

WEST BENGAL HIGHWAYS ACT, 1964

48 of 1956. GOVERNMENT OF WEST BENGAL LEGISLATIVE DEPARTMENT West Bengal Act XXVIII of 1964 THE WEST BENCAL HtCHWAV8 ACT, 1084. [Passed by the West Bengal Legislature.] of the Preddønt waa drst in the Ocleuäa Cateæe, E*aordinary, of the 5th Jonuaw, 1965.] [5th January, 19891. An Act to provide for the maintenance and control of highways, the prevention of enorooahmentJ thereon amd the removal of encroachments therefrom, and certain other matters connected thoreunth. WHEREAS it is expedient to provide for the mamtenance end control of highways, the prevention of encroatchmentß thereon and the removal of encroachments therefrom, and for certain other matters connected therewith ; It is hereby enacted in the Fifteenth Year of the Republic of India, by the Legislature of West Bengal, as followe CHAPTER 1. Preliminary. (1) This Act may be called the West Bengal Bigh- 1. ways Act, 1964. (2) It extends to the whole of West Bengal. (3) It shall come into force at once

2. In this Act, unless there is anything in The subject or context,—includes an Additional (a) "District Magistrate" District Magistrate; (b) "encroachment" means any ocoupbtion or use of any highway or part thereof by any unauthorised person, and includæ any projection on, over or under such highway, (o) "highway" means any road, street. path, way or land, other than a national highway, within the meaning of the National Highways Act, 1956, which is declared by the State Government to be a highway under section 8 and includes— footpaths. pavements and drain* (O the flanks, adjoining such highway ; Oort •nd oom—•. ent. D&ftie. 9 The West Bengal Act, Z964. Bu. Act Declara- Cion of idghvey. PubUo right to use a high. WOY. Appoint. ment of Highway Authority• ud duties ot High. way Authority. Staff of the AuthoAty. Pe rmiaëion to mako an oroooh- (Chapter ZI .—DeoZarotion of Hightoya 3, Chapter III.— AppointTnent of Highway Authority and his functions.—Seotions IV tion and nemoual of encroaoLment.—Seotion 8.) (iO all bridges, culvert', causeways, carriageways and other structures built on or across euch highway ; and (iii) any land in the possession of the State Govern- ment or any other authority adjoining euch highway, used or intended to be used for purposes of the highway; (d) ' Highway Authority" means the authority appointed under section 5; and (e) "prescribed" means prescribed by rules made under this Act

CHAPTER 11. Declaration of Highways. 3. (1) The State Government may, by notification in the (ßoial Gazette, declare any road, street, path, way or land to be a highway. (2) Such notification may specify the boundaries of such h ighway. (3) The Highway Authority may demarcate the boundaries of the highway by placing and maintaining stones or other suitable marks at intervals all along •the highway in such manner as may be prescribed

4. The right of the public to use hiKhway shall be subject to the provisions of this Ace and the rules mode thereunder.CHAPTF,n 111. Appointment of Highway and his functions

5. The State Government may, by notification in the Ofciaa Gazette, appoint one or more officers to be Ilighway Authority for the purposes of this Act.e. Subject to such conditions as may be preecribed, the Highway Authority shall exercise powers and discharge duties in accordance with the provisions of this Act 'relating to the maintenance and control of the highwaym the preven- tion of encroachments thereon and the removal of encroach- ments therefrom, and matters incidental thereto

7. The State Government may appoint such staff as it deems necessary to assist the Highway Authority.CHAPTER Iv. Prevention and removal of encroachment, 8. (1) No person sball make any encroachment without obtaining prenoue permiBBion in writing of the Highway Authority or ony omcer not below the rank of au A*8iBtaut Engineer authorised by him in thig behalf. The West Bengal 11 Act, 1964. xxnn of 1984.] 3 (Chapter ZV.—Preuentton and removal of encroøchmønt.— Søcteons 9, IO.) (2) The Highway Authority or such officer may, havin due regard to the safety and convenience of tratfic ant subject to such conditions and on payment of such fee or other charge as may be prescribed, grant a permit to any pereon to use or occupy temporarily any land appertaining to or adjoining a highway for such period as may be specified therein. (3) Any person holding a permit granted under sub- •ectlon (2) shall, if require4, produce it for inspection under suesec*WtY) oorn the expiry of the period specified therein restore the land under his use or occupation to its original condition and make over posseuion thereof to

