has been notified under Section 45 has been completed in accordance with the orders passed under Section 48, 49 or 50, the Survey Officer shall notify the fact in the Official Gazette and shall cause further publicity to be given to the notification in the manner prescribed under sub-section (4) of Section II.(2)Unless the survey so

notify in modified by a decree of a civil court under the provision of Section 52, the record of the survey shall be conclusive proof that the boundaries as determined and recorded therein have been correctly determined and recorded and shall not be questioned in any court of law.

52. Institution of suit in Civil court where any person is aggrieved by determination of boundary.

(1)The highway authority or any other person deeming itself or himself aggrieved by the determination of any boundary under Sections 48 and 49 or 50 may, subject to the provisions of the Parts II and III of the Indian Limitation Act, 1908 institute a suit in a civil court within a year from the date of the notification under sub-section (I) of Section 51, to set aside or modify the said determination, and the survey, shall if necessary be altered in accordance with the final decree of the suit, and the alteration, if any, shall be noted in the record.(2)The plaintiff in such suit shall join as parties to it all persons including the highway authority (where such authority is itself the plaintiff) whom he has reason to believe to be interested in the boundary which is the subject of the suit.

Chapter XI

Power to Frame Rules for the Construction and Maintenance of Highways

53.

(1)The State Government may make rules for the regulation of construction and maintenance of Highways and generally for carrying into effect the purpose of parts II to IV of this Act.(2)In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the preparation of schemes for the development of new or improvement of, or repairs to existing, highways ;(b)the standards that have to be followed in determining a standard with and building and control lines in respect of various types of highways.(c)the prevention of obstruction of view or destruction of attention of persons using such highways and of annoyance, danger or injury to the public.(d)the prevention of obstruction, encroachment and nuisance, or or near, and of damages to such highways.(e)the proper maintenance of boundary marks demarcating boundaries and building and control lines ;(f)the prescription of various forms of application required to be made and the forms of notice and the bills required to be served on persons, the charges to be made for the supply of copies of plan, etc. and the rent or other charges to be imposed or levied under the provisions of this Act;(g)the general guidance of the highway authority and the Planning Board in the discharge of their functions under this, Act;(h)the transaction of business by a Planning Board including appointment of a Chairman, his powers, his remuneration and travelling allowance, etc. and those of the other officers of the Board and the appointment of staff of the Board ;(i)the maintenance of accounts by a Planning Board and the method of audit of such accounts and(j)any other matter which is to be or may be prescribed.

Chapter XII

General and Miscellaneous Provisions

54. Services of notice etc.

- (i) Every notice or bill issued or prepared under any section of this Act shall be served or presented-(a)by delivering or tendering it or sending it by post to the person or the whom it is addressed or to his agent.or(b)if such a person or his agent is not found, then by leaving it at his usual or last known place of abode or by delivering or tendering it to some adult member of his family or by causing it to be fixed on some conspicuous part of the building or land, if any to which it relates.(ii)Where notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service there to shall be effected either ;(a)by delivering of tendering the notice or sending it by post to the owner or occupier of it if there be more owners or occupiers than one to any one of them, or(b)it no such owner or occupier is found, then by giving or tendering the notice to an adult member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates,(c)whenever the person to whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult member or servant of his family shall be deemed to be service upon the minor.

54A. Publication and commencement of Rules.

- (i) Every power to make rules given by this Act is subject to the condition of the rules being made after previous publication.(ii)All rules made under this Act shall be published in the Official Gazette, and shall unless some later date is appointed come into force on the date of such publication.

55. Delegation of powers by highway Authority.

- The highway authority may, after obtaining the approval of the State Government by of notification in the Official Gazette, delegate any of its powers or duties under Sections 7 (c), 7 (d), 10, 20, 21, 23, 38, 39, 40, 41, 42 or 43, of this Act to any officer or authority subordinate to it subject to such conditions if any, as may be specified in such notification.

