

THE PUNJAB HIGHWAYS ORDINANCE, 1959
(XXXII OF 1959)

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TEXT

¹THE ²[PUNJAB] HIGHWAYS ORDINANCE 1959

(XXXII of 1959)

[23rd May, 1959]

An

Ordinance

to consolidate and amend the law relating to highways in the Province of ³[the Punjab].

Preamble.— WHEREAS it is expedient to consolidate and amend the law relating to highways in the Province of ⁴[the Punjab];

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October 1958, and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

1. Short title and extent.— (1) This Ordinance may be called the ⁵[Punjab] Highways Ordinance, 1959.

⁶[(2) It extends to the whole of the Province of ⁷[the Punjab], except the Tribal Areas.]

2. Definitions.— In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

¹ This Ordinance was promulgated by the Governor of West Pakistan on 18th May, 1959; published in the West Pakistan Gazette (Extraordinary), dated 23rd May, 1959, pages 437-455; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

² Substituted for the words "West Pakistan" by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), dated 20.11.1974, pages 1425-A to 1425-PP, see Article 2 and Schedule, Part III, at entry No.26 (w.e.f. 14.8.1973).

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (VII of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 10.6.1964, pages 1911-1920, see s.2 and Schedule, at serial No.25.

⁷ Substituted for the words "West Pakistan" by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), dated 20.11.1974, pages 1425-A to 1425-PP, see Article 2 and Schedule, Part III, at entry No.26 (w.e.f. 14.8.1973).

- (a) “animal” includes any elephant, camel, horse, ass, mule and cattle;
- (b) “Government” means the ⁸[Provincial Government of the Punjab];
- (c) “highway” includes a common and public highway and all roads, carriageways, cartways, streets and lanes, together with any bridleways, footpaths and pavements adjacent thereto, which have been constructed, or are maintained by Government or any local authority or any other authority empowered in that behalf, and are designed and intended for, or used by, the general public for the passage of vehicles, and shall further include-
 - ⁹[(i)] all culverts, bridges and works of every description built on, under or across any highway;
 - ¹⁰[(ii)] all adjacent berms and side drains within the boundaries of any highway;
 - ¹¹[(iii)] all land included within the boundaries of any highway;
 - ¹²[(iv)] all fences, posts and tress on any highway;
- (d) “prescribed” means prescribed by rules made under this Ordinance;
- (e) “vehicle” includes any wheeled conveyance drawn, propelled or driven by any kind of power, including human and animal power, but shall not include motor vehicles, unless the latter are expressly included.

CHAPTER II

HIGHWAY AUTHORITIES

3. Highway Authorities.— (1) Government may, by notifications, appoint any person or persons to be Highway Authority for a part of a highway or for one or more highways and such authority shall be subject to such conditions and limitations as may be specified in the notification.

(2) Where no Highway Authority is appointed under the last preceding sub-section and the highway is not maintained by Government, the local authority shall be deemed to be Highway Authority in respect of all highways within its jurisdiction.

(3) Government shall be Highway Authority for all highways and all purposes not specifically provided for in the two proceeding sub-sections.

4. Transfer of control from one Highway Authority to another.— (1) Government may, by notification, transfer control of any highway from itself as Highway Authority to another Highways Authority, or from another Highway Authority either to itself as Highway Authority or to some other Highway Authority, in regard to

⁸ Substituted for the words “Government of West Pakistan” by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), dated 20.11.1974, pages 1425-A to 1425-PP, see Article 2 and Schedule, Part III, at entry No.26 (w.e.f. 14.8.1973).

⁹ Substituted for “(a)”, by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.2.

¹⁰ Substituted, *ibid.* for “(b)”.

¹¹ Substituted *ibid.*, for “(c)”.

¹² Substituted *ibid.*, for “(d)”.

such matters dealt with by this Ordinance, and on such conditions, as may be specified in the notification.

(2) As from the date of a notification issued under the last preceding sub-section any contract made prior to such date by or on behalf of the superseded Highway Authority in respect of the highways, and in relation to the functions of which control is transferred, shall take effect as if it had been made on behalf of the Highway Authority assuming such control.