the Highway Authority or the officer referred to in sub-section (1). 9. (1) The Highway Authority may cancel any permit Power granted under section 8 if— per• (a) any fee or charge therefor is not duly paid, or (b) the purpose for which the permit was granted has ceased to exist, or (o) there is breach of any of the terms and conditions of such permit, or (d) the land covered by such permit is required by such Authority, or (e) the use or the occupation of the land covered by the permit by the permit-holder is causing impediment, obstruction or inconvenience to the use of the highway by the public. (2) Where the permit is cancelled under clause (b) or clause (d) of sub-section (1), the permit-holder shall be entitled to a refund, in respect of the unexpired period of the permit, of a proportionate amount of any fee or charge which may have been paid by him. 10. (1) If any person,— of (a) is found to have made an encroachment on any road, thoroughfare, street, path, way or land which is declared to be a highway under sub-section (1) of section 3, or (b) makes an encroachment on a highway in contravention of the provisions of section 8, or (c) does not remove an encroachment on the expiry or cancellation of any permit granted to him, the Highway Authority or any officer authorised by him in this behalf shall serve a notice on him requiring him to remove the encroachment and restore the highway to its original condition within the period specified in the notice. (2) If the encroachment is not removed within the time specified in the notice, the Highway Authority or the officer authorised under sub-section (1) may make an application to a Magistrate of the first class, having jurisdiction over the area, not being the District Magistrate, for removal of the encroachment and delivery of possession of the land encroached upon to the Highway Authority or such officer. 4 The West Bengal Highway Act, 1964. Ben. Act No. 19 of 1964. Chapter IV.—Prevention and removal of encroachments. Chapter V.—Supplemental provisions to secure safety of traffic and prevention of damage to highways. 11. (1) Any cost incurred by the Highway Authority or the officer authorised under sub-section (1) of section 10 in removing any encroachment shall be recoverable from the person responsible for the encroachment in the manner hereinafter provided after giving him an opportunity of making any representation he may wish to make in the matter. (2) A notice of demand for such cost shall be served by such authority or officer on such person requiring payment of the same within such time as may be specified in the notice. (3) If such person pays the cost of removal within the time specified in the notice referred to in sub-section (2), the materials, if any, obtained on removal of the encroachment be made over to him. If such person fails to pay up the amount of cost within the time specified, such materials may be sold in the manner prescribed and the proceeds appropriated towards the cost of removal, and the balance, if any, shall be made over to such person. (4) If the proceeds do not cover the amount of cost the deficiency, or if there are no materials to be sold and if the amount of cost has not been paid within the time specified in the notice referred to in sub-section (2), the amount of cost shall be recoverable from the person responsible for the encroachment as a public demand. CHAPTER V. Supplemental provisions to secure safety of traffic and prevention of damage to highways. 12. (1) If any person, owning land adjoining a highway near a bend or corner thereof, intends to construct a building or structure thereon, he shall make an application to the Highway Authority, in such form and with such particulars as may be prescribed, for approval, authorising such construction. The West Bengal Highway Act, 1964. Chapter V.—Supplemental provisions to secure safety of traffic and prevention of damage to highways. Section: 13—16. (2) If the Highway Authority is satisfied that such construction will not obstruct the view of persons using the highway, he shall give such approval. (3) If the Highway Authority refuses to give such approval, he shall communicate the order of refusal to the applicant. (4) The applicant may, within thirty days from the date on which such order of refusal is communicated to him, appeal to the State Government, (6) The State Government may after giving an opportunity to the applicant to be heard, dismiss the appeal, or allow it and give such approval. (6) If the appeal is dismissed the State Government may, of its own motion or at the request of the owner, acquire the land or any part thereof in accordance

