

THE MAHARASHTRA HIGHWAYS ACT.

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BOMBAY ACT No. LV OF 1955¹

[THE MAHARASHTRA HIGHWAY ACT]†

[This Act received the assent of the President on the 13th December 1955; assent was first published in the "*Bombay Government Gazette*", in Part IV, Extraordinary, on the 22nd December 1955.]

[22nd December, 1995]

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 42 of 1965.

Amended by Mah. 24 of 1967.

Amended by Mah. 37 of 1999 (1-1-2000)*

Amended by Mah. 24 of 2012 (22-8-2012)*

An Act to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters.

WHEREAS it is expedient to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters; It is hereby enacted in the Sixth Year of the Republic of India as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called ²[the Maharashtra Highways Act].

³(2) It extends to the whole of the State of Maharashtra.]

(3) ⁴[This section shall be in force in the whole State.] The State Government may, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force in such area and on such date** as may be specified in the notification :

Provided that the State Government may, by notification issued in like manner exclude any road or way or class of roads or ways situate in such area from the operation of all or any of the provisions of this Act.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "animal" means any domestic or captive animal;

(b) "building" includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, doorsteps, walls (including compound walls and fences) and the like ;

Short title, extent and commencement.

Definitions.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1954, Part V, Page 330.

† The Bombay Highways Act, 1955, and the rules made thereunder as in force in the Bombay area of the State of Maharashtra, are hereby extended to the rest of that State (See section 2 of Mah.42 of 1965).

2. The short title was amended for "the Bombay Highways Act, 1955" by Mah. 24 of 2012, Schedule, entry 58, w.e.f. 1-5-1960.

³ Sub-section (2) was substituted for the original by Mah. 42 of 1965, s. 3(a).

⁴ These words were substituted for the words "This section shall come into force at once", *ibid.*, s. 3(b).

* This indicates the date of commencement.

** 8th July 1960, sections 2 to 74 (both inclusive) and the Schedule for the Bombay Suburban District and the Thana District vide G. N., B. & C. D. No. BHA. 3760-C(1), dated the 7th July 1960.

** 11th May 1962, sections 2 to 74 (both inclusive) and the Schedule for the City of Bombay, vide G. N., B. & C. D., No. BHA. 3761/534-C-(II) dated the 3rd May 1962.

** 3rd September 1964, sections 2 to 74 (both inclusive) and the Schedule for the Kolaba District, vide G. N., B. & C. D., No. BHA. 3763/52902-C(3) dated the 28th August 1964.

** 28th April 1967, vide G. N., B. & C. D., No. BHA. 3765/1163 48-C-(1) dated 19th April 1967.

(c) "building line" means a line on either side of any highway or part of a highway fixed in respect of such highway or part by a notification under sub-section (1) of section 7 ;

(d) "cantonment" means a cantonment established under the Cantonments Act, 1924 ; II of
1924.

(e) "control line" means a line on either side of highway or part of a highway beyond the building line fixed in respect of such highway or part by a notification under sub-section (1) of section 7 ;

(f) "encroachment" means any unauthorised occupation of any highway on part thereof, and includes an unauthorised—

(i) erection of a building or any other structure, balconises, porches, projections on or over or overhanging the highway ;

(ii) occupation of a highway beyond the prescribed period, if any, for stacking building materials or goods of any other description, for exhibiting articles for sale, for erecting poles, ownings, tents, pandals, hoardings and other similar erections of for parking vehicles or stabling animals or for any other purpose ; and

(iii) excavations or dumps of any sort made or extended on any highway or underneath such highway ;

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

(h) "excavation" in relation to any piece of land does not include any workings which do not pierce the surface of that piece of land; but includes wells and tanks ;

(i) "highway" means any [road, way or land] which is declared to be a highway under section 3. The expression includes,—

(i) any land acquired or demarcated with a view to construct a highway along it ;

(ii) the slopes, berms, borrow-pits, foot-paths, pavements and side, catch and boundary drains attached to such road or way ; -

(iii) all bridges, culverts, causeways, carriageways and other structures built on or across such road or way ; and

(iv) the trees, fences, posts, boundary, furlong and milestones, and other highway accessories and materials and material stacked on the road or way ;

(j) "Highway Authority" means the authority appointed as such or to which the functions of such authority are entrusted under section 4;

(k) "highway boundaries" means the boundaries of a highway fixed in respect of such highway by a notification under sub-section (1) of section 7 ;

(l) "means of access" includes any means of access, whether private or public, for vehicles or for foot passengers and includes any street ;

(m) "middle of highway" means the point half-way between the highway boundaries ;

(n) "occupier" includes,—

(a) 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 is payable ;

(b) an owner living in or otherwise using his premises ;

¹ These words were substituted for the words "road or way over which the public have a right of way or are granted access and" by Mah. 42 of 1965, s. 4.

- (c) a rent-free tenant ;
- (d) a licensee in occupation of any premises ; and
- (e) any person who is liable to pay to the owner damages for the use and occupation of any premises ;

(o) "owner" means,—

(a) 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 or trustee who receives such rent on account of the owner ;
- (ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes ;
- (iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction ; and
- (iv) a mortgagee-in-possession ;

(b) when used with reference to an institution or a body corporate, the manager of such institution or body corporate ;

IX of
1890.

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

(q) "railway administration" has the same meaning as in the Indian Railway Act, 1890 ;

(r) "vehicle" includes a barrow, sledge, plough, drag and a wheeled conveyance of any description capable of being used on a highway ;

I of
1894.

(s) the expressions "land", "persons interested" and "persons entitled to act" used in this Act shall have the same meaning as the said expressions have in the Land Acquisition Act, 1894.

CHAPTER II.

Declaration of Highways, Highway Authorities and their powers and functions.

3. The State Government may, by notification in the *Official Gazette*, declare any road, way or land to be a highway and classify it as—

Declaration of roads, ways or lands as highways.

- (i) a State highway (Special),
- (ii) a State highway,
- (iii) a major district road,
- (iv) other district road, or
- (v) a village road.

4. The State Government may, by notification in the *Official Gazette*, appoint for the purpose of this Act or any of its provisions any person or any authority to be a Highway Authority for all the highways ¹[in the State] or, in parts ²[thereof] or for any particular highway or highways ³[therein], specified in the notification.

Appointment of Highway Authorities.

¹ These words were substituted for the words "in the Bombay area of the State of Maharashtra" by Mah. 42 of 1965, s. 5.

² This word was substituted for the words "of the State" by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

³ This word was substituted for the words "in the Bombay area of the State of Maharashtra" by Mah. 42 of 1965, s. 5.

Duties of
Highway
Authorities.

5. Subject to such conditions as may be specified in the notification appointing a Highway Authority and subject to the general or special orders of the State Government, a Highway Authority shall exercise powers and discharge duties in accordance with the provisions of this Act for the restriction of ribbon development along highways, for the prevention and removal of encroachments and for all matters necessary and incidental to any or all of the above subjects. Also subject to the approval of the State Government and to such general or special orders which the State Government may make in this behalf, it shall be lawful to a Highway Authority to undertake the construction, maintenance, development or improvement of highways.

