

KERALA ROAD SAFETY AUTHORITY ACT, 2007

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'32 33. 34 35. 36 37. 38. 39. 40 41. 186 Punishment for failure to comply With the Authority's order Punishment for obstructing the Authority Compounding of offences Offences by Companies Appeals Revisions on Members and Employees of the authority to be public servants Protection of action taken In good faith Cognizance of offences and Bar of Jurisdiction of CIVIL Courts Act not In derogation of the Kerala Highway Protection Act, 1999 Power to give directions Power to make rules Regulations Removal of difficulties Repeal and Savings 187 [Translation in English of "2007-02.) aocuc3 " Published under the authority of the Governor.) ACT 2007 * KERALA ROAD SAFETY AUTHORITY ACT, 2007 An Act to provide for the constitution of a Road Safety Authority for the implementation of Road safety programmes in the State, for the establishment of a Road Safety Fund and for matters connected therewith and incidental thereto Preamble —WHEREAS, it is expedient to provide for the constitution of a Road Safety Authority for the implementation of road safety programmes in the State, for the establishment of a Road Safety Fund and for matters connected therewith and incidental thereto; BE It enacted In the fifty-eight Year of the Republic of India as follows:— I Short title and commencement.— (1) This act may be called the Kerala Road Safety authority Act, 2007. (2) It shall be deemed to have come Into force on the 7th day of January, 2006. 2 In this Act, unless the context otherwise requires,— (a) "accident" means any incident wherein, on account of the use of a motor vehicle on a public road, death, bodily injury or damage caused to any public properties, other vehicles, person, persons or property or to any public property or other vehicles, as the case may be; (b) "Authority" means the 'Road Safety Authority' constituted under section 3; (c) "cess" means the cess levied under section 10; (d) "Chairman" means the Chairman of the Authority, Executive Committee or District Road Safety Council, as the case may be; (e) "district" means a revenue district; (f) "District Road Safety Council" means the District Road Safety Council constituted under section 19, (g) "executive committee" means the executive committee of the Authority, (h) "fund" means the Road Safety Fund constituted under section 11; Received the assent of Governor on the 13th April. 2007 and published in the Kerala Gazette Extraordinary No 706 dated 13th April, 2007 188 (i) "local authority" means a Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994); (j) "public road" shall include, any private road to which public have access and also the traffic Islands, medians and footpaths, (k) "prescribed" means prescribed by rules made under this Act, (l) "regulations" means the regulations made under section 39, (m) "vehicle" Includes any contraption or device used or capable of being used for the carriage or movement of human beings, animals or goods, (2) Words and expressions used but not defined In this Act shall have the meanings respectively assigned to them In the Motor Vehicles Act, 1988 (Central Act 59 of 1988), Kerala Highway Protection Act, 1999 (6 of 2000) or the rules made thereunder. 3 Constitution of the The Government may, by notification in the Gazette, constitute, With effect from such date as may be specified therein, an Authority to be called the Kerala Road Safety Authority (2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, With powers, 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 the following members, namely — (a) Authority, (b) Authority, (c) (d) (e) (f) (h) (1) the Minister for Transport who shall be the Chairman of the the Minister for Works, who shall be the Vice-Chairman of the the Chief Secretary, the Principal Secretary, Transport Department, the Law Secretary, the Principal Secretary, Home Department, the Principal Secretary, Finance Department, the Principal Secretary, Public Works Department, the Principal Secretary, Health

