

MIZORAM HIGHWAY ACT, 2002

NOTIFICATION

No. h.12018/111/2002-LJD/3, the 27th June, 2002. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published general information.

The Mizoram Act No. 11 of 2002

The Mizoram Highway Act, 2002

Received the assent of the Governor of Mizoram on the 14th June 2002.

AN ACT to provide for the declaration of certain roads to become the State Highways, to provide for 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 taxes; to provide generally for the regulation of road development and road transport so as to secure for the public such conditions as will endure the maximum efficiency and safety of all means of road transport in the State of Mizoram and other matters connected there with or ancillary thereto.

It is enacted by the Mizoram Legislature in the Fifty-Third Year of the Republic of India as follows:-

CHAPTER – I

PRELIMINARY

1. Short title, extent and Commencement:

1. This Act may be called Mizoram Highways Act, 2002.
2. It shall extend to the whole of the State of Mizoram.
3. It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless the context otherwise requires : –

1. **'betterment'** when applied to land means the increase in the value of any land arising from the execution in its vicinity of a highway development scheme at public expense;
2. **'betterment tax'** means a tax levied on owners of land percentage of the betterment value of the land;
3. **'building'** includes any erection of whatever material and in whatever manner constructed (including a farm building or jhum house for agriculture horticulture purpose and animal sheds) and also includes Plinths, door steps, walls. (including compound wall and fences) advertisement board and the like;
4. **'building line'** means a line on either side of any highway or part of a highway as may be determined in respect of such highway or part by the highway authority under section 14 of this Act;
5. **'collector'** means such ,officer as so appointed collector under the Land Acquisition Act, 1894 (and includes any other authority so appointed by the

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Government by notification in the Official Gazette, to perform all or any of the functions of the collector under this Act);

6. '**competent authority**' means the State Government or a local authority, or any officer of the state government or such a local authority appointed to be the competent authority for the purposes of this Act;
7. '**control line**' means a line on either side of a highway or part of a highway beyond the building line as may be determined by the highway authority under section 14 of this Act;
8. '**driver**' means in the case of a vehicle the person in charge or control of the vehicle for the time being, and in the case of animals any person driving, loading, riding or otherwise managing or controlling the animal and the words drive, driving, driven shall be construed accordingly;
9. '**encroachment**' means occupation of any highway or part thereof, for the purposes other than traffic and act which causes damage to the highway or any part, thereof, and includes;
 10. erection of a building or any other permanent or temporary structure, balconies, porches, facades or projections on, over or overhanging the highway land;
 11. occupation of highway land beyond the prescribed period, if any, for stacking building materials or goods of any other description, for exhibiting article for sale, for erecting poles, tents, pandals awnings, arches, platforms, rostrums, hoardings, display boards, statues, monuments of all kinds, steps, ramps and other similar erections or for parking vehicle or stabling domestic animals and poultry and cultivation of any kind including horticulture or for any other purposes;
 12. excavations or embankment of any sort made or extended on any highway land; and dumping of waste and filthy materials which may cause hygienic and environmental hazards, letting of waste and polluted water or other effluents into the highway and using the highway for bathing, washing, watering and defecating;
13. '**highway**' means any road, way or land declared as a highway under section 3 and includes any lands acquired or demarcated for construction of a highway, but does not include any national highway as defined or declared as such under the National Highways Act, 1956 (Central Act 48 of 1956);
14. '**Highway authority**' means the highway authority appointed under, Section 4;
15. '**Highway boundaries**' means the boundaries of the highway whether visible demarcated or not, within which contained the areas of land constituting the highway or land reserved or acquired for widening the highway;
16. '**Limited access highway**' means a highway access to which is permitted only at points specifically provided or agreed to for the purpose by the highway authority;
17. '**Middle of a Highway**' means in relation to any highway for which plans have been prepared for Improvement by the highway authority, the middle of the highway as proposed to be improved in accordance with the plans and where no

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such plans have been prepared, the point half way between the boundaries of the highway;

18. **'Official Gazette'** means the Mizoram Gazette;
19. **'Place of Worship'** means a building used as a place of religious congregation, prayer or worship established and recognized, and shall include a church, temple or mosque;
20. **'Prescribed'** means prescribed by rules made under this Act;
21. **'Public Place'** means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or unload by a public vehicle:
22. **'Standard Width of Highway'** means the width of a highway between its boundaries as prescribed by the highway authority under section 13;
23. **'State Government'** or **'Government'** means the Government of Mizoram;
24. **'Survey'** includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a re-survey;
25. **'Survey Mark'** means any mark or object erected made, employed or specified by a survey Officer to indicate or determine or assist in determined the position or level of any point or points;
26. **'Survey Officer'** means any person appointed to be a survey Officer under this Act;
27. **'Vehicle'** includes a barrow, sledge, plough, drag and a wheeled or tracked conveyance of any description capable of being used on a highway.

CHAPTER – II

DECLARATION OF HIGHWAYS, HIGHWAY AUTHORITIES, THEIR POWERS AND FUNCTIONS

3. Declaration of Highways

The State Government may, by notification in the Official Gazette, declare any road, way or land appurtenant thereto to be a highway and classify it as –

- (a) a State Highway (SH),
- (b) a Major District Road (MDR),
- (c) Other District Road (ODR),
- (d) a Village Road (VR).

Explanation - For the purpose of classification of highways under this section, important roads within a district or adjoining districts serving areas of production and market and connecting these with each other or with a state highway or national highway shall be considered as major district road and arterial routes of the state linking district headquarters and important towns or cities within the state and

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connecting them with national highways or highways of neighboring States shall be considered as a State highway.

4. Appointment

The State Government may, by notification in the Official of highway Gazette and subject to such conditions and limitations as Authority may be specified therein, appoint Secretary, PWD either by name or by virtue of his office, to be the highway authority for all the highways in the State with the full range of powers and responsibilities under this Act, together with the Power to delegate such power selectively to appropriate Senior PWD officers –

5. Power and functions of Highway authority

Subject to the provisions of this Act, a highway authority functions of shall have the following powers and functions, namely–

- a) to execute development schemes;
- b) to control ribbon development;
- c) to prevent and remove encroachment;
- d) to exercise such powers and functions are necessary and incidental to any or all of the above matters, and
- e) to exercise such other powers and functions as may be prescribed.