Officers and
servants of
Highway
Authority.

6. For the purpose of enabling a Highway Authority to exercise the powers conferred and to discharge the duties imposed upon it by or under the provisions of this Act, the State Government may appoint such officers and servants as it deem necessary to work under such Authority.

CHAPTER III.

Restriction of Ribbon Development.

Power to fix
boundary,
building and
control lines
of highways.

7. ¹[(1) In any area in which the provisions of this Act have been brought into force, and,

(i) where either any road, way or land has been declared to be a highway under section 3 or the construction or development of a highway is undertaken or proposed to be undertaken, and

(ii) the State Government considers it necessary to fix, as respects such highway, the highway boundary, the building line or control line,

the State Government may, by notification in the *Official Gazette*, fix, as respects such highway, the highway boundary, the building line and the control line :

Provided that, having regard to the situation or the requirements of a highway or the condition of the local area through which a highway passes, it shall be lawful for the State Government to fix different building or control lines in respect of any highway, or portions thereof].

(2) Not less than sixty days before issuing a notification under sub-section (1) the State Government shall cause to be published in the *Official Gazette*, and in the prescribed manner in the village and at the headquarters of the ²[taluka, tahsil or mahal] of the district in which the highway is situate a notification stating that it propose to issue a notification in terms of sub-section (1), and specifying therein all the lands situated between the highway boundary and the control line proposed to be fixed under such notification and in the case of new works, also lands benefiting by the construction or development of the highway, as the case may be, together with a notice requiring all persons affected by such notification, who wish to make any objections or suggestions with respect to the issue of such a notification to submit their objections or suggestions in writing to the Highway Authority or appear before such authority, within two months of the publication of the notification in the *Official Gazette*, or within one month from the date of the publication of the notification in the village, whichever period expires later.

(3) The Highway Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further inquiry, if any as it thinks necessary, forward to the State Government a copy of the record of its proceedings held by it together with a report setting forth its recommendations on the objections or suggestions.

1 Sub-section (1) was substituted for the original by Mah. 42 of 1965, s. 6(1).

2 These words were substituted for the words "taluka or mahal", *ibid*, s. 6(2).

(4) If, before the expiration of the time allowed by sub-section (2) for the filing or hearing of objections or suggestions, no objections or suggestion has been made, the State Government shall proceed at once to issue the notification under sub-section (1). If, any such objection or suggestions has been made, the State Government shall consider the record and the report referred to in sub-section (3) and may either—

- (a) abandon the proposal to issue the notification under sub-section (1), or
- (b) issue the notification under sub-section (1) with such modification, if any, as it thinks fit.

(5) In considering the objections or suggestions, the decision of the State Government on the question, of issuing the notification under sub-section (1) shall be final and conclusive.

8. Within two months from the date of publication of the notification under sub-section (1) of section 7 fixing the highway boundary, building line and control line with respect to any highway, the Highway Authority shall cause a map to be made of the area through which such highway passes and shall cause to be marked thereon the highway boundaries and building and control lines and any other particulars necessary for the purposes of this Act and within one month from the date of making any alteration or addition thereto cause the said map to be corrected and such map with the date indicated thereon of the last time when the same shall have been so corrected shall be kept in the office of the Highway Authority. Such map, which shall bear the seal of the Highway Authority, shall be open to inspection. Copies of such map shall also be kept for inspection at such other places as may be prescribed.

Map to be prepared and maintained.

9. (1) Notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, on or after the appointed day, the following restrictions shall, subject to the provisions of this Act, be in force, that is to say,—

Restrictions on buildings between highway boundary and building line and between building and control lines.

no person shall, without the previous permission in writing of the Highway Authority,—

(a) upon any land lying between the highway boundary and the building line proposed to be fixed under sub-section (2), or fixed under sub-section (1), of section 7, as the case may be,

- (i) construct from or lay out any means of access to, or from a highway, or
- (ii) erect any building, or
- (iii) materially alter any existing building, or
- (iv) make or extend any excavation, or
- (v) construct, form or lay out any works; or

(b) upon any land lying between the building line and the control line proposed to be fixed under sub-section (2), or fixed under sub-section (1), of section 7, as the case may be,

- (i) construct, form or lay out any means of access to, or from, a highway,
- or
- (ii) erect any building, or
- (iii) materially alter any existing building;

(c) use any building or alter the use of any building already erected in manner which in the opinion of the Highway Authority will, in any manner whatsoever, infringe any of the provisions of this Act, or interfere with the use of a highway adjoining the land on which such building is erected.

(2) Every person desiring to obtain such permission under sub-section (1) shall make an application in writing to the Highway Authority 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 such application, the Highway Authority, after making such enquiries as it may consider necessary, shall 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) permission under clause (a) of sub-section (1) to the making of any excavation or 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 nor be made subject to any conditions save such as may be necessary for securing that the sewer, drain electric line, pipe, duct or other apparatus shall be laid in such manner and at such levels that the construction, maintenance, development improvement of a road thereover will not be prevented or prejudicially affect thereby ;

(ii) permission under clause (b) of sub-section (1) to the erection or alteration of a building or laying out any means of access to a highway which conform to the requirements of public health and welfare and of safety and convenience of traffic on the adjoining road shall neither be withheld nor made subject to unreasonable conditions :

Provided that in the case of means of access required for agricultural purpose such permission shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only ;

(iii) permission under clause (b) of sub-section (1) to the re-erection or alteration of a building which was in existence before the appointed day shall neither be withheld nor, made subject to restrictions unless such re-erection or alteration involves any material alteration to the outside appearance of the building.

(4) When the Highway Authority refuses permission, the reasons therefor shall be recorded and communicated to the applicant :

Provided that nothing herein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features communicated to him as aforesaid on account of which such permission was refused.

(5) If at the expiration of a period of three months after an application for such permission specifying the name and address of the applicant has been made to the Highway Authority, or such further period not exceeding three months as may have been notified by the Highway Authority has lapsed and no decision has been notified in writing, posted or delivered to the applicant at the address, then (except as may otherwise be agreed in writing between the Highway Authority and the applicant) permission shall be deemed to have been given without the imposition by the Highway Authority of any conditions.

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

Explanation.—For the purpose of this section, the “appointed day” shall, with reference to any highway boundary, building line or control line, mean—

(1) the day on which a notification is published in the *Official Gazette*, under sub-section (2) of section 7 proposing to fix such highway boundary, building line or control line, and

(2) if any modification is made in such highway boundary, building line or control line, the day on which the notification is published under sub-section (1) of section 7 fixing such highway boundary, building line or control line.

10. (1) If any applicant is aggrieved by any decision of the Highway Authority under section 9, withholding permission, or imposing any condition, he may appeal to the State Government within 30 days from the date on which such decision was communicated to him. Appeal.

