

Mizoram Road Fund Act, 2007

05 of 2007

[05 April 2007]

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AN ACT An Act to provide establishment of the Mizoram Road Fund for the rehabilitation and maintenance of roads in the State of Mizoram and for matters connected therewith or incidental. Thereto, to constitute a Road Fund Board of administration of the said Fund and to monitor the activities financed from the Fund Whereas it is expedient to establish the Mizoram Road Fund for the

rehabilitation repair and maintenance of roads in Mizoram and to constitute a Road Fund Board for administration of the Fund and to monitor the activities financed 'from the Fund. It is enacted by the Legislative Assembly on the State of Mizoram in the fifty-year of the Republic of India as follows:--

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called "The Mizoram Road Fund Act, 2007"
- (2) It shall extend to the whole of the State of Mizoram.
- (3) It shall be deemed to have come into force with effect from the date of publication in the official Gazette.

2. Definitions :-

In this Act, unless the subject or context otherwise requires-

- (a) "Administration" means the Mizoram Road Fund Administration;
- (b) "Board" means the Mizoram Road Fund Board constituted under this Act;
- (c) "Bye-law" means a bye-law made by the Board under this Act;
- (d) "Collecting agent" means any person or agency entrusted with the collection of a user fee or toll;
- (e) "Core road network" means roads notified by the Government from time to time as roads of economic or social importance to Mizoram.
- (f) "Fuel" means petrol, diesel, gas and like products to be used in the propulsion of motor vehicles;
- (g) "Fund" means the Mizoram Road Fund established by this Act;
- (h) "Government" means the Government of the State of Mizoram;
- (i) "Member Secretary" means the Member Secretary of the Board;
- (j) "Minister" means the Minister of the Government responsible for public works;
- (k) "Motor Vehicle" means a vehicle propelled along a road by mechanical power;
- (l) "Notification" means an instrument published in the official Gazette and "notified" has a corresponding meaning;
- (m) "NGO" means a Non-Government Organisation;
- (n) "Prescribed" means prescribed by Rules;
- (o) "PWD" means the Public Works Department;
- (p) "Rehabilitation" means improving or strengthening a road without substantially changing its standard or classification;

- (q) "Repair and Maintenance" means works to bring a road up to the standards previously specified for it by the road agency;
- (r) "Road" means a place in Mizoram, other than a national highway declared under the National Highways Act 1956 (Central Act No. 48 of 1956), that is open to or used by the public for passage with vehicles, and includes bridges, culverts, drains and other things that facilitate such passage;
- (s) "Road Agency" means a person or body responsible for carrying out repair and maintenance;
- (t) "Rules" means rules made by the Government under this Act;

3. Purposes Of The Act :-

The purposes of the Act are to contribute to the social and economic advancement and safety of the people of Mizoram by-

- (a) establishing the Mizoram Road Fund to make better provision for the rehabilitation, maintenance and repair of roads, giving priority to the core road network; and
- (b) providing for the appointment of a Road Fund Board to administer the Fund, formulate and co-ordinate road planning, approve the road funding program and make recommendations to the Government on road network, road safety and traffic management policies and strategies for the State.

CHAPTER 2 ROAD FUND BOARD

4. Constitution And Composition Of The Board :-

- (1) After the commencement of this Act, the Government shall, by notification, constitute a Board to be called "the Mizoram Road Fund Board".
- (2) The Board shall be a body corporate-
- (a) having perpetual succession and a common seal;
- (b) being capable in law of-
- (i) suing and being sued in the name of the Board;
- (ii) purchasing, taking, holding, selling, leasing, taking on lease, exchanging or disposing of real or personal property for the purposes of this Act; and
- (iii) doing or suffering all other acts or things which a body corporate may by law do or suffer.
- (3) The office of the Board shall be located in Aizawl at the place to be decided by the Board.
- (4) The Board shall consist of the following members, namely-

