

A STATUTE TO PROVIDE FOR THE CREATION OF A PROVINCIAL HIGHWAYS AUTHORITY, DECLARATION OF CERTAIN ROADS TO BE PROVINCIAL HIGHWAYS, RESTRICTION OF RIBBON DEVELOPMENT ALONG SUCH PROVINCIAL HIGHWAYS, CONSTRUCTION, UPKEEP, MAINTENANCE AND REPAIR OF PROVINCIAL HIGHWAYS AND BRIDGES WITHIN THEPROVINCE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

This Statute is inconsistent with the Thoroughfares Ordinance(Chapter 193) enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka.

BE it passed by the Provincial Council of the ... Province of the Democratic Socialist Republic of Sri Lanka.

Short title extend and date of operation.

1. (1) This Statute may be cited as the Provincial Highways Statute , No. of 2019.

(2) It extends to the whole of theProvince.

(3) It shall come into operation, upon receiving the assent of the Governor, on such date as the Minister may, by notification in the Gazette, appoint and different dates may be appointed for different provisions of this Statute and for different area in the Province.

2. Subject as hereinafter provided, this Statute shall apply to and in relation to all roads within the Province:

Application of Statute.

Provided, however, that nothing in this Statute shall apply to-

(a) a National Highway or to a bridge on a National Highway;

(b) any street (as defined in the Municipal Councils Ordinance) within the administrative limits of any

Municipal Council, unless such street remains neglected and in disrepair for a considerable period and with the concurrence of such Municipal Council; or

- (c) any street (as defined in the Urban Councils Ordinance) or in the Town Councils Ordinance) within the administrative limits of any Urban Council or Town Council, unless such street remains neglected and in disrepair for a considerable period and with the concurrence of such Urban Council or Town Council.

PART I

DECLARATION OF PROVINCIAL HIGHWAYS; PROVINCIAL HIGHWAY AUTHORITY AND ITS POWERS AND FUNCTIONS

3. On the recommendation made by the Provincial Highways Authority, the Minister may, by notification in the Gazette, declare any road, way or land to be a provincial highway and classify it as any one of the following:-

- (i) a provincial highway;
- (ii) a major district road; or
- (iii) other district road:

Provided that where such road, way or land whether in whole or in part is under the jurisdiction of any local authority and not maintained or is in disrepair for a considerable period, such notification shall be issued with the concurrence of that local authority by a resolution passed by it in that behalf.

Declaration of roads, ways or lands as highways.

4. The Minister, by notification in the Gazette, appoint a person with such qualifications and experience, and on such terms and

conditions as may be prescribed, to be the Provincial Highways Authority.

5. The Provincial Highways Authority shall be responsible for the over all supervision of the construction, maintenance, development or improvement of the provincial highways, major district roads and other district roads in the province and for the restriction of ribbon development along the provincial highways.

6. The Provincial Highways Authority may, in consultation with the Minister, enter into an agreement with any person, in relation to construction, development, maintenance or repair of the whole or any part of any provincial highway, major district road or other district road.

Appointment of a Provincial Highways Authority.

Functions of the Provincial Highways Authority.

PART II

POWER TO FIX PROVINCIAL HIGHWAY BOUNDARY ETC.

Power of Provincial Highway Authority to enter into agreements for development and maintenance of provincial highways.

7.(1) The Provincial Highways Authority may, by a notification in the gazette, in relation to a provincial highway where the construction or development of a provincial highway is undertaken or proposed to be undertaken, fix-

- (a) the provincial highway boundary, building line or control line; or
- (b) the provincial highway boundary and the building line; or
- (c) the provincial highway control line:

Provided however, that before the publication of the notification under this subsection, a draft of the said notification shall be published inviting objection, if any, on the proposed fixation.

(2) The draft of the notification under subsection (1) shall contain-

Power to fix provincial highway boundary, building line, control line etc.

- (a) all details of the lands situated between the provincial highway boundary line and control line proposed to be fixed and in the case of new works, the lands and persons benefited by the construction or development of such provincial highway; and
- (b) notice requiring all persons likely to be affected by such notification, to make their objection or suggestions, if any, in writing with respect to the issue of such a notification, to the Provincial Highways Authority within such period as shall be prescribed.

(3) After considering the representation, if any, received under subsection (2), the Provincial Highways Authority may, with the approval of the Provincial Council-

- (i) drop the proposal to fix the highway boundary, the building line or the control line; or
- (ii) publish the final notification under subsection (1) with such modifications as may be considered necessary.