(2) The State Government may, after giving an opportunity to the applicant to be heard, make such order as it thinks fit upon the appeal and the decision of the State Government shall be final.

11. (1) No restrictions in force under section 9 shall apply to the erection or making of a building or excavation or to the construction, formation of laying out, of any means of access or works begun before the appointed day referred to in section 9. Exemptions for works in progress, etc.

(2) No restrictions in force under section 9, except restrictions as to the construction, formation or laying out, or means of access, shall apply to any land forming part of a burial or cremation ground or other place for the disposal of the dead being land which has, before the passing of this Act, been used for such purpose.

(3) No restrictions in force under section 9 shall apply to any excavation or works necessary in connection with any drains, ditches, or other drainage works for agricultural purposes or to any 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 before the date on which the restrictions came into force or with the consent of the Highway Authority on or after that date.

12. Whenever any building or any part thereof erected before the appointed day referred to in section 9 lies between the building line and the middle of the highway, the Highway Authority may, whenever any such building or part has either entirely or in greater part been taken down, burnt down or fallen down by notice require such building or part when re-erected to be set back to the building line or control line. Setting back to building line or control line.

13. (1) The Highway Authority may, if it is considered essential in the interests of safety or convenience of traffic, regulate or divert any existing right of access to a highway across land lying between the control line and the highway boundary : Regulation or diversion of right of access to highway.

Provided that the existing right of access shall not be diverted until alternative access has been given.

(2) Where the existing right of access is diverted, the point at which alternative access is given to the highway shall not be unreasonably distant from the existing point of access.

(3) The Highway Authority shall, by notification in the *Official Gazette*, publish the date on which the existing right of access has been diverted and alternative access has been given.

Powers of
Highways
Authority
and officers
and servants
appointed
under
section 6 in
respect of
surveys.

14. For the purpose of carrying out any of the provisions of this Act, the Highway Authority and the officers and servants appointed under section 6 may—

- (a) enter upon, survey and take measurements and levels of any land ;
- (b) mark such levels, dig or bore into the subsoil of any land ;
- (c) demarcate the boundaries of the highway by planting stones or other suitable marks in different colours of a 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 ;
- (d) where there are bends or kinks on the road boundary, locate the stones or marks in different colours so as to give the correct configuration of the boundary if they are joined by straight lines ;
- (e) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constituted part of the highway ;
- (f) lay out the building and control lines by placing marks in different colours and cutting trenches ;
- (g) if the survey cannot otherwise be made, or measurements or levels taken or boundaries marked and lines laid out, cut down and clear away any standing crop, tree, fence or jungle or any part thereof ;
- (h) do all other acts necessary in that behalf :

Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of the officers or servants to enter any premises without previously giving such occupier at least forty-eight hours' notice in writing of its intention to do so.

Power to
acquire
land, etc.

¹[15. (1) Any land required by the Highway Authority for discharging its functions under this Act shall be deemed to be the land needed for a public purpose and such land may, on a request being received from the Authority, be acquired by the State Government for the said Authority under the provisions of this Act.

(2) On the Highway Authority approaching the State Government as provided under sub-section (1) with such requisition and the State Government being satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a highway or part thereof, it may, by notification in the *Official Gazette*, declare its intention to acquire such land :

Provided that, if the land intended to be acquired is situated in the Scheduled Area, before declaring its intention to acquire such land, the State Government or the officer authorised in this behalf shall consult, in such manner as may be laid down by the State Government by a general or special order issued in this behalf,—

- (i) the *Gram Sabha* or *Panchayat* concerned, if the land is falling within the limits of a village ;
- (ii) the *Panchayat Samiti* concerned, if the land is falling within the limits of more than one villages in a Block.
- (iii) the *Zilla Parishad* concerned, if the land is falling within the limits of more than one Blocks, in a District.

¹ These sections were substituted for sections 15 to 19 by Mah. 37 of 1999, s. 2.

Explanation.—For the purposes of this sub-section,—

Bom.
III of
1959.

(i) the expressions “Gram Sabha” and “Scheduled Area” shall have the meaning respectively assigned to them in the *Bombay Village Panchayats Act, 1958 ;

Mah.
V of
1962.

(ii) the expressions “Panchayat Samit” and “Zilla Parishad” shall have the meaning respectively assigned to them in the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961.

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

(4) Any officer authorised by the State Government, by notification in the *Official Gazette*, for acquisition of land for the purposes of this Act (hereinafter called as “the Land Acquisition Officer”), shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

16. On the issue of the notification under sub-section (2) of section 15, it shall be lawful for the Land Acquisition Officer or any person authorised by the State Government in this behalf, to—

Power to
enter or
survey, etc.

(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 levels, boundaries and lines by placing marks and cutting trenches ; or

(f) do such other acts or things as may be prescribed.

17. (1) Any person interested in the land other than the persons whose objections or suggestions have already been considered or heard by the Highway Authority in response to the notification issued by the Highway Authority under section 7 may, within twenty-one days from the date of publication of the notification under sub-section (2) of section 15, object to the use of the land for the purpose or purposes mentioned in that sub-section.

Hearing of
objections.

(2) Every objection under sub-section (1) shall be made to the Land Acquisition Officer in writing and shall set out the grounds thereof and the Land Acquisition Officer 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 Land Acquisition Officer thinks necessary by order, either allow or disallow the objections.

25 of
1961.

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.

(3) Any order made by the Land Acquisition Officer under sub-section (2) shall be final.

18. (1) Where no objection under sub-section (1) of section 17 has been made to the Land Acquisition Officer within the period specified therein or where the Land Acquisition Officer has disallowed the objection under sub-section (2) of that section the Land Acquisition Officer 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 (2) of section 15.

Declaration
of
acquisition.

* The short title of this Act was amended as “the Maharashtra Village Panchayats Act” by Mah. 24 of 2012, Sch. entry, w.e.f. 1-5-1960.

(2) On the publication of such 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 (2) of section 15 for its acquisition 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, in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (2) of section 15 is stayed by an order or a court shall be excluded.

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

Powers to
take
possession.

19. (1) Where any land has been vested in the State Government under sub-section (2) of section 18, and the amount determined by the Land Acquisition Officer under section 19B with respect to such land has been deposited under sub-section (1) of section 19C with the Land Acquisition Officer by the State Government, the Land Acquisition Officer 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 Land Acquisition Officer or any person duly authorised by him in this behalf within sixty 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 Land Acquisition Officer shall apply—

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

(b) in case of the land situated in any area other than the area referred to in clause (a), to the Collector of a District ; and

such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the Land Acquisition Officer or to the person duly authorised by him.

Right to
enter into
land where
land vested
in State
Government.

19A. Where the land has been vested in the State Government under section 18, it shall be lawful for the Land Acquisition Officer or any person authorised by him in this behalf, to enter and do other act necessary upon the land for carrying out the building maintenance, management or operation of a highway or a part thereof, or any other work connected therewith.

Determina-
tion of
amount
payable as
compensa-
tion.