and Family Welfare Department, 189 O) the Pnnctpal Secretary, General Education Deparment, (k) the Pnnclpal Secretary, Local Self Government Department, (l) The Road Safety Commissionel, who shall be the ChlCf Exccuue Officer of the' Authonty, (m) the Director General of Police, (n) (o) (p) (q) (r) (s) (t) the Director, Health Scmcsc• Department , the Inspector General of Police (Traffic), The Chief Engineer (Roads and Bridges), lhc Chief Engmcrcr (National Highways), The Director, National Transportation, Planmng and Rcsarch Centre, The Secretary, State Transport Authority; three persons who are experts in the field of road safety nominated by the Government. (4) lhc npmtnated members of the Authonty shall hold ofTICC for a pcnod of five year from the date of appomtment (5) Any nonunated member may at any umc, resign his ofTICC by a letter addressed to the chatnnan of the Authority. 4 Functions of the Authority —The Authority shall have the following functions, namely.— (a) advising the Government on road safety policics; (b) prescriblng and enforcing road safety standards and procedures, (c) formulate and Implement schemes, projects and programmes, relatmg to road safety, (d) co-ordinating the functions of all the agencies and Government Departments discharging the duties related to road safety, (e) Implementing road safety awareness programmes, (f) admntnstrauon of the Fund, (g) sanctionmg expenditure for the Implementation of road safety Schemes and programmes, 190 (h) sanctionmg expenditure for road safety projects and for purchase and Installation of equipments and devices connected With road safety, (l) sanctionmg expenditure for the conduct of studies, projects and research on matters relating to road safety, 01) sanctionmg expendlture for Yauma-care programmes or activities; (k) sanctlonmg admmstratlve expenditure of the authonty; (I) sanctlonmg expendlture on matters connected With road safety measures; (m) formation of self help groups, under the leadership of the Authority for the rescue operation In the place of acctdent, (d) dischargmg such other functions, as may be prescnbed, having regard to the objects of this Act 5 Executive Committee fiere shall be an Executive Committee for the authonty consisting of the following members, (a) Chief Secretary, who shall be the Chairman of the Executive Committee, (b) Transport Commissioner, who shall be the Vice-Chairman of the Execubve Committee, (c) Inspector General of Police (Traffic), (d) Chief Engmeercr (Roads and Bridges), (p) Chief Engmeercr (National Highways); (f) Director, Health Services Deparunent, (g) Director, National Transportation, Planmng and Research Celfre•, (h) Secretary, State Transport Authority—Member Secretary (2) The Executive Commrttee shall be In-charge of the Implementation of the decisions of the authority. (3) Subject to such restrictions, conditions and limitations, as may be Imposed by the authonty, the Exccuue Commlttee shall exercise such powers and discharge such functions of the Authonty as may be delegated to It by the Authonty 191 6. Meetzngs —(1) The Authority and the Exccutive Committee and the District Road Safety Council shall meet at such time and place as may be decided by the Chatman of the Authonty, the Exccuue Committee or the District Road Safety Council, as the case may be, and shall observe such rules of procedure In relation to transaction of business at the meetings as may be made by regulations. (2) Every meeting of the Authority or the Exccutlve Conmlttee shall be presided over by the Chairman or .In his absence by the Vice-Charrman or nn his absence, a member chosen by the mcmbers present. (3) The Authority shall meet at lcast once In SIX months. (4) The quorum for a meetmg of the Authonty shall be sevcn. (5) The Executive Committee shall meet at least once a month. (6) The quorum for mecung of Exccuue Committcg shall be threc. 7 Disposal of Busaness.—Every matter to be decded by the Authority or the Executive Committee shall be constdered and disposed of at the meetlngs of the Authority or of the Executive Committee, as the case may be, in accordance wrth the decision of the majority of the mcmbers present 8 Vacancies etc not to invalidate proceedings of the Authority.&No act or proceedings of the Authority shall be questioned or shall be Invalidated merely on the ground of existence of any vacancy or defect In the constitution of the Authority

9. Road Safety Commnsszoner.LThe Transport Commissioner shall be the ex-oficao Road Safety Commnssroncr for the purpose of this Act IO Levy and collection of there shall be levted and collected one-tune ccss for the purposes of this Act on every motor vehicle used or kept for use In the State at the rates spccified for such vehicle In the Schedule Provided that no such ccss shall be levied on a motor vchrcle kept by dealer or manufacturer of such vehicle for the purpose of trade Provided further that If the Govenunent arc of oprnton that It ts necessary In the public interest so to do, they may, by notification In the Gazette, make an exemption In regard the ccss payable under thIS Act m respect of any motor vehicle or class of motor vehicles. (2) Every ccss leviable under sub-section (1) shall be payable by the regnstered owner or any person having possession or control of the motor vehicle, as the case may bee 192 (3) The

cess levied under sub-section (1) shall be collected by the taxation officer appointed under the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) or in such manner and at such time as may be prescribed..