6. Transfer of control from one highway authority to another

- (1) The State Government may, at any time, by notification in the Official Gazette and subject to such conditions one highway as may be specified therein, the control of any highway authority to from one highway authority to another highway authority.
- (2) When a highway authority has been changed under sub-section (1), the new highway authority shall, as from the date of the notification issued under that sub-section, exercise in respect of the highway or highways of which control has been transferred, all the powers and functions of the previous highway authority subject to the conditions, if any, specified in that notification.

CHAPTER III

DEVELOPMENT AND MAINTENANCE OF HIGHWAYS

7. Powers to enter for survey in connection with a highway scheme

- (1) The highway authority or any officer not below the rank of Junior Engineer of the Public Works Department or local board or group of persons authorized by the highway authority in this behalf may undertake a survey in connection with a highway scheme and may, for this purpose.
 - (a) enter upon any land along with his workmen and surveyors and take measurements and levels on it;
 - (b) mark such levels, dig or bore into the sub soil and do all other acts necessary to ascertain whether the land is suitable or not;

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- (c) set-out the boundaries of the proposed highway by placing marks and cutting trenches; and
- (d) cut down and clear any part of a standing crop, fence or jungle in cases where survey cannot be completed, levels, taken or boundaries marked otherwise;

Provided that no person shall enter into any building or any enclosed court or garden attached to a dwelling house without the consent of the occupier.

- (2) The highway authority or the officer or the agency referred to in sub-section (1) shall in exercise of any power conferred by that sub-section do as little damage as may be possible and compensation for such damage, if any, shall be payable by the Highway authority to the owner or occupier of such premises or both, and in case of any dispute as to the adequacy of the amount of compensation, the dispute shall be referred to the collector of the concerned district, whose decision thereon shall be final.

8. Preparation of schemes for highway development

- (1) The highway authority may, of its own accord or if expressly requested by the competent authority, shall, subject to the other provisions of this Act and subject to such rules as may be framed by the State Government for this purpose, prepare and submit to the competent authority for, sanction, a detailed scheme for the construction of a new highway or re-alignment or improvement of, or repairs to, an existing one or part thereof.
- (2) Such a scheme may provide for –
 - (a) acquisition of any land and/or property which in the opinion of the highway authority, is considered necessary for its execution;
 - (b) laying out or relaying out of all or any of the lands so acquired;
 - (c) diversion or closure of any existing highway or a part of such highway;
 - (d) construction or reconstruction of the roadway including its widening, leveling, bridging, surfacing, sewerage, draining, water supply and street-lighting arrangements and planting of roadside trees;
 - (e) preparation of a full Resettlement & Indigenous People Development Plan and Mitigative measures for Environmental Impacts;
 - (f) laying out of foot-paths, cycle tracks and special traffic lanes for any kind or class of vehicles, designing and setting of parking bays and petrol filling and service stations, location of advertisement posts and bill boards, and underground ducts for accommodating telecommunication cables, electric lines;
 - (g) the lay-out of access roads at suitable distances connecting the highway or the proposed highway with the adjoining.

9. Power to do certain acts for execution of Highways Scheme

When the competent authority has sanctioned the highway schemes prepared in pursuance of section 8 and provided the necessary fund for its execution, the highway authority shall proceed to carry out the work and may, for this purpose –

- (a) enter into and perform all such contracts on behalf of the competent authority as may be considered necessary;

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- (b) make arrangements for the acquisition of the land required under the scheme by outright gift or purchase by agreement with the owner or owners or, failing such agreement, by resort to the provisions of the Land Acquisition Act, 1894, as amended from time to time;
- (c) turn, divert or close either temporarily or permanently any existing highway or portion thereof; and
- (d) regulate subject to such rules as may be prescribed in ,this ,behalf, the kind, number and speed of vehicles using any highway or portion thereof by means of barrier, diversion roads or other means.

10. Maintenance of highway plans

- (1) A highway authority shall maintain authoritative plans highway plans for the highways under its control.
- (2) Such plans shall show clearly the boundaries of the highway, the detailed measurements of road widths, the distances between boundary marks and sufficient measurements from fixed points to enable the re-fixation in position of boundary marks in case they have been displaced or tempered with.
- (3) The highway authority shall have all such authoritative plans prepared after having a survey made of the highway lands and their boundaries in the manner prescribed in Chapter–X and in accordance with the record of that survey as notified under section 60 and modified, as may be under section 61.

11. Demarcation of highway boundaries

- (1) The highway authority shall have the boundaries of the highways in its charge demarcated with reference to the authoritative plans maintained by it, by planting stones or other suitable marks of 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.
- (2) Where there are bends or links in the road boundary, the stones or marks shall be so located as to give the correct configuration of the boundary if they are joined by straight or curve lines.
- (3) The boundary stones or marks, which may be given consecutive numbers, shall be maintained on the ground as if they constitute part of the highway.
- (4) Where standard widths have been prescribed for any highway under section 13, the distance between the highway boundaries so demarcated shall correspond to that width.

12. Annual check of highway boundaries

- (1) It shall be the duty of the highway authority to conduct an annual check of the boundaries of the highway. If boundaries in its charge with a view to locating unauthorized encroachment, if any.
- (2) When the highway authority is satisfied that an authorized encroachment has been made on highway land, it shall take immediate steps as specified in section 29 for the removal thereof.