56. Persons deemed to be public servants.

- All persons acting by the authority of the State Government or of any highway authority or a Planning Board or of any highway authority or a Planning Board in the carrying out of any of the provisions of this Act or any of the rules made under this act shall be deemed to be public servants within the meaning of Section 21 of the Indian Code.

57. Protection of persons taking action under this Act.

- No suit prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules made under this Act.

58. Power and duties of police in respect of offences and assistance to highway authorities.

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

59. Power of arrest with out warrant in case of offence involving encroachment on or damage to highways.

- A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under Sections 66 or 67.

60. Duties of village official to report to highway authority.

- Every village headman, village accountant village watchmen or other village official by whatever name called, shall forthwith inform the nearest police station of the nearest highway authority or any officer of the highway authority whenever he becomes aware that any survey marks showing the building or control lines determined in respect of a highway has been destroyed, damage removed, displaced or otherwise tampered with or that any damage to any highway or encroachment on any highway land has been made.

61. Power to utilise highway land for other than a road purposes.

- The highway authority may utilise temporarily for other than road purposes land forming a part of a highway which is not immediately acquired for the passage of traffic and dispose of the produce of such lands.

62. Land acquired by direct negotiation to be subsequently acquired under land Acquisition Act, 1894. - Where, in pursuance of Sections 7 (b), 11 (10) 26 (i) or 31 (i), a highway authority or planning Board has acquired any land by direct negotiation with the owner or owners, it shall cause the interests' of if any other person or persons in such land to be acquired under the Land Acquisition Act, 1894, as amended from time to time so far as Act that may

be applicable, to ensure perfect title thereto.

62. Saving as regards land under Central Government Control.

- A Nothing Parts II to IV of this Act shall apply to lands vested in or under the control of Central Government or to any area falling within the limits of a Cantonment Board, Major Part Trust of other local authority under the administrative control of the Central Government.

Chapter XIII

Offences, Penalties and Procedure Applicable to Part II to IV

63. General provision for Punishment of offences under Part II to IV.

- Whoever contravenes any provision of Part II to IV of this Act or of any rule made under these parts shall, if no other penalty is provided for the offence, be punishable with fine which may extend to fifty rupees or if, having been previously convicted any offence under this Act, with fine which may extend to two hundred rupees.

64. Disobedience of orders obstruction and refusal of information.

- Whoever wilfully disobeys any lawfully given by any person of authority empowered under this act to give such direction or obstructs any functions that such person or authority is required under this Act, to discharge, or being required by or under this act, to supply any information which he fails or supplies any information which he knows to be false or which he does not believe to be true shall, if no there penalty is provided for the offence be punishable with fine which may extend to two hundred rupees.

65. Penalty or contravention of restriction relating to laying of means of access of erecting many buildings etc.

- Whoever constructs or layout any means of access erect or re-erects any building or structure does any other work in contravention of Sections 13 (1), 14(1), 15 (3) or 30(1), he shall be punishable : (a) with fine which may be extend to five hundred rupees; (b) with further fine which may, extend to one hundred rupees for each day after the first during which the offending means of access or structure or work is not removed, demolished or cleared and the site not restored to its original condition.

66. Penalty for unauthorised occupation of high way land.

- Whoever occupies or makes any encroachment on any highway land in a contravention of Section 20 (I), or fails to comply with the notice served on him by Section 21 (I), for no valid reason, he shall on conviction be liable to pay: - (a) a fine which may extend to two hundred fifty rupees or first

offence, and in case of second conviction in relation to the same encroachment,(b)With further fine which may extend to a lump penalty of five hundred rupees plus a daily levy not exceeding fifty rupee for each day that the offence is continued.

67. Penalty for causing damage to highways.

- Whoever in contravention to Section 4 (I) wilfully causes or allows any vehicles or animal in his charge to cause any damage to any highway, shall be punishable with fine which may extend to one thousand rupees.

68. Power to compound offence.

- The highway authority may, either before or after the institution of the proceeding, compound an offence against Part II to IV of this Act or any rule framed thereunder.