CHAPTER III

POWERS OF HIGHWAY AUTHORITIES

5. General powers of Highway Authorities.— Subject to the other provisions of this Ordinance, a Highway Authority may-

- (a) lay out or make a highway and do all works necessary thereto, and make necessary provisions for the safe and convenient use of such highways by the public, including drainage, lighting and road side trees;
- (b) turn, divert or close any highway or part thereof either temporarily or permanently;
- (c) widen, alter the level of, improve or repair any existing highway under its control;
- (d) fix the specification, alignment and point of junction of any access roads connecting a highway with adjoining properties;
- (e) utilize for any purpose appropriate to its functions, land forming part of a highway which is not actually required for the passage of traffic, and dispose of the natural produce of such land; and
- (f) regulate the kind, number, and speed of vehicle using any highway or portion thereof by means of barriers, diversion roads, and all other means whatsoever.

¹³**6. Encroachments.**— (1) No persons shall, except under the provision of sub-section (3), make any encroachment on or above any Highway by:

- (a) erecting any structure whether temporary or permanent, movable or immovable;
- (b) setting up any fence, hedge, post, sign-board advertisement hoarding or banner;

OR

- (c) depositing or causing to be deposited building material, goods for sale or any other articles.

(2) Any person who contravenes the provisions of sub-section (1) shall be liable to prosecution under this Ordinance, and the Highway Authority, may also, after giving notice, which shall not be less than twenty four hours, require the offender to remove the encroachment and upon his failing to comply with such

¹³ Substituted by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.3.

notice, itself remove the encroachment and any material recovered from such encroachment shall stand confiscated.

(3) A highway Authority may, at its discretion, with due regard to the safety and convenience of traffic on the highway and subject to such conditions as it may impose and on payment of such fees as it may fix, permit any person to:

- (a) set up sign boards, advertisement hoarding or banners; or
- (b) deposit building material or other article or set up a scaffolding for a specified period not exceeding one month.

(4) No person shall cause or allow to be caused, dumping, collection or letting loose of rubbish, industrial waste, waste water, sullage, industrial effluent or any other such matter on a highway.]

7. Certain works on highways.— (1) A Highway Authority may carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway under its control, and after giving reasonable notice in writing to the owner or occupier, into, through, across, under, over or up the side of any land or building situated within the boundaries or such highway, for the purpose of establishing telephonic or other similar communication, or of carrying out and establishing or maintaining any system of lighting, drainage or sewerage or any purpose connected with upkeep, maintenance or betterment of such highway, and may at all times do all acts and things which may be necessary or expedient for repairing and maintaining any such cable, wire, pipe, drain, sewer or channel in an effective state:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation, and that where damage is done to any land or building which is not owned by the Highway Authority, reasonable compensation shall be paid to the owner or occupier of such property in respect of such damage.

(2) Notwithstanding anything contained in any other law for the time being in force no person or authority shall do any of the following acts, namely:-

- (a) open or break up the surface of any highway; or
- (b) construct or carry any cable, wire, pipe, drain, sewer or channel of any kind, through, across, under or over any highway; or
- (c) within the boundaries of any highway, repair or alter or execute any works on, or in relation to, any existing cable, wire, pipe, drain, sewer or channel of any kind, running through, across, under or over such highway;

unless such person or authority shall have first obtained the consent to the proposed work of the appropriate Highway Authority.

(3) In giving its consent under the last preceding sub-section, a Highway Authority may impose such conditions as it may deem to be necessary and consistent with the performance of its duty as such Highway Authority and may impose a rent or other charge for any land forming part of the Highway occupied by or applied to the proposed work.

¹⁴[(4) Any person contravening or causing the contravention of the provisions of sub-section (1) shall be liable to prosecution under the provisions of this Ordinance and the Highways Authority may, also without giving any notice to the offender, remove the offending works, restore the highway to its former condition, recover the cost thus incurred from the offender as hereinafter provided and confiscate any material recovered by the removal of the offending works.]