MEMBER

(a) the Minister DESIGNATION

Chairman

(b) Chief "Secretary Vice-Chairman

(c) Secretary & Engineer-in-Chief; PWD Member Secretary

(d) Financial Commissioner Member

(e) Principal ScCy/Commissioner, planning Member

(f) Director, Transport Department Member

(g) Commissioner, Taxation Department Member

(h) Chief Engineer, Highways, PWD Member

(i) Chief Engineer, Roads, PWD Member

(j) Inspector General of Police Member

(k) 3 Representatives from Stakeholders Nominated Members

(l) 4 Representatives from NGOs Nominated Members

(5) The Chairman-of the Board shall, by notification, identify the Stakeholder organisations and NGOs and invite them to nominate a representative to be a member of the Board-

(6) Nominated members of the Board shall hold office for a period of three years or during the pleasure of the Government.

(7) Any nominated member may, at any time resign by submission of a letter of resignation to the Chairman of the Board and shall cease to be a member upon his death upon withdrawal of his nomination by the organization that nominated him.

(8) The Board shall meet at such time and place as the Chairman may decide and shall observe such rule,; of procedure in regard to the transaction of business at its meetings, including the quorum, as may be prescribed.

(9) At the discretion of the Chairman, the Board may adopt a resolution under an out of session procedure if a copy of a document containing the resolution is circulated to all members and a majority of them provide a signed and dated acceptance of the resolution to the Member Secretary.

(10) The Board may, subject to the rules (if any), associate with itself any person whose assistance or advice the Board may desire to have in performance of any of its functions under this Act; but such a person shall have no right to vote on matters at a Board meeting.

(11) The Board shall be assisted by a Secretariat consisting of staff deputed from road agencies and with responsibility for carrying out administrative and technical tasks for the Board and Executive Committee, as may be directed by the Executive Committee from time to time.

5. Powers, Duties And Functions Of The Board :-

(1) The Board shall have the following powers, duties and functions, namely-

- (a) To administer and manage the road fund;
- (b) To recommend collection of such fees and charges including toll fees for services and benefits in relation to the use of roads vested in or entrusted to it at such rates and in such manner, as may be prescribed;
- (c) To formulate integrated annual programme for rehabilitation repair and maintenance of the road giving priority to core road network;
- (d) To provide funds to the road agency for such rehabilitation, repair and maintenance of the roads;
- (e) To formulate road safety and traffic management policies and strategies for the State of Mizoram;
- (f) To co-ordinate road sector agencies where the implementation of Government road policy involves more than one agency;
- (g) To develop and monitor key performance indicators for the core road network;
- (h) To approve road programme proposals from road agency seeking funding from the Road Fund, subject to the agency prioritizing its programmes on a cost-benefit basis;
- (i) To recommend improvement of arrangements for collecting road user charges to minimize avoidance and evasion;
- (j) To recommend to the Government from time to time, appropriate levels of road user charges, fines, penalties, levies or any other sums to be collected under this Act and paid into the Fund;
- (k) To undertake any other activities entrusted by the Government in furtherance of the objectives for which the Road Fund Act is established.

(2) The Board may form an Executive Committee to perform such functions as may be determined by the Board, and, unless the Board decides otherwise, the Executive Committee shall-

- (a) have a majority of members with experience in road financing or management;
- (b) carry out the following functions-
 - (i) the seeking of proposals from road agencies;
 - (ii) the receipt and review of submissions from road agencies;
 - (iii) recommending to the Board of the programme for rehabilitation and maintenance of roads and variation to that programme;

- (iv) advice to road agencies of the programme and variations approved by the Board;
- (v) the monitoring of the delivery of the Board approved programmes by the road agencies;
- (vi) the provision of annual and periodic reports as required by the Board.