Part V

Traffic Provisions

Chapter XIV

Control of Traffic

69. Exclusion of motor vehicles from the scope of Part V.

- In this part unless there is anything repugnant in the subject or context the terms "Public Vehicles" and "Vehicle" shall not be construed to include a motor vehicle as defined in the Motor Vehicle Act, 1939.

70. Power to restrict the use of vehicles.

- The State Government or any authority authorised in this behalf by the State Government, if after consulting the highway authority is satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge may, by notification in the Official Gazette prohibit or restrict, subject to such exceptions and conditions as may be specified in the notifications, the driving of vehicles or animals either generally in a specified areas or on a specified highway or part of a highway , and when such prohibitions restriction is imposed shall cause appropriate traffic signs to be placed or erected under Section 71 at suitable places :Provided that where any prohibition or restriction under this section is to remain in force only for a period of one month or less notification thereof in the Official Gazette shall not be necessary.

71. Power to erect traffic sign.

(1)The State Government or any authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of bringing to public notice any prohibitions or restrictions imposed under Section 70, or generally for the purpose of regulating traffic other than motor vehicle traffic.(2)Traffic signs erected under sub-section (1) for any purpose for which provisions in the First Schedule shall have the meanings set forth in the First Schedule, but the authority empowered in this behalf by the State Government may make or authorise the addition to any sign set forth in the said Schedule on transcriptions of the words, letters or figures thereon in the script, provided that the transcriptions shall be of similar size and colour to the words, letters or figures set forth in the First Schedule.(3)Except as provided by sub-section (1) no traffic sign shall after the commencement of this Act, be placed or erected on or near any highways, but all traffic signs erected prior to the commencement of this Act, by any authority competent to do so shall for the purpose of this Act, be deemed to be traffic signs erected under the provisions of sub-section (1).(4)Any authority authorised in this behalf by the State Government may, by notification in the Official Gazette, remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading.(5)No person shall wilfully remove alter deface or in any way temper with any traffic sign placed or erected under this section.(6)If any person accidentally cause such damage to traffic sign as renders it useless for the purpose for which it is placed and erected under this section, he shall report the circumstances of the occurrences to a Police Officer or such authority as may be authorised in this behalf by the State Government or at a police station as soon as possible and in any case within twenty four hours of the occurrence.

72. Main roads.

- The State Government or any authority authorised in this behalf by the State Government may, by notification in the Official Gazette, or by the erection at suitable places of the appropriate traffic sign referred to in part A of the First Schedule, designate certain roads as main roads for the purpose of the regulations contained in the Second Schedule.

73. Duty to obey traffic sign.

- Every driver of a vehicle or animal shall drive in conformity with any indication given by a mandatory traffic sign in conformity with the driving regulations set forth in the Second Schedule and shall comply with all directions given by any Police Officer for the time being engaged in the regulation of traffic in any public place.(2)In this section "Mandatory traffic sign" means a traffic sign included in Part-A of the First Schedule or any traffic sign of similar form (that is to say consisting of or including a circular disc, displaying a device, word or figure and having a red ground or border) or any prescribed sign painted or marked on the road erected or displayed for the purpose of regulating traffic other than motor vehicle traffic under sub-section (1) of Section 71.

74. Signals and signaling services.

- The driver of a vehicle shall on the occasion specified in the Third Schedule, make the signal specified therein.

75. Leaving vehicle or animal in dangerous position.

- No person in charge of a vehicle or animal shall cause or allow the vehicle or animal to remain at rest on any highway in such a position or in such a condition or in such circumstances as to cause or be likely to cause danger, obstruction or undue inconvenience to other users of the highway.

76. Towing of persons riding cycles.

- No drivers of a vehicle shall tow a person riding a cycle and no person riding a cycle shall allow himself to be towed by any other vehicle.

77. Leaving vehicle or animal unattended.

- No person in charge of vehicle or animal shall allow such vehicle or animal to stand or proceed on a highway unless it is under adequate control.