THE MIZORAM HIGHWAY ACT, 2002**CHAPTER – IV****RESTRICTION OF RIBBON DEVELOPMENT ALONG
HIGHWAYS AND CONTROL OF ACCESS TO HIGHWAY****13. Standard width of highways**

- (1) The highway authority may, with the previous approval of highways of the State Government, prescribe a standard width for any highway under its charge or adopt the relevant standard prescribed for hill areas by the Indian Roads Congress.
- (2) The standard width may be same or different Portions of the same highway according to local needs.
- (3) When a highway authority proposes to prescribe a standard width in respect of any highway or a portion thereof, it shall issue official notification and invite objections, if any, to be submitted to it within 60 days of the date of issue such notification.
- (4) The notification shall also be published in at least three newspapers, at least two of which shall be in local language circulating in the locality where the highway is situated, and in addition, copies of the notification shall be given to Presidents of all Village Councils along the highway, for wide publicity to their respective villagers.
- (5) All objections received within the prescribed period shall be taken into account and considered on merit by the highway authority before finalizing its proposal for submission to the State Government.
- (6) The State Government may reject or sanction the proposal with or without modification. The decision of the State Government regarding the objections *or* suggestions mentioned above shall be final and conclusive.
- (7) When the State Government's order sanctioning the proposal with or without modification has been issued, the highway authority shall cause further publicity to be given to the standard width, as finally approved, in the same manner as prescribed in sub-section (4), and the records so published shall thereupon be conclusive proof that the standard width so determined and recorded therein has been correctly determined and recorded.
- (8) In determining the standard width, the highway authority and the State Government shall take into account the requirements of public health and welfare, safety and convenience for all classes of traffic, including pedestrians and cyclists likely to use the highway.
- (9) The standard width so determined may, at any time, be altered but the procedure for such alterations shall be the same as prescribed for the determination of original standard width.
- (10) The highway authority shall, as early as economically practicable after the prescription of the standard width, acquire under the Land Acquisition Act, 1894 as amended from time to time, all land lying within the standard width not already forming part of the highway land.

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14. Fixation of building lines and control

- (1) The highway authority may, with the previous approval of the State Government, determine and fix a building lines and a control lines in respect of any highway or part of a highway in its charge along one or both sides of the highway.
- (2) Having regard to the situation or the requirement of a highway or the condition of the local area through which a highway passes, it shall be lawful for that State Government –
 - (a) to fix different or uniform width between boundary line and building line and/or between building line and control line, or
 - (b) not to fix separate building line and/or control line in respect of any highway or portions thereof
- (3) When a highway authority proposes to determine a building and a control line in respect of a highway, the same procedure shall, as far as applicable, be followed as prescribed under sub-section (3), to (1) of section 13 for the prescription of standard width.
- (4) The building and control lines as finally determine shall be demarcated on the ground by distinctive stones or other suitable marks which may be painted with different colours and serially numbered.
- (5) Within three months from the date of publication of the notification under sub-section (3) of section 13 and sub-section (3), above fixing the standard width or boundaries, building line and control line with respect to any highway, the highway authority shall make a map showing the alignment of the highway, the highway boundaries, building and control lines and any other particulars necessary for the purpose of this Act and within two months from the date of making any alternative or additions thereto, cause the said map to be corrected and such map, with the date indicated thereon of the last time it has been corrected shall be kept in the office of the highway authority Such map, which shall bear the seal of the highway authority, shall be opened to inspection, and copies of such map shall also be kept for inspection at such other places as may be prescribed by the highway authority. Such map, which shall bear the seal of the highway authority, shall be opened to inspection, and copies of such map shall also be kept for inspection at such other places as may be prescribed by the highway authority.

15. Restriction on use of land between highway boundary and building line

- (1) Notwithstanding anything contained in any other law for the time being in force, it shall be unlawful for any person except the highway authority or any person working on behalf of highway authority –
 - (a) to construct or layout any means of access to or from a highway;
 - (b) to erect or re-erect or extend any building or any kind of structure;
 - (c) to make any excavation; or
 - (d) to construct, form or layout any works, upon land between the highway boundary and the building line determined in respect of the highway under section 14:

Provided, however, that these restrictions shall not apply to any works necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric

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line, pipes, ducts or any Other apparatus, constructed in or upon the land before the date of commencement of restriction or, with the consent of the highway authority, on or after that date.

- (2) Should any building or any other structure or apparatus lie within the area between the building line and the middle of the highway before commencement of restriction, the highway authority shall, whenever such structure has been either entirely or in part taken down or burnt down or has fallen down, by notice, require such structure or part, when rebuilt, to be set back to the building line. Any temporary structure that has existed between building line and middle of tile highway before Issue of notification on the matter, shall nut be converted into permanent structure.

16. Restriction on use of land between building and control lines

- (1) Notwithstanding anything contained in any law for the time being in force, no person shall erect or re-erect any building or structure or make or extend any excavation or alter the level of land by lowering, raising, digging, or filling up, or construct, form or layout any means of access to the highway upon land lying in between the building and the control lines determined in respect of the highway, except with the previous permission of the highway authority in writing.
- 2) Any person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the highway authority in such form with and together with such fees as may be prescribed.
- (3) On receipt of such application, the highway authority after making such further enquiries as it may consider necessary, shall, by order in writing, either –
- (a) grant the permission, subject to such conditions if any, as may be specified in the order; or
 - (b) refuse to grant such permission.
- (4) The highway authority shall not ordinarily refuse permission for : –
- (a) the erection of a building or a structure which was in existence on the date on which the restriction under section (1) came into force, unless such re-erection involves any material alteration to the outside appearance of the building of structure.
- or
- (b) the re-erection of a building or structure or structure which was in existence on the date on which the restriction under section (1) came into force, unless such re-erection involves any material alteration to the outside appearance of the building or structure.
- (5) When the highway authority refuses the permission, the reason therefore shall be recorded and communicated to the applicant:

Provided that nothing contained therein shall debar a person from making a flesh application after rectifying the defect on account of which such permission was refused, and the highway authority shall consider the application: afresh and pass an order thereon.

- (6) In the event of not passing any order by the authority even on the expiry of six months after an application has been made to the highway authority under sub-section (1) or provision to sub-section (5), permission shall be deemed to have been given without the imposition or any condition.

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Provided that no such permission shall be presumed to have been granted if the application is one for the construction, formation or laying out of any means of access.

