

The Haryana Road Infrastructure Protection Act, 2017
(Haryana Act No. 7 of 2017)

hl074

[Dated 29.3.2017.]

Haryana Government
Law and Legislative Department

No. Leg.7/2017. - The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 22nd March, 2017 and is hereby published for general information.

An Act to provide for prevention of misuse, damage, unauthorized use and encroachment of the road infrastructure in the State and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Sixty-eighth Year of the Republic of India as follows:-

1. Short title. - This Act may be called the Haryana Road Infrastructure Protection Act, 2017.

2. Definitions. - (1) In this Act, unless the context otherwise requires,-

- (a) "*appellate authority*" means the Superintending Engineer of the Haryana Public Works (Buildings and Roads) Department;
- (b) "*building*" means a house, hut, shed or other roofed structure, for whatever purpose or of whatsoever material constructed and shall include a wall, masonry platform, masonry ditch or drain;
- (c) "*competent authority*" means the Sub-Divisional Engineer of the Haryana Public Works (Buildings and Roads) Department;
- (d) "*confirmatory authority*" means the Executive Engineer of the Haryana Public Works (Buildings and Roads) Department;
- (e) "*Government*" means the Government of the State of Haryana in the Administrative Department;
- (f) "*local authority*" means Gram Panchayat, Municipality, Municipal Corporation and includes development authorities like Haryana Urban Development Authority, Haryana State Industrial and Infrastructure Development Corporation, Haryana State Roads and Bridges Development Corporation, Haryana State Agricultural Marketing Board etc.;

- (g) "*prescribed*" means prescribed by the rules made under this Act;
- (h) "*road*" means a road maintained by the Government or any local authority but shall not include National Highways declared under the National Highways Act, 1956 (Central Act 48 of 1956);
- (i) "*road infrastructure*" means State highways, major district roads, other district roads, any other road, path or street for transport or communication but shall not include National Highways declared under the National Highways Act, 1956 (Central Act 48 of 1956) and shall include,-
- (i) acquired road land width;
 - (ii) all types of roads and their structures, such as road pavements, shoulders, retaining walls, breast walls, toe walls, cross-drainage, kerb, road side drains, road junctions, medians, speed breakers, rumble strips, street lighting, traffic lights etc.;
 - (iii) any structure ancillary to road transport and communication system;
 - (iv) bridges including approaches, return walls, wing walls, protection works and allied structures;
 - (v) expressways including interchanges, grade separators, dividers and other ancillary structures;
 - (vi) road furniture such as parapets, railings, kerb stones, kilometer stones, benches, cat eyes, reflectors, pedestals, signboards, barricades and crash barriers;
 - (vii) road over bridges, flyovers and under passes and their allied structures;
 - (viii) roadside parking area;
 - (ix) roadside plantations, nurseries, hedges and other landscape items;
 - (x) toll booths or plaza;
 - (xi) tunnels and ancillary structures;
 - (xii) wayside amenities or structures such as rain shelters, lay byes, bus lanes, public conveniences, parks and open spaces located on Government land along the road.

(2) Words and expressions used in this Act but not defined and defined in the PWD Code shall have same meaning as assigned to them respectively in the said code.

3. Prohibited activities. - The followings shall be the prohibited activities under this Act, namely:-

- (i) to encroach upon the Government land under road infrastructure;
- (ii) to raise any permanent, temporary or movable structure on or from road infrastructure;
- (iii) to misuse a road by erecting workshop and carrying out commercial activities including tethering of livestock on road infrastructure;
- (iv) to block or damage roadside drainage and cross drainage system;
- (v) to divert water, sullage or muck to the road infrastructure;
- (vi) to stack or throw excavated earth or debris or any other material on road infrastructure;
- (vii) to dig or damage road infrastructure without permission from competent authority;
- (viii) to install unauthorized hand pump, bore well or petrol pump on road infrastructure;
- (ix) to damage or deface bridges, road over bridges, flyovers and underpasses including approaches, return walls and wing walls, parapets, railings, lighting system, protection works, tunnels and their ancillary structures and other structures such as road pavements, shoulders, retaining walls, breast walls, toe walls, cross-drainage and roadside drains, road junctions, medians, speed-breakers, rumble strips, street lighting, traffic lights, barricades, crash barriers, sign boards, kilometer stones, reference pillars, boundary pillars, row pillars, road identification marked infrastructure, pedestals, benches, toll booths or plaza, way side amenities such as rain shelters, lay byes, bus lanes, public conveniences, parks and open spaces along the road and building or any other structure meant for facilitating road transportation and maintenance of roads;
- (x) to damage or uproot roadside plantation, nurseries, hedges and other landscape items on the road infrastructure;
- (xi) to display unauthorized hoardings on road infrastructure;
- (xii) to erect unauthorized welcome gates, arches etc on the road infrastructure;
- (xiii) to damage road infrastructure due to mining in the area;
- (xiv) to erect or construct any structure on the road infrastructure;
- (xv) to erect or construct a place of worship on the road infrastructure.

