

Assam Public Works (Regulation Of Road Development And Road Transport) Act, 2010

17 of 2010

[29 April 2010]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Powers and Functions
4. Development and Maintenance of Roads and Bridges
5. Preparation of schemes for road development
6. Demarcation of road boundaries
7. Annual Check of the road boundaries
8. Prevention of ribbon development along, and control of access to roads
9. Prescription of building and Control lines
10. Restriction of building etc in the area between the road and the building Line
11. Restriction on buildings etc. between the building lines and the control lines
12. Prevention of unauthorised occupation of road land and removal of encroachments
13. Removal of encroachments
14. General provision for punishment
15. Disobedience of orders, obstruction and refusal of supplying information
16. Penalty for contravention of restrictions
17. Penalty for unauthorised occupation of road land
18. Penalty for causing damage to roads
19. Power to compound offences
20. Power to arrest without warrant
21. Summary disposal of cases
22. Power to make rules
23. Repeal and saving

SCHEDULE 1 :- SCHEDULE I

SCHEDULE 2 :- SCHEDULE II

Assam Public Works (Regulation Of Road Development And Road Transport) Act, 2010

17 of 2010

[29 April 2010]

PREAMBLE

An

Act

to provide for the regulation of road development and road transport.

Whereas it is expedient to provide generally for the regulation of road development and road transport for the public such condition 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;

And whereas it is expedient to enact a consolidated law covering all the facets of road construction and maintenance under the Public Works Department, the local authorities and such other authorities as may be appointed for the purpose by the State Government;

It is hereby enacted in the Sixty-first Year of the Republic of India, as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called as the Assam Public Works (Regulation of Road Development and Road Transport) Act, 2010.

(2) It shall extend to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definitions :-

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

(a) "animal" means any elephant, camel, horse, ass, mule, cattle, sheep or goat,

(b) "betterment" when applied to the land means the increase in value of any land arising from the execution in its vicinity of a road development scheme at public expense;

(c) "betterment Tax" means a Tax levied on owners of land on the basis of a percentage of the betterment value of the land;

(d) "building line" means on either side of any road or part of a road as determined by the State Government;

(e) "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 road or bridge;

(f) "control line" means a line on either side of a road or part of a road beyond the building line, as determined by the State Government;

(g) "driver" means in the case of mechanically propelled vehicle, "driver" as defined in clause (9) of section 2 of the Motor Vehicle Act, 1988 (Act 59 of 1988) and in case of any other wheeled vehicle or conveyance drawn, propelled or driven by human being or animals, the person in charge or control of the vehicle for the time being and in the case of an animal, any person driving, leading, riding or otherwise managing or controlling the animal, and the words "driving" and "driven" shall be construed accordingly;

(h) "encroachment" means occupation of any road or part there of, and

includes,-

- (i) the erection of a building or any other structure balconies porches, chajjas or projections on over or overhanging the road land;
- (ii) occupation of road land beyond the prescribed period, if any, by stacking building materials or goods of any other description, for exhibiting articles for sale, by erecting poles, awnings, tents, pandals and other similar erections or by parking vehicles or stabling domestic animals or for any other purposes;
- (iii) excavations or embankments of any sort made or extended on any road land;

(i) "road" means any public thorough fare, whether a highway, Major District Road, State Highway Other District Road village road, rural road, street, lane, bridle path or a footpath, foot-track, whether surfaced or unsurfaced, whether on land owned by State Government or 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,-

- (i) the side slope, berm, borrow-pits, footpath, pavements and side drains of any such thorough fare,
- (ii) all bridges, culverts, causeways or other road structures, built on or across such thoroughfares;
- (iii) the trees, fences, posts and other road accessories and materials and material stacks on the thoroughfare or on land attached to the thoroughfares;

but does not include the national highways as defined under the National Highways Act, 1956 (Act 48 of 1956);

(j) "Road Authority" means,-

- (i) the Public Works Department of the Government of Assam responsible for construction, maintenance, development and repair of roads and bridges and any other authority specially appointed for the purpose by the state Government on its behalf;
- (ii) for roads maintained by local authority, the local authority or such other authority as may be appointed for the purpose by the State Government on its behalf;
- (iii) for Roads not included in clauses (i) and (ii), the authority appointed as such or, if no such appointment has been made, the State Government itself;

