

Rajasthan State Highways Act, 2014

22 of 2015

[01 May 2015]

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Rajasthan State Highways Act, 2014

22 of 2015

[01 May 2015]

An Act to provide for the declaration, development, operation, safety and regulation of state highways and the use of land appurtenant thereto, acquisition of land for highways and other roads, constitution of the Rajasthan State Highways Authority, and for matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-sixth Year of the Republic of India, as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Rajasthan State Highways Act, 2014.

(2) It extends to the State of Rajasthan.

(3) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint: Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision:

Provided further that the State Government shall appoint such date for commencement of the provisions of sections 5 to 15 and sub-section (6) of section 60, after inclusion of this Act in the Fourth Schedule of the Land Acquisition Act, 2013 under subsection (2) of section 105 thereof.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Authority" means the Rajasthan State Highways Authority constituted under section 44;
- (b) "building" includes any erection of whatsoever material and in whatsoever manner constructed (including a farm-building for agricultural purposes) and also includes plinths, door steps, walls (including compound walls and fences) advertisement boards and the like;
- (c) "Chairperson" means the Chairperson of the Authority;
- (d) "competent authority" means any person or authority authorised by the State Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;
- (e) "Collector" means the Collector of a District and includes any officer specially appointed by the State Government to perform the functions of a Collector under this Act;
- (f) "control zone" means the area of land appurtenant to a highway and situate within the distance specified in sub-section (1) of section 20;
- (g) "concession" means the rights and obligations specified in a contract entered into between the State Government or the Authority, as the case may be, and any person for development, financing and operation of a state highway or part thereof, and includes a contract for operation of, and levy and collection of fee on, a state highway;
- (h) "concessionaire" means a person who has entered into a contract with the State Government or the Authority, as the case may be, for and in respect of a concession;
- (i) "development", in relation to a state highway, includes its designing, construction, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and "develop" shall be construed accordingly;
- (j) "Divisional Commissioner" means the Commissioner of a Division and includes any officer specially appointed by the State Government to perform the functions of a Divisional Commissioner under this Act;
- (k) "encroachment" means unauthorised occupation of any highway or part thereof and includes-
 - (i) the erection of a building or any other structure, balconies, thresholds, porches or projections on, over or overhanging the highway;
 - (ii) occupation of highway beyond the prescribed period, if any, for

stacking materials or goods of any description or for exhibiting articles for sale, or for erecting poles, awnings, tents, pandals, and other similar erection, or for parking vehicles or stabling domestic animals, or for any other purposes; and

(iii) excavations or embankments of any kind made or extended on any highway land;

(l) "erect", with all its grammatical variations, in relation to a building, means to construct, reconstruct, extend or alter structurally a building;

(m) "excavation", in relation to a piece of land, means piercing the surface of that piece of land and includes digging of wells and tanks;

(n) "expressway" means a highway having a controlled access thereto with a limited number of intersections and a divider between lanes for traffic moving in opposite directions;

(o) "highway" or "state highway" means any road for the time being declared as a state highway under section 3 and shall include all land situate within the boundaries of such road;

(p) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(q) "Land Acquisition Act, 2013" means the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No. 30 of 2013) and includes any modification, amendment or re-enactment thereof;

(r) "member" means a member of the Authority appointed under section 44 and includes the Chairperson;

(s) "occupier" includes -

(i) any person who for the time being is paying or is liable to pay to the owner rent or any portion of the rent of the premises in respect of which such rent is paid or payable;

(ii) an owner living in or otherwise using the premises;

(iii) a rent free tenant;

(iv) a licensee in occupation of any premises; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any premises;

(t) "operation", in relation to a highway, includes its maintenance, repair, modification, improvement, management and regulation, and "operate" shall be construed accordingly;

(u) "owner", means and includes,-

(1) when used with reference to any premises, the person who receives the rent of the said premises or who would be entitled to

receive the rent thereof if the premises were let, and includes-

(i) an agent, manager or trustee, by whatever name called, who has control over the premises or who receives rent on behalf of the owner;

(ii) an agent, manager or trustee who receives the rent of, or is entrusted with, or concerned with, any premises devoted to religious or charitable purposes;

(iii) receiver, sequestrator or manager appointed by any court of competent jurisdiction; and

(iv) a mortgagee in possession;

(2) when used with reference to an institution or a body corporate, the principal officer of such institution or body corporate;

(3) when used with reference to a vehicle, the person who own or controls that vehicle;

(v) "person" shall include any company or association or body of individuals, whether incorporated or not ;

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

(x) "regulations" means regulations made by the Authority under this Act;

(y) "rules" means rules made by the State Government under this Act;

(z) "State Government" means the Government of the State of Rajasthan;

(za) "survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and also includes a resurvey;

(zb) "Schedule" means Schedule of this Act;

(zc) "user" means a person who is authorised to use a highway under the provisions of this Act and includes any person who uses a highway in discharge of his functions and duties under any law for the time being in force;

(zd) "vehicle" means and includes a vehicle of every description of carriage or other artificial contrivance used, or capable of being used, as means of transportation on land; and

(ze) "wayside amenities" means and includes hotel, motel, restaurants, service stations, hospitals, trauma centres, shopping complexes, office complexes, transport and tourism facilities, warehousing, logistic hubs, entertainment complexes, associated services, residential premises and other amenities or facilities that may be useful for travellers and for areas surrounding a highway.

CHAPTER 2 DEVELOPMENT AND OPERATION OF HIGHWAYS

3. Declaration of certain highways to be state highways :-

(1) Each of the roads included in the Schedule is hereby declared to be a state highway under this Act.

(2) The State Government may, by notification in the Official Gazette, declare any road to be a state highway under this Act and on the publication of such notification such road shall be deemed to be included in the Schedule.

(3) The State Government may, by like notification, omit any highway from the Schedule and, on the publication of such notification, the highway so omitted shall cease to be a state highway under this Act.

4. State highways to vest in the State :-

(1) All state highways shall vest in the State Government as the owner thereof, and for the purposes of this Act such highways shall include-

(i) all lands appurtenant thereto, whether demarcated or not;

(ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such highways;

(iii) all road furniture, signals, sign boards, fences, trees, posts and boundary stones of such highways or any land appurtenant to such highways; and

(iv) all wayside amenities.

(2) The State Government shall cause to be maintained a record of state highways and lands comprising each highway in such manner as may be prescribed by rules made in this behalf. Any records of the lands comprising state highways maintained on or before the date of commencement of this Act shall be deemed to be records for the purposes of this section and the State Government shall be deemed to be the owner of such state highways and the lands forming part thereof.

(3) Any person claiming against the ownership of the State Government referred to in sub-section (2) shall make written complaint to the State Government and prove his claim before it and the State Government may, after considering the evidence produced by such person, correct such records or reject the claim.

5. Power to acquire land, etc :-

(1) Where the State Government is satisfied that for a public purpose any land is required for the development of an existing or

new highway, any other road, or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two State level newspapers having wide circulation, at least one of which shall be in Hindi language.

(4) Upon issue of a notification under sub-section (1), it shall be lawful for any person, authorised by the State Government in this behalf, to-

(a) enter upon any land with his workmen and make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such boundaries and lines placing marks and cutting trenches; or

(f) do such other acts or things as may be laid down by rules made in this behalf by the State Government:

Provided that no person shall enter into any building or any enclosed court or garden attached to a dwelling house or cut down and clear any part of standing crops, or fence without the consent of the occupier thereof or without giving such occupier a notice of at least twenty four hours, in writing, of his intention to do so:

Provided further that the State Government shall pay reasonable compensation to the occupier for the damage caused by him to such building, land or other structures.

(5) The State Government may, upon issue of a notification under sub-section (1), acquire any land specified therein by outright gift or purchase by agreement with the owners, or failing such agreement, by recourse to the provisions of this Act.

6. Hearing of objections :-

(1) Any person interested in any land which is included in the notification issued under sub-section (1) of section 5 may, within twenty-one days from the date of publication thereof, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds

thereof whereupon the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.- For the purposes of this sub-section, legal practitioner has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (Central Act No. 25 of 1961).

(3) Any order made by the competent authority under subsection (2) shall be final.

7. Declaration of acquisition :-

(1) Where no objection under sub-section (1) of section 6 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the State Government and on receipt of such report, the State Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 5.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the State Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 5 for acquisition thereof, but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect: Provided that any period during which the operation of the notification issued under sub-section (1) of section 5 is stayed by a court in any proceedings pending in respect thereof shall be excluded while computing the said period of one year.

(4) A declaration made by the State Government under subsection (1) shall not be called in question in any court or by any other authority.

8. Power to take possession :-

(1) Where any land has vested in the State Government under sub-section (2) of section 7, and the amount of compensation determined by the competent authority under section 10 with

respect to such land has been deposited in the manner prescribed under sub-section (1) of section 13, with the competent authority by the State Government, the competent authority may, by notice in writing, direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within ninety days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply,-

(a) in case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police; and

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of the District, and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land to the competent authority or to the person duly authorised by it.

9. Right to enter into the land vested in the Government :-

Where the land has vested in the State Government under sub-section (2) of section 7, it shall be lawful for any person authorised by the State Government in this behalf, to enter and do other acts necessary upon the land for carrying out the building, maintenance, management or operation of a highway, any other road, or a part thereof, or any other work connected therewith.