(4) Notwithstanding anything contained in subsections (1), (2) and (3), the Provincial Highways Authority may in consultation with the Provincial Council may, having regard to the situation or the requirements of any provincial highway or the condition of the area through which such provincial highway passes-

- (a) fix different building line and control line for such provincial highway; or
- (b) refrain from fixing the building line or control line for such provincial highway or portion thereof.

8. On or after the date of publication of the notification under subsection (1) of section 7 in relation to any provincial highway or

any area, no person shall, in such highway or in such area, in respect of any land lying between the building line and the control line as the case may be,-

- (a) erect any building or make or extend any excavation or carry out any other operation in or over such land or make any material change in the use of, or construct, form, or lay out any works on such land; or
- (b) construct, form or lay out any means of access to or from such highway,

except with the written permission of the Provincial Highways Authority and in accordance with such terms and conditions as may be specified in such permission.

9. Nothing contained in section 7 shall apply to -

- (a) the erection of any building or the making or extension of any excavation or the carrying out of other operation or making of any material change or the construction, formation or laying out of any means of access or of works already commenced, or
- (b) any excavation or works necessary for repairs, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct or other apparatus made or extended or constructed formed or laid out in, or over, or under, any land,

Restriction on building.

before the date of publication of the notification under subsection (1) of section 6.

10. When any building or part thereof erected before the date of the publication of the notification under subsection (1) of section 7 is lying between the provincial highway boundary and the building line, the Provincial Highway Authority may, whenever any such building or part thereof, either entirely or in greater part, is taken down or burnt down or has fallen down, by notice, require the owner or occupier of such building or part thereof, when re-erected to be set back to the building line or control line.

11. If the Provincial Highways Authority is of opinion that it is necessary or expedient so to do in the interest of public safety or convenience of of traffic, it may, by notification in the Gazette, and from a date to be specified therein, regulate or divert any existing right of access to a provincial highway access any land lying between the highway boundary and control line:

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

Exemption for works in progress, etc.

Provided further that where any existing right of access is diverted, the point at which alternative access to the provincial highway is given shall not be unreasonably away from the existing point of access.

12. (1) The Provincial Highway Authority shall, within such time as may be prescribed, caused to be prepared a map of the area through which any provincial highway or the construction or development of any provincial highway is undertaken or proposed to be undertaken, showing the provincial highway boundaries, building line and control line of such highway, the boundaries of such area and such other particulars, as may be prescribed.

(2) It shall be open to the Provincial Highway Authority to make corrections to the map prepared under subsection (1) with necessary addition, alteration, omission or such other modification as may be considered necessary.

(3) The map shall, after the approval of the Provincial Council,-

Setting back of building beyond building lines.

(a) be kept in the office of the Provincial Council with such particulars as may be prescribed; and

(b) Be open to inspection, free of charge during office hours, by any person having interest.

13. (1) For the purpose of carrying out the provisions of this Statute, the Provincial Highway Authority or any officer or servant

authorized by it, shall have power to-

Regulation of diversion or right of access to provincial highways.

- (a) enter upon, survey and take measurement and levels of any land; or
- (b) mark such levels, dig or bore into the sub-soil of any land; or
- (c) demarcate the boundaries of the provincial highway by planting stones or other suitable marks all along the highway in such a manner that the imaginary line adjoining such stones or marks shows the road boundary correctly; or
- (d) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constitute part of the provincial highway; or
- (e) lay out the building line and control line by placing marks and cutting trenches.

(2) For the purpose of making the survey, taking measurements, levels, boundaries or for making lines, the Provincial Highway Authority or its officers or servants may cut down and clear away any standing crops, tree, fence, or jungle or any part thereof and do such other acts as may be necessary in that behalf:

Preparation of maps.

Provided however, the Provincial Highway Authority or its officers or servants shall not enter any premises, except with the consent of the owner or occupier thereof and after giving such person at least forty eight hours notice in writing of their intention to do so, and if the owner or occupier is not available, record the fact in a notice and affix such notice in the place, before carrying any such works.

PART III

ACQUISITION OF PROPERTY

14. (1) If the Provincial Council is satisfied that any land is required for the purpose of any provincial highway or for construction of bridges, culverts, causeways or other structures thereon or for any

purpose incidental or ancillary thereto, in furtherance of the objects of this Statute, it may acquire such land by publishing in the *Gazette* a notice specifying the description of such land and the particular purpose for which such land is required.

(2) Before publishing a notice under subsection (1) the Minister shall call upon the owner and any other person having interest in such land to show cause within such time as may be specified in the notice, why the land should not be acquired. The Minister shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Minister may, after considering the cause, if any, shown by the owner or other person having interest on such land, make such an order under subsection (1), as it may deem fit.