with any law for the time being in force for the purposes of the highway. (7) The State Government may authorise an officer, not below the rank of an Additional District Judge or an Additional District Magistrate, to hear and dispose of an appeal referred to in sub-section (4) 13. Where a highway or any portion thereof is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed by the Highway Authority in this behalf, he may, subject to such conditions as may be prescribed, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway. 14. (1) If any portion of a highway is in need of immediate repairs or is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, the Highway Authority may, subject to such conditions as may be prescribed, either close that portion of the highway to all traffic or to any class of traffic temporarily for effecting repairs or protective works, or impose reasonable restrictions in respect of the speed or laden weight of vehicles using such portion of the highway. (2) Where under sub-section (1) the Highway Authority closes any portion of highway temporarily, any land adjoining such portion of the highway may be requisitioned or acquired in accordance with any law for the time being in force for the construction of a temporary diversion road. (3) Any such temporary diversion road shall be deemed to be a part of the highway. 16. (1) No person shall cause, by any vehicle or animal in his charge or otherwise, any damage to or obstruction on any highway. (2) The Highway Authority or any officer authorised by him may remove any obstruction from the highway and may, if necessary, ask the police for assistance in removing such obstruction. Prohibition or restriction of use of vehicles on certain highways, Power to close highway temporarily or to regulate the movement of damage highway, 6. The West Bengal Highways Act, 1964. twost Bu. Act (Chapter VII.— Miscellaneous—Sections CHAPTER VI. Penalties. Disobey- 16. Whoever wilfully disobeys any prohibition or direction of restriction imposed under section 13 or section 14, or order, etc, for removal of boundary due to highway. General prohibition of offence. Power to offences. *ablio servani*. Bu. of jurisdiction. obstructs any person or authority in the discharge of any function that such person or authority is required or empowered under this Act to discharge, shall, on conviction, be punished with fine which may extend to five hundred rupees

11. Whoever wrongfully removes or tampers with any stones or marks placed by the Highway Authority for demarcating the boundaries of any highway shall on conviction, be punished with fine which may extend to one hundred rupees

18. Whoever in contravention of sub-section (1) of section 15 causes any damage to or obstruction on any highway, shall, on conviction, be punished with fine which may extend to one thousand rupees and shall in addition be liable to pay the cost of repair of such damage or the cost of removal of such obstruction, as the court may be

19. Whoever contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided for the offence, be punished, on conviction,—(a) for a first offence with fine which may extend to five hundred rupees, (b) for a subsequent offence with fine which may extend to one thousand rupees

20. An offence committed by any person under this Act may be compounded by the Highway Authority on payment of such sum as such Authority may determine and on payment thereof—(a) no proceedings shall be commenced against such person; and (b) if any proceedings have already been commenced against such person, such proceedings shall not be further proceeded with

CHAPTER VII Miscellaneous, 21. The Highway Authority and the officers and other persons authorised or appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 22. No Civil Court shall have jurisdiction in respect of any matter which the Highway Authority, or an officer or person authorised under this Act is empowered to deal with under the provisions of this Act. The West Bengal Highways Act, 1964. of 1984.] (Chapter 23—26.) 7 23. No suit, prosecution or other legal proceeding shall be instituted against any authority or officer or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or orders made thereunder

24. A notice issued under this Act may be served,—(a) by delivering or tendering it or sending it by post to the person to whom it is addressed, or to his agent, or (b) if such a person or his agent is not found then by leaving it at his usual or last-known place of abode or by delivering or tendering it to some adult male member of his family : Provided that if the address of such person is not known or such person cannot be

traced at his last-known address service of notice at the Bite of the encroachment shall be deemed to be service on him for the purposes of this Act. 25. (1) The State Government may, b! notification in the Ofcial Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters :— (a) the conditione referred to in sub-section (2) of section 8 subject to which use or occupation of any land appertaining to or adjoining a highway may be permitted ; (b) the conditions subject to which the plying of vehicles may be prohibited or restricted under section 13 ; (c) the conditions subject to which traffic may be closed or reasonable restrictions in respect of the speed or laden weight of vehicles may be imposed under section 14 ; (d) the placing of boundary marks and their maintenance ; (e) forms of applications and notices under this Act; (f) fees or charges which may be imposed or levied under this Act ; (g) discharge of functions under this Act by the High- way Authority; and (h) any other matter which is to be or ma_v be prescribed. Petation of octing in folth. &rvoie of notice. i 'ower to m•ke rubs. 8 7'he Wert Bengal IlighwuyJ Act, 1%4. tweet Soring. Pmvi8ionß of Aoi OE rale• to pmv•il over iaoondsbt pmri8ioag in o&er B•peol, (Chapter 26— 28.) 28. Nothing in thi8 Act Bhall affect— (a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain, water course or other work; or (b) the righte of any authority under any law for the time being in force to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main, pipe, sluice, weir, electric line, duct, drain or other apparatus in respect of as, water, electri- city, railways, tramways or tro y vehicles; or (o) any land belonging to a railway administration when each land is held or used by the railway administration for the purpose of its railway; or (d) the powers of the telegraph authority under the provisions of the Indian Telegraph Act, 1885, IS of 1885, 27. Save as provided in section 26 the provisions of this Act or rules made thereunder shall have effect not- withstanding anything to the contrary contained other law for the time being in force

28. The Bengal Highways Act, repealed.19%, i' in any hereby WBGP&/5.407'.6U