19B. (1) Where any land is acquired by the State Government under this chapter there shall be paid an amount of compensation which shall be determined in accordance with the provisions of this section.

(2) Where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.

(3) Where no such agreement can be reached, the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation to be paid for such acquisition and also the person or persons to whom such compensation shall be paid :

Provided that, no compensation exceeding such amount as the State Government may by general order specify, shall be determined by the Land Acquisition Officer without the previous approval of the State Government or such Officer as the State Government may appoint in this behalf.

(4) Notwithstanding anything contained in sub-section (3), if, after the case is referred to the Land Acquisition Officer under the said sub-section (3) but before he finally determined the amount of compensation, such amount is determined by agreement between the State Government and the person to be compensated, the compensation shall be determined by the Land Acquisition Officer in accordance with such agreement.

(5) Where the right of user of any right in the nature of an easement on any land is acquired under this Act, there shall be paid, to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent. of the amount determined under sub-section (2) or sub-section (3), as the case may be, for that land.

(6) Before proceeding to determine the amount under sub-section (3) or sub-section (5), the Land Acquisition Officer shall give a public notice published in two local newspapers, one of which shall be in a vernacular language, inviting claims from all persons interested in the land to be acquired.

(7) Such notice 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 17 before the Land Acquisition Officer, at a time and place, and to state the nature of their respective interest in such land.

(8) If the amount determined by the Land Acquisition Officer under sub-section (3) or sub-section (5) 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.

26 of 1996. (9) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.

(10) The Land Acquisition Officer or the arbitrator while determining the amount under sub-section (3) or sub-section (8), as the case may be, shall take into consideration,—

(a) the market value of the land on the date of publication of the notification under section 15 ;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land ;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings ;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

19C. (1) The amount determined under section 19B shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer before taking possession of the land.

Deposit and payment of amount.

(2) As soon as may be after the amount has been deposited under sub-section (1), the Land Acquisition Officer 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 Land Acquisition Officer shall determine the persons who in his 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 Land Acquisition Officer 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 sub-section (8) of section 19B by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 19 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the excess amount together with an interest, if any, awarded under sub-section (5), shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer and the provisions of sub-sections (2) to (4) shall apply to such deposit.

Land Acquisition officer to have certain powers of civil court.

19D. The Land Acquisition Officer 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, in respect of the following matters, namely :—

5 of 1908.

- (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 ;
- (e) issuing commission for examination of witnesses.

Land Acquisition Act, 1894 not to apply.

19E. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.]

1 of 1894.

CHAPTER IV.

Prevention of unauthorised occupation of, and encroachment on, a highway and removal of encroachment.

Lands forming part of highway deemed to be Government property.

20. All lands forming part of a highway which do not already vest in the State Government shall, for the purpose of this Chapter, be deemed to be the property of the State Government.

21. (1) No person shall occupy or encroach on any highway within the highway boundaries without obtaining the previous permission in writing of the Highway Authority or an officer authorized in this behalf by the Highway Authority.

Prevention
of
unauthorized
occupation
of highway.

(2) The Highway Authority or an officer authorized by the Highway Authority in this behalf may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and such rules as may be prescribed by the State Government, and on payment of such rent or other charges as may be prescribed under such rules, permit any person,—

(i) to place a temporary encroachment on any highway in front of any building owned by him or make a temporary structure overhanging the highway, or

(ii) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any 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 building :

Provided that no such permission shall be deemed to be valid beyond a period of one year unless expressly renewed by the Highway Authority or the authorized officer.

(3) The permission so granted shall clearly specify the date up to which the person is authorized to occupy the highway, the purposes for which occupation is authorized and the exact portion of the highway permitted to be occupied and shall also be accompanied by a plan or sketch of that portion of the highway, if necessary.

(4) The person in whose favour such a permission has been given shall produce the permit for inspection whenever called upon to do so by the Highway Authority or any officer by a general or special order empowered in that behalf and shall at the end of the period specified in the permit release the land occupied by him after restoring it to the same state as before the occupation by him.

(5) The Highway Authority or the officer issuing the permission shall maintain a complete record of all such permissions issued and shall also cause a check-up to be made in every case at the expiration of the period up to which occupation has been authorized to ensure that the land has actually been vacated.

22. (1) The Highway Authority may cancel any permission granted under section 21—

Power to
cancel
permit.

(a) if any rent or charge is not duly paid,

(b) if the purpose for which the permission was given has ceased to exist,

(c) in the event of any breach by the holder of such permission or of any terms or conditions of such permission,

(d) if the land on which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.

(2) Where the permission has been cancelled under clause (b) or (d) of sub-section (1) any rent or charge paid in advance shall be refunded to the holder of such permission less the amount, if any, due to the State Government.

Prevention
of
encroach-
ment.

23. (1) When as a result of check of highway boundaries made or otherwise it transpires that an encroachment has taken place on a highway the Highway Authority or the officer authorized under sub-section (1) of section 21 shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original conditions before the encroachment within the period specified in the notice.

(2) The notice shall specify the land encroached upon and the time limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction.

(3) If the encroachment is not removed within the time-limit specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorized officer referred to in sub-section (1) may prosecute such person before the appropriate Magistrate for his having made or caused the encroachment and for his failure to remove it within the specified time.

(4) Where the encroachment is made for the purpose of exposing articles for sale, opening temporary booths for vending or other like purpose of a trivial nature the Highway Authority or the authorized officer referred to in sub-section (1) may with the help of the police, if necessary, have such encroachment summarily removed without issuing a notice as required by sub-section (1), or in lieu of removal of the encroachment, may give the person responsible for the encroachment option of executing a lease in favour of the Highway Authority on payment of rent for the area encroached upon.

(5) When the encroachment is of a temporary nature and can easily be removed but is not such as can be described as trivial within the meaning of sub-section (4), the Highway Authority or the authorized officer referred to in sub-section (1) may in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (3) have the encroachment summarily removed with the assistance of the police, if necessary.

(6) Where the encroachment is of such a nature that its immediate removal is, considered essential in the interests of safety of traffic, on the highway or the safety of any structure forming part of the highway, the Highway Authority or the authorized officer referred to in sub-section (1) may, in addition to prosecution of the person under sub-section (3), either—

(i) have such protective work, as may be feasible at a reasonable cost, carried out so as to minimise the danger to traffic on the highway, or

(ii) have the encroachment removed with the help of the police, if necessary.

Appeal
against
notice
served under
sub-section
(1) of
section 23.

24. Where the person on whom notice to remove an encroachment has been served under sub-section (1) of section 23 lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a right over it by virtue of adverse possession or otherwise he shall within the time-limit prescribed in the notice for the removal of the encroachment, file an appeal before the Collector under intimation to the Highway Authority or the officer authorized under sub-section (1) of section 21, as the case may be. The Collector shall after due enquiry record his decision in writing and communicate the same to the appellant and the Highway Authority or such officer. The Highway Authority to such officer shall till then desist from taking further action in the matter.