78. Duty of driver to stop in certain case.

(1)The driver of a vehicle or animal shall cause the vehicle or animal, as the case may be to stop and to remain stationary so long as may reasonably be necessary-(a)When required to do so by any police officer in uniform or by the authority authorised in this behalf by the State Government or(b)When the vehicle or animal is involved in the occurrence of an accident to a person, animals or vehicle or a of a damage to any property, whether the driving or management of the vehicle or animal was or was not the cause of the accident or damages,m and he shall give his name and address and the name address of the owner of the vehicle or animal or any person affected by such accident or damage who demands it, provided such person also furnish his name and address,(2)The driver of a vehicle or animal shall, on demand by a person giving has own name and address and alleging that the driver has committed as offence punishable under Section 86, give his name and address to that person.

79. Duty of owner of vehicle or animal to give Information.

- The owner of vehicle or animal the driver of which is accused of any offence under this Act shall on demand by any police officer or other authority authorised in this behalf by the State Government give all information regarding the name and address of the driver which is in his possession or could by reasonable diligence be ascertained by him.

80. Duty of driver in case of accident and injury to person.

- When any person is injured, or damages to property to the extent to the amount of twenty five rupees or more is caused as the result of an accident in which a vehicle is involved, the driver of the vehicle or other person in-charge of the vehicle shall-(a)take all reasonable steps to secure medical attention for any person so injured and if necessary convey him to the nearest hospital unless the injured person or his guardian,in case he is a minor, desire otherwise,(b)give on demand by a police office or by any authority authorised in the behalf by the State Government any information requested by him or if no police officer or other authority is present, report the circumstances of occurrence as soon as possible and in any case within twenty-four hours of the occurrence, at the nearest police station, or if he continues his journey after accident, at the next police station on or near his route.

81. Power to make rules for control of traffic.

- (i) The State Government may make rules for the purpose of carrying into effect the provision of this Chapter.(ii)Without prejudice to the Generality of the forgoing power, such rules may provide for all or any of the following matters-(a)the removal and safe custody of the vehicles including their loads which has broken down or which have been left standing or have been abandoned on highways ;(b)the use of waiting devices ;(c)the determination, maintenance and management of parking places for use of vehicles and animals and the fees, if any which may be charged for their use ;(d)prohibiting the use of footpaths or payments by vehicles or animals;(e)subject to specific condition the segregation to any specified part of a highway of specified classes and descriptions of vehicle or animal traffic;(f)prohibiting or restricting the use of audible signals at certain times or in certain places ;(g)regulating the loading of vehicles and in particular limiting the loads carried in relation to the size and nature of tyres fitted,(h)a right of way for ambulances and fire brigade vehicles;(i)prohibiting the use of devices designed to prevent the rotation of any wheel of a vehicle;(j)the control of animal likely to frighten other animals or pedestrians;(k)the control of children on highways;(l)prohibiting the riding by more than one person at the same time of cycles other than cycles designed for the purpose;(m)prohibiting the riding of more than two cycles abreast;(n)limiting the age of drivers of vehicles;(o)the inspection of loads carried on vehicles and animals;(p)the uses of nose-ropes for animals;(q)regulating the driving of vehicles and animals at night;(r)regulating the use of highways by pedestrians;(s)generally, the prevention of danger, injury or annoyance to the public of any person, or of danger or injury to property or of obstruction to traffic;(t)any other matter which is to be or may be prescribed.

Chapter XV

Construction Equipment and Maintenance of Vehicles

82. General provision regarding construction and maintenance.

- Every vehicle used on a highway shall be so constructed and maintained as to prevent danger of inconvenience to persons using that vehicle and other road users.

83. Power to make rules.

- The State Government may make rules regulating the construction, equipment and maintenance of vehicles used on highways.(2)Without prejudice to the generality of the foregoing powers, rules may be made under this section governing all or any of the following matter either generally in respect of vehicles or of a particular class or description or in particular circumstances, namely:-(a)the width, height and length of vehicles;(b)the size nature and condition of wheels and tyres;(c)tracks;(d)lamp and reflectors;(e)warning devices;(f)the inspection of vehicles by prescribed authorities;(g)regulation the particulars exhibited on vehicles and the manner in which particular shall be exhibited.