- (7) 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 obtain extracts there from on payment of such fees as may be prescribed.

17. Appeal

- (1) If any applicant is aggrieved by any decision of the highway authority under sub-section (3) or (5) of, section 16, may, within 30 days from the date of such order, prefer an appeal to the State Government.
- (2) The State Government may, after giving an opportunity to the appellant to be heard, make such order as it thinks fit and proper and whose order in the matter shall be final.

18. Declaration of limited access highway

- (1) The highway authority may, with the written approval of the State Government, declare a highway or any portion of it to be a limited access highway.
- (2) When a highway authority proposes to make any such declaration under sub-section (1), the same procedure, as applicable, shall be followed as prescribed under sub-sections (13) to (17) of section 13 for the prescription of standard widths.
- (3) It shall be unlawful for any person to layout a new means of access to a limited access highway for vehicles or pedestrians except with the specific permission of the highway authority.
- (4) The procedure for obtaining the permission of the highway authority for this purpose shall be the same as prescribed in section 16, and in the event of refusal of permission, the applicant shall have the right of making a fresh application to the authority and the right of appeal to the State Government in the Same manner or in that section.
- (5) When any highway or part of it has been declared to be a limited access highway, the highway authority shall, within six months of the final publication of the declaration or such longer time as may be State Government in any individual case, prepare a plan of such highway or part showing the points on which ,access small, if applied for In accordance with sub-section 4, be permitted.
- (6) A plan so prepared shall be available for inspection by the public in the office of the highway authority free of charge at all reasonable times, and copies of it shall be made available to any member of the public on application to the highway authority and on payment of such reasonable cost as may be prescribed.

19. Regulation or diversion of right of access to highway

- (1) The Highway Authority may, if it is considered diversion of essential in the Interest of safety or convenience of traffic, right of regulate or divert any existing right of access to highway access to boundary, in the manner specified herein after:

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Provided that any existing right of access shall not be diverted until alternative access has been provided.

- (2) Where any 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) In the case of existing village track/roads and lanes giving access to a highway at right angles the alternative access that may be provided shall as far as possible, have a diagonal approach to the highway.
- (4) The Highway Authority shall, by notification in the Official Gazette publication date on which the existing right of access has been diverted and alternative access has been given.

20. Compensation

- (1) Notwithstanding anything contained in any other law for the time being force, no person shall be entitled to claim any compensation for any injury, damage or loss caused or alleged to have been caused as a result of:
 - (a) the restriction imposed against the erection or re-erection of a building or the making or extending of any excavation or the laying out of any means of access on or across land lying in between the control line and the middle of a highway under sub-section (1) of section 15 or sub-section (1) of section 16;
 - (b) the regulation or diversion under section 19 of the existing rights of access across lands lying with the Control line and the highway boundary; and
 - (c) the refusal of permission to the laying out of new means of access to a limited access highway under sub-section (3) of section 18:

Provided that compensation shall be payable by the highway authority

- (i) wherein compliance with the notice served by the highway authority under sub-section (2) of section 15, a building or part thereof has been set back to the building line of any highway; and
 - (ii) where permission to erect or re-erect a building in the area lying in between the control line and building line of a highway has been finally refused under section 16.
- (2) Where compensation is payable under the proviso to sub-section (1), the claimant may, within three months of the date of notice issued by the highway authority under sub-section (2) of section 15 or within three months of the date of final refusal of permission under section 16 as the case may be, prefer his claims for compensation direct to the office of the officer exercising the power of the Collector under the Land Acquisition Act, 1894 as amended from time to time.
- (3) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement in public interest.

21. Determination of amount compensation

- (1) When a claim is transferred for disposal under sub-section (2) of section 20 to an officer exercising the powers of a Collector under the Land Acquisition Act,

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1894 as amended from time to time, such officer shall make an award determining the amount of compensation payable to the claimant.

- (2) The amount of compensation awarded under sub-section (1) shall, in no case, exceed the difference between the market value of the land in the existing conditions having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building thereon, and the market value immediately before such restrictions was imposed. Sale deeds of five consecutive years preceding the date of publication of the notification are taken into consideration in a comparative statement. Average value of the comparative statement is considered to be market value of the land in the vicinity where compensation of the land is to be determined.
- (3) No compensation shall be awarded under sub-section (1)
 - (a) unless the claimant satisfies the officer making the award that proposals for the development of the land, which the date of application under sub-section (2) of section 16 were immediately practicable, or would have been practicable on that date if this Act had not been passed, were prevented or injuriously affected by the restrictions imposed under this Act and that there was demand for such development, or
 - (b) if and in so far the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act, or
 - (c) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under any other enactment has already been paid of the land to the claimant or to any predecessor in interest of the claimant.
- (4) The provisions of Chapter III, IV, V and VII of the Land Acquisition Act, 1894 shall, so far as may be, apply to an award made under sub-section (1) as though it were an award made under that Act.

22. Rights and interest when to be extinguished

- (1) Whenever an order of determination is made by the Collector under sub-section (1) of section 21 and become final under the provisions of the section, the Collector shall tender payment of compensation determined by him to the person entitled thereto according to the said determination unless prevented by the contingency mentioned in the next sub-section.
- (2) If the persons entitled to receive the compensation shall not consent to receive it, or if there be no person competent to alienate the land, if there be any dispute as to the title to receive the compensation or as to the apportionment in the court to which a reference would be submitted.

Provided that any person admitted to be interested receive such payment under protest as to the sufficiency of the amount;

Provided also that nothing herein contained shall affect the liability of any person who may receive that whole or any part of compensation determined under this Act, to pay the same the person lawfully entitle thereto.

- (3) Whenever the amount of compensation is tendered, paid or deposited in the Court, the right or interest in the land stands extinguished free from all

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encumbrances and the State Government or the Highway Authority shall be free to enforce the provisions of this Act over such lands.