25. (1) Whenever the Highway Authority or the officer authorized under sub-section (1) of section 21 has under the provisions of section 23 removed any encroachment or carried out any protective work in respect of any encroachment, the expenditure involved shall be recovered from the person responsible for the encroachment in the manner hereinafter provided.

Recovery of cost of removal of encroachment.

(2) A bill, representing the expenditure incurred shall be served by the Highway Authority or the authorized officer referred to in sub-section (1) on the person responsible for the encroachment or his representative with a direction to pay up the amount within a specified period to the authority mentioned in the bill.

(3) The bill shall be accompanied by a certificate from the Highway Authority or the authorized officer referred to in sub-section (1) to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred.

(4) The materials, if any, recovered as a result of the removal of any encroachment shall be handed over to the person responsible for the encroachment on payment of the amount of the bill by him but in the event of his failure to pay up the amount within the specified period, the materials may be auctioned and after deducting the amount of the bill from the proceeds, the balance, if any, shall be made over to such person.

(5) If the proceeds of the auction sale do not cover the total amount billed for, the excess over the amount realised by the sale of materials, or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for the encroachment within the specified period, the entire amount of the bill shall be recovered from such person as an arrear of land revenue.

CHAPTER V.

Compensation.

26. In the exercise of the powers under the following provisions by the Highway Authority or any officer or servant appointed under section 6 or any other person authorised by or under this Act by the State Government as little damage as can be shall be done and compensation in the manner prescribed by or under this Act shall be paid to any person who sustains damage in consequence of the exercise of such powers, namely :—

Doing minimum damage in certain cases and compensation.

(a) the imposition of restrictions under section 9 ;

(b) the setting back of any building or part thereof under section 12 ;

(c) the regulation or diversion of any right of access to a highway under section 13 ;

(d) the entry, survey, measurement and doing of any of the acts on any land under section 14 ;

l * * * * *

(f) the closure of any highway or part thereof under section 52.

27. The amount of compensation payable under section 26, the persons to whom it is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Highway Authority or any officer authorised by the State Government and the person or persons claiming interest therein.

Determination of amount of compensation by agreement.

Determination of amount of compensation in default of agreement. **28.** (1) In default of any agreement under section 27, the Highway Authority or the officer authorised by the State Government shall, subject to the provisions of this Act, after holding an enquiry, make an award determining—

1 * * * * *

(b) the amount of compensation to be paid under section 26,

(c) the apportionment, if any, of such compensation among all persons known or believed to be entitled thereto :

²[Provided that, no award allowing compensation exceeding such amount as the State Government may, by general order, specify shall be made without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.]

3 * * * * *

No compensation if restrictions in force under any other law or if compensation already received. **29.** No compensation shall be awarded,—

(i) if and in so far as the land is subject to substantially similar restriction in force under some other law which was in force on the date on which the restrictions were imposed by this Act ;

(ii) if compensation in respect of the same restrictions imposed under this Act or substantially similar restrictions in force under any other law has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

Compensation for refusal of permission to build not to exceed difference between its value when it was refused and when it would have been granted. **30.** When permission to erect any building has been refused under section 9 or 10, the amount of compensation shall not exceed the difference between the value of the land as determined by section ⁴[19B of this Act] ⁵ * * * and the value which it would have had if the permission had been granted. In determining such value any restrictions to which the land is subject under any other law for the time being in force in regard to the right of person claiming compensation to erect a building on the land or otherwise to use, hold or dispose of the same shall be taken into consideration.

Compensation for diversion of access not to exceed cost of alternative access. **31.** Where the right of access to a highway has been destroyed as a result of the diversion or closure thereof and an alternative access has been given, the amount of compensation shall in no case exceed the cost of laying a new means of access from the property of the claimant to such alternative route.

Compensation for cutting of standing crops, trees, etc. **32.** (1) At the time of an entry, survey or measurement or doing of any of the things under section 14, the officer making the entry, survey or measurement or doing any other thing shall pay or tender to any person entitled compensation for all necessary damage done as a result of such entry, survey, measurement or execution of the work, including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land. It the sufficiency of the amount so paid

1 Clause (a) was deleted by Mah. 37 of 1999, s. 4 (a).

2 This proviso was added by Mah. 42 of 1965, s. 7.

3 Sub-section (2) was deleted by Mah. 37 of 1999, s. 4 (b).

4 The figures, letter and words were substituted for the figures and words "23 or 24 of the Land Acquisition Act, 1894"; *ibid.*, s. 5.

5 The words "as amended by the Schedule to this Act" were deleted, *ibid.*, s. 3.

or tendered is disputed, the officer concerned shall at once refer the dispute to the Highway Authority and the said Authority shall with the least practicable delay decide the dispute and pay to the person entitled the amount determined as compensation. The decision of the Highway Authority shall be final.

(2) If at the time of taking possession of the land under section 19 there are any standing crops, trees or temporary structures on the land, the Highway Authority shall pay or tender to the person entitled the amount of compensation for such standing crops, trees or temporary structures. If the sufficiency of such a amount is disputed, the value of such crops, trees and temporary structures shall be taken into consideration in determining the amount of compensation for the land under [section 19B].

33. If any person has unauthorisedly erected, re-erected, added or altered any building on any land which is acquired for the purpose of a highway, then any increase in the value of the land from such erection, re-erection, addition or alteration shall not be taken into account in estimating the value of the land.

No compensation for unauthorised erections.

34. No compensation shall be payable for the removal of any encroachment.

No compensation for removal of encroachment.

35. ²[(1) Any person aggrieved by the award of the Highway Authority, or the Officer authorised under section 28, shall by a written application to the Highway Authority, or such officer, require that the matter be referred, to arbitrator appointed under sub-section (8) of section 19B.]

Reference against award of Highway Authority or authorised officer under section 28.

(2) Any such application shall be made within six weeks from the date of the award, and shall be in such form as may be prescribed.

(3) ³[* * * * *]

(4) The Highway Authority or the Officer authorised shall make the reference in such manner as may be prescribed.

36. (1) Reference under sections 35 and 44 shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the authorities empowered to decide such references may exercise all the powers of a civil court under that Code.

V of 1908.

Procedure and powers of the authorities empowered to decide references under section 35 and 44.

(2) The scope of the enquiry in a reference under section 35 or 44 shall be restricted to a consideration of the matters referred to the authorities mentioned in sub-section (1) in accordance with the provisions of this Act.

37. If the Highway Authority or any officer or servant is opposed or impeded ⁴[* * * * *] in executing any work or in removing any encroachment under this Act, the Highway Authority or officer or servant concerned shall apply in Greater Bombay to the Commissioner of Police, and elsewhere, to the District Superintendent of Police or such Police Officer as the State Government may empower in this behalf, and the Commissioner, the District Superintendent or the officer so empowered shall enforce the surrender, removal or execution, as the case may be.

Commissioner of Police or District Superintendent of Police to enforce, surrender or remove any encroachment.