10. Determination of compensation by competent authority :-

(1) Where any land is acquired from any person under this Act, there shall be paid to such person a compensation which shall be determined by the competent authority.

(2) Where the right of user or any right in the nature of an easement on any land is acquired under this Act, there shall be paid to the person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount equal to ten per cent of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under subsection (1) or sub-section (2), the competent authority shall give a public notice, published in two State level newspapers having wide circulation, at least one of which shall be in Hindi language, inviting claims from all persons interested in the land to be acquired.

(4) A notice under sub-section (3) shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 6, before the competent authority, at a designated time and place and to state the nature of their respective interest in such land.

(5) Upon hearing the interested persons and considering the material on record, the competent authority shall by order make an award under this section within a period of one year from the date of the publication of the notification under sub-section (3) of section 5 and if no award is made within that period, it may make the award within an extended period which shall not exceed one year:

Provided that where an award is made within the extended period, the entitled person shall be paid an additional compensation for the extended period, at the rate of one and a quarter per cent of the value of the award, for each month of such extended period.

11. Determination of compensation by arbitrator :-

(1) If the amount determined by the competent authority under section 10 is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the State Government from among persons who have been district and session judges, in such manner and on such terms as may be prescribed by rules.

(2) Except as otherwise provided in this Act, the provisions of the Arbitration and Conciliation Act, 1996 (Central Act No. 26 of 1996) shall apply to every arbitration under this Act.

12. Determination of amount payable as compensation :-

(1) While assessing and determining the market value of land for making an award under section 10 or section 11, as the case may be, the competent authority or the arbitrator shall adopt the criteria specified in section 26 of the Land Acquisition Act, 2013.

(2) The competent authority having determined the market value of the land acquired shall calculate the total amount of compensation to be paid to the land owner, whose land has been acquired, by including all assets attached to the land.

(3) In determining the amount of compensation to be awarded for any land acquired under this Act, the competent authority shall take into consideration the criteria and factors specified in section

28 of the Land Acquisition Act, 2013.

(4) In determining the market value of the building, other immovable property or assets, trees and plants or damage to the standing crops attached to the land or building which is to be acquired, the Collector may use the services of specialists or experienced persons as specified in section 29 of the Land Acquisition Act, 2013.

(5) The competent authority having determined the total compensation to be paid, shall, to arrive at the final award, impose a solatium amount in accordance with the provisions of section 30 of the Land Acquisition Act, 2013.

13. Deposit and payment of amount :-

(1) The amount determined under section 12 shall be deposited by the State Government in such manner as may be prescribed by rules made in this behalf, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall, on behalf of the State Government, pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 11 by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at the rate of nine per cent per annum on such excess amount from the date of taking possession under section 8 till the date of the actual deposit thereof.

(6) The amount determined by the arbitrator in excess of the amount determined by the competent authority, together with interest, if any, shall be deposited by the State Government in such manner as may be prescribed by rules made in this behalf, with the competent authority and the provisions of sub-sections (2) to (4)

shall apply to such deposit.

14. Competent authority to have certain powers of civil court :-

The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office; and
- (e) issuing commission for examination of witnesses.

15. Resettlement and Rehabilitation Award :-

The award for rehabilitation and resettlement of all affected families shall be determined in accordance with the provisions of sections 31 to 42 of Land Acquisition Act, 2013 read with Second Schedule and Third Schedule thereof.

16. Development and operation of highways :-

(1) The State Government shall develop and operate all state highways; provided, however, that it may, by notification in the Official Gazette, direct that any function in relation to the development and operation of any highway shall, subject to such conditions, if any, as may be specified in the notification, also be exercisable by the Authority or by any officer or authority subordinate to the State Government or to the Authority, in accordance with such rules as the State Government may prescribe.

(2) The State Government may regulate the operation of highways by rules to be made for and in respect of -

- (a) upkeep and inspection of highways;
- (b) safety of users;
- (c) road safety standards and procedures;
- (d) the manner of preventing obstructions on highways;
- (e) the manner of prohibiting the parking or waiting of vehicles on highways, except at places earmarked for this purpose;
- (f) the manner of prohibiting or restricting access to any part of the highways;

- (g) the manner of regulating or restricting advertisements on and around highways; and
- (h) generally for the efficient and proper operation of highways.

17. Power to issue directions to the Authority :-

The State Government may give directions to the Authority as to the carrying out of any of the provisions of this Act or of any rule, notification or order made thereunder, or for discharging any functions or duties of the State Government or for exercising any powers of the State Government under this Act, and the Authority shall comply with such directions forthwith.

18. Fees for services or benefits rendered on highways :-

(1) No vehicle shall enter or use a highway without payment of fee levied under sub-section (2) in the form and manner prescribed by the State Government or in accordance with any exemption thereof, and it shall be the duty of the owner or occupier of a vehicle to tender such fee in the form and manner prescribed by the State Government.

(2) The State Government may, by notification in the Official Gazette, levy fees at such rates as may be laid down by rules made in this behalf for services or benefits rendered in relation to the use of highways or parts thereof, including the use of ferries, permanent bridges, temporary bridges or tunnels.

(3) Such fees when so levied shall be collected in accordance with the rules made under this Act and any person who in any manner avoids or evades the collection of fees shall, without prejudice to any other provisions of this Act, be liable to payment of a fine equal to one third of the fees payable by such person.

(4) Any fee leviable immediately before the commencement of this Act for services or benefits rendered in relation to the use of a highway shall continue to be leviable under this Act unless and until it is altered in exercise of the powers conferred by sub-section (2).

(5) The State Government may exempt vehicles engaged in defence, security, law and order, fire fighting, crime prevention, medical emergencies or such other public purposes, as it may prescribe, from payment of fees under this section.

19. Agreements for development and operation of highways :-

(1) Notwithstanding anything contained in this Act, the State Government or the Authority, as the case may be, may enter into an agreement with any person in relation to the development and operation of the whole or any part of a highway, and such agreement may, where deemed necessary, include the terms and conditions for development of wayside amenities, habitations, townships or industrial corridors in the vicinity of such highway:

Provided that no such agreement shall be entered into except with a person who has been selected through a process of open competitive bidding on such terms as may be approved by the State Government:

Provided further that the development of habitations, townships and industrial corridors shall be undertaken in conformity with the applicable laws.

(2) Notwithstanding anything contained in section 18, the person referred to in sub-section (1) shall be entitled to collect and retain fees in such manner and at all such rates as may be prescribed by rules made under section 18 and in accordance with the terms of the agreement referred to in sub-section (1).

(3) A person referred to in sub-section (1), including its employee who has been authorised in this behalf by such person or by the State Government or the Authority, shall have powers to regulate and control the traffic in accordance with the provisions of this Act on the highway forming subject matter of the agreement referred to in sub-section (1), for safe and orderly operation and management thereof.

(4) A person referred to in sub-section (1) may use, or cause to be used, or sub-licence, the land or property forming part of a highway, in accordance with the provisions of this Act and the rules made thereunder, as if such person is the State Government or the Authority, as the case may be, but always subject to the provisions of the agreement referred to in sub-section (1).

CHAPTER 3 CONTROL ZONE APPURTENANT TO HIGHWAYS

20. Restrictions on land in a control zone :-

(1) Notwithstanding anything contained in any law for the time being in force, no person shall use, and no authority shall permit the use of, any land which lies within a control zone comprising the area appurtenant to a highway and situated between the boundary of such highway and a distance of one hundred meters from such boundary, save and except for the purposes of agriculture,

horticulture, animal husbandry or afforestation, which purposes shall not include the construction of any permanent structures or buildings: Provided that the provisions of this section shall, instead of one hundred meters referred to hereinabove, apply within a distance of fifteen meters from the boundary of any part of a highway where such part of the highway is situated within the municipal limits of a town or a village abadi:

Provided further that the State Government may at any time acquire, any or all land and buildings forming part of the control zone, under this Act for development and expansion of the highway or any wayside amenities:

Provided also that the restrictions on the control zone hereunder shall not apply to the use of any land, or any building or structure thereon, to the extent such use of land, or any building or structure thereon, was lawfully in existence at the commencement of this Act or where such building or structure is being repaired, improved or modified without any alteration in the building line comprising its length, width and height:

Provided also that in the event of a doubt or dispute in respect of the width and boundary line of a highway, such width and boundary line shall be deemed to be determined by reference to the nearest section of such highway on which there is no doubt or dispute in respect of the width and boundary line thereof:

Provided also that the control zone for every highway included in the Schedule at the commencement of this Act shall be determined with reference to the date on which this Act comes into force and in respect of any highway included in the Schedule by notification under sub-section (2) of section 3, the control zone thereof shall be determined with reference to the date of such notification, and any extension of a highway boundary subsequently shall not alter the control zone.

(2) The State Government may by rules to be made in this behalf authorise the use of any class, category or location of lands referred to in sub-section (1) for such purposes and subject to such conditions, including payment of fees, as may be prescribed.

21. Prohibition of construction within control zone :-

(1) No person shall, on any land situated within the control zone,-

(i) construct, form or layout any means of access to or from a highway;

(ii) erect any building;

- (iii) materially alter any existing building by increasing its height, length or width, as the case may be;
- (iv) make or extend any excavation; or
- (v) construct or layout any work, save and except in accordance with a general or special permission granted under this Act.