23. Notice for extinguishment of right of interest in land

- (1) if at any time, on the request of the Highway Authority, the State Government is satisfied that any right or interest of any person in any land be extinguished for the purpose of a highway and such extinguishment did not amount to acquisition of land as specified in the Land Acquisition Act, 1894 (Central Act 1 of 1894), the State Government shall cause a public notice to be given by pasting at a convenient place on or near the land or by publication in two daily newspapers having circulation in the locality in Mizo language, stating that the State Government intends to extinguish any right of interest in the land and that all claims to compensation for such right or interest to be extinguished may be made to the Collector.
- (2) The notice to be given under sub-section (1) shall state the particulars of the right or interest in the land to be extinguished and shall require all persons having such right or interest to appear personally or by agent before the Collector on a day not earlier than fifteen days after the publication of such notice. Nature of the rights or interest in the land to be extinguished, the amount and particulars of claims of compensation and the objection, if any, may be required to be stated in writing.

24. Special powers in case of urgency

- (1) In cases of urgency, whenever the Government so directs, the Collector, though no determination of compensation for extinguishment of right or interest in the land has been made under sub-section (1) of section 21 may, on the expiration of fifteen days from the publication of notice under section 23, declare that the provisions of this Act are to be enforced on the land for which a notice under sub-section (1) of section 23 was issued or published, shall stand extinguished free from all encumbrances.
- (2) Before making any declaration under sub-section (1), the Collector shall, without prejudice to the provisions of sections 21, 22 and 23 –
 - a). tender payment of eighty percent of the compensation for extinguishment of right or interest in the land as estimated by him to the persons interested thereto, and;
 - b). Pay to them, unless prevented by some one or more of the contingencies mentioned in sub-section (2) of section 22 and where the Collector is so prevented, the provisions of sub-section (2) of section 22 (except the second proviso thereto), shall apply to the payment of compensation under that section.
- (3) The amount paid or deposited under sub-section (2) shall be taken into account for determining the amount of compensation under sub-section (1) of section 21 and which may be required to be tendered under section 22, sub-section (1), and where the amount so paid or deposited exceeds the compensation determined by the Collector under sub-section (1) of section 21, the excess may, unless refunded, within three months from the date of Collector's award, be recovered as arrear of land revenue.
- (4) In cases of urgency, whenever it appears to the State Government that the land is required for temporary occupation by the Highway Authority, it may direct the

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Collector to procure the occupation and use of the same for the Highway Authority, as per provisions contained in sections 35, 36 and 37 of the Land Acquisition Act, 1894 (Central Act of 1894).

CHAPTER – V

**PREVENTION OF UNAUTHORIZED OCCUPATION OF HIGHWAY
LAND AND REMOVAL OF ENCROACHMENTS**

25. Highway deemed to be State Government property

All lands forming part of a highway which has not already vested in the State Government shall, for the purpose of this chapter, be deemed to be the State Government's property.

26. Prevention of unauthorized occupation of highway

- (1) No person shall occupy any highway or part of a highway for purpose other than traffic or do any act which involves any of the activities mentioned in clause (9) of section 2.
- (2) The highway authority or the authorized officer may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and 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 –
 - a. to place a movable encroachment on any highway in front of any building owned by him or make a movable structure overhanging the highway;
 - b. to put up a temporary owning or tent, pandal or other similar erections or a temporary stall or scaffolding on any highway ; or
 - c. to deposit or cause to be deposited building materials, goods for sale or other articles to on any highway , or
 - d. to make temporary excavation, for carrying out any repairs or improvements to adjoining buildings:

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 land, the purpose 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 any highway official and shall at the end of the period prescribed in the permit release the land occupied by him after restoring it to the same state as before 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

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to be made in every case at the expiration of the period up to which occupation has been authorized to ensure that the land was actually been vacated.

27. Power to cancel permit

- (1) The Highway Authority may cancel any permission granted under section 26 –
 - 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 of any terms and 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 clause (d) of subsection (1), any rent or charge paid in advance shall be refunded to the holders of such permission less the amount, if any, due to the State Government.

28. Removal of encroachment

- (1) When, as a result of the annual check of highway boundaries made under section 12 or otherwise, the highway authority is satisfied that an encroachment has taken place on the highway under its jurisdiction, it 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 encroachment within such time as may be specified in the notice, and if the person fails to comply with the notice, the highway authority or the officer authorized by it in this behalf shall cause the encroachment to be removed, with assistance of Police, if required.
- (2) Whenever an encroachment is made for the purpose of exposing articles for sale or for opening temporary booth for vending or publicity or for other like purposes, the highway authority shall with the help of Police, if necessary, have such encroachment summarily removed.

29. Recovery of cost of removal of encroachment

Whenever a highway authority or the officer authorized by it removed any encroachment or carried out any protective work in respect of any encroachment under this Act, the actual expenditure involved, together with fifteen percent for overhead charges shall be recovered from the person responsible for the encroachment in the manner as may be prescribed.

30. Compensation not admissible for unauthorized action

- (1) If any person has unauthorizedly erected, re-erected, added or altered any building on any land which is required for the purpose of a highway, then any appreciation in the utility of the land from such erection, re-erection, addition or alteration shall not be taken into account in determining the amount of compensation under section 21.
- (2) No compensation shall be payable for the removal of any encroachment.

31. Payment by adjustment

All payments due to be made to any person by way of compensation by the highway authority under this Act shall, so far as possible, be made by adjustment in such

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person's account regarding betterment charges, if any, due from such person under Chapter VI.