(k) "road boundaries" means the boundaries of the road whether visibly demarcated or not, within which the areas of land constituting the road is contained, or land reserved or acquired for widening the road;

(l) "limited access road" means a road, access to which is permitted only at points specifically provided or agreed to for the purpose by the competent road authority;

(m) "middle of a road" means in relation to any road for the improvement of which plans have been prepared by the road authority, the middle of the road as proposed to be improved in accordance with the plans, and where no such plans have been prepared, the point halfway between the

boundaries of the road;

(n) "permit" means the written permission issued to any person by the Road Authority or by any officer authorised by the Road Authority to issue permission, under section 12;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "Public Works Department" means the Public Works Department of the Government of Assam;

(q) "standard width of road" means the width of a road between its boundaries as prescribed by the Road Authority;

(r) "State Government" means the Government of Assam;

(s) "survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a re-survey;

(t) "survey mark" means any mark or object erected, made, employed or specified by a survey officer to indicate or to determine or to assist in determining the position or level of any point or points;

(u) "survey officer" means any person appointed to be a Survey Officer under this Act;

(v) "vehicle" means, in case of mechanically propelled vehicle, a "Motor Vehicle" or "Vehicle" as defined in clause (28) of section 2 of the Motor Vehicle Act, 1988 (Act 59 of 1988), and in case of any other wheeled vehicle or conveyance drawn, propelled or driven by human being or animals and shall also include any barrow, sledge, plough, drag or like vehicles;

3. Powers and Functions :-

The concern Road Authority shall exercise and discharge throughout its jurisdiction powers and functions specified under the provisions of this Act.

4. Development and Maintenance of Roads and Bridges :-

(1) The Road Authority or any officer authorised by such authority may under take a reconnaissance survey in connection with the preparation of a road or bridge scheme and may for this purposes,-

(a) enter upon any land along with his workmen and survey and take measurement and levels on it;

(b) mark such levels, dig or bore into the sub-soil and do all other acts necessary to ascertain whether the land is suitable;

(c) set out the boundaries of the proposed road 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 of jungle.

(2) The Road Authority or the authorised official shall, at the time of such entry pay or tender payment for all necessary damage 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.

5. Preparation of schemes for road development :-

(1) The Road Authority may of its own accord or if expressly requested by the competent authority shall subject to the 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, a detail scheme for the construction of a new road or Bridge Or the Improvement 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 Public Works Department is considered necessary for its execution;

(b) the laying out or relaying out of all or any of the land so acquired;

(c) the diversion or closure of any existing road or a section of such road;

(d) the construction or reconstruction of roadway including its widening, levelling, surfacing, sewerage, draining, water supply and street-lighting arrangements and painting of road side trees;

(e) the laying of footpath, cycle tracks and special traffic lanes for any kind or class of vehicles, designing and setting of parking bays and petrol filling and service stations, location of advertisement posts and bill boards; and

(f) the layout of access roads at suitable distances connecting the road or the proposed road with adjoining properties.

6. Demarcation of road boundaries :-

(1) The Road Authority shall have the boundaries of the roads 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 road in such a manner that imaginary line joining such stones or marks shows the road boundary correctly.

(2) Where there are bends or kinks in the road boundary, the stones or marks shall be so located to give the correct configuration of the boundary, if they are joined by straight line.

(3) The boundary stones or marks, which may be given consecutive numbers shall be maintained on the ground as if they constitute part of the road.

(4) Where standard widths have been prescribed for any road under Section 8, the distance between the road boundaries so demarcated shall correspond to that width.

7. Annual Check of the road boundaries :-

(1) It shall be the duty of Road Authority to conduct an annual check of the boundaries of roads in its charge with a view to the location of

unauthorised encroachments, if any.

(2) When the Road Authority is satisfied that an unauthorised encroachment has been made on roadway land, it shall take immediate steps as specified under Section 13 for removal thereof.

8. Prevention of ribbon development along, and control of access to roads :-

Standard width of different classes of roads.

One of the most effective method of ensuring that ribbon development does not take place is to acquire a liberal Right of way at the initial stage for which the standard as laid down in Schedule-I shall be followed.

9. Prescription of building and Control lines :-

In order to prevent overcrowding and preserve sufficient space for future road improvements, the minimum standards as laid down in Schedule-II shall be followed for building lines and control lines. Building lines express the limits beyond which only any building activity may be permitted. Beyond building lines there shall be the control lines beyond which only unrestrained building activity may be permitted.