Powers of
Provincial
Highways
Authority and
other officers.

15. (1) When a notice under subsection (1) of section 14 is published in the *gazette*, the land to which the said notice refer shall, on and from the date of such publication, vest absolutely in the Provincial Council free from all encumbrances:

Provided however, if before actual possession of such land is taken by or on behalf of the Provincial Council, it appears to the Provincial Council, that the land is no more required for the purpose of this Statute, the Provincial Council may, by notice published in the *Gazette*, withdraw the land from acquisition. On the publication of such notice, the land shall re-vest with retrospective effect in the person from whom it was divested of on the issuance of the order under subsection (1) of section 14, subject to such encumbrances, if any, as may be subsisting at that time.

Provided further, that the owner and other persons interested shall be entitled to payment of an amount as determined in accordance with the provisions of section 18 for the damages, if any, suffered by them in consequence of the acquisition proceedings.

(2) When any land is vested in the Provincial Council under subsection (1), the Provincial Council may, by order, direct any

person who may be in possession of the land to surrender or deliver possession thereof to an officer duly authorized by it in that behalf, within thirty days of the service of the order.

(3) If a person refuses or fails to comply with an order made under subsection (2), the Provincial Council may take possession of the land.

16. Where any land has been acquired under this Statute, the Provincial Highway Authority may use or cause to be used such land for the purpose of this Statute.

17. Every owner or person interested in any land acquired under this Statute shall be entitled to receive and be paid an amount as hereinafter provided.

18. (1) Where any land is acquired by the Provincial Council under this Statute, the Provincial Council shall pay an amount for such acquisition, which shall be determined in accordance with the provisions of this section.

Power to
acquire land.

(2) Where the amount has been determined by agreement between the Minister and the person to whom the amount has to be paid, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the Minister shall refer the case to an independent Adjudication Panel appointed by the Minister consisting of three members of whom one nominated by the Minister and another by the person to whom the amount has to be paid and the third nominated by both nominees, who shall be the Chairman of the Panel, for the determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid.

(4) The procedure to be followed in determining the amount by the Adjudication Panel and the documents to be called for from parties shall be as prescribed.

(5) Notwithstanding anything contained in subsection (3) after the case is referred to the Adjudication Panel under that subsection, but before it has finally determined the amount, if the amount is determined by agreement between the Minister and the person to whom the amount has to be paid, such amount shall be paid by the Provincial Council in accordance with such agreement.

(6) Before finally determining the amount, the Minister shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.

Land acquired
to vest in
Provincial
Council free
from all
encumbrances.

19. When the amount is finally determined and is not paid or deposited on or before taking possession of the land, the Provincial Council shall pay the amount determined with interest thereon at the rate of per cent per annum from the time of so taking possession until it shall have been so paid or deposited.

20. Any officer of the Ministry of the Minister, and person, either generally or specially authorized by the Minister in that behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of-

- (a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land and buildings;
- (b) examining works under construction and ascertaining the course of sewers and drains;
- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and lines by placing marks and cutting trenches;
- (e) doing any other thing necessary for the efficient administration of this Statute:

Provided that-

- (i) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice

to the occupier, or if there be no occupier, to the owner of the land or building;

- (ii) Sufficient opportunity shall, in every instance, be given to enable women (if any) to withdraw from such land or building.

PART IV

PAYMENT OF AMOUNT FOR PROPERTY AFFECTED

Use of land
acquired.

21. Any person whose property is injuriously affected by virtue of anything done under the provisions of section 10 may make a claim for that purpose to the Minister, with such particulars and within such period as may be prescribed.

Right to receive
amount.

22. (1) The Minister shall proceed to inquire, in such manner as may be prescribed, into every claim made under section 21.

Determination
of amount.

(2) The Minister shall, after such inquiry, either allow the claim and determine the amount or reject the claim in part or in full.

(3) The Minister shall give to the claimants or their representatives, notice in writing, of the amount determined under subsection (2).

23. (1) Any person aggrieved by any decision or order of the Minister under section 22 may, within such period as may be prescribed, appeal to the Provincial Council.

(2) The Provincial Council may suspend the execution of any decision or order pending the exercise of his powers under this

section in respect thereof.

24. If at any time it appears to the Provincial Highways Authority that any highway or any portion thereof is or has been rendered unsafe for vehicular traffic or pedestrian traffic by reason of damage or otherwise, it may, subject to such condition as may be prescribed, either close the highway or a portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of the vehicles using such highway.

25. Where the Provincial Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on across such highway is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed in that behalf, it may 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.