CHAPTER 3 THE ROAD FUND

6. Establishment Of Fund :-

- (1) As soon as may be after constitution of the Board, there shall be established a Fund to be called The Mizoram Road Fund.
- (2) The Fund shall consist of the following ;
 - (a) grants received by the Government from Government of India for the rehabilitation or repair and maintenance of roads.
 - (b) fees, fines and other amounts collected by the Government under the Mizoram Highways Act 2002.
 - (c) an amount to be appropriated from the Consolidated Fund of the State within one month from the commencement of this Act, and thereafter in accordance with the Appropriation Acts, shall be an amount equal to any cess on diesel and petrol, any road and road transport related taxes and fees collected under this Act at the end of the preceding year. The rates or amount of collections under this Act shall be decided by the Government from time to time.
 - (d) toll fees on bridges or busy roads as may be notified by the Government.
 - (e) any grant, aid, bequest, subsidy, donation, gift, subscription, loan or other sums lawfully received by the Board.

7. Accounts And Audit :-

- (1) All moneys mentioned in sub-section (2) of section 6 above and forming part of the Fund shall be deposited in any Schedule Bank or State Co-operative Bank as may be decided by the Board and the said account shall jointly be operated by the Vice-Chairman and Member Secretary of the Board in such manner as may be specified by the Board.
- (2) The Board shall maintain such books of accounts and other books in relation to its accounts and prepare annual statement of accounts which shall be audited by the Auditor appointed by the Board with prior approval of the Government.

8. Collecting Agent :-

The following Departments or Agencies shall be entrusted as collecting agents for collecting user fees, taxes/surcharges, tolls, fines etc. as may be decided by the Government or the Board from time to time as shown against their name.

Transport Department. Road based fees & taxes including road tax, driving licence fees, vehicle registration fees, wheel taxes, national and tourist permit fees.

Taxation Department Surcharges on diesel and petrol.

Public Works Department. Toll fees on selected bridges and roads and fines.

CHAPTER 4 MISCELLANEOUS

9. Protection Of Acts Done In Good Faith :-

No suit, prosecution or other legal proceedings shall lie against the Board or any member of the Board for anything which is done or intended to be done in good faith in pursuance of the provision of this Act or any rules and bye-laws made thereunder.

10. Removal Of Difficulties :-

If any difficulty arises in giving effect to any provision of this Act, the Government may, as the occasion may require, by order, do anything not inconsistent with this Act or the rules made thereunder, which appears to them necessary for the purpose of removing the difficulty.

11. Delegation Of Power :-

The Board may, by notification, delegate any of the powers conferred on it under this Act, to the Executive Committee, except this power of delegation.

12. Power To Make Rules :-

(1) The State Government may after publication the intention of making such rules in the Official Gazette, make rules for the regulation of the rehabilitation, maintenance and repair of roads and generally for carrying into effect the purposes of this Act.

(2) Without "prejudice to the Generality of the foregoing power, such rules may provide for.--

f a) The term of office and other conditions of service of the

members of the Board,

(b) The powers and duties of the Chairman, the Member Secretary and other members of the Board,

(c) Appointment, remuneration, facilities and conditions of service of the employees of the Board,

(d) Modality to be followed in carrying out the Boards activities, accounts and fiscal administration and road repairs, maintenance and other activities,

(e) Any other related necessary matters,

(3) Every rule made under this Act shall be laid, may be after it is made, before the Mizoram Legislative Assembly while it is in session for a total period of seven days which may be comprised in one session or in two sessions and if before the expiry of the session immediately following the session aforesaid, the Mizoram Legislative Assembly agree in making any modification in the rule or the said Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule.

13. Power To Frame Bye-Laws :-

(1) The Board may frame bye-laws not inconsistent with the provisions of this Act and the rules made thereunder for enabling it to discharge its functions under this Act.

(2) In particular and without prejudice to the foregoing power, such bye-laws may provide for all or any of the following matters, namely:

(a) the time-and place of meetings of the Board and rules of procedure to be observed by the Board in regard to transaction of business at its meetings under this Act.

(b) any other matter which is, or may be, necessary to be prescribed for the efficient conduct of the affairs of the Board,

(1) The Board shall during each financial year, prepare an annual report giving a true and full account of its activities in the previous financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after receipt of the same.

14. Acts And Proceedings Of The Board Presumed To Be

Valid :-

No act or proceedings of the Board shall be invalid merely by reason of-

- (a) any vacancy therein or any defect in the constitution thereof,
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in its procedure not affecting the merit of the case.