

Punjab Highways Authority Act, 1989

5 of 1989

[02 April 1989]

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An Act to establish the Punjab Highways Authority Preamble.-
Whereas, the Punjab Government is desirous to establish and maintain a unified and co-ordinate system of Motorways, Super Highways and Highways in the Province of the Punjab, to meet with the growing needs of traffic; And whereas, it is expedient to establish the Punjab Highways Authority for the construction, development, improvement and maintenance of Motorways, Super Highways, Highways and other projects as may be assigned by the Punjab Government for execution in the manner hereinafter appearing; It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Punjab Highways Authority Act, 1989.
- (2) It shall extend to the whole of the Province of the Punjab.
- (3) It shall come into force at once.

2. Definitions :-

In this Act unless the context otherwise requires:-

- (1) "Authority" means the Punjab Highways Authority, established under Section 3 of this Act;
- (2) "Agency" means-
 - (a) Any department or organization of the Federal or Provincial Government and includes a corporation or other autonomous or semi-autonomous body set up by the Federal or Provincial Government;
 - (b) An administrative Division or District, department, bureau, section, commission, Board, Office or Unit of the Government;
- (3) "Building" includes any factory, industrial establishment, shop, godown, warehouse, house, outhouse, hut, shed, garage, stable, well, platform and any other structure;
- (4) "Chairman" means the Chairman of the Authority;
- (5) "Director General" means the Director General of the Authority;
- (6) "Government" means the Government of the Punjab;
- (7) "Land" includes earth, water and air, above, below or on surface and any improvement in the structure customarily regarded as land

and benefits arising out of land and things attached to earth or permanently fastened to earth;

(8) "Local Body" means a local council or a cantonment Board established by or under any law for the time being in force;

(9) "Market Value" means the average market value of land prevailing in scheme area;

(10) "Member" means a member of the Authority and includes the Chairman;

(11) "Motorway, Super Highway and Highway" shall include, all culverts, bridges, adjacent berms, side drains, and land within the boundaries of the right of way, and shall also include all fences, posts and trees within the right of way;

(12) "Person" includes an individual, Company, Firm, Co-operative Society or association of individuals whether incorporated or not;

(13) "Prescribed" means prescribed by rules or regulations framed under this Act;

(14) "Scheme area" means an area notified as such by the Government and shall include the right of way, stone and sand quarries and the service roads leading from quarry sites to the scheme area.

3. Constitution Of The Authority :-

(1) There shall be established an Authority to be known as the Punjab Highways Authority for carrying out the purposes of this Act.

(2) The Authority shall be a body Corporate, shall be able to acquire and hold property, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The authority shall consist of the following members-

(a) The Chief Minister of the Punjab;

(b) The Chairman, Planning and Development, Government of the Punjab;

(c) Director General of the Authority;

(d) Secretary, Government of the Punjab, Finance Department;

(e) Secretary, Government of the Punjab, Communications & Works Department.

(4) The Chief Minister of the Punjab shall be the Chairman of the Authority.

(5) The membership of the Authority may be altered, increased or decreased by the Government.

(6) No act or proceeding of the Authority shall be invalid merely by

reason of any vacancy or defect in the constitution of the Authority.

4. Meetings Of The Authority :-

(1) The Authority shall meet at such time and place, and in such manner, as may be prescribed:

Provided that until rules or regulations are made in this behalf, such meetings shall be convened by the Chairman.

(2) The Chairman, or in his absence, a member authorised by him, shall preside over the meetings of the Authority.

5. Powers And Functions Of The Authority :-

The powers and functions of the Authority shall be-

(1) to prepare, for the approval of the Government, a comprehensive master plan for the establishment of Motorways, Super-Highways and Highways in the Punjab;

(2) pursuant to the master plan to call upon any agency operating in the scheme areas to prepare, in consultation with the Authority, schemes in respect of-

(a) Land use, zoning and land reservation;

(b) Planning, designing, construction and supervision of Motorways, Super-Highways and Highways;

(c) Leasing, maintaining, and developing stone and sand quarries for use in the construction of Motorways, Super-Highways and Highways;

(d) Transport, Communications & Works, Highways, Roads, Railways;

(e) Tele-communications;

(f) Irrigation;

(g) Electric transmission;

(h) Gas transmission; and

(i) Utilisation of natural resources.