(2) Any person who proposes to construct any building or other work within the control zone shall make an application in writing to the State Government or an officer authorised by the State Government in this behalf, in such form and containing such information as may be prescribed in respect of the building, alteration, excavation, works or means of access, as the case may be, to which the application relates.

(3) On receipt of an application under sub-section (2), the State Government or the officer authorised by the State Government in that behalf shall, after making such enquiry as it may consider necessary, by order in writing, either -

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

(b) refuse to grant such permission: Provided that -

(i) the permission required under sub-section (3) for carrying out any excavation, construction, formation or laying out of works in land for the purpose of repairing, renewing, enlarging or maintaining any underground sewer, drain, electric line, pipe, duct or other apparatus shall not be withheld, but may be granted subject to such conditions as may be necessary for securing that such sewer, drain, electric line, pipe, duct or other apparatus shall be laid in such manner and at such levels that the construction, development or maintenance of a road there over will not be prevented or prejudicially affected thereby;

(ii) the permission under sub-section (3) for erection, re-erection or alteration of a building or the making or extending of any excavation which conform to the requirements of safety and convenience of traffic on the adjoining road shall be neither withheld nor made subject to any unreasonable conditions;

(iii) no permission shall be required for the following works, namely:-

- (a) agriculture;
- (b) horticulture;
- (c) pisciculture;
- (d) pasture;
- (e) poultry farming;
- (f) dairy farming; or

(g) construction of wells, tube wells and bore wells.

(4) When permission is refused under sub-section (3), the reasons thereof shall be recorded and communicated to the applicant:

Provided that nothing therein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features on account of which such permission was refused.

(5) Upon receipt of an application made under sub-section (2), the State Government or the officer authorised by the State Government in this behalf shall dispose of the same within a period of three months.

(6) The State Government or an officer authorised by the State Government in this behalf shall maintain a register with sufficient particulars of all permissions given or refused by it under this section and such register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts therefrom.

22. Exemption for certain works :-

The restrictions under Chapter III of the Act shall not apply to any excavation or 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 comprising a highway before the date of commencement of this Act, or where such works are undertaken with the consent of the State Government on or after such commencement.

23. Reconstruction of demolished buildings :-

If any building or part thereof, situate within the control zone and erected before the commencement of this Act, has, either entirely or in greater part, been taken down, burnt down or fallen down, such building or part thereof, shall be rebuilt only in accordance with this Act.

24. Regulation of access in control zone :-

The State Government may, if it considers necessary in the interests of safety or smooth movement of traffic, by notification to be published in two State level newspapers having wide circulation, at least one of which shall be in Hindi language, regulate or divert any existing right of access to the highway across the control zone:

Provided that any existing right of access shall not be diverted until alternative access has been given within a reasonable distance.

25. Restriction on change in land use :-

(1) No agricultural land situate within the control zone shall be diverted or converted for non-agricultural purposes without the prior sanction of the State Government or an officer authorised by the State Government in this behalf and subject to any general or special directions of the State Government.

(2) Notwithstanding anything contained in this Act, no permission for change in land use or for diversion of agricultural land for non-agricultural purposes shall be granted in respect of any land forming part of the control zone and situate within a distance of twenty five meters from the boundary of a highway, save and except any permission which may be granted under this Act for construction of wayside amenities:

Provided that the restriction under this section shall not apply to the control zone situate within municipal limit.

26. Levy of betterment charges in control zone :-

Any permission for change in land use under section 25 shall be granted in accordance with applicable laws and subject to payment of betterment charges to the State Government or the Authority, as the case may be, for an amount equal to the market value of the land to be determined in accordance with the provisions of subsection (4) or sub-section (5) of section 12.

27. Removal of unauthorised construction :-

Any construction, works or excavation carried out in violation of the provisions of Chapter III of this Act shall be liable to removal under section 42 as if it is an unauthorised occupation of the highway, and shall be punishable as if it is an offence under the provisions of section 77 of this Act.

CHAPTER 4 CONTROL OF ACCESS TO HIGHWAYS

28. Restrictions on use of highway :-

(1) No person or vehicle shall enter into, or use a highway except as authorised by this Act or the rules made thereunder.

(2) No pedestrian shall enter into, or walk on, a highway except in

any area or zone which is specially demarcated for this purpose.

(3) No non-motorized vehicle, including a cycle, or any motorized vehicle which cannot achieve the maximum speed specified for a highway, not being a road having a carriageway width of less than ten meters, shall enter into, or use that highway except to the extent of use of a lane, if any, earmarked for such vehicles. Provided, however, that the State Government may, by notification in the Official Gazette, permit or authorise access in such manner, to such extent and for such period as may be specified therein.

(4) Any person or vehicle using a highway in discharge of its functions and duties under any law for the time being in force shall be deemed to be authorised to use that highway under this Act. Provided, however, that nothing contained herein shall relieve such person or vehicle from its obligation to pay fees in accordance with the provisions of section 18.

29. Restrictions on access to highways :-

(1) No person shall connect any highway or part thereof with any road or passage except in accordance with the permission granted by the State Government or an officer authorised by the State Government in this behalf and subject to such conditions as may be specified in that permission.

(2) No person shall have right of access to a highway either through any vehicle or on foot by a group of five or more persons except in accordance with the provisions of this Act or as permitted by the State Government either generally or specifically in the manner specified in section 30.

(3) The access to a highway under sub-section (1) and subsection (2) shall be subject to the guidelines and instructions issued by the State Government from time to time.

(4) The State Government may, by notification in the Official Gazette, declare an expressway comprising a highway or any portion thereof to be limited for access in the manner as specified in such notification and may also impose any restriction or control on such access to, from or across such highway as specified in that notification.

30. Procedure for permission of access to highway :-

(1) The general permission under sub-section (2) of section 29, including any terms and conditions thereof, shall be given by issuing a notification in the Official Gazette for such purpose and

specific permission under that sub-section shall be given in the manner specified hereinafter under this section.

(2) Any person desirous of obtaining specific permission referred to in sub-section (1) may make an application in the prescribed form to the State Government or an officer authorised by the State Government in this behalf specifying therein the means of access to which such permission relates and shall also be accompanied with such fees as may be prescribed and the State Government or such officer shall, after considering the application, either give the permission with or without the terms and conditions as may be specified therein or reject the application as it may deem fit.

(3) In case where the permission has been given in respect of the application made under sub-section (2), the person to whom such permission has been given shall obtain the licence from the State Government or the officer authorised by the State Government in this behalf, in the prescribed form enumerating therein the terms and conditions, if any, subject to which such permission has been given, and such permission shall be renewed after such period and in such manner as may be prescribed.

(4) If any person contravenes the provisions of subsection (1) or sub-section (2) of section 29 or violates any terms and conditions subject to which permission has been given under sub-section (2) including non-renewal of licence obtained under sub-section (3), his access to the highway under the permission under sub-section (1) or sub-section (3), as the case may be, shall be deemed to be unauthorised access and the State Government or the officer authorised by the State Government in this behalf shall have the power to remove such access and where necessary, the State Government or such officer may use the necessary force with the assistance of the police to remove such access.

31. Regulation or diversion of access, etc :-

(1) Notwithstanding any permission given under sub-section (1) or sub-section (2) of section 30, an officer authorised by the State Government in this behalf shall have the power, in the interest of the safety and convenience of the traffic, to refuse, regulate or divert any proposed or existing access to the highway.

(2) Where an existing access is diverted, the alternative access given in lieu thereof shall not be unreasonably distant from the existing access.

CHAPTER 5 REGULATION OF TRAFFIC

32. Power to regulate traffic :-

(1) Notwithstanding anything contained in this Act, subject to the provisions of Chapter VIII of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988) an officer authorised by the State Government in this behalf shall have the power to regulate and control the plying of vehicles on the highway for the proper management thereof.

(2) If at any time the officer authorised by the State Government in this behalf is satisfied on the information received by it or otherwise that any highway or any part thereof is or has become congested or unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, either close the highway or such part thereof to all traffic or to any class of traffic, or regulate the number and speed of vehicles to be used on the highway or such part thereof, as the case may be, in the manner as it may deem fit.

33. Prohibition of use of heavy vehicles on certain highways :-

Where the officer authorised by the State Government in this behalf is satisfied that the surface of a highway or any part thereof, or any bridge, culvert or causeway built on or across the highway is not designed to carry vehicles of which the laden weight exceeds a prescribed limit, it may, subject to such rules as may be made in this behalf, prohibit or restrict the plying of such vehicles on or over such highway or part thereof or such bridge, culvert or causeway, as the case may be.

34. Temporary closure of traffic on highway :-

Where, in exercise of the powers under section 32 or section 33, the officer authorised by the State Government in this behalf considers it proper for the purposes of that section to temporarily close a highway or part thereof or to restrict or regulate traffic on such highway or part thereof, it may do so in the manner as it may deem fit.

35. Permanent closure of highway :-

(1) Where, in exercise of the powers under section 32, the State Government or an officer authorised by the State Government in this behalf deems it necessary in the interest of the safety of the

highway to close the highway or part thereof, it may, by notification in the Official Gazette, give notice of its intention to the public to do so specifying therein the time within which the objections and suggestions received shall be considered under sub-section (3) and in addition to such notice, it shall also notify the contents of such notice in at least two State level newspapers having wide circulation, one of which shall be in Hindi language and another shall be the newspaper being circulated in such area.