Chapter XVI

Control of Public Vehicles

84. Power to make rules.

(1)The State Government may make rules for the regulation of the use public, vehicles.(2)Without prejudice to generality of the foregoing power, rules may be made under this Section governing all or any of the following matters either generally or in respect of public vehicles of a particular class or description or in particular circumstances, namely:-(a)the issue, renewal, modification or cancellation of permits and the transfer of permits from one person to another ;(b)the issue, renewal or cancellation of driving licenses,(c)the issue of duplicate copies in place of permits and driving licenses mutilated, defaced, lost or destroyed;(d)the preferring of appeals by persons aggrieved by the refusal of the authority competent to grant or renew a permit or a driving licence, or to transfer a permit or by cancellation or modification of a permit or the cancellation of driving licence, and the hearing and conduct of such appeals;(e)the documents, plates and marks to be carried by public vehicles, the manner in which they are to be carried and the language in which such documents are to be expressed;(f)the badges and uniforms to be worn by drivers;(g)the fees to be paid in respect of permits driving licenses, duplicate copies of permits and driving licenses, plate badges and appeals preferred under this Chapter;(h)the production of permits and driving licenses before specified officers for purposes of inspection;(i)the conduct of persons licensed to act as drivers of public vehicles when acting as such and the conduct of passengers in such vehicles;(j)the limiting of the number of public vehicles or public vehicles of any specified class or description for which permits may be granted in any specified area, or on any specified route or routes;(k)the fixing of maximum and minimum fares or frights;(l)the minimum number of passengers or maximum quantity of goods that may carried in a public vehicle;(m)the conditions subject to which passengers luggage or goods may be carried Public vehicles;(n)the construction and fittings of and the equipment to be carried by public vehicle whether generally or in specified area on specified routes;(o)the safe custody and disposal of property left in public vehicle;(p)the conveyance in public vehicles of corpses or persons suffering from infections or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such vehicle, if used for such purposes;(q)the requirements which shall be complied with in the construction or use of any stand or halting place including the provisions of adequate equipment and facilities for the convenience of all users thereof

the fees, if any, which may be charged for the use of such facilities the record which shall be maintained at such stands or places, the staff to be employed there at and the duties and conduct of such staff and generally for maintaining such stands and place in a serviceable and clean conditions;(r)requiring the person in charge of a public vehicle to carry any person tendering the legal or customary fare;(s)the inspection of public vehicles including animals used to drive them;(t)the records to be maintained and the returns to be furnished by the owner of public vehicles;(u)the appointment, terms of appointment, jurisdiction control and functions of authorities for the purpose of administering the provisions of this Chapter;(v)any other matter which is to be or may be prescribed.

Chapter XVII

Offence Penalties and Procedure Applicable to Part V

85. General provision for punishment of offence under Part V.

- Whoever contravenes any provision of Part V of this Acts or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to ten rupees, or if having been previously convicted of any offence under this Act he is again convicted of an offence under this Part of the Act, with fine which may extend to fifty rupees.

86. Driving recklessly or dangerously.

- Whoever drives a vehicles or animal on a highway at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the highway where the vehicles or animal is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the highway shall be punishable, on conviction for the first offence with fine which may extend to one hundred rupees sand for a subsequent offence with fine which may extend to two hundred rupees.

87. Power arrest with out warrant.

- (i) A police officer in uniform or other authority authorised in this behalf by the State Government may arrest without warrant-(a)any person who being required under the provisions of Part-V of this Act to give his name and address refuses to do so, or gives a name or address which the police officer or other authority has reason to believe to be false; or(b)any person concerned in an offence under Part-V of this Act or reasonably suspected to have been so concerned, if the police officer or other authority has reason to believe that he will abscond or otherwise avoid the service of summons.(ii)A police officer or other authority arresting without warrant the driver of a vehicle or animal shall, if the circumstances so require take or cause to be taken any steps he may considers proper for the temporary disposal of the vehicle or animal.