CHAPTER – VI

LEVY OF BETTERMENT TAX

32. Power to decide on betterment tax

- (1) Where the highway authority is of the opinion that the value of land in any area in its charge is likely to increase as a result of the development of public expense of any area adjoining a highway, it may, with the previous consent of the State Government, decide to levy a betterment tax in respect of such area.
- (2) The State Government, when approached by the highway authority under sub-section (1) for its consent to the levy of betterment tax in any area, shall, while giving such consent, determine percentage rate, not exceeding 80% of the betterment value, at which the tax shall be levied in such area and communicate the same to the highway authority.
- (3) When it is decided to levy a betterment tax in respect of any area, the highway authority shall cause the decision to be notified in the Official Gazette and shall also secure further publicity to the notification in the manner prescribed under sub-section (4) of section 13.
- (4) The notification shall specify –
 - a. exact area in which the betterment tax is to be levied;
 - b. the date on which the prevailing land value shall be deemed to be the basic value for the purpose of computing betterment; and
 - c. the percentage rate of betterment value at which betterment tax shall be levied as determined by the State Government under sub-section (2).
- (5) When the development or improvement of the area adjoining the highway has been completed or, in the opinion of highway authority, has reached a stage sufficiently advanced to enable the resulting betterment to be determined, the highway authority shall notify in the Official Gazette the date on which the execution of the scheme has been completed or shall be deemed to have been completed and shall also cause further publicity to such notification in the manner prescribed in sub-section (4) of section 13.

33. Computation of betterment value

- (1) For land which has already been built upon or on which permission to build has already been accorded before the date notified under sub-section (5) of section 32, betterment value shall be the value on that date less the basic value as computed with reference to the date notified under sub-section (4) of that section less the estimated cost of improvement work, if any, carried out by the owner between the two dates.
- (2) For land which on the date notified under sub-section (5) of section 32 has neither been built upon nor in respect of which permission to built has been accorded before that date, the betterment value shall be the value on the date when permission to build is granted less the basic value as computed with reference to the date notified under sub-section (4) of section 32, less the estimated value of improvement, if any carried out by the owner between the two later dates.

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34. Assessment of betterment tax

- (1) The highway authority shall, at any time after a month of publication of the notification under sub-section (5) of section 32, assess the amount of betterment tax payable by every individual owner of land, and shall serve notice on him in writing in the prescribed manner, specifying the amount of tax payable by him, the details of calculation, the installments if any which payment may be made, to date or dates on or before which payment of the full amount of the installment shall be made, and the authority to whom payment shall be tendered.
- (2) Any aggrieved person on whom a notice for payment of betterment tax has been served under sub-section (1) may, within one month from the date of service of such notice, file an objection before the highway authority in respect of the assessment made against him, provided that the highway authority shall have discretion to entertain objections even after the expiry of the period of one month if it is satisfied that failure to file such objections in time was due to causes beyond the control of the objector.
- (3) After an opportunity has been given to the objection of being heard in person or through pleader the highway authority may confirm, modify or cancel the assessment made under sub-section (1).
- (4) Any person aggrieved by the order issued by the highway authority under sub-section (3) may within two months from the date of such order, appeal to the appropriate civil court.
- (5) If any person on whom a notice has been served under sub-section (1) fails to make any objection under sub-section (2), the assessment shall be conclusive and shall not be questioned in any court of law.

35. Betterment tax chargeable on interest in the land

- (1) The person liable to pay a betterment tax may at his option instead of making a lump sum payment or payment by installments where allowed by the highway authority, execute an agreement with the highway authority or any other authority specially authorized by the State Government in this behalf to leave the said liability outstanding as a charge on his interest in the land subject to the payment in perpetuity of interest at the rate of 6% per annum.
- (2) A person who has exercised his option under sub-section (1) may at any time after giving six months notice of his intention so to do, redeem the charge of paying the assessed amount of betterment tax or such part of it as may have been outstanding against him at the time he executed the agreement under sub-section (1).

36. Recovery of arrears of betterment tax

Arrears of betterment tax shall be realized in the manner provided for the recovery of public demands.

37. Appropriation of the proceeds of betterment tax

The proceeds of the betterment tax, levied in any areas, shall, after deduction of the assessment and collection charges, be made over by the highway authority to the State Government.

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38. Exchange of land in lieu of payment of betterment tax

Notwithstanding anything contained in section 37, the State Government may allow the owner of the land on which betterment taxes 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 taxes 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**

39. Prevention of obstruction of view of persons using highway

- (1) Whenever a highway authority is of opinion that it is necessary for the prevention of danger arising from obstructions of the view or distraction of the attention of persons using any highway, specially at any bend or corner of the highway, it may serve a notice upon the owner or occupier of the land alongside or at the bend or corner of such highway to alter or remove altogether, within such time and in such a 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 eliminate or minimize the apprehended danger.
- (2) If any person upon whom a notice has been served under sub-section (1), object to comply with any requirement of such notice, he may, within 14 days of its receipt, send to the highway authority his objection in writing stating the grounds thereof.
- (3) The highway authority shall, within 14 days 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 a highway authority under sub-section (3), he may prefer an appeal within 7 days of the date of such order to the Collector of the district, 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) or section (4), the highway authority may take action to alter or remove the object causing obstruction or distraction of view at its own expense and such expenditure together with 15% departmental charges, shall be recovered from such person in accordance with the provisions of section 29 without prejudice to any other action which may be taken against him.

40. Highway Authority to regulate traffic when highway is deemed unsafe

If at any time it appears to a 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

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this behalf, either close the highway or any regulate the class, number and speed of vehicles using the highway.

41. Prohibition of use of heavy-vehicles on certain highway

Where the highway authority is satisfied that the surface of 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 a certain limit it may, subject to such rules as may be prescribed in this 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.

42. Restriction of traffic where highway is temporarily closed

Where, in pursuance of clauses (c) and (d) of section 9 or in exercise of the powers under section 40 or section 41 the highway authority desires temporarily to close any highway or part of it to traffic or to restrict or regulate traffic thereon in any manner, it shall in writing request the authority authorized to control traffic under any law for the time being in force, to enforce the restrictions in the said manner.

43. Procedure to be followed when highway authority wishes permanently to close any highway

- (1) Where, in pursuance of clause (c) of section 9 or in exercise of section 40 a 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, and shall cause further publicity to be given to the notice in the manner prescribed under sub-section (4) of section 13.
- (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 appeared in the Official Gazette, the highway authority shall arrange for further publicity to be given to the orders in the manner prescribe under sub-section (4) of section 13 and the highway or part thereof shall then be closed.

44. Consent of highway authority required to do certain act on highways

- (1) Notwithstanding anything contained in any other enactment for the time being in force, no person other than a highway authority or its authorized agent 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 specific consent of the highway authority.