(2) The notice under sub-section (1) shall indicate the alternative route proposed to be provided in lieu of the highway or part thereof intended to be closed specifying therein as to whether such alternative route shall be an already existing highway or shall be newly constructed and shall also invite objections and suggestions from the persons affected on such proposal within the time and to be addressed to the officer as specified in such notice.

(3) The State Government or the officer authorised by the State Government in this behalf shall, after considering the objections and suggestions, if any, received within the time specified in such notice, take a decision on the proposal for closure and shall act in accordance with such decision.

36. Power to restrict the use of highway :-

If the State Government or an officer authorised by the State Government in this behalf is satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge so to do, it may, by notification in the Official Gazette, prohibit or restrict, subject to such exceptions or conditions as may be specified in the notification, the use of any highway or part thereof by a class or classes of traffic either generally or on specified occasion or time as specified in the notification and when such prohibition or restriction is imposed, the State Government or such officer shall cause such traffic signs to be placed or erected at suitable places for the convenience of the traffic as may be prescribed:

Provided that where any prohibition or restriction under this section is to be retained for a period of one month or less, such prohibition or restriction may be imposed without issuing notification in the Official Gazette:

Provided further that the prohibition or restriction imposed under the first proviso shall be published widely for the knowledge of the users by other possible means.

37. Prevention and repair of damage to highway :-

(1) No person who is in charge of, or in possession of, any vehicle or animal shall, wilfully or negligently, cause, or allow such vehicle or animal to cause, any damage to any highway.

(2) Where, in contravention of sub-section (1), any damage has been caused to any highway, the State Government or an officer authorised by the State Government in this behalf shall have such damage repaired at the expense of the State Government, and such expenses together with fifteen per cent thereof as additional charges shall, without prejudice to any other action which may be taken against the person who has so contravened sub-section (1), be recovered from him in accordance with the provisions contained in section 43 as if such expenses and additional charges were the expenses and additional charges recoverable under that section.

38. Prohibition to leave vehicles or animals in dangerous position :-

(1) No person in charge of, or in possession of, any vehicle or animal shall allow such vehicle or animal to stand or proceed on a highway unless the same is under such safety or other control as may be prescribed.

(2) Where any obstruction on the highway is caused in contravention of sub-section (1), the vehicle or animal causing such obstruction shall be caused to be towed away by the officer authorised by the State Government in this behalf and the vehicle or animal so towed away shall be taken into possession by such officer and shall be handed over to the owner thereof upon payment of the expenses incurred by such officer in such removal and shall be liable to fine imposed by such officer, which shall not be less than one thousand rupees and not more than five thousand rupees.

(3) In case where the expenses and fine in respect of the vehicle or animal taken into possession under sub-section (2) have not been paid under that sub-section, the officer authorised by the State Government in this behalf shall sell such vehicle or animal by auction and the proceeds of the auction shall be the property of the State Government.

(4) Any person who has unauthorised occupation on a highway land shall be summarily evicted by the officer authorised by the State Government in this behalf in the manner specified in section 42 for

removal of unauthorised occupation and shall be liable to fine imposed by such officer, which shall not be less than two thousand rupees per square meter of the unauthorisedly occupied land by him but which may be extended to the cost of private land adjacent to the highway.

39. Construction on highway land :-

(1) Notwithstanding anything contained in any other law for the time being in force, no person shall construct, install, shift, repair, alter or carry any poles, pillars, advertisement towers, transformers, cable wire, pipe, drain, sewer, canal, railway line, tramway, telephone boxes, repeater station, street, path or passage of any kind on a highway or across, under or over any highway except in accordance with the prior permission in writing of the State Government or an officer authorised by the State Government in this behalf.

(2) Any person who intends to obtain the permission under sub-section (1) shall make an application in the prescribed form to the officer authorised by the State Government in this behalf, containing therein the purpose and period of occupancy of a highway, location and part of the highway to be occupied, method of execution of work, period of construction and method of restoration of such part of the highway.

(3) The officer authorised by the State Government in this behalf shall consider the application made under sub-section (1) and if it is satisfied that there is no alternative where land can be found to locate the public utility at a site other than the highway in respect of which the permission is sought under the application, it may give permission in writing as sought in the application: Provided that while giving such permission, such officer may impose such conditions as it may deem fit to protect-

(i) the highway from damage; and

(ii) the traffic on the highway from obstruction, and may also impose such fees and other charges as may be prescribed on the person to whom such permission is given in respect of any land forming part of the highway, occupied or applied to the proposed work or construction under permission and also impose on such person the expenditure, if any, incurred by the State Government or such officer for repairing any damage caused to the highway by laying or shifting of any structure, article or equipment under the permission.

(4) If any person, in contravention of sub-section (1), makes any construction or carries out any other work, the officer authorised by the State Government in this behalf may, at the expense of the State Government, cause such construction or other work to be removed from the highway and restore the highway in the condition as it was immediately before giving permission for such construction or other work under sub-section (3) and such expense together with fifteen per cent thereof as additional charges and fine imposed by such officer taking into account the nature of the damages caused by such construction or other work, which shall not be less than two thousand rupees per square meter of land used for such construction or other work, but shall not exceed the cost of any adjacent private land, shall be recovered from such person in accordance with the provisions contained in section 43 as if such expenses, additional charges and fine were the expenses, additional charges and fine recoverable under that section.

CHAPTER 6 PREVENTION OF UNAUTHORISED OCCUPATION

40. Restrictions on occupation of highway land :-

(1) No person shall occupy or encroach upon any highway land or discharge any material through a drain on such land without obtaining prior permission, in writing, from an officer authorised by the State Government in this behalf.

(2) The officer authorised under sub-section (1) may, on an application made by a person in this behalf and having regard to the safety and convenience of traffic, grant permission to such person-

(i) to place a movable structure on the highway in front of any building owned by him or to make a movable structure on support of such building and over the highway, or

(ii) to put up a temporary awning or tent or other similar construction or a temporary stall or scaffolding on the highway, or

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

(iv) to make a temporary excavation for carrying out any repairs or improvements to adjoining buildings, and such permission shall be granted subject to the conditions and on payment of the rent and other charges by issuing permit in the form as may be prescribed:

Provided that no such permission shall be valid beyond a period of one month at a time from the date on which the permission has been granted unless it is renewed by such officer on an application

made by such person for the renewal of the permission.

(3) The permission granted under sub-section (2) shall specify therein- (i) the time up to which the permission is granted; (ii) the purpose of such permission; (iii) the portion of the highway in respect of which the permission has been granted, and shall be accompanied with a plan or sketch of such portion of the highway.

(4) The person, to whom the permit has been issued under sub-section (2), shall produce the permit for inspection whenever called upon to do so by any officer of the State Government or the Authority and shall, on the expiry of the permission granted under such permit, restore the portion of the highway specified in the permit in such condition as it was immediately before the issuing of such permit and deliver the possession of such portion to the officer who issued such permit.

(5) The officer issuing the permit under sub-section (2) shall maintain a complete record of all such permits issued, and shall also ensure in every case at the expiration of the period up to which the permission under a permit is granted under that subsection that the possession of the portion of the highway in respect of which such permission was granted has been delivered to such officer.

(6) Where an officer authorised by the State Government in this behalf is of the opinion that it is necessary in the interest of traffic safety or convenience to cancel any permit issued under sub-section (2), it may, after recording the reasons in writing for doing so, cancel such permit and, thereupon, the person to whom the permission was granted shall, within the period specified by an order made by such officer restore the portion of the highway specified in the permit in such condition as it was immediately before the issuing of such permit and deliver the possession of such portion to such officer and in case such person fails to deliver such possession within such period, he shall be deemed to be in unauthorised occupation of highway land for the purposes of this section and section 43.

41. Grant of licence for temporary use :-

The State Government or an officer authorised by the State Government in this behalf may, having regard to the safety and convenience of traffic and subject to such conditions as may be prescribed and on payment of prescribed rent or other charges, grant lease or licence of highway land to a person for temporary

use: Provided that no such lease shall be valid for more than five years at a time from the date on which such lease has been granted unless renewed by the State Government or such officer.

42. Removal of unauthorised occupation :-

(1) When, as a result of the periodical inspection of highway land or otherwise, the officer authorised by the State Government in this behalf is satisfied that any unauthorised occupation or encroachment has taken place on highway land, such officer shall serve a notice on the person causing or responsible for such unauthorised occupation or encroachment requiring him to remove such unauthorised occupation or encroachment and to restore such highway land in its original condition as before the unauthorised occupation or encroachment within the period specified in the notice.

(2) The notice under sub-section (1) shall specify therein the highway land in respect of which such notice is issued, the period within which the unauthorised occupation on such land is required to be removed, the place and time of hearing any representation, if any, which the person to whom the notice is addressed may make within the time specified in the notice and that failure to comply with such notice shall render the person specified in the notice liable to penalty, and summary eviction from the highway land in respect of which such notice is issued, under sub-section (5).

(3) The service of the notice under sub-section (1) shall be made by delivering a copy thereof to the person to whom such notice is addressed or to his agent or other person on his behalf or by registered post addressed to the person to whom such notice is addressed and an acknowledgment purporting to be signed by such person or his agent or other person on his behalf or an endorsement by a postal employee that such person or his agent or such other person on his behalf has refused to take delivery may be deemed to be prima facie proof of service.