(4) The Government may, by notification in the Gazette, direct that for the purpose of collection of cess, the provisions of the Kerala Motor Vehicles Taxation Act, of 1976), shall apply, subject to such modifications as may be specified in the notification

(5) Where any person who is liable to pay the cess in respect of a motor vehicle fails to pay the cess within the time prescribed under sub-section (3), such person shall, for the default of each year, in addition to the cess, pay an amount of fine equal to ten per cent of the cess due

(6) The proceeds of the cess levied and collected under this Act by the Government together with fines, interest and fees recovered thereunder shall first be credited to the Consolidated Fund of the State and after deducting the expenses of collection and recovery, as determined by the Government, the remaining amount shall, under appropriation duly made by law in this behalf, be entered into and transferred to the Fund

(7) Any amount transferred to the Fund shall be charged on the Consolidated Fund of the State

Establishment of the Fund

10 After the constitution of the Authority, within one year, there shall be established a Fund to be called the Kerala Road Safety Fund

(2) The following shall be credited to the Fund,—

(a) the amount transferred under sub-section (6) of section 10;

(b) grants, loans or advance made by the Government;

(c) grants, loans or advance made by the Government of India;

(d) contributions from public or private institutions or organisations;

(e) compounding fee collected under section 28.

(3) The Government shall contribute to the fund every year, an amount equal to fifty per cent of the compounding fee collected in the previous year under section 200 of the Motor Vehicles Act, 1988 Act 59 of 1988)

12. Vesting and administration of the Fund

The fund shall vest in and be administered by the Authority constituted under section 3.

(2) The authority shall administer the Fund vested in it in such manner, as may be prescribed

13 All amounts forming part of the Fund shall be deposited in the State Bank of Travancore or any Nationalised Bank, as may be decided by the Authority and the account shall be operated by the Chairman of the Executive Committee and the Chief Executive Officer of the Authority

14 In such manner, as the Authority may decide

15 Utilization of the Fund —The Fund shall be utilized for all or any of the following purposes, namely —

(a) road safety programmes;

(b) awareness programme in respect of road safety;

(c) purchases of equipments connected with road safety;

(d) funding of approved studies on projects and research regarding road safety;

(e) trauma-care programmes and related activities;

(f) administrative expenses of the Authority;

(g) expenditure on matters connected with road safety, as the authority may deem fit; and

(h) any other purpose as may be prescribed

16 Power to remove causes of accidents

17 Notwithstanding anything contained in any other law for the time being in force, where the Authority is satisfied on complaint, report by any person or otherwise that,—

(1) the act of any person or persons on a public road; or

(2) the placement or positioning of any vehicle, animal, object built without the approval of any recognised administrative authority; structure or materials including arches, banners, display boards, hoardings, awning tents, pandals, poles, platforms, structures, statues, monuments and other similar structures, on a public road; or

(3) the movement of animals or vehicles on a public road; or

(4) the condition of any tree, structure or building situated in the vicinity of a public road; or

(5) the entry or exit of any building or premises in the vicinity of a public road, is likely to cause, accidents or causes obstruction to the free flow of traffic or distract the attention or obstruct the vision of the driver of any vehicle, the Road Safety Commissioner may, after recording reasons therefor, direct the person concerned, either by a general or special order, take such measures within two months as it considers necessary and such person shall be bound to comply with the direction within such time, as may be specified by the authority

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(2) Notwithstanding anything contained in sub-section (1), in case of urgency, the Road Safety Commissioner may take such action as may be necessary to prevent accident or obstruction, as the case may be, and recover the cost thereof from the person responsible, in such manner as may be prescribed