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- (2) In giving its consent, the highway authority may impose such conditions as it may 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 28 as if the work constituted an encroachment on the highways and such expense as the highway authority may incur for this purpose, together with 15% departmental charges thereon, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure prescribed under section 29 in so far as that procedure is applicable.

45. Prevention of damage and to repair of highway

- (1) No person shall willfully or negligently cause or allow any vehicle or animal in his charge to cause any damage to any highway. Explanation - For the purposes of this Section habitual parking of vehicle for repair or for any other purpose, letting animals to graze on highway and keeping animals and poultry to stay on the highway land shall be deemed to be acts causing damage to the 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, together with 15% departmental charges, shall without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (1), be recovered from him in accordance with the procedure prescribed under section 29 in so far as that procedure is applicable.

CHAPTER – VIII

OFFENCES, PENALTIES AND PROCEDURE

46. General provision for punishment of offences

Whoever contravenes any provision of Chapters II to VII of this Act or of any rule made there under shall, if no other penalty is provided for the offence, be punishable with fine which may extend to five hundred rupees or if, having been previously convicted of any offence under this Act, with fine which may extend to two thousand rupees.

47. Penalty for disobedience of orders, obstructions and refusal to give information etc.

Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs any functions that such person or authority is required under this Act, to discharge, or being required by or under this Act, to supply any information which he fails or supplies any information which he knows to be false or which he does not believe to be true shall, if no other penalty is provided for the offence be punishable with fine which may extend to two thousand rupees.

48. Penalty for contravention of restrictions relating to access or erecting any building etc.

Whoever erects, re-erects, alters or extends any building or structure or makes any excavation or construct any means of access to or from highway or does any other

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work in contravention of sub-section (1) of section 15, sub-section (1) of section 16 and sub-section (3) of section 18 shall be punishable –

- (a) with fine which may extend to five thousand rupees; and
- (b) with further fine which may extend to one 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.

49. **Penalty for unauthorized occupation of highway land**

Whoever occupies or makes any encroachment on any highway land in contravention of sub-section (1) of section 26 or fails to comply with the notice served on him by sub-section (1) of section 28 for no valid reason, he shall, on conviction be liable to pay –

- (a) a fine which may extend to two thousand rupees for the first offence, and
- (b) with further fine which may extend to a lump penalty of five thousand rupees plus a daily levy not exceeding five hundred rupees for each day for which the offence continues.

50. **Penalty for causing damage to highways**

Whoever, willfully causes or allows any vehicle or animal in his charge to cause any damage to any highway, shall be punishable with fine which may extend to ten thousand rupees.

51. **Power to compound offences**

The highway authority may, either before or after the institution of the proceedings, compound an offence against any provision of this Act or any rule framed thereunder, in the manner as may be prescribed.

52. **Offences by companies**

- (1) Where the person committing any offence under this Act is a company, the company as well as every person who is in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Explanation- For the purpose of this section –

- (a) '**company**' means any body corporate and includes a firm or other organisation or association of persons or a co-operative society.
- (b) '**director**' in relation to a firm, means a partner in the firm.

53. **Cognizance of offences**

No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a highway authority or any other Officer authorized by the Government in this behalf.

THE MIZORAM HIGHWAY ACT, 2002**CHAPTER IX****SURVEY OF HIGHWAY LANDS AND HIGHWAY BOUNDARIES FOR
PREPARATION OF AUTHORITATIVE PLANS****54. Survey order and appointment of survey officer**

- (1) Where in pursuance of sub-section (3) of section 10, a highway authority wishes to have a survey made with a view to the preparation of authoritative plan or plans for any highway in its charge, it shall request the State Government in writing to order the survey and appoint a Survey Officer for the purpose.
- (2) If, on receipt of such request and after making such further enquiries as may be deemed necessary, the State Government is satisfied about the need for such survey, it may, by notification published in the Official Gazette, order that the proposed survey shall be made and shall simultaneously appoint a Survey Officer for the purpose.

55. Survey Officer to publish notification

- (1) When a survey has been ordered under section 54, the Survey Officer appointed for the purpose shall publish a notification in the Official Gazette inviting all persons having or claiming to have any interest on the land adjoining the highway or its boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and time and from time thereafter when called upon for the purpose of pointing out the boundaries and supplying information in connection therewith.
- (2) The Survey Officer shall cause further publicity to be given to notification issued by him under sub-section (1) in the manner prescribed in sub-section (4) of section 13.
- (3) A notification published in accordance with sub-section (1) and further published in accordance with sub-section (2) shall be held to be valid notice to every person having or claiming to have any interest in the land or boundaries of which the survey has been ordered.

56. Survey Officer to give special notice

- (1) The Survey Officer shall give a special notice to the highway authority concerned intimating the date and time from which the survey of the highway shall be carried out.
- (2) The highways authority shall on receipt of such special notice taken such steps as may be deemed necessary to watch the survey proceedings and to make representation to the survey officer whenever it has reason to believe that the interests of the highways are being or likely to be adversely affected.

57. Power of Survey Officer to determine and record undisputed boundary

- (1) The Survey Officer shall have power to determine and record as undisputed any boundary in respect of which no dispute is brought to this notice.
- (2) Notice of every decision of the Survey Officer under sub-section (1) shall be given in the prescribed manner to the registered holders of the land the

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boundaries of which may be affected by the decision and also to the highway authority concerned.

58. Power of Survey Officer to determine and recorded disputed boundary

- (1) Where a boundary is disputed, the Survey Officer after making such enquiry as the considers necessary, shall determine the boundary and record it in accordance with his decision and shall also record in writing the reason for his decision.
- (2) Notice of every decision of the survey officer under sub-section (1) shall be given in the prescribed manner to the parties to the dispute, to the highway authority and to the other registered holders of the land the boundaries of which may affected by the decision;

59. Appeal against order of the Survey Officer under sections 57 and 58

- (1) The highway authority or any other person affected by the decision under section 57 or section 58 may, within three months of the date of service of notice under those sections appeal to the collector of the district and the decision of such Officer shall be recorded in writing and notice of such decision given in the prescribed manner to the parties to the appeal. Any modification of the Survey Officer's decision ordered by the appellate authority shall be noted in the record prepared under section 57 or section 58 as the case may be.