(4) Where the service of the notice is not made in the manner provided under sub-section (3), the contents of the notice shall be advertised in a State level newspaper for the knowledge of the person to whom the notice is addressed and such advertisement shall be deemed to be the service of such notice on such person.

(5) Where the service of notice under sub-section (1) has been made under sub-section (3) or sub-section (4) and the unauthorised occupation on the highway land in respect of which

such notice is served has not been removed within the time specified in the notice for such purpose and no reasonable cause has been shown before the officer authorised by the State Government in this behalf for not so removing unauthorised occupation, such officer shall cause such unauthorised occupation to be removed at the expense of the State Government, and impose penalty on the person to whom the notice is addressed which shall be two thousand rupees per square meter of the land so unauthorisedly occupied and where the penalty so imposed is less than the cost of such land, the penalty may be extended equal to such cost.

(6) Notwithstanding anything contained in this section, the officer authorised by the State Government in this behalf shall have power without issuing any notice under this section to remove the unauthorised occupation on the highway land, if such unauthorised occupation is in the nature of-

(a) exposing any goods or article-

(i) in open air; or

(ii) through temporary stall, kiosk, booth or any other shop of temporary nature,

(b) construction or erection, whether temporary or permanent, or

(c) trespass or other unauthorised occupation which can be removed easily without use of any machine or other similar device, and in removing such occupation, such officer may take assistance of the police, if necessary, to remove such occupation by use of the reasonable force necessary for such removal.

(7) Notwithstanding anything contained in this section, if the officer authorised by the State Government in this behalf is of the opinion that any unauthorised occupation on the highway land is of such a nature that the immediate removal of which is necessary in the interest of-

(a) the safety of traffic on the highway; or

(b) the safety of any structure forming part of the highway, and no notice can be served on the person responsible for such unauthorised occupation under this section without undue delay owing to his absence or for any other reason, such officer may have such unauthorised occupation removed in the manner specified in sub-section (6).

(8) An officer authorised by the State Government in this behalf shall, for the purposes of this section or section 43, as the case may be, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), while

trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) issuing commissions for the examination of witnesses; and
- (d) any other matter which may be prescribed, and any proceeding before such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, 1860 (Central Act No. 45 of 1860) and such officer shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

43. Recovery of cost of removal of unauthorised occupation
:-

(1) Where an officer authorised by the State Government in this behalf has removed any unauthorised occupation or made any construction including alteration of construction in respect of any unauthorised occupation or repaired any damage under sub-section (2) of section 37, the expenditure incurred in such removal or repair together with fifteen per cent of additional charges or any fine imposed under this Act shall be recoverable in the manner hereinafter provided in this section.

(2) The officer authorised by the State Government in this behalf shall serve a copy of the bill in the prescribed form indicating therein the expenditure, additional charges or fine recoverable under sub-section (1) on the person from whom such expenditure, additional charges or fine is recoverable and the provisions of section 42 relating to the service of notice shall apply for the service of copy of the bill under this sub-section as if for the word "notice" the word "bill" has been substituted in that section.

(3) A copy of the bill referred to in sub-section (2) shall be accompanied with a certificate issued by the officer authorised by the State Government in this behalf and the amount indicated in the bill shall be the conclusive proof that such amount is the expenditure actually incurred for all or any of the purposes referred to in sub-section (1) as indicated in the bill.

(4) Where the officer authorised by the State Government in this behalf has removed any unauthorised occupation or made any construction including alteration of construction in respect of any unauthorised occupation or repair any damage under subsection (2)

of section 37, the material, if any, recovered as a result of such removal, construction, alteration or repair shall be retained in possession of the State Government or such officer till the payment of the bill in respect thereof served under sub-section (2) and on payment of such bill such material shall be returned to the person entitled for the material, but in case of the failure of such payment within the time specified for the payment in the bill, the material may be sold by auction by the State Government or such officer and after deduction of the amount payable under the bill from the proceeds of the auction, the balance, if any, shall be returned to the person entitled therefor.

(5) In case where the proceeds of the auction under subsection (4) is less than the amount recoverable under the bill referred to in that sub-section, the difference between such proceeds and the amount so recoverable or where no such auction has been made, the amount recoverable under the bill shall, in case of failure of the payment within the time specified in the bill, be recoverable as the arrears of land revenue.

CHAPTER 7 THE RAJASTHAN STATE HIGHWAYS AUTHORITY

44. Constitution of the Authority :-

(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted for the purposes of this Act an Authority to be called the Rajasthan State Highways Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of-

(a) a Chairperson;

(b) four full-time members of whom one each shall be the member-in-charge of

(i) finance,

(ii) safety and technology,

(iii) works contracts and operations; and

(iv) concessions and public private partnerships; and

(c) six part-time members, to be appointed by the State Government by notification in the Official Gazette, of whom one each, not being lower in rank than a Secretary to the Government,

shall be the nominee of the Finance Department, the Planning Department and the Transport Department respectively, and one each shall be an eminent person from the field of

- (i) finance or banking,
- (ii) technology and research in roads, and
- (iii) judiciary or law.

(4) The Chairperson and full-time members shall be appointed by the State Government, by notification in the Official Gazette, on the recommendation of a Search and Selection Committee consisting of-

- (a) Chief Secretary - Chairman;
- (b) An Additional Chief Secretary or a Principal Secretary to be nominated by the State Government - Member;
- (c) Secretary-in-charge of Public Works Department - Member;
- (d) Chairman of a public sector undertaking, to be nominated by the State Government - Member; and
- (e) Head of a research, technical or management institute, to be nominated by the State Government - Member.

45. Term of office and conditions of service of members :-

The term of office of the members shall ordinarily be five years and their conditions of service shall be such as may be prescribed:

Provided that no person shall be appointed as Chairperson or member after he attains the age of sixty-two years or shall serve in such capacity after he attains the age of sixty-five years:

Provided further that the State Government may, in its discretion, terminate the term of office of any member, including the Chairperson, at any time by giving a notice of three months or the salary and allowances in lieu thereof.

46. Disqualifications for appointment as member.- A person shall be disqualified for being appointed as a member if he :-

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) has been removed or dismissed from the service of the State Government or a Corporation owned or controlled by the State

Government; or

(e) has, in the opinion of the State Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

47. Eligibility of member for re-appointment :-

Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member if he has not attained the age of sixty-four years on the date of re-appointment.

48. Meetings :-

(1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum thereat, as may be specified by regulations.

(2) If for any reason the Chairperson is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

49. Vacancy in the Authority not to invalidate proceedings :-

No act or proceeding of the Authority shall be invalidated merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure adopted by the Authority not affecting the merits of the case.

50. Delegation of powers by the Authority :-

The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may

be specified in the order, such of its powers and functions under this Act (except its powers under section 103) as it may deem necessary.

51. Authentication of orders and other instruments of the Authority :-

All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Chairperson or any other member or any officer of the Authority authorised by it in this behalf.

52. Appointment of officers, consultants and other employees of the Authority :-

(1) For the purpose of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be specified by regulations.

(2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary, on such terms and conditions as may be specified by regulations.

53. Power of the State Government to temporarily divest the Authority of the development and operation of any highway :-

(1) If, at any time, the State Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the development and operation of any highway or a part thereof with effect from such date and for such period and to such person as may be specified in the order and the Authority shall be bound to comply with such direction.

(2) Where development and operation of any highway or part thereof is entrusted to any person specified under sub-section (1) (hereafter in this section referred to as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such highway or part thereof and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the State Government may give to the authorised person from time to time:

Provided that no such power or function as may be specified by the State Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the State Government.

(3) The State Government may reduce or extend the period mentioned in sub-section (1) as it considers necessary.

(4) During the operation of an order made under subsection (1), it shall be competent for the State Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the highway or part thereof, the operation of which has been entrusted to him and in particular, to transfer any sum of money from the Fund of the Authority to the authorised person for the operation of the highway or part thereof and every such direction shall be complied with by the Authority.

(5) On the cesser of operation of any order made under subsection (1) in relation to any highway or part thereof, the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such highway or part thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cesser of operation of any order made under subsection (1) in relation to any highway or part thereof, the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the operation of such highway or part thereof.

54. Power of the State Government to supersede the Authority :-

(1) If, at anytime, the State Government is of the opinion-

(a) that the Authority has persistently made default in complying with any direction issued by the State Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do, the State Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding one year, as may be specified in the notification:

Provided that before issuing a notification under this subsection for

the reasons mentioned in clause (b), the State Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section

(1) superseding the Authority,-

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the State Government may direct; and

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may-

(a) extend the period of supersession for such further term, not exceeding one year, as it may consider necessary; or

(b) reconstitute the Authority by fresh appointment and in such a case, any person who vacated office under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the State Government may, at any time before the expiration of the period of supersession whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The State Government shall cause a notification issued under sub-section (1) or sub-section (3) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the House of the State Legislature as soon as may be.

CHAPTER 8 PROPERTY AND CONTRACTS OF THE AUTHORITY

55. Power of the State Government to vest or entrust any highway in the Authority :-

The State Government may, from time to time, by notification in the Official Gazette, vest in, or entrust to, the Authority, such highway or any section thereof as may be specified in such notification.