15 Power to order works

Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Authority to order any work or improvement on a public road, as it considers necessary, to secure safety on such roads and each concerned Government department or the local authority or any other authority shall be bound to carry out such works or improvement within such time, as may be specified by the authority. Provided that no order under this sub-section shall be issued in respect of any highway declared as such under the Kerala Highway Protection Act, 1999 (6 of 2000) except with the prior consultation of the highway authority of the respective area appointed under the said Act

Provided further that it shall not be issued in respect of

the roads under the control of the Local Self Government Institutions without- prior consultation With the respective Local Self Government (2) It shall be the duty of every officer of the Government, Local Authority or any other authority to act In aid of the authority In enforcing the orders under sub-section (1) 16 Power to recover cost —If any person on whom a written order IS served under section 14 refuses or fails to comply With the order, the Authority may take such action as to prevent danger and ensure safety to the public and may recover the cost With legitimate Interest thereof from such person 17. Amounts ' recoverable as arrear of land revenue —Any amount due to the Authority under this act shall, Without prejudice to any other mode of recovery, be recoverable In the same manner as an arrear of revenue due on land 18 Delegation —The Authority may, with the previous approval of the Government, delegate to the Executive Committee, Road Safety Commissioner or the District Road Safety Council such of ILS powers and functions, as It may consider necessary, for the effective Implementation of the road safety programmes by general or special order, subject to such restrictions as it deems fit. 19 District Road Safety Council (1) The Government may, by notification in the Gazette, constitute a Council to be called the District Road Safety Council In every District In the State. 19 (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 Executive Engineer (Road and (d) The Executive Engineer (National (e) The Regional Transport Officer having Jurisdiction over the headquarters of the District—ex-officio, who shall be the Member secretary of the Council; and (f) An expert In the field of road safety nominated by the Government. (3) The District Road Safety Council shall exercise such powers and perform such functions, as the Authority may from time to time, delegate 20 The Authority may, With prior approval of the Government, appoint such officers and staff as It deems necessary for the discharge of Its functions under this Act (2) The designation, method of appointment and other conditions of service of the staff shall be such, as may be prescribed 21 Expenses.—All expenses of administration of the fund Including the salary and allowances of the staff and other employees shall be met from the Fund. 22 Accounts —The accounts of the fund shall be maintained by the Road Safety Commissioner In such manner, as may be prescribed 23 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 Road Safety Commissioner, as may be required from time to time, and the Road Safety Commissioner shall submit a consolidated report to the authority, annually 24 Annual report The Authority shall during each financial year prepare in such form and at such time, as may be prescribed, an annual report giving a complete account of Its activities of the previous year and submit such report to the Government (2) The Government shall cause every such report to be laid before the Legislative Assembly, as soon as may be, after the receipt of the same. 196 25. Audit (1) The accounts of the Authority shall be audited by accountant General. (2) The Authority may carry out Internal audit of the accounts every year by such officials as It deems fit (3) The accounts of the Authority, as certified by the auditor, together With the audit report thereon shall be submitted to the Government along With the remarks thereon by the authority and the Government shall cause the same to be laid before the Legislative Assembly (4) The Authority shall take such corrective steps as may be ordered by the Government on the basis of the report 26 Punishment for failure to comply With the Authority's order — (1) Whoever refuses or fails to comply With any order of the Authority or the Road Safety Commissioner or any District Road Safety Council under this Act, shall be punishable With Imprisonment for a term of SIX months or With fine which may extend to five thousand rupees or With both. (2) In the case of continuing offence a fine of one thousand rupees shall be Imposed for each day for which the offence continues 27 Punishment for obstructing the Authority —Whoever obstructs the Authority, the Road Safety Commissioner, District Road Safety Council or any officer of the Authority or of the District Road Safety Council or any person employed or engaged by them In the discharge of the functions under this Act, shall be punishable With Imprisonment for a term of maximum three years or With fine which may extend to five thousand rupees or With both 28 Compounding of offences —Any offence punishable under section 26 may either before or after the Institution of prosecution, be compounded by such officers or authorities and for such amount as the Government may, by notification In the Gazette, specify In this behalf 29 Offences by Companies —If an offence punishable under this Act IS committed at any time by a company, every person who IS In charge of and responsible to the company for the conduct of Its business at the time of the commission of the offence and the company shall be deemed to be responsible for the offence and shall be liable to be