- (2) No appeal preferred after the expiry of the said period of three months shall be admitted:

Provided that the time taken to obtain a copy of decision and the map under sub-section (3) shall not be taken into account in calculating the said period of three months.

- (3) A copy of the order and copy of the map recording the boundaries as determined under sections 57 and sections 58 or sub-section (1) of this section, shall be furnished to the highway authority or to any person interested in such order or map, as the case may be or the application to the Survey Officer on payment of such reasonable cost as may be fixed.

60. Completion of demarcation to be notified by the Survey Officer

- (1) When the survey of any highway land or its boundaries which has been notified under section 54 has been completed in accordance with the orders passed under sections 57, 58, 59, the Survey Officer shall notify the fact in the Official Gazette and shall cause further publicity to be given to the notification in the manner prescribed under sub-section (4) of section 13.
- (2) Unless the survey so notified is modified by a decree of a civil court under the provision of section 61, the record of the survey shall be conclusive proof that the boundaries as determined and recorded therein have been correctly determined and recorded and shall not be questioned in any court of law.

61. Institution of suit in Civil Court where any person is aggrieved by determination of boundary

- (1) The highway authority or any other person deeming itself or himself aggrieved by the determination of any boundary under section 57, 58 or 59 may, subject to the provisions of the law of limitation for the time being in force institute a suit

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in a civil court to set aside or modify the said determination, and the survey, shall, if necessary be altered in accordance with the final decree of the suit, and the alteration, if any, shall be noted in the record; Provided that in no case such a suit shall be filed after the expiry of one year from the date of the notification under sub-section (1) of section 60.

- (2) The plaintiff in such suit join as parties to it all persons including the highway authority where such authority is not itself the plaintiff,) whom he has reason to believe to be interested in the boundary which is the subject of the suit.

CHAPTER – X**MISCELLANEOUS****62. Power to make rules**

- (1) The State Government may after publication the intention of making such rules in the Official Gazette, make rules for the regulations of construction and maintenance of Highways and generally for carrying into effect the purposes of this Act.
- (2) Every rules made under this Chapter shall be laid, may be after it is made, before the Mizoram Legislative Assembly while it is in session for a total period of Seven days which may be comprised in one session or in two sessions and if before the expiry of the session immediately following the session aforesaid, the Mizoram Legislative Assembly agree in making any modification in the rule or the said Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule.

63. Powers and duties of Police Officer

Every Police Officer shall forthwhile 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.

64. Duties of Village Officer

Every member of the Village Council or Non-Governmental Organisations like Young Mizo Association, Mizoram Hmeichhe Insuihkawm Pawl, Village Defence Party etc. shall forthwhile inform the nearest police station or the nearest or the nearest highway authority or any other officer duly authorized by the highway authority whenever he becomes aware that any survey mark of any highway or any mark showing the building or control line determined in respect of a highway has been destroyed, damage, removed, displaced or otherwise tempered with or that any damage to any highway has been made.

THE MIZORAM HIGHWAY ACT, 2002**65. Service of notice etc.**

- (1) Every notice under this Act shall be served or presented –
 - (a) by delivering or tendering it or sending it by a registered 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 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 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 thereto shall be affected either –
 - (a) by delivering or tendering the notice or sending it by registered post to the owner or occupier of it 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 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.
- (3) if the person to whom a notice is to be served is a minor, service upon his guardian or upon an adult member or servant of his family shall be deemed to be service upon the minor.

66. Constitution of appellate authority

- (1) The State Government may, by notification in the Official Gazette, constitute as many appellate authorities as may be necessary for the purposes of this Act.
- (2) The Government may, by notification in the Official Gazette, authorize any officer not below the rank of Chief Engineer in the Public Works Department to exercise the powers of appellate authority in such areas as may be specified.

67. Delegation of powers by highway Authority

The highway authority may, after obtaining the approval of the State Government by notification in the Official Gazette, delegate any of its powers or duties under clauses (c) and (d) of section 9, sections 26, 28, 29, 39, 40, 41, 42, 43 or 45 of this Act to any officer or authority subordinate to it subject to such conditions if any, as may be specified in such notification.

68. Persons deemed to be public servants

All persons acting by the authority of the State Government or of any highway authority while exercising their powers and performing their duties and functions under this Act or any of the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

69. Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against the State Government or any authority or any person for anything which is in good faith done or intended to be done under or in pursuance of this Act or rules made thereunder.

THE MIZORAM HIGHWAY ACT, 2002**70. Power to utilise highway land for other than road purposes**

The highway authority may utilise temporarily for purposes other than road purposes, the land forming part of a highway which is not immediately required for the purposes of traffic and dispose of the produce, if any, of such lands in such manner as may be prescribed.

71. Living as regards land under the control of Central Government

(1) Nothing in this Act shall apply to lands vested in or under the control of Central Government or to any area falling within the limits of a cantonment Board, major port Trust or other authority under the administrative control of the Central Government.

72. Mode of recovery of sums payable to Highway authority

Any sum payable to the highway authority under this Act without prejudice to any other mode of recovery, be on behalf of the highway authority as a public.

73. Act not to apply to National Highways

For removal of all doubts, it is declared that nothing in this Act shall apply to highways which are or have been declared by or under the National Highways Act, 1956 (Central Act XL VIII of 1956), as National Highways.

74. Repeal and Savings

- (1) On and from the commencement of this Act, the Assam Highways Act 1928, shall stand repealed in its application to Mizoram, if at all.
- (2) Notwithstanding such repeal, any action taken, any order passed, any notification issued or any proceedings commenced under the Act so repealed shall be deemed to have been taken, passed, issued and commenced under the corresponding provisions of this Act.

Secretary,
Law & Judicial Deptt.,
Govt. of Mizoram.