56. Transfer of assets and liabilities of the State Government to the Authority :-

(1) On and from the date of publication of the notification under section 55,-

(a) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, on behalf of, with, or for, the State Government, immediately before such date for or in connection with the purposes of any highway or any section thereof vested in, or entrusted to, the Authority under that section, shall be deemed to have been incurred, entered into and engaged to be done by, with, or for, the Authority;

(b) all non-recurring expenditure incurred by or for the State Government for or in connection with the purposes of any highway or any section thereof, so vested in, or entrusted to, the Authority, up to such date and declared to be capital expenditure by the State Government shall, subject to such terms and conditions as may be prescribed, be treated as capital provided by the State Government to the Authority;

(c) all sums of money due to the State Government in relation to any highway or any section thereof, so vested in, or entrusted to, the Authority immediately before such date shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the State Government immediately before such date for any matter in relation to such highway or any section thereof may be continued or instituted by or against the Authority.

(2) If any dispute arises as to which of the assets, rights or liabilities of the State Government have been transferred to the Authority, such dispute shall be decided by the State Government.

57. Compulsory acquisition of land for the Authority :-

Any land required by the Authority for the purposes of this Act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under sections 5 to 15 in Chapter II of this Act, as if it is an acquisition for and on behalf of the State Government.

58. Contracts by the Authority :-

Subject to the provisions of section 59, the Authority shall be

competent to enter into and perform any contract necessary for the discharge of its functions under this Act and such contracts may include long-term concessions for designing, construction, financing and operation of highways.

59. Mode of executing contracts on behalf of the Authority

:-

(1) Every contract shall, on behalf of the Authority, be made by the Chairperson or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or classes of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the State Government may prescribe in this behalf shall be made unless it has been previously approved by the State Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding one year shall be made without previous approval of the State Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the rules or regulations made thereunder shall be binding on the Authority.

CHAPTER 9 FUNCTIONS OF THE AUTHORITY

60. Functions of the Authority :-

(1) Subject to the rules made by the State Government in this behalf, it shall be the function of the Authority to develop and operate the highways or other roads vested in, or entrusted to, it by the State Government: Provided that the Authority may carry out any of its functions either by itself or through a concessionaire.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may, for the discharge of its functions, either itself or through other entities -

(a) survey, develop and operate highways vested in, or entrusted to, it;

(b) construct offices, workshops and other buildings necessary for

discharge of its functions;

(c) Subject to the provisions of Chapter VIII of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988) regulate and control the plying of vehicles on the highways vested in, or entrusted to, it for the safe and orderly operation thereof;

(d) establish and maintain wayside amenities at or near the highways vested in, or entrusted to it;

(e) lease, sub-lease, licence or sub-licence the wayside amenities or the land required for construction or operation thereof by other entities;

(f) promote and enable the development of habitations, townships or industrial corridors in the vicinity of the highway, including acquisition of land for this purpose;

(g) develop and provide consultancy and construction services in India and abroad and carry on research activities in relation to the development and operation of highways or any facilities thereat;

(h) form one or more companies under the Companies Act, 2013 (Central Act No. 18 of 2013) to further the efficient discharge of the functions imposed on it by this Act;

(i) assist, on such terms and conditions as may be mutually agreed upon, any State Government in the formulation and implementation of schemes for highway development;

(j) collect fees on behalf of the State Government for services or benefits rendered under section 18 of this Act, and such other fees on such terms and conditions as may be specified by the State Government;

(k) undertake projects for promoting road safety and install equipments and devices to enhance road safety;

(l) undertake measures associated with road safety, including timely responses for provision of ambulances and trauma care;

(m) undertake and promote studies and research relating to road safety;

(n) undertake road safety awareness programmes and conduct training and orientation courses on traffic regulation and road safety; and

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act.

(3) Subject to the provisions of this Act and the rules made thereunder, the Authority may regulate the operation of highways by regulations to be made for and in respect of -

(a) upkeep and inspection of highways;

- (b) safety of users;
- (c) road safety standards and procedures;
- (d) the manner of preventing obstructions on highways;
- (e) the manner of prohibiting the parking or waiting of vehicles on highways, except at places earmarked for this purpose;
- (f) the manner of prohibiting or restricting access to any part of the highway;
- (g) the manner of regulating or restricting advertisements on and around highways; and
- (h) generally for the efficient and proper operation of highways.

(4) Nothing contained in this section shall be construed as -

- (a) authorising the disregard by the Authority of any law for the time being in force; or
- (b) authorising any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject under this Act.

(5) The Authority may engage, or entrust any of its functions to, any person on such terms and conditions as may be specified by regulations or as may be approved by the State Government, including award of concessions for development, financing and operation of highways, or for operation of highways and collection of fees.

(6) Without prejudice to the generality of the provisions of sub-sections (1) and (2), the Authority may, in consultation with the State Government, plan, promote and enable the development of habitations, townships or industrial corridors, in the vicinity of the highway with the objective of accelerating the economic development of such areas and for optimizing the benefits of a highway. Such habitations, townships and industrial corridors shall be developed with prior approval of the State Government and on such terms and conditions as may be specified in such approval. The Authority may, after issue of the notification under sub-section (3) of section 1, acquire land for development of such habitations, townships or industrial corridors as if such acquisition is for the purpose of a highway.

(7) The Authority may advise the State Government on any matter relating to or associated with -

- (a) policies in respect of the development and operation of highways;
- (b) policies and rules relating to road safety; and
- (c) road safety standards and procedures.

61. Authority to act on business principles :-

In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

62. Power of the Authority to undertake certain works :-

The Authority may undertake to carry out on behalf of the State Government or any local authority any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the State Government or the local authority concerned.

63. Maintenance of highway plans :-

(1) The Authority shall maintain authoritative plans for the highways entrusted to it under this Act.

(2) The plans referred to in sub-section (1) shall show the boundaries of the highway, the detailed measurements of road widths, the distances between boundary marks and sufficient measurements from fixed points to enable the re-fixation of the position of boundary marks, in case they have been displaced or tampered with.

(3) The Authority shall have all such authoritative plans prepared after having a survey made of the highway and their boundaries in the manner prescribed.

64. Demarcation of boundaries :-

(1) The 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 durable nature at intervals all along the highway in such a manner that the 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 as to give the correct configuration of the boundary if they are joined by straight lines.

(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 highway.

(4) The Authority shall conduct regular check of the boundaries of the highways entrusted to it for the purpose of removing

unauthorised encroachments, if any.

(5) When an unauthorised encroachment has been made on the highway, the Authority shall take immediate steps as specified in section 42 for the removal thereof.

65. Exercise of powers by the Authority and its officers :-

Notwithstanding anything to the contrary contained in this Act, all powers to be exercised, and the functions and duties to be discharged, by the State Government under sections 28 to 43 in Chapters IV, V and VI of this Act shall be exercised or discharged by the Authority for and in respect of the highways vested in, or entrusted to it under section 55, and for this purpose, the Authority may authorise any of its officers to exercise such powers or discharge such functions and duties as it may deem fit.

66. Authority to be bound by directions of the State Government :-

(1) Without prejudice to the other provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give to it in writing from time to time.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

CHAPTER 10 FINANCE, ACCOUNTS AND AUDIT OF THE AUTHORITY

67. Additional capital and grants to the Authority by the State Government :-

The State Government may, after due appropriation made by the Rajasthan State Legislature by law in this behalf,-

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as the State Government may determine; and

(b) pay to the Authority, on such terms and conditions as the State Government may determine, by way of loans or grants such sums of money as the State Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

68. Fund of the Authority :-

- (1) There shall be constituted a Fund to be called the Rajasthan State Highways Authority Fund and there shall be credited thereto-
- (a) any grant or aid received by the Authority;
 - (b) any loan taken by the Authority or any borrowings made by it; and
 - (c) any other sums received by the Authority.
- (2) The Fund shall be utilized for meeting-
- (a) expenses of the Authority in the discharge of its functions having regard to the purposes for which such grants, loans or borrowings are received and for matters connected therewith or incidental thereto;
 - (b) salary, allowances, other remuneration and facilities provided to the members, officers and other employees of the Authority; and
 - (c) expenses on objects and for purposes authorised by this Act.

69. Budget :-

The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the State Government.

70. Investment of funds :-

The Authority may invest its funds (including any reserve fund) in the securities of the State Government or fixed deposits of scheduled commercial banks or in such other manner as may be prescribed.

71. Borrowing powers of the Authority :-

- (1) The Authority may, with the consent of the State Government or in accordance with the terms of any general or special authority given to it by the State Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.
- (2) The provisions of sub-section (1) shall apply to all commitments of payment exceeding rupees fifty crore per annum under any concession for financing and development of a highway, as if such financing is a borrowing of money by the Authority.
- (3) Subject to such limits as the State Government may, from time

to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amounts as it may require for discharging its functions under this Act.

(4) The State Government may guarantee in such manner as it thinks fit the repayment of the principal and the payment of interest thereon with respect to the borrowings made by the Authority under sub-section (1) or the commitments of payment made under sub-section (2).

72. Annual report :-

The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and its plans for development and operation of highways in the forthcoming year, and submit a copy thereof to the State Government. Every annual report shall also contain a review of the performance of the Authority in respect of the plans contained in the preceding annual report.

73. Accounts and audit :-

The accounts of the Authority shall be maintained and audited in such manner as the State Government may, in consultation with the Comptroller and Auditor General of India, prescribe and the Authority shall furnish, to the State Government before such date as may be prescribed, its audited copy of accounts together with the auditors report thereon.