¹⁵[(5) The cost recoverable under sub-section (4) shall be such sum as may be determined to be the actual cost by the Highway Authority. The Highway Authority may require the offender through a demand notice to pay the cost within a reasonable period not exceeding fifteen days and in case he fails to make the payment within the specified period, the cost shall be recovered as arrears of land revenue.]

(6) If any dispute arise between the Highway Authority and any other authority or person, out of or in relation to the exercise of the powers of such Highway Authority under ¹⁶[sub-section] (1) ¹⁷[***], such dispute shall be referred to arbitration.

8. Restrictions on ribbon development on certain highways.— (1) As respects all highways which on or after the date of the coming into operation of this Ordinance are maintained by the ¹⁸[Highways Department] or are provincial property maintained by local bodies, the following restrictions shall apply, that is to say, it shall not be lawful without the consent of the Highway Authority:-

- (a) to construct or layout any means of access to or from the highway,
- (b) to erect any building upon land within two hundred and twenty feet from the middle of the highway.

¹⁹[Provided that the Government may, by notification, reduce the extent of restriction under the provisions of clause (b) in respect of any particular highway or part thereof.]

(2) No restrictions in force under the last preceding sub-section shall apply in relation to-

- (a) any building which is used or intended to be used mainly or exclusively for purposes relating to cultivation of land adjacent thereto otherwise than as a dwelling house;

¹⁴ Substituted by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.4.

¹⁵ Substituted by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.4.

¹⁶ Substituted for the word "sub-sections", by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.4.

¹⁷ The figures, comma and brackets "(2) and (3)" deleted *ibid*.

¹⁸ Substituted for the words "Provincial Public Works Department" Substituted by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.5.

¹⁹ Added *ibid*.

- (b) any works begun before the date of the coming into operation of this Ordinance or any works carried out in accordance with a permission granted by any competent authority before that date;
- (c) any highway in respect of which a building line has been determined in accordance with section 16.

9. Adoption of restriction of section 8 in respect of other highways.— (1) A Highway Authority may, in the manner provided hereunder, propose to adopt the restrictions referred to in the last preceding section as respects any highway to which the said restrictions do not of their own force apply.

(2) The proposal shall be notified in the manner provided in section 13 for the publication of notices of closure of highways and in such detail as may be prescribed, inviting objections to the proposal to be filed within a period of thirty days from the date of publication and all objection received within such period shall be taken into consideration by the Highway Authority, which may modify the proposal, or if it finds that in consequence of any objection the proposal is impracticable may abandon it.

(3) If the Highway Authority decides to proceed with the proposal it shall forward it with modifications, if any, as provided by the last preceding sub-section to Government; and Government may after such further enquiry as may be considered necessary reject the proposal or approve it with such further modifications as it may deem fit to make.

(4) The proposal as finally approved by Government shall be published in the gazette, and from the date of such publication, the restriction contained in sub-section (1) of section 8 shall apply to the highway specified in the proposal.

(5) If a building line is determined under the provisions of section 16 in respect of any highway to which in accordance with this section, the restrictions contained in section 8 have been applied, the said restrictions shall cease to have effect from the date on which such building line is determined.

10. Compensation.— (1) If any person having any interest in land proves that his interest is injuriously affected by the impositions of restrictions by or under the provisions of section 8 or section 9, he shall be entitled to recover from the Highway Authority compensation for any injury or damage to such interest.

Explanation – For the purpose of this section the expression “interest in land” shall mean the interest vested in such person on the day the aforesaid restrictions came into force.

(2) No claim for compensation under the last preceding sub-section for injury or damage shall be entertained unless the claimant furnishes satisfactory proof-

- (a) that proposals for development at the date of the claim for compensation are immediately practicable or would have been so if this Ordinance had not been passed; and
- (b) that there is a demand for such development.

(3) No compensation shall be payable for any injury or damage in so far as the land is subject to a substantially similar restriction under some other enactment,

or where compensation in respect of some substantially similar restriction force under this or any other enactment has already been paid.