1 The word, figures and letter was substituted for the words and figures "section 28" by Mah. 37 of 1999, s. 6.

2 This sub-section was substituted, *ibid.*, s. 7 (a).

3 This sub-section (3) was deleted, *ibid.*, s. 7 (b).

4 These words "in taking possession of any land or" were deleted, *ibid.*, s. 8.

Decisions of authorities under sections 35 and 44 to be enforced as decrees of civil court.

38. The decisions of the authorities empowered to decide references under sections 35 and 44 shall be enforceable as a decree of a civil court.

Payment of compensation awarded.

39. (1) On the determination of compensation by agreement under section 27,

OR

(2) on the making of an award under section 28, or

(3) if a reference is made under section 35 against such award, after the decision of the Authority under that section,

the Highway Authority shall make the payment of the compensation awarded to the person entitled thereto in accordance with the agreement, its award or the decision of the Authority empowered to decide references under section 35, as the case may be. ¹[The provisions of section 19C shall, *mutatis mutandis*, apply to such payment].

Payment by adjustment.

40. All payments due to be made to any person by way of compensation by the Highway Authority under this Act shall, as far as possible, be made by adjustment in such person's account regarding betterment charges, if any, due from such person under Chapter VI.

CHAPTER VI.

Levy of Betterment Charges.

Notice to owners and persons interested.

41. Where any work which the Highway Authority is empowered to undertake by or under the provisions of this Act is undertaken, the officer authorised by the State Government in this behalf shall give notice to the persons known or believed to be the owners of or interested in the lands benefited by such work requiring them to appear before him either personally or by an agent at a time and place therein mentioned (such time not being earlier than 30 days from the date of notice) to start their objections, if any, to the imposition and recovery of betterment charges on such lands :

Provided that no notice shall be given unless the Collector with the previous sanction of the State Government has declared that the value of such lands is likely to increase or has increased by reason of the construction of such work.

Inquiry and order.

42. On the date fixed under section 41 or on such other date to which the inquiry may be adjourned, the officer authorised under section 41 shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by notice under section 41, make an order. The order shall specify,—

- (a) the lands benefited by the construction of the work,
- (b) the increase in the value of such lands by the proposed construction,
- (c) the amount of the betterment charges leviable on each of the said lands,
- (d) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land—

- (a) which is unsuitable for development as a building site, or
- (b) which is situate beyond a distance of one furlong from the middle of the highway on either side.

¹ These words were substituted for the portion beginning with the words "The provision of sections" and ending with the words "apply to such payment", by Mah. 37 of 1999, s. 9.

43. The increase in value on account of the construction of such work shall be the amount by which the value of the land on the date of the completion of the proposed work is likely to exceed or has exceeded the value of the land on the date of the commencement of the said work and the betterment charges shall be one-half of such increase in value.

Increase in value and betterment charges.

Explanation.—For the purposes of this section, the State Government shall, by notification in the *Official Gazette*, specify—

- (a) the date of commencement of the construction of any work,
- (b) the date of completion of such work.

44. (1) Any person aggrieved by the order fixing the betterment charges may, by a written application to the officer authorised under section 41, require that the matter be referred, if the land in relation to which the order is made is situate,—

Reference against order of authorised officer under section 42.

(i) in Greater Bombay, to the Principal Judge of the City Civil Court or such other Judge of the said Court as may be nominated by the State Government in consultation with the Principal Judge ; and

(ii) elsewhere, to the Civil Judge (Senior Division) of the district within the limits of whose jurisdiction the land is situate.

(2) Any such application shall be made within six weeks from the date on which the order of the officer referred to in sub-section (1) was communicated to such person and shall be in such form as may be prescribed.

IX of 1908. (3) The provisions of sections 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the time fixed for reference under sub-section (2).

(4) The Officer authorised under section 41 shall make the reference, in such manner as may be prescribed.

45. The order fixing the betterment charges made under section 42, subject to a reference to the Authority under section 44 and the decision of the Authority on reference under section 44, shall be final.

Finality of order fixing betterment charges and of decision on reference.

46. From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable, or from such date as may be otherwise specified by the Authority under section 44 as the date from which such charge shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Betterment charges to be first charge on land next to land revenue.

47. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 71 :

Payment of betterment charges.

Provided that the owner of the land in which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed.

Relinquish-
ment of or
exchange of
land in lieu
of payment
of better-
ment charges

48. Notwithstanding anything contained in section 47, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in lieu of payment of the charges, in favour of the State Government on such conditions as may be prescribed :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

CHAPTER VII.

Supplemental provisions to secure safety of traffic and prevention of damage to highways.

[Prevention
of danger
arising from
obstruction
of view, etc.
of persons
using any
highway.]

49. (1) Whenever the Highway Authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway ²[or from distraction of attention of such persons], especially at any bend or corner of the highway, it may, save as otherwise provided in section 11, serve a notice upon the owner or occupier of land alongside or at the bend or corner of such highway to alter within such time and in such manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure), fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to cause it to conform with any requirements specified in the notice.

(2) If any person upon whom a notice has been served under sub-section (1) objects to comply with any requirement of such notice, he may, within one month of its receipt, send to the Highway Authority his objection in writing stating the grounds thereof.

(3) The Highway Authority shall, within one month of the receipt of the objection consider the grounds advanced and shall, by order in writing, either withdraw the notice or amend or confirm it.

(4) If a person is aggrieved by an order issued by the Highway Authority under sub-section (3), he may prefer an appeal within 15 days from the date when such order was communicated to him, to the Collector whose decision in the matter shall be final.

(5) If any person fails to comply with the notice served on him under sub-section (1) as amended or confirmed, as the case may be, under sub-section (3), the Highway Authority may take action to alter the object causing obstruction of view ³[or distraction of attention] at its own expense, and such expenditure shall be recovered from such person in accordance with the provisions of section 25, without prejudice to any other action which may be taken against him.

Highway
Authority
to regulate
traffic when
highway
declared
unsafe.

50. If at any time it appears to the Highway Authority that any highway in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such rules as may be prescribed in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of vehicles using the highway.

Prohibition
of use of
heavy
vehicles on
certain
highways.

51. Where the Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on or across any highway, is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed in this behalf, it may, subject to such rules as may be prescribed in that behalf, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

1 This marginal note was substituted for the original, Mah. 42 of 1965, s. 8 (c).

2 These words were inserted by *ibid.*, s. 8 (a).

3 These words were inserted *ibid.*, s. 8 (b).

52. (1) Where in exercise of the powers conferred on it by section 50 the Highway Authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the *Official Gazette*. The notification shall also be published in at least two newspapers, one of which shall be in the regional language of the place in which the highway is situated.

Procedure to be followed when Highway Authority desires permanently to close any highway.

(2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence and shall also invite objections, if any, to the proposal to be submitted within such time as may be specified.

(3) The Highway Authority shall finalise its proposal to close down any highway or part of it after considering the objections, if any, received within the specified time and shall submit the final proposal to the State Government for approval together with such objections as may have been received against the proposal.