74. Annual report and auditors report to be laid before the State Legislature :-

The State Government shall cause the annual report of the Authority and the auditors report to be laid, as soon as may be, after they are received, before the House of the State Legislature.

CHAPTER 11 OFFENCES AND PENALTIES

75. Unauthorised use of highway :-

(1) Whoever uses a highway or part thereof for any purpose other than for which the usage of the highway is authorised by this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine which

may extend to twenty thousand rupees, or with both.

(2) A person entering a highway in violation of the provisions of this Act shall be guilty of criminal trespass and shall be punishable as such.

76. Unauthorised access to highway :-

(1) Whoever, unauthorisedly connects any highway or part thereof with any road or passage without lawful authority shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lakh rupees, or with both, and in the case of a continuing offence, with a daily fine which may extend to fifty thousand rupees; and if it is proved that any means exist for causing such access, it shall be presumed, until the contrary is proved, that such access has been knowingly and wilfully caused by such person.

(2) Whoever obtains access to a highway or a part thereof in violation of the provisions of section 29 shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees, or with both.

77. Unauthorised occupation of a highway :-

(1) If any person, who has been evicted from any unauthorised occupation on a highway land under this Act, again occupies any highway land without permission for such occupation under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two thousand rupees per square meter of the so occupied highway land but which shall not exceed two times the cost of private land adjacent to the highway land, or with both.

(2) Any court, convicting a person under sub-section (1), may make an order for evicting that person from such occupied highway land summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him.

78. Use of highway without payment of fee :-

Whoever uses a highway or part thereof without payment of the fee due for such use shall be punishable with imprisonment which may extend to one month or with a fine of two thousand rupees or a fine equal to twice the fee payable for use of the highway by the offending vehicle for a distance of one hundred kilometres,

whichever is higher, and such fine shall be imposed in addition to the fee due and payable under this Act and the rules made thereunder.

79. Unsafe driving :-

Subject to the provisions of Chapter VIII of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988), whoever engages in or abets driving on a highway,-

- (a) at a speed exceeding the maximum permissible speed on a highway by more than ten kilometres per hour of such maximum permissible speed;
- (b) in a state of intoxication or inebriation; or
- (c) a goods vehicle which exceeds its maximum permissible load by more than ten per cent thereof, shall be deemed to cause danger to the life and property of users of the highway and shall be punishable with imprisonment for a term that may extend to six months, or a fine which may extend to twenty thousand rupees, or with both.

80. Mischief by injury to highway :-

Whoever commits mischief by doing any act which renders or which he knows to be likely to render any highway impassable or less safe for travelling or conveying property, or wilfully causes damage to a highway, shall be punished with imprisonment of either description for a term which may extend to five years, or with a fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both.

81. Defacing road signs and signals :-

Whoever maliciously or wilfully damages, defaces, alters, modifies or removes any road sign, signal, indicator, or apparatus on the highway shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both; and if it is proved that any means exist for causing such damage, defacing, alteration, modification or removal, it shall be presumed, until the contrary is proved, that such damage, defacing, alteration, modification or removal, as the case may be, has been maliciously or wilfully caused by such person.

82. Seizure and impounding of vehicle :-

(1) Without prejudice to any other provision of this Act, a vehicle which is used in the course of any offence or for violation of any provision of this Act shall be liable to seizure and impounding, together with any goods loaded on it, by an officer of the State Government, Authority or concessionaire, as the case may be, who is authorised by the State Government or by the Authority in this behalf.

(2) The officer seizing vehicle under sub-section (1) shall, within twelve hours from the seizure, file a complaint of the offence in the Court having jurisdiction and report the seizure of the vehicle, together with any goods loaded in it, to the said Court and the Court shall deal with the vehicle and the goods loaded in it, if any, under Chapter XXXIV of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

(3) If a vehicle impounded under sub-section (1) is parked at any place forming part of the highway, its owner or occupier shall be liable to payment of parking charges for each hour or part thereof, which charges shall be equal to the fee payable for use of the highway by such vehicle for a distance of fifty kilometres.

83. Seizure or compounding by officer of the concessionaire
:-

(1) If an officer of the concessionaire authorised by the State Government or by the Authority in this behalf exercises any powers to seize or impound any vehicle under this Act, he shall comply with the following:-

(a) he shall wear a light blue uniform and a dark blue cap, with his name displayed on his chest, and shall carry an identity card issued by the concessionaire and countersigned by an officer of the State Government authorised for this purpose;

(b) he shall capture, or caused to be captured, the offence on a camera and show the same on demand to the person accused of such offence; and

(c) he shall, within twelve hours from the seizure, file a complaint of the offence to the Court having jurisdiction and report the seizure of the vehicle, together with any goods loaded in it, to the said Court and the Court shall deal with the vehicle and the goods loaded in it, if any, under Chapter XXXIV of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

(2) No officer of the concessionaire shall be authorised by the State

Government or by the Authority to seize or impound any vehicle or conduct any search or seizure under this Act unless he is a person who has served in the police or in any armed force of the Central Government or any State Government for a period of at least 5 (five) years and has retired (not resigned or dismissed) in the rank of at least an inspector of police or equivalent and fulfills such other conditions as may be prescribed.

(3) An officer of the concessionaire acting under the provisions of this Act shall be deemed to be acting on behalf of the concessionaire in pursuance of the provisions of sub-section (3) of section 19 of this Act.

84. Punishment for non-compliance of orders or directions :-

Whoever, fails to comply with any order or direction given under this Act by the State Government or the Authority or any officer authorised by the State Government or the Authority in this behalf, as the case may be, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees, or with both, in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to twenty thousand rupees for every day during which the failure continues.

85. Power of police to investigate :-

For the purposes of investigation of an offence punishable under this Act, a police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

86. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" means a whole time director in the company and in relation to a firm means a partner in the firm.

87. Power of search and seizure :-

(1) Any officer of the State Government, Authority or concessionaire, as the case may be, authorised in this behalf by the State Government or by the Authority, may-

(a) enter, inspect, break open and search any vehicle which he has reason to believe is involved in an offence under this Act;

(b) search, seize and remove all such devices, instruments or articles which have been, or are being, used for such offence; and

(c) examine or seize any documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under this sub-section (1) and allow the person from whose custody such documents are seized to make copies thereof or take extracts therefrom in his presence.

(2) The occupant of the vehicle of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list.

(3) The provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

88. Factors to be taken into account by courts :-

While adjudicating the quantum of penalties and fines to be imposed under this Act, the court shall have due regard to the following factors, namely:-

- (a) the amount of potential gain or unfair advantage, wherever quantifiable, made as a result of the offence;
- (b) the repetitive nature of the offence; and
- (c) the damage caused or danger posed to users of a highway or to other persons; and damage to any property or works comprising a highway.

CHAPTER 12 MISCELLANEOUS

89. Application of the Rajasthan State Road Development Fund Act, 2004 :-

Notwithstanding anything to the contrary contained in the Rajasthan State Road Development Fund Act, 2004 (Act No. 13 of 2004), the State Government shall, in accordance with the provisions of section 9 of that Act, earmark at least fifty per cent of the funds collected under that Act in any year, for the development and maintenance of state highways, and the provisions of that Act shall be deemed to be amended to the extent specified in this section.

90. Delegation of powers by the State Government :-

(1) The State Government may, by notification in the Official Gazette, direct that any power exercisable by it (except the powers conferred by section 102) under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable by the Authority or any other authority or by an officer of the State Government or the Authority, as may be specified in the notification.

(2) Where the Act so provides, the State Government may, by order authorise such-

- (a) gazetted officer of the State Government; or
- (b) officer of the Authority, equivalent to a gazetted officer of the State Government, to exercise such powers and discharge such functions of the State Government as may be specified in the order.

(3) The State Government may specify in the order made under sub-section (1) or sub-section (2), the limits of the highway within which or the length of the highway on which an officer appointed

under that sub-section shall exercise the powers and discharge the functions.

(4) The State Government may by notification in the Official Gazette, authorise such employee of the concessionaire or any other person, as it deems suitable, to regulate traffic under this Act and to exercise such powers and discharge such functions in respect thereof as may be specified in the notification, and any person acting in pursuance of such notification shall be deemed to be the authority or the authorised officer under that Act for the purposes of exercising the powers and discharging the functions specified in such notification.

91. District Road Safety Council :-

(1) The State Government may, by notification in the Official Gazette, constitute a Council to be called the District Road Safety Council in every district in the State.

(2) Every District Road Safety Council shall consist of the following members, namely:-

(a) the District Collector -ex-officio; who shall be the Chairman of the Council;

(b) the District Superintendent of Police -ex-officio;

(c) the Superintending Engineer (Roads and Bridges) having jurisdiction over the district -ex-officio;

(d) an officer of the Authority having jurisdiction over the district to be nominated by the Chairperson of the Authority -ex-officio;

(e) an officer of the National Highways Authority of India to be nominated by the Chairperson of that Authority -ex-officio;

(f) the regional transport officer having jurisdiction over the headquarters of the District -ex-officio; who shall be the Member-Secretary of the Council;

(g) an expert in the field of road safety, to be nominated by the State Government; and

(h) a person representing a non-government organisation having experience in road safety matters, to be nominated by the District Collector.

(3) The District Road Safety Council shall exercise such powers and perform such functions, as the State Government may, from time to time, delegate under this Act.