(4) Subject to the other provisions of this section, compensation to be awarded shall be a sum by which the market value of the interest in land is reduced as a result of restrictions imposed under section 8 or section 9.

11. Construction of access to road buildings on areas subject to restrictions under section 8 or section 9.— Any person wishing to obtain the consent of the Highway Authority to construct or layout a means of access to or from or to construct a building within two hundred and twenty feet of the middle of any highway, to which restrictions have been applied by or under section 8 or section 9 shall apply in writing to the Highway Authority and shall furnish with his application such plans and other particulars as may be prescribed and the Highway Authority may refuse to grant the application or may grant the application subject to such conditions as it may deem fit to impose:

Provided that the application shall not be deemed to have been sanctioned by reason that no order refusing it is passed by the Highway Authority despite the lapse of time.

12. Temporary closure of highways.— When any highway or portion thereof is temporarily closed for repairs or for any other purpose connected with the functions of the Highway Authority under this Ordinance in such manner as to interfere with the passage of traffic, it shall be the duty of the Highway Authority to set up such notices as may be prescribed at each end of the closed portion and the Highway Authority may also announce the fact by such other means as it may deem proper; and the Highway Authority shall further provide, so far as may be, reasonable means of access to the open portion of the highway from the adjoining areas which have been deprived of access by such closure, as well as a reasonable passage for through traffic, and may, for these purposes, the temporary access or diversion roads through contiguous lands, after giving reasonable notice to the owner thereof and shall pay reasonable compensation for any damage caused to such lands thereby.

13. Permanent closure of highways.— (1) A Highway Authority, intending permanently to close a highway or any portion of a highway, shall give notice of its intention, in the gazette, as well as by publication in one or more newspapers circulating in the affected area or by display of notices at conspicuous places in such area, or by both these methods.

(2) The notice shall invite objections to the proposed closure within a period of not less than a month from the date of publication.

(3) In arriving at its decision, the Highway Authority shall take all such objections into consideration after making such other equities as it may deem necessary to ensure that the proposed closure will not cause inconvenience to the inhabitants of the affected areas on account of lack of alternative means of access to or movement within such area.

(4) Where inconvenience as aforesaid is likely to result, the Highway Authority may nevertheless close the highway provided that it is satisfied that an alternative highway or highways, whether previously existing or newly constructed by

itself, will more satisfactorily meet the general requirements of the area than the highway proposed to be closed.

(5) A decision by a Highway Authority to close a highway or portion thereof shall be published in the manner provided for publication of notices under sub-section (1), and within thirty days of the last date of publication two or more persons who are aggrieved by such decision, and have obtained the consent in writing of the Advocate General, may appeal to Government against such decision.

(6) Government shall refer such appeal for decision to a Tribunal which shall be composed of a President who shall be a Judge of the High Court to be nominated by the Chief Justice, and two members to be nominated by Government, one of whom shall be an official of the ²⁰[Highways Department], not below the rank of Executive Engineer, and the other shall be a person who has for at least ten years been an Advocate of a High Court.

(7) The Tribunal shall have all the powers of a Civil Court for the purpose of compelling the attendance of parties and witnesses and the productions of documents and subject to rules that may be made in this behalf, the proceedings before the Tribunal shall be conducted, as nearly as may be, in the manner provided by the Code of Civil Procedure, 1908²¹, for the trial of civil suits.

(8) At the conclusion of the proceedings the Tribunal shall report its findings to Government, which shall transmit such report to the Highway Authority with instructions to act in accordance therewith:

Provided that if Government considers that the report requires reconsideration in respect of any matter, it may refer such matter to the Tribunal for further consideration and the Tribunal may, after such further enquiry as it may think fit, modify its finding in respect of such matter or may confirm such finding.

(9) The costs of the proceedings shall be paid in accordance with such directions as may be made in that behalf by the Tribunal, and shall be recoverable as an arrear of land revenue.