(3) at the end of each year, to prepare annual development plan and ensure compliance of the annual development programme, according to the priorities established in the comprehensive master plan;

(4) cause studies, survey, experiments or technical research to be made and contribute towards the cost of any such studies, surveys, experiments or technical research made by any other agency;

(5) to prepare, implement schemes for the establishment of Motorways, Super-Highways and Highways;

(6) to acquire land and property, movable and immovable;

- (7) to undertake any work or incur any expenditure;
- (8) to sell, lease, exchange or otherwise dispose of any property vested in the Authority;
- (9) to approve standards, designs, specifications for the development, construction and maintenance of Motorways, Super-Highways and Highways, structures and Highway safety standards;
- (10) to fix axle-load and speed limits on Motorways, Super-Highways and Highways;
- (11) to procure, purchase and maintain machinery, equipment, instruments and other material required for use of the Authority;
- (12) to appoint advisers, Consultants and Contractors for the execution of works and for that purpose to draw, make, execute any agreements, contracts or other instruments as it may consider necessary;
- (13) to issue interim development orders for areas for which a scheme is under preparation or under execution and restrict or prohibit, by general or special order, any change in the use of land and alteration in buildings, structures and installations;
- (14) to cause removal of any works obstructing the execution of its scheme;
- (15) to seek or obtain advice and assistance for the preparation of any scheme, or for execution of any scheme from any agency or person, and such agency or person shall give the advice and assistance sought by the authority to the best of its ability, knowledge and judgement, and the additional expenditure, if any, involved in obtaining such advice or assistance shall be borne by the Authority; and
- (16) to impose toll tax for the use of Motorways, Super-Highways and Highways and cause the same to be collected, directly or through contractors.

6. Appointment And Terms Of Office Of Director General :-

- (1) The Authority shall have a Director General who shall be appointed by the Government on such terms and conditions as may be determined by the Government.
- (2) The Director General shall be the Chief Executive of the Authority and shall-
 - (a) perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Authority or under this Act;
 - (b) hold office during the pleasure of the Government and unless

sooner transferred or removed the Director General shall hold office for a period of four years.

(3) Nothing in this section shall preclude the Government from extending the term of office of the Director General for such period as the Government may determine.

7. Responsibilities Of Director General :-

Notwithstanding anything in this Act the Director General may, with the previous approval of the Authority:-

(1) be responsible for implementing the decisions of the Authority in respect of administrative and financial matters;

(2) formulate scales, standards and specifications and also scrutinize the schemes for maintenance and development of the Motorways, Super-Highways and Highways;

(3) be responsible for effective inspection of the work of executing agencies, firms and persons;

(4) shall ensure, through periodic inspections that projects and annual maintenance programmes are implemented as approved;

(5) ensure through regular Highway patrolling that the riding quality and traffic worthiness of the Motorways, Super-Highways and Highways is maintained;

(6) shall cause development and maintenance schemes to be prepared and after confirming the scope of work, put up his recommendations before the Authority for approval.

8. Preparation And Execution Of Schemes :-

(1) The Authority shall, in such form and in such manner as may be prescribed, prepare schemes.

(2) All schemes prepared by the Authority shall be submitted to the Government for its approval except those schemes, the provisional estimated cost of which does not exceed such limits as may be prescribed, or for which no loan or grant is required from the Government.

(3) The Authority shall publish the sanctioning of any scheme in the official gazette and shall forthwith proceed to execute the scheme.

(4) The publication of a sanction under sub-section (3) shall be conclusive evidence that the scheme has been duly framed and sanctioned.

9. Information About Schemes :-

All schemes prepared shall contain among other things the following information, namely-

- (a) description of the scheme and manner of its execution;
- (b) estimate of costs and benefits;
- (c) allocation of costs to the various purposes to be served by the scheme.

10. Arrangements With Other Agencies :-

(1) The Authority may require a Government agency, within whose jurisdiction any particular aspect of development covered by a scheme lies-

- (a) to execute a scheme in consultation with the Authority;
- (b) to provide any amenity in relation to the highway safety which in the opinion of the Authority ought to be provided; and
- (c) to enforce regulations on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme or on the enforcement of regulations, under this section, shall be borne as may be agreed to between the Authority and the Government Agency and in the event of disagreement, as may be determined by the Government.

11. Power To Execute Any Scheme :-

(1) Where the Authority is satisfied that any direction given by it under sub-section (1) of Section 10 with regard to any scheme, has not been carried out by the Government Agency, the Authority may, itself, undertake any work for the execution of that scheme and to cost thereof, shall be borne as may be agreed between the Authority and the Government Agency and in the event of disagreement, as may be determined by the Government.

(2) Where any work is undertaken by the Authority under sub-section (1), it shall be deemed to have, for the purposes of execution of such work, all powers which may be exercised under any law for the time being in force, by the Government Agency concerned.

12. Directions By Government :-

The Authority shall, in discharging its functions, act and be guided, by such directions as the Government may give to it from time to time.

13. Power To Levy Betterment Toll :-

Where, the execution of any scheme by the Authority, has in the opinion of the Authority, brought about an improvement in a facility which has resulted in a saving in the vehicle operating costs, the Authority may with the prior consent of the Government, levy toll tax on the vehicles using the facility.

14. Determination Of Toll Tax :-

The toll tax for each kind of vehicle will be determined in such a way as may be prescribed.

15. Appointment Of Officers And Servants, Etc :-

The Authority may, from time to time, appoint such officers, servants, experts or consultants as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

16. Conditions Of Service And Disciplinary Powers :-

The Authority shall lay down the procedure for the appointment of its officers, servants, experts and consultants, and the terms and conditions of their service including the constitution and management of provident fund for them, and shall be competent to take disciplinary action against them.