proceeded against and punished accordingly. 197 Provided that where any offence under this Act has been committed by a company and it is proved that the commission of the offence is with the consent and connivance 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 be deemed to be responsible for that offence and shall be liable to be proceeded against and punished accordingly. Explanation —For the purpose of this section, (a) 'company' means any body corporate and includes a firm or other association of individuals, and (b) 'Director' in relation to a firm means the partner in the firm. 30 Appeals (1) Any person aggrieved by an order passed by any officer of the Authority or of the District Road Safety Council under this Act may, within such time as may be prescribed, appeal to the Single Member Appellate Authority who is holding the post not below the rank of District Judge or holds the post as such, as may be appointed by Government in this behalf (2) Every appeal preferred under sub-section (1) shall be accompanied by such fees, as may be prescribed (3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible 31 Review —The Government may, suo motu or on application made to it by the aggrieved person, call for the records of any case in which an order has been passed by the Authority or by a District Road Safety Council and if it appears to the Government, that the order is improper or illegal, after giving an opportunity of being heard to the concerned, the Government may pass such order as it deems fit 32 Members and Employees of the Authority to be public servants —All members and employees of the Authority while acting or purporting to act under the provisions of this Act or any rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) 33 Protection of Action taken in good faith —No suit, prosecution or other legal proceedings shall lie against the Government or Authority or any officer of the Government or any member or other employees of the Authority for anything, which is done in good faith or purported to be done under or in pursuance of this Act or the rules made thereunder. 198 34 Cognizance of offences and trial —No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence submitted with the prior permission of the Road Safety Commissioner 35 Bar of jurisdiction of Civil Courts —No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Government or the Authority or any officer authorised by the Government or the Authority 36 Act not in derogation of the Kerala Highway Protection Act, 1999 provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Kerala Highway Protection Act, 1999 (6 of 2000) 37. Power to give directions —The Government may give directions to the Authority in matters of policy of the authority and the Authority shall be bound to give effect to such directions 38 Power to make rules The Government may, by notification in the Gazette make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely — (a) (b) (c) (d) (e) (f) (h) (1) Functions to be performed by the Authority, the manner and time for collection of cess under section 10, the manner in which the fund shall be administered by the Authority, the purposes for which the fund shall be utilised, the designation, method of appointment and other conditions of service of the officers and staff of the Authority, the manner in which the accounts of the fund to be maintained by the Road Safety Commissioner under section 22; the form and time for preparation of annual report under section 24, the time and fee for filing appeal under section 30, any other matter which is required to be, or may be, prescribed 199 (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule 39 Regulations —The Authority may make regulations with the prior approval of the Government in respect of the procedure to be adopted by the Authority, Executive Committee and the District Road Safety Council, for meetings, and disposal of matters coming up before the Authority or the Executive Committee or the District Road Safety Council, as

the case may be 40 Removal of difficulties If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with this Act or the rules made thereunder, which appears to them necessary for the purpose of removing the difficulty Provided that, no such order shall be issued after two years from the date of commencement of this Act (2) Every order issued under this section shall be laid before the Legislative Assembly 41 Repeal and Savings II) The Kerala Road Safety Authority Ordinance, 2007 (18 of 2007) is hereby repealed (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act. Serial No 1 2 3 4 TIRL SCHEDULE (See section 10) Class of Motor Vehicle Heavy Motor Vehicle Medium Motor Vehicle Light Motor Vehicle Two Wheeler Rate of Cess (In Rupees) 100