92. District Road Safety Council to submit reports etc :-

Every District Road Safety Council shall submit such reports and

returns and furnish such information to the State Government, as may be required from time to time, and the State Government shall compile and cause to be laid a consolidated report before the House of the State Legislature for and in respect of each year.

93. Finality of orders :-

Save as otherwise expressly provided in this Act, every order made or any action taken by the State Government or the Authority or an officer authorised in this behalf by the State Government or the Authority, as the case may be, shall be final and shall not be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act on the State Government, Authority or the officer authorised in that behalf.

94. Appeal :-

(1) Any person aggrieved by a decision or order of any officer authorised by the State Government in that behalf may file an appeal to the Divisional Commissioner having jurisdiction, within sixty days from the date of communication of the decision or order to him:

Provided that the Divisional Commissioner may, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

(2) Any person aggrieved by a decision or order of any officer authorised by the Authority in that behalf may file an appeal to a Member of the Authority designated by the Authority in this behalf, within sixty days from the date of communication of the decision or order to him:

Provided that such Member of the Authority may, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

(3) Any person aggrieved by a decision or order of the Divisional Commissioner or Member of the Authority, as the case may be, may file an appeal to the High Court within sixty days from the date of communication of the decision or order to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908): Provided that the

High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

95. Bar of jurisdiction :-

Save as provided in this Act, no appeal shall lie in any court or other authority and no civil court shall have any jurisdiction in respect of any matter in respect of which the State Government or the Authority, or any officer authorised by the State Government or the Authority in that behalf is empowered by or under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

96. Conduct of inquiry :-

An officer authorised in this behalf under this Act shall, if he decides to make any inquiry for the purposes of this Act, make a summary inquiry in such manner as may be prescribed.

97. Employees of the Authority and the concessionaire to be public servants :-

All members, officers and employees of the Authority or the concessionaire shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No.45 of 1860).

98. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

99. Powers and duties of police :-

Every police officer shall forthwith furnish information to the nearest officer of the Authority or any officer subordinate thereto of any offence under this Act coming to his knowledge and shall be bound to assist the Authority and its officers and employees in the exercise of their lawful authority.

100. Duty of village officials :-

Wherever any village headman, village accountant, village watchman or other village official, by whatever name called, becomes aware of any offence involving unauthorised occupation, damage or destruction of a highway, he shall forthwith inform the nearest police station or the nearest office of the Authority or any officer authorised in this behalf by the State Government or the Authority, the commission of such offence and shall also be duty bound to assist the State Government or the Authority and such authorised officer in prosecuting the offender of the offence.

101. Power to enter :-

Subject to any rules made in this behalf, any person, generally or specially authorised by the State Government or the Authority in this behalf, may, whenever it is necessary so to do for any of the purposes of this Act, at all reasonable times, enter upon any land or premises, and-

- (a) make any inspection, survey, measurement, valuation or enquiry;
- (b) take levels;
- (c) dig or bore into sub-soil;
- (d) set out boundaries and intended lines of work;
- (e) mark such boundaries and lines by placing marks and cutting trenches; or
- (f) do such other acts or things as may be prescribed: Provided that no such person shall enter any boundary or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours notice in writing of his intention to do so.

102. Power of the State Government 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) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
- (a) the manner for maintaining records in which lands are shown and the manner of proving claim for correction of such records, under sub-section (2) of section 4;
 - (b) the manner of depositing of amount of compensation, under sub-section (1) of section 8;
 - (c) the manner and terms of determining the amount of compensation, under sub-section (1) of section 11;
 - (d) the manner of depositing the amount by the State Government, under sub-sections (1) and (6) of section 13;
 - (e) the development and operation of a highway by the Authority or any officer or authority subordinate to the State Government, under sub-section (1) of section 16;
 - (f) upkeep and inspection of highways, under clause (a) of sub-section (2) of section 16;
 - (g) safety of users, under clause (b) of sub-section (2) of section 16;
 - (h) road safety standards and procedures, under clause (c) of sub-section (2) of section 16;
 - (i) the manner of preventing obstructions on the highway, under clause (d) of sub-section (2) of section 16;
 - (j) the manner of prohibiting parking or waiting of vehicles on highways, under clause (e) of subsection (2) of section 16;
 - (k) the manner of prohibiting or restricting access to any part of the highway, under clause (f) of subsection (2) of section 16;
 - (l) the manner of regulating or restricting advertisements, under clause (g) of sub-section (2) of section 16;
 - (m) matters generally for the efficient and proper operation of highways, under clause (h) of subsection (2) of section 16;
 - (n) the rates at which fees for services rendered in relation to the use of a highway may be levied, the exemption from payment of fees for vehicles engaged in specified public purposes, and the manner and form in which such fees shall be tendered and collected, under section 18;
 - (o) the manner of collecting and retaining fees, under sub-section (2) of section 19;
 - (p) authorising the use of any class, category or location of lands, under section 20;
 - (q) the form of application and the information to be provided therein for constructing building or other work in the control zone,

under sub-section (2) of section 21;

(r) the form of application and quantum of fees to be accompanied therewith and the terms and conditions for permission, under sub-section (2) of section 30;

(s) the form of licence, the period and the manner of renewal of such licence, under sub-section (3) of section 30;

(t) the limit of laden weight and the provisions subject to which the plying of vehicles on the highways may be prohibited, under section 33;

(u) the traffic signs to be placed or erected, under section 36;

(v) the safety and control for allowing any vehicle or animal to stand or proceed on a highway under sub-section (1) of section 38;

(w) the form of application, under sub-section (2) of section 39;

(x) the fees and other charges to be imposed, under sub-section (3) of section 39;

(y) the conditions subject to which, the rent and other charges on payment of which and the form in which the permit may be issued, under subsection (2) of section 40;

(z) the conditions, payment of rent and other charges for grant of lease or licence of highway land, under section 41;

(za) the feasible cost for making construction including alteration of any construction, under sub-section (7) of section 42;

(zb) the additional matter in respect of which an officer authorised by the State Government may exercise the powers of a civil court, under subsection (8) of section 42;

(zc) the form of bill for removal of unauthorised occupation of highway land, under sub-section (2) of section 43;

(zd) the conditions of service of members, under section 45;

(ze) the terms and conditions for non-recurring expenditure being treated as capital, under clause (b) of sub-section (1) of section 56;

(zf) the value of contract, under sub-section (1) of section 59;

(zg) the manner in which the survey of the highway and its boundaries is to be made, under subsection (3) of section 63;

(zh) the form and the time within which the Authority shall prepare its budget, under section 69;

(zi) the manner in which the Authority may invest its funds, under section 70;

(zj) the form and time within which the Authority shall prepare its annual report, under section 72;

(zk) the manner in which the accounts of the Authority shall be maintained and audited and the date before which the audited copy of the accounts together with the auditors report thereon shall

be furnished to the State Government, under section 73;
(zl) the conditions to be fulfilled by a person who is authorised, under sub-section (2) of section 83; and (zm) the manner of summary inquiry, under section 96.

103. Power of the Authority to make regulations :-

(1) The Authority may, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.

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

(a) the time, place and rules of meetings, under subsection (1) of section 48;

(b) terms and conditions of employment of officers and other employees, under sub-section (1) of section 52;

(c) terms and conditions of employment of advisers or consultants, under sub-section (2) of section 52;

(d) the class or classes of contracts, under sub-section (1) of section 59;

(e) the form and manner of contract, under sub-section (2) of section 59;

(f) upkeep and inspection of highways, under clause (a) of sub-section (3) of section 60;

(g) safety of users, under clause (b) of sub-section (3) of section 60;

(h) road safety standards and procedures, under clause (c) of sub-section (3) of section 60;

(i) the manner of preventing obstructions on the highways, under clause (d) of sub-section (3) of section 60;

(j) the manner of prohibiting the parking or waiting of vehicles on highways, except at places earmarked for this purpose, under clause (e) of sub-section (3) of section 60;

(k) the manner of prohibiting or restricting access to any part of the highway, under clause (f) of subsection (3) of section 60;

(l) the manner of regulating or restricting advertisements on and around highways, under clause (g) of sub-section (3) of section 60;

(m) matters generally for the efficient and proper operation of highways, under clause (h) of subsection (3) of section 60;

(n) the terms and conditions for operation of highways and collection of fees, under sub-section (5) of section 60.

104. Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

105. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Official Gazette, make an order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Rajasthan State Legislature.

106. Rules and regulations to be laid before the Rajasthan State Legislature :-

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or of the sessions immediately following, the House of the State Legislature makes any modification in the rule or resolves that the rule or regulations should not be made, the rule or regulations, as the case may be, 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 annulment shall be without prejudice to the validity of anything previously done thereunder.

107. Repeal and savings :-

(1) The Rajasthan Highways Act, 1995 (Act No. 27 of 1995) and the Rajasthan Road Development Act, 2002 (Act No. 5 of 2002) are hereby repealed.

(2) Notwithstanding anything contained in sub-section (1) but without prejudice to the provisions of the Rajasthan General

Clauses Act, 1955 (Act No. 8 of 1955), any rule, notification, or order made or issued or any contracts entered into or any fee levied or rates fixed under the Rajasthan Road Development Act, 2002 (Act No. 5 of 2002) shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force until they are repealed or superseded by any rule, notification, order or contract, as the case may be, made, issued or entered into under this Act.