(4) The State Government may either approve the proposal, with or without modifications or reject it.

(5) When the State Government has approved the proposal it shall publish its orders in the *Official Gazette*.

(6) When the orders of the State Government have been published in the *Official Gazette* the Highway Authority shall arrange for further publicity to be given to the order in at least two newspapers one of which shall be in the regional language of the place in which such highway is situate and the highway or part thereof shall then be closed.

(7) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to use such highway or part thereof as a means of access to or from his property and has suffered damage for such closure.

53. (1) Notwithstanding anything contained in any other enactment for the time being in force but subject to the provisions of section 72 no person other than the Highway Authority or any person authorised by it shall construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway, except with the permission in writing of the Highway Authority.

Consent of Highway Authority required to do certain acts on highway.

(2) In giving its consent, the Highway Authority may impose such conditions as it may deem to be necessary, and may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

(3) If any person constructs or carries out any work in contravention of sub-section (1), the Highway Authority may arrange for the removal of such work and restoration of the highway to its former condition in accordance with the provisions of section 23 as if the work constituted an encroachment on the highway, and such expenses as the Highway Authority may incur for this purpose, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

54. (1) No person shall wilfully cause, or allow any vehicle or animal in his charge to cause any damage to any highway.

Prevention and rectification of damaged highway.

(2) Where in contravention of sub-section (1) any damage has been caused to any highway, the Highway Authority shall have the damage repaired and the expenses involved shall, without prejudice to any other action that may be taken against the person responsible for contravention of sub-section (1), be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

CHAPTER VIII.

Penalties.

55. Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions that such person or authority is required or empowered under this Act to discharge, or, being required by or under this Act to supply any information, withholds such information or gives information which he knows to be false or which he does not believe to be true shall, on conviction, be punished with fine which may extend to ¹[one thousand rupees].

Disobedience of orders, instructions and refusal to give information, etc.

56. Whoever erects, alters or extends any building, or make any excavation or constructs any means of access to or from a highway or does any other work in contravention of the provisions of section 9, shall, on conviction, be punished—

Contravention of restrictions relating to access or erecting any building, etc.

(a) with fine which may extend to ²[two thousand rupees], and

(b) with further fine which may extend to ³[five thousand rupees] for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

Unauthorized occupation of highway.

57. Whoever—

(a) occupies or makes any encroachment on any highway in contravention of the provisions of sub-section (1) of section 21, or

(b) fails to comply with the notice served on him under sub-section (1) of section 23 for no valid reason, shall, on conviction, be punished—

(a) for a first offence with fine which may extend to ⁴[one thousand rupees],

(b) for a subsequent offence in relation to the same encroachment with fine which may extend to ⁵[two thousand rupees] plus a further fine not exceeding ⁶[hundred rupees per day] on which such occupation of the highway or encroachment continues.

Causing damage to highways.

58. Whoever in contravention of sub-section (1) of section 54 wilfully causes or allows any vehicle or animal in his charge to cause any damage to any highway, shall, on conviction, be punished with fine which may extend to one thousand rupees.

General provision for punishment of offences.

59. 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, on conviction, be punished—

(a) for a first offence with fine which may extend to ⁷[five thousand rupees],

(b) for a subsequent offence with fine which may extend to ⁸[one thousand rupees].

1 These words were substituted for the words "two hundred rupees" by Mah. 37 of 1999, s. 10.

2 These words were substituted for the words "five hundred rupees" *ibid.*, s. 11(a).

3 These words were substituted for the words "one hundred rupees" *ibid.*, s. 11(b).

4 These words were substituted for the words "two hundred and fifty rupees", *ibid.*, s. 12(a).

5 These words were substituted for the words "five hundred rupees" *ibid.*, s. 12(b).

6 These words were substituted for the words "fifty rupees per day" *ibid.*, s. 12(c).

7 These words were substituted for the words "fifty rupees" *ibid.*, s. 13(a).

8 These words were substituted for the words "two hundred rupees" *ibid.*, s. 13(b).

60. Any offence committed under this Act may be compounded by the Highway Authority and if any proceedings have been instituted against any person in any criminal court, then on the terms of the compromise being carried out, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or any property of such person with reference to same facts.

Power to compound offences.

CHAPTER IX.

Miscellaneous.

61. Every police officer shall forthwith furnish information to the nearest Highway Authority or the nearest officer subordinate to the Highway Authority of any offence coming to his knowledge which has been committed against this Act or any rule made under this Act, and shall be bound to assist the Highway Authority and its officers and servants in the exercise of their lawful authority.

Powers and duties of police.

62. Every village headman, village accountant, village watchman or other village official by whatever name called, shall forthwith inform the nearest police station or the nearest Highway Authority or any officer duly authorised by the Highway Authority, whenever he becomes aware that any survey mark or any boundary mark of any highway or any mark showing the building or control line determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tampered with, or that any damage to any highway or encroachment on any highway has been made.

Duties of village officials.

63. The Highway Authority may utilise temporarily for other than road purposes land forming part of a highway which is not immediately required for the passage of traffic, and dispose of the produce of such land.

Power to utilise highway for other than road purposes.

64. Any person wrongfully occupying any land,—

(a) which is a part of a highway,

(b) the occupation of which contravenes any of the provisions of this Act and the said provisions do not provide for the eviction of such person,

Summary eviction.

Bom. shall be summarily evicted by the Collector in the manner provided in the Bombay
II of City Land Revenue Act, 1876, or in the Bombay Land Revenue Code, 1879 ¹[or
1876. in any law relating to land revenue in force in any part of the State], as the case
Bom. may be, on being required to do so by the Highway Authority or any officer
V of authorised in this behalf by the State Government.
1879.

Bom. 65. (1) The Highway Authority or the officer authorised by the State Government
II of in this behalf shall, if he desires to make any inquiry for the purpose of this Act,
1876. make the inquiry in the manner provided for holding a summary inquiry under the
Bom. Bombay City Land Revenue Act, 1876, or the Bombay Land Revenue Code, 1879,
V of ¹[or under any law relating to land revenue in force in any part of the State] and
1879. all the provisions contained in the said Act or Code ²[or law] relating to the holding
of a summary inquiry, shall, so far as may be, apply :

Inquiries to be held summarily.

³[Provided that, wherein any such law, there is no provision for holding inquiry in a summary manner, such inquiry shall be held in such other manner as is provided in that law.]

1 These words were inserted by Mah. 42 of 1965, s. 9.

2 These words were inserted *ibid.*, s. 10(a).

3 This proviso was added, *ibid.* s. 10(a)(ii).

(2) The Highway Authority and an officer authorised by the State Government or the Highway Authority under this Act shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay City Land Revenue Act, 1876, or the Bombay Land Revenue Code, 1879¹ [or under any law relating to land revenue in force in any part of the State.]

Bom.
II of
1876.
Bom.
V of
1879.

Registration
of map
made under
section 8 not
required.

66. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any map made under section 8.

XVI
of
1908.