(xvi) any other activity which is declared by the Government, by notification in the Official Gazette, to be prohibited activity.

4. Determination of prohibited activities. - All prohibited activities shall be determined with reference to the land records maintained by the Revenue and Disaster Management Department.

5. Duties of competent authority. - (1) On occurrence of any activity prohibited under section 3, the competent authority shall issue an order directing the person to stop forthwith the prohibited activity and where necessary, order the restoration of status of the road infrastructure to its original position within such period, as may be specified in the order and such period shall not exceed three days.

(2) An order of the competent authority under sub-section (1) shall clearly describe in writing the prohibited activity and also indicate by way of sketch, the location of the occurrence of prohibited activity, extent of such activity and the damage already caused or being caused.

(3) In the event of failure to comply with the orders passed under sub-section (1), the competent authority shall take necessary steps to restore the status at the cost of the person, in addition to the penalty which may extend to five thousand rupees. The expenditure so incurred shall be liable to be recovered as arrears of land revenue and the competent authority shall confiscate the material, machinery, tools, equipments etc. forming part of the prohibited activity in such manner, as may be prescribed.

(4) Notwithstanding anything contained in this section, the competent authority or the officer authorized by him in this behalf shall have power under this section to remove the unauthorized occupation on the road without issuing any notice, if such unauthorized occupation is in the nature of-

- (a) exposing any goods or article in open air or through temporary stall, kiosk, booth or shop of temporary nature;
- (b) construction or erection, whether temporary or permanent; or
- (c) trespass or encroachment that may be removed easily without use of any machine or other device,

and in removing such occupation, the competent authority or such officer may seek assistance of the police, if necessary, to remove such occupation by use of the reasonable force necessary for such removal.

6. Delegation of powers and duties of competent authority. - The competent authority may delegate all or any of his power and duties vested and assigned to him under this Act to Assistant Sub-Divisional Engineer or Junior Engineer, as the case may be subordinate to him.

7. Filing of objection. - The aggrieved person may file objections against the order issued by the competent authority to the confirmatory authority within a period of three days from the date of receipt of the order and

confirmatory authority shall, thereafter afford an opportunity of hearing and pass an order within a period of five days confirming or setting aside the order passed by the competent authority through a speaking and reasoned order.

8. Appeal. - (1) An appeal against the order passed by the confirmatory authority shall be entertained by the appellate authority, if such appeal is filed within fifteen days from the passing of order by the confirmatory authority:

Provided that an appeal may be entertained after the expiry of the period specified, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring appeal within that period:

Provided further that the appellant, while filing the appeal against such order, shall deposit the anticipated restoration cost as assessed by the competent authority.

(2) The appellate authority shall within fifteen days of the filing of the appeal, pass an order confirming or setting aside the order passed by the confirmatory authority and the same shall be final.

9. Penalties and procedure. - (1) Any person found guilty of an offence under this Act shall, on conviction, be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Where an offence under this Act has been committed by a company, every person incharge of, or responsible to, the company for the conduct of its business at the time of the commission of the offence shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it 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 a director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be proceeded against and punished accordingly.

Explanation. - For the purposes of this section,-

(a) "*company*" means any body corporate, and includes a firm or other association of individuals; and

(b) "*director*" in relation to a firm means a partner in the firm.

(4) The offences under this Act shall be cognizable and non-bailable and triable by the Magistrate of the first class.

10. Power to seek assistance of other departments. - If the competent authority or the officer authorized by him in this behalf is of the opinion that

assistance of police, local authority or any other department is required for carrying out the purposes of this Act, he may seek the assistance and such local authority or department, as the case may be, shall be bound to assist the competent authority.

11. Powers of civil court. - The confirmatory authority and the competent authority for the purpose of performing any function under this Act, shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document; and
- (c) any other matter which may be prescribed.

12. Protection of action taken in good faith. - (1) No suit, prosecution or other legal proceedings shall lie against any person for anything done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

13. Bar of jurisdiction. - No civil court shall have any jurisdiction to entertain or to decide any question relating to matter falling under this Act or the rules made thereunder.

14. Power to make rules. - (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid before the State Legislature.