(10) When a highway is closed under the provisions of this section, any person who on the date of first publication of a notice under sub-section (1), owned an interest in land or immovable property, and proves that such interest has been directly and injuriously affected by such closure shall be entitled to recover reasonable compensation for such injury from the Highway Authority, and in the event dispute as to the amount of such compensation, such dispute shall be referred to arbitration.

14. Interference or damage resulting from works on highways.— (1) If any interference or damage is caused, by reason of any work on a highway which is done by order of the of the Highway Authority, to any existing means of access to such highway, or to any existing drain, water channel, pipe, cable (whether over head or under ground), tramway or railway line, then—

²⁰ Substituted for the words "Public Works Department, Buildings and Roads Branch" by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.6.

- (a) if it be possible, the interference or damage shall be remedied by the restoration of the thing interfered with damaged, to its previous position and condition at the cost of the Highway Authority; or
- (b) if such restoration be not possible, such thing shall at the cost of the Highway Authority be replaced by another providing as nearly as may be the same facility, provided that if there be appreciable diminution of utility by such substitution, the Highway Authority may pay additional compensation in money; or
- (c) if neither restoration nor substitution be possible then reasonable compensation shall be paid to persons interested by the Highway Authority.

(2) Any person aggrieved by the action of the Highway Authority may apply to Government and it shall there upon refer the dispute for decision by arbitration.

15. Regulation of classes of vehicles or animal using a highway.— (1) A Highway Authority may prohibit or restrict either permanently or temporarily, the taking of any class of vehicles or animals over a highway or any part thereof, if such prohibition or restriction is, in its opinion, necessary for the public safety or convenience, or for any other sufficient reason.

(2) Such prohibition or restriction shall be notified by display of notices at prominent places along the effected highway and where it is intended to be permanent shall also be notified by publication in the gazette and at least in one newspaper circulating in the locality.

CHAPTER IV

IMPROVEMENT OF HIGHWAYS

16. Determination of building line.— (1) In respect of any such highway specified in section 8, or for which the provisions contained in section 8 have been adopted under section 9. The Highway Authority may determine a building line, along one or both sides of such highway, after enquiry, in the manner hereinafter described.

(2) A building line shall not be proposed unless the Highway Authority shall have first examined and taken into consideration, any planning scheme proposed, prepared or enforced in the same vicinity by the local authority and shall first have consulted with such local authority in that behalf.

(3) When a Highway Authority proposes to determine a building line as aforesaid, it shall give notice in the prescribed manner containing such details of the proposal as it may deem necessary, provided that it shall not be necessary to include a plan of the proposed building line in such notice, but a copy or copies of such plan shall be deposited, and shall be available for public inspection for a period of not less than thirty days, at one or more places in or near the affected locality, which shall be specified in such notice.

(4) The notice shall invite objections to the proposals to be filed within a period of three months from the date of publication and all objections received within

such period shall be taken into consideration by the Highway Authority in arriving at its decision.

(5) The building line so determined by the Highway Authority shall be published in the manner prescribed and shall come into effect from the date of such publication.

(6) Any person aggrieved by the decision of the Highway Authority may ²²[appeal] to Government, and it shall thereupon refer the dispute for decision by arbitration.

17. Construction of buildings, etc., between highway and building line.— (1) Except as provided by this or any other enactment, it shall not be lawful without the consent of the Highway Authority to construct or lay out any means of access to or from the highway, to erect or re-erect any building, to make any excavation or to construct from or layout any works, upon land lying between a building line and the highway in respect of which it has been determined.

(2) Should any building (including a wall) or any part thereof lie within the prohibited area, as defined in the last preceding sub-section, the Highway Authority may, whenever such building or part has been either entirely or in greater part burnt or has fallen down, by notice require such building or part when being rebuilt, to be set back to the building line, and if the portion of land thus rendered vacant is included within the boundaries of the highway in relation to which such building line has been determined, such portion shall become part of the highway:

Provided that the Highway Authority shall pay compensation to the owner of such portion of land or of the building which existed thereon for any damage caused to him by the setting back of the building.

18. Acquisition of land.— (1) A