10. Restriction of building etc in the area between the road and the building Line :-

Notwithstanding anything contained in any other law for the time being in force, it shall be unlawful for any person except the Road Authority or any person working on behalf of the Road Authority,-

- (a) to construct or layout any means of access to or from a road;
- (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 layout any works:

Provided that this restriction shall not apply to any works necessary for repair, renewal enlargement or maintenance of any sewer, drain, electric lines, pipe duct or other apparatus, constructed in or upon the land before the date on which the restrictions come into force or with the consent of the Road Authority.

11. Restriction on buildings etc. between the building lines and the control lines :-

(1) Notwithstanding anything contained in any law for the time being in force, no person shall erect or re-erect any building or structure or make or extend any excavation or construct form or layout any means of access to a road upon land laying in between the building lines and control lines determined in respect of the road, except with the previous permission of the Road Authority in writing.

(2) Every person desiring of obtaining permission referred to in sub-section (1) shall make an application in writing to the Road Authority in the form prescribed in this behalf to be made available in the concerned office of the Road Authority containing such information in respect of the building, excavation or means of access to which the application relates together with a fee of Rs. 5000/- payable in favour of the Road Authority in such manner as may be prescribed.

(3) On receipt of such application the Road Authority, after making such enquires as it may consider necessary, shall by order in writing, either,-

(a) grant the permission, subject to such reasonable conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission.

(4) The Road Authority shall not ordinarily refuse the permission to,-

(a) the erection of a building or structure or the making of or extending an excavation which conforms to the requirements of public health, welfare, safety and convenience of traffic on the adjoining road; or

(b) the re-erection of a building or structure which was in existence on the date on 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.

(c) the erection of any building or structure which conforms to the Master Plan, published by the competent authority for the time being in force.

(5) When the Road Authority refuse the permission, the reasons thereof shall be recorded and communicated to the applicant.

(6) In the event of the refusal, the applicant may submit fresh application for permission to the Road Authority, avoiding the objectionable features on account of which the first application was refused and such a fresh applicant shall be considered by the Road Authority as if it was made for the first time.

(7) The Road Authority shall maintain a register with sufficient particulars of all permission given or refused by it under the section and the register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts there from.

(8) Any person aggrieved by an order under sub-section (3) in granting permission subject to conditions or refusing permission to him, may within 90 days from the date of such order, prefer an appeal before the State Government whose order thereon shall be final.

12. Prevention of unauthorised occupation of road land and removal of encroachments :-

(1) All lands forming parts of a road shall be deemed to be Government land and be deemed to be the State Government property.

(2) No person shall occupy any road land without obtaining the prior permission in writing of the Road Authority or any officer authorised by such authority on its behalf.

(3) Road 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 subject to such rules and on payment of such rent or other charges as may be prescribed, permit any person,-

(i) to place movable encroachment on any road in front of any building owned by him or makes a movable structure overhanging the road;

(ii) to put up a temporary awning or tent, pendal or other similar erections or a temporary stall or scaffolding on any road; or

(iii) to deposit or cause to be deposited building materials, goods for sale or other articles on any road;

(iv) to make temporary excavation, for carrying out any repairs or improvements to adjoining buildings:

Provided that no such permission shall be deemed to be valid beyond a period of six months unless expressly renewed by the Road Authority or the authorised officer.

(4) The permission so granted shall clearly specify the date up to which the person is authorised to occupy the road land, the purpose for which occupation is authorised and the exact portion of the land permitted to be occupied and shall also be accompanied by a plan or sketch of that portion of the road, if necessary.

(5) The person in whose favour such permission has been given shall produce the permit for inspection whenever called upon to do so by any official of the concerned Road Authority 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 it was before occupation by him.

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

13. Removal of encroachments :-

(1) When, as a result of the annual check of road boundaries made, it transpires that an encroachment has taken place on road land, any officer authorised in this behalf shall serve a notice in the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original condition as it was before such encroachment within the period specified in the notice.

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

(3) If the encroachment is not removed by the person or his representative within the time limit specified in the notice and no valid cause is shown by

him for non compliance, the concerned Road 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 specified period.