(2) All such maps shall, for the purposes of sections 49 and 50 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act :

XVI
of
1908.

Provided that the maps shall be accessible to the public in the manner prescribed.

Certain
persons to
be public
servants.

67. The Highway Authority, 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.

XLV
of
1860.

Bar of
jurisdiction.

68. No Civil Court shall have jurisdiction to settle, decide or deal or with any question which is by or under this Act required to be settled, decided or dealt with by the Highway Authority, the Collector, an officer or person authorised under this Act, any Authority under section 35 or section 44 or the State Government.

Protection
of persons
acting in
good faith
and limita-
tion of
suit or
prosecution.

69. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant 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.

(2) No suit or prosecution shall be instituted against any public servant or, officer or person duly authorised under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Service of
notices and
bills.

70. (1) Every notice or bill issued or prepared under this Act, may be served or presented,—

(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 or by causing it to be fixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where a notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service thereof may be effected either—

(a) by delivering or tendering the notice or sending it by post to the owner or occupier or if there be more owners or occupiers than one, to any one of them, or

(b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

¹ These words were added by Mah. 42 of 1965, s. 10(b).

(3) Whenever the person to whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

+71. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out all or any of the purposes of this Act.

Power to
make rules.

(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 manner in which the notification may be published in the Village and at the headquarters of the ¹[taluka, tahsil or mahal] under sub-section (2) of section 7 ;

(b) the other places at which copies of map may be open to inspection under section 8 ;

(c) the form of application and its contents under sub-section (2) of section 9 ;

²[(d) other acts and things which may be done by the Land Acquisition Officer under section 16 ;

(d-1) the manner in which the amount shall be deposited under section 19C ;]

(e) the conditions on which and the amount of rent or charge on payment of which encroachments may be made on a highway ;

(f) the manner in which a reference shall be made under section 35 or 44 ;

(g) fixation of the date on which the betterment charges shall be payable under section 47 and instalments together with the rate of interest and the period within which such instalments shall be paid under the proviso to the said section ;

(h) the conditions on which any land may be relinquished or delivered in exchange in favour of the State Government under section 48 ;

(i) rules subject to which any highway or portion of it may be closed to or any class of traffic or the number and speed or weight of vehicles using the highway may be regulated under section 50 ;

(j) rules subject to which plying of vehicles may be prohibited under section 51 ;

³[(k) the prevention of danger arising from obstruction of view of persons using highway or from distraction of their attention, and the prevention of annoyance, danger or injury to the public ;]

(l) the prevention of obstruction, encroachment and nuisances on or near and of damages to highways ;

(m) the proper maintenance of boundary marks demarcating highway boundaries and building and control lines ;

(n) the prescription of various forms of applications required to be made and the forms of notices and bills required to be served on persons, the charges to be made for the supply of copies of maps, and the rent or other charges to be imposed or levied under the provisions of this Act ;

(o) the general guidance to the Highway Authority in the discharge of its functions under this Act ;

(p) regulation or diversions of existing rights of access ;

(q) any other matter which is to be or may be prescribed.

† The rules made under the Bombay Highways Act, 1955, as in force in the Bombay area of the State of Maharashtra are hereby extended to the rest of that State (*vide* section 2 of Mah. 42 of 1965).

1 These words were substituted for the words "taluka or mahal" by Mah. 42 of 1965, s. 11(e).

2 These clauses were substituted for clause (d) by Mah. 37 of 1999, s. 14.

3 Clause (k) was substituted for the original, by Mah. 42 of 1965, s. 11 (b).

Savings. 72. (1) Subject to the provisions of this section, nothing in this Act shall 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 rights of any authority appointed under any law for the time being in force for gas or water, electricity, railways, tramways or trolley vehicles 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 ; or

(c) any land belonging to a railway administration or belonging to or used by a person holding a licence or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910, when such land is held or used by the railway administration or such person, as the case may be, for the purpose of its railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto ; or

IX of
1910.

(d) any land within the limits of a cantonment or a port declared by or under any law made by Parliament or existing law to be a major port ;

(e) any land within the jurisdiction of a local authority under the administrative control of the Central Government :

Provided that—

(i) any restrictions in force under section 9 as to construction, formation or laying out of means of access to, or from, any road, shall without any such consent as aforesaid, extend to any such land as is specified in clause (c) in so far as the restrictions relate to means of access over or under such land to, or from, land other than land so specified ; and

(ii) any consent required for the purposes of this section shall not be unreasonably withheld and the question whether or not the consent so required is unreasonably withheld shall be determined by the State Government and the decision of the State Government on the question shall be final.

(2) Nothing in this Act shall affect any powers and duties of the telegraph authority under the provisions of the Indian Telegraph Act, 1885.

XIII of
1885.

* * * * *

Provisions
of this Act
or rules to
prevail over
inconsistent
provisions in
other laws.

73. Save as provided in section 72, the provisions of this Act or rules made thereunder in regard to any matter dealt with thereby shall prevail over the provisions of any other law made by the State Legislature or any law which the State Legislature is competent to make or to amend, in so far as such law is inconsistent with the said provisions or rules, and such law to the extent of such inconsistency shall cease to apply or shall not apply to any such matter.

74. For the avoidance of doubt it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under any law made by Parliament to be national highway :

Building and Control lines along national highways [and levy of betterment charges].

Provided that if any highway is declared to be a national highway by or under any law made by Parliament, it shall be lawful for the State Government to fix ^{2*} * * * * the building and control lines for different portions of the said highway under section 7 ³[or to levy betterment charges under section 42 on lands the value of which has increased by reason of the construction or proposed construction of such highway ;] and thereafter the provisions of this Act in so far as they apply to the restrictions on buildings between the highway boundary and the building line or between the building line and the control line and other provisions relating to such building and control lines ⁴[or as the case may be, the provisions of this Act relating to the levy of betterment charges shall, *mutatis mutandis*, apply.]

Mah. XLII of 1965. C. P. and Berar Act XLVII of 1948. ⁵[75. (1) On the commencement of the Bombay Highways (Extension and Amendment) Act, 1965, the Central Provinces and Berar Regulation of Uses of Land Act, 1948, shall stand repealed :

Repeal and saving.

Provided that anything done or action taken (including any notifications or licences issued, plans deposited, or restrictions imposed, applications and rules made, permissions given, or compensation awarded) under the aforesaid Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

Bom. I of 1904. (2) The mention of particular matters in this section shall not affect the general application to this Act of section 7 of the Bombay General Clauses Act, 1904 (which relates to the effect of repeals).]

SCHEDULE

(Deleted by Mah. 24 of 1947, s. 4)

1 These words were added by Mah. 42 of 1965, s. 13(d).

2 The words "or not to fix" were deleted, *ibid.*, s. 13(a).

3 These words were inserted, *ibid.*, s. 13(b).

4 These words were substituted for the words "shall *mutatis mutandis* apply", *ibid.*, s. 13(c).

5 Section 75 was inserted, *ibid.*, s. 14.