26. (1) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of section 35, no person other than the Provincial Highways Authority or any person authorized 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 Provincial Highway Authority.

(2) In giving the consent, the Provincial Highways 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.

Payment of
interest.

(3) If any person constructs or carries out any work in contravention of subsection (1), the Provincial Highway Authority may arrange for the removal of such work and restoration of the highway to its former condition as if the work constituted an encroachment on the highway, and such expenses as the Provincial Highway Authority may incur for that purpose shall, without prejudice to any other action that may be taken against such person, be recovered from him as if it were arrear of land revenue.

Power of entry.

PART V

PENALTIES

27. Any person who-

- (a) willfully or without any reasonable excuse, disobeys any summons, requisition or other lawful order or direction issued under or in pursuance of this Statute; or
- (b) resists or obstructs any officer or authority in the exercise of any power conferred on or in the discharge of any duty entrusted to, such officer or authority by or under any of the provision of this Statute,

shall be guilty of an offence and on conviction be liable to a fine not exceeding fifty thousand rupees and to imprisonment not exceeding six months or with both.

28. Whoever willfully causes or allows any vehicle or animal in his charge to cause any damage to any highway shall, on conviction, be punishable with fine not exceeding one hundred thousand rupees.

29. Whoever contravenes any of the provisions of this Statute, or of any order made thereunder shall, if no other penalty is provided for such offence under this Statute, on conviction, be punishable with fine not exceeding fifty thousand rupees or if having been previously convicted of such offence under this Statute, with a fine which may extend to one hundred thousand rupees.

30. No court shall take cognizance of any offence under this Statute except on complaint made by the Provincial Highways Authority.

PART VI

MISCELLANEOUS

Right to amount.

31. The Minister may issue to the Provincial Highways Authority such orders and directions, as in his opinion are necessary or expedient for carrying out the purposes of this Statute and such Authority shall give effect to all such orders and directions.

Enquiry into claims and award of payment.

32. The Minister or the Provincial Highways authority may, at his discretion, consult such authority or officer as may be prescribed, in exercising any power or discharging any duty or performing any function under or in pursuance of this Statute.

33. If any difficulty arises in giving effect to the provisions of this Statute or any Regulation made thereunder, the Minister may, by order published in the *Gazette*, make such provisions not inconsistent with the provisions of this Statute as appears to him to be necessary for removing the difficulty:

Provided however no such order shall be made after the expiry of a period of two years from the date of commencement of this Statute.

Appeal to the Provincial Council.

34. Save as otherwise provided in this Statute, the provisions of the Land Acquisition Act, (Chapter no.460) shall cease to apply to any land which is required for the purpose specified in subsection (1) of section 14 and any such land shall be acquired by the Provincial Council only in accordance with the provisions of this Statute.

35. Nothing in this Statute shall affect-

Provincial Highways Authority to regulate traffic when provincial highway is

- (a) The right 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 works; or
- (b) The right of any authority appointed under any law for

declared unsafe.

the time being in force for water, electricity, railway to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main pipe, sluice, electric line, duct, drain or other apparatus; or

Prohibition of use of heavy vehicle on certain provincial highway.

(c) Any land within the jurisdiction of any other authority under the administrative control of the Government.

36. Unless the context otherwise requires-

Consent of Provincial Highways Authority required to certain acts on highway.

“building line” means the line on either side of the highway or part of such highway, as may be fixed under section ;

“control line” means a line on either side of a highway or part of such highway, as may be fixed under section ;

“highway” means any road, way or land which is declared to be a highway under section and includes-

(a) All land appurtenant thereto, whether demarcated or not;

(b) The slope, berm, burrow pits, foot paths, pavements, whether surfaced or unsurfaced;

(c) All bridges, culverts, causeway, carriages way or other structures built on or across such road or way;

(d) The drain attached to any such road, bridges or causeway,

but does not include a National Highway declared as such by or under the Thoroughfares Ordinance (Chapter no.193).

“highway boundary” means the highway boundary as may be fixed under section;

“Minister” means the Minister of the Board of Ministers to whom the subject of Highways is assigned;

“prescribed” means prescribed by regulation;

“Provincial Highways Authority” means the officer appointed under subsection (2) of section 5;

“regulation” means a regulation made under this Statute.

Disobedience of
summons,
requisition, etc.

Causing
damage to
highways.

General
provision for
punishment of
offence.

Cognizance of
offence.

Power of
Minister to
issue orders and
directions to
officers.

Consultation
with other
authorities.

Power to
remove
difficulties.

Land

Acquisition
Act, No. of
not to apply.

Savings.

Interpretations.