(4) Where the encroachment is petty or of trivial nature, e.g. exposing articles for sale, opening temporary booths for vending etc. the Road Authority or the authorised official may, with the help of the police, if necessary, get it summarily removed without the formality of issuing a notice as required under sub-section (1).

(5) When the encroachment is of a temporary nature and easily be removed but it is not such as can be described as petty or trivial within the meaning indicated in sub-section (4), the Road Authority or the authorised official may, in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (2), get the encroachment summarily removed, with the assistance of police, if necessary.

14. General provision for punishment :-

Whoever contravenes any provision of sections 3 to 13 of this Act or any rules made thereunder shall, if no penalty is provided for the offence, be punished with fine, which may extend to five thousand rupees or if having been previously convicted of any offence under this Act with fine which may extend to ten thousand rupees.

15. Disobedience of orders, obstruction and refusal of supplying information :-

Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs any functions that such person or authority is required or empowered under this Act to discharge or being required by or under this Act to supply any information 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 penalty is provided for the offence, be punished with fine which may extend to ten thousand rupees.

16. Penalty for contravention of restrictions :-

Whoever constructs or lays out any means of access, erects or re-erects any building or structure in contravention of section 10, 11, 12 and 13 he shall be punished,-

(a) with fine which may extend to five thousand rupees;

(b) with further fine which may extend to one thousand rupees for each day after the first day curing 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.

17. Penalty for unauthorised occupation of road land :-

Whoever occupies or makes any encroachment on any road land in contravention of section 12 or fails to comply with the notice served on him under section 12 for no valid reason, he shall, on conviction be liable to pay,-

- (a) a fine which may extend to five thousand rupees for the first offence;
- (b) with further fine which may extend to five hundred rupees for each day 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 position.

18. Penalty for causing damage to roads :-

Whoever in contravention of section 8 wilfully causes or allows any vehicle or animal in his charge to cause any damage to any road, he shall be punished with fine which may extend to ten thousand rupees.

19. Power to compound offences :-

The Road Authority may either before or after the institution of the proceedings, compound an offence committed under this Act or any rules framed thereunder.

20. Power to arrest without warrant :-

(1) 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 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 reasons to believe to be false; or
- (b) any person concerned in an offence under 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.

(2) 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 consider proper for the temporary disposal of the vehicle or animal.

21. Summary disposal of cases :-

(1) A court taking cognizance of an offence under this Act by issuing summons to be served on the accused person order 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.

22. Power to make rules :-

(1) The State Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall unless some later date is appointed take effect from the date of their publication in the official Gazette subject to such modification or annulments as the Legislative Assembly may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

23. Repeal and saving :-

(1) The Assam Highways Act, 1989 (Assam Act No. XVIII of 1995) is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, any order, rule, notification made in pursuance of any of the provisions of the said Act shall be deemed to have been done, taken or made under the corresponding provisions of this Act.

SCHEDULE 1

SCHEDULE I

SCHEDULE-I (See Section-8)

Class of Roads	Land width in metres							
	Plain and rolling Country				Mountainous and steep terrain.			
	Rural Areas		Urban Areas		Rural Areas		Urban Areas	
	Normal	Range	Normal	Range	Normal	Exceptional	Normal	Exceptional
1. National and State Highways.	45	*30-60	30	30-60	24	18	20	18
2. Major District Road.	25	25-30	20	*15-25	18	15	15	12
3. Other District Road.	15	15-25	15	15-20	15	12	12	9
4. Village Road	12	12-18	10	10-15	9	9	9	9

N : B * Range considered less than Normal in exceptional cases.

SCHEDULE 2

SCHEDULE II

SCHEDULE-II (See Section-9) Standard for Building Lines and Control Lines.

Class of Road	Plain and rolling Terrain					Mountainous and steep terrain. Distance between Building Line and Road Boundary.	
	Rural Areas		Master Plan Areas/Urban Areas & Industrial Areas	Rural Areas		Urban Areas	
	Width between Building Lines (in Metre)	Width between control lines (in Metre)	Distance between Building lines and Boundary (in metre)	Normal (in metre)	Exceptional (in metre)	Normal (in metre)	Exceptional (in metre)
1. National and State Highways.	80	150	3-6	5	3	5	3
2. Major District Road.	50	100	3	5	3	5	3
3. Other District Road.	25/30	35	2.50	5	3	5	3
4. Village Road	25	30	-	5	3	5	3