88. Summary disposal of cases.

(1) A court taking cognizance of an offence under this Act may state upon the summons to be served on the accused person that he—(a) may appear by pleader or in person, or (b) may, by a specified date, prior to the hearing of the charge, plead guilty to the charge by registered letter and remit to the court such sum as the court may specify. (2) Where an accused person pleads, guilty and remits the sum specified no further proceedings in respect of the offence shall be taken against him.

89. Repeal and savings.

(1) The Assam Highway Act, 1928 is hereby repealed: (2) Notwithstanding such repeal, any action taken, any order passed, any notification issued or any proceedings, commenced under the Act so repealed shall be deemed to have been taken, passed, issued and commenced under the corresponding provisions of this Act. The First Schedule (See Sections 71, 72 and 73) Traffic Signs This will be reproduction of the ninth schedule to the Motor Vehicle Act, 1939, except as follows—

Part-A Mandatory signs.

Sign No. "Speed limit" and

Sign No. "Weight limit" for the definition plate marking "axles over..... Ton signs indicating
2 classes of traffic to be substituted.

Sign No. "Use of sound signals" prohibited to be deleted.
7.

Part-C Informatory signs.

Sign
No. 3. "End of speed limit" to be deleted.

Sign
No. 4. "Parking sign" signs indicating particular classes of traffic to be added.

The Second Schedule (See Sections 72 and 73) Driving Regulation

1. The driver of a vehicle or animal shall drive the vehicle or animal the case may be as close to the left hand side of the road as may be expedient and shall allow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. Except as provided in regulation 3, driver of a vehicle or an animal when passing shall drive to the right of all traffic proceeding in the same direction as himself.

3. The driver of a vehicle or animal when passing may drive to the left of a motor vehicle or a vehicle or an animal the driver of which having indicated and intention to turn to the right has drawn to the centers of the road :

Provided that in no case shall pass a tram at a time or in a manner likely to cause danger or inconvenience to other users of the road.

4. The driver of a vehicle of animal shall not pass a vehicle travelling in the same direction as himself,-

(a)if this passing is likely to cause inconvenience or danger to other traffic proceeding in any direction ; or(b)where a point or comer or a hill or an obstruction of any kind renders the road ahead not clearly visible.

5. The driver of a vehicle or animal shall not when being over taken or being pass by any class of traffic do anything in any way to prevent the other traffic from passing him.

6. The driver of a vehicle or animal shall driver slowly when approaching a road intersection, a road junction or a road corner and shall not drive into or cross any such intersection or junction until he has become aware that he may be so without endangering the safety of persons thereon.

7. The driver of a vehicle or animal shall on entering a load intersection, if the road entering is a main road designated as such, give way to traffic proceeding along that road and in any other case give way to all traffic approaching the intersection on his right hand.

8. The driver of a vehicle or animal shall-

(a)when turning to the left, driver as close as may be to the left hand side of the road from which he is making the turn and of the road which he is entering.(b)When turning to the right, drive as near as may be to the center of the road along which he is travelling and cause the vehicle or animal to move in such a manner that;(i)so far as may be practicable it passes beyond, and so as to leave on the driver's right hand a point formed by the intersection of the center lines of the intersecting roads; and(ii)it arrives as near as may be of the left hand side of the road which the driver is entering.The Third Schedule(See Section 74)Signals

1. When about to turn to the right or to drive to the right hand side of the road in order to pass another vehicle or for any other purpose, driver of a vehicle shall extend his right arm, or a whip if carried, in a horizontal position to his right out side the vehicle or otherwise so as to be visible from behind.

2. When the driver of a vehicle wishes to indicate to the driver of a motor vehicle or a vehicle behind him that he desired that driver to overtake him, he shall extend his right arm, or a whip if carried, horizontally to his right out side the vehicle or otherwise so as to be visible from behind and shall swing the arm or the whip as the case may be backwards and forwards in a semicircle motion.