17. Officers, Servants, Experts To Be Public Servants :-

The Director General, members, officers, servants, experts and consultants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

18. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against the Authority, the Director General, any member, officer, servant, expert or consultant of the Authority in respect of anything done or intended to be done, in good faith under this Act.

19. Delegation Of Powers :-

The Authority may, by general or special order, delegate to the

Director General, or a member, or an officer of the Authority, any of its powers, duties or functions under this Act subject to such conditions as it may think fit to impose.

20. Finances :-

- (1) The Government shall establish a "Punjab Highway Authority Fund" which shall vest in the Authority.
- (2) The fund shall consist of-
 - (a) grants made by the Government;
 - (b) loans obtained from the Government;
 - (c) grants made by local bodies as required by the Government;
 - (d) sale proceeds of bonds issued with the approval of the authority of the Government;
 - (e) loans obtained by the Authority with special or general sanction of the Government;
 - (f) foreign aid and loans obtained from the International Agencies, Governments or otherwise, with the sanction of and on such terms and conditions as may be approved by the Government; and
 - (g) all other sums received by the Authority.

21. Authority To Be Deemed To Be A Local Authority :-

The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purpose of borrowing money under the said Act and the making and execution of any scheme under this Act shall be deemed to be a work which such Authority is legally authorised to carry out.

22. Limited Liability :-

The liability of the Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loans raised by the Authority with the sanction of the Government.

23. Toll Tax :-

- (1) The Authority shall have the power to impose Toll Tax to be recovered from the users of Motorways, Super-Highways and Highways, developed and maintained by the Authority.
- (2) The rates of the Toll Tax shall be so fixed to provide for meeting the development, maintenance and operating costs, interest charges and depreciation of assets; the redemption at due

time of loans other than those covered by depreciation and the reasonable return on investment.

24. Maintenance Of Accounts :-

- (1) The overall financing and allocations from the funds for development of projects and maintenance will be planned on performance budgeting as adopted by the Punjab Government.
- (2) The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed.

25. Audit Of Accounts And Annual Statement Of Accounts :-

- (1) In the month of August each year, the accounts of the Authority shall be audited by auditors appointed by the Authority.
- (2) The Authority shall also submit to the Government for approval a statement of accounts and estimated receipts and expenditure in respect of the next financial year.

26. Audit :-

- (1) The accounts of the Authority shall be audited in such a manner as may be prescribed by the Government.
- (2) Copies of the Audit Report shall be sent to the Authority, to the Government and shall also be available for public inspection.
- (3) The Authority shall carry out any directive issued by the Government for rectification of an audit objection.

27. Maintenance Of Funds :-

The Authority shall maintain its funds in such manner as is prescribed by the Government from time to time.

28. Acquisition :-

The acquisition of any land or any interest in land for the Authority under this section, or for any scheme under this Act, shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894, and the provisions of the said Act shall apply to all such proceedings.

29. Annual Report :-

The Authority shall prepare for every year a report of its activities

during that year and submit the report to the Government in such form and on or before such date, as may be prescribed.

30. Recovery Of Dues :-

Any sum due to the Authority from, or any sum wrongly paid by the Authority to any person under this Act, shall be recoverable as arrears of land revenue.

31. Act To Prevail Over Other Laws :-

In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other law for the time being in force, the provision of this Act shall, to the extent of such conflict or inconsistency prevail.

32. Penalty :-

Whoever contravenes any provision of this Act, or any rules or regulations made thereunder shall, if no penalty is provided for such contravention, be punishable with the imprisonment for a term which may extend to six months or with fine or with both.

33. Causing Damage To Property Or Disobedience Of Orders :-

(1) Whoever willfully causes damage, or allows damage to be caused to any property which vests in the Authority, or which is intended to be acquired by the Authority, or unlawfully converts it to his own or any other persons use, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever refuses or willfully neglects to provide any officer or servant of the Authority with the means necessary for entering into any premises for the purpose of collecting any information or making an examination shall be punishable with imprisonment to one year or with fine or both.

(3) Whoever, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Act, shall be guilty of an offence punishable under section 32.

(4) Whoever attempts to commit or abets the commission of an offence punishable under this Act, shall be deemed to have committed an offence.

(5) No court shall take cognizance of any offence punishable under

this Act except on a complaint in writing made by an officer authorised for the purpose by the Authority.

34. Power To Make Rules :-

Subject to the provisions of this Act, Government may make rules for carrying into effect the purposes of this Act.

35. Power To Make Regulations :-

Subject to the provisions of this Act and the rules framed thereunder, the Authority may make regulations as may be necessary, to carry out the purposes of this Act.

36. Repeal Of Punjab Ordinance I Of 1989 :-

The Punjab Highways Authority Ordinance, 1989 (Ordinance I of 1989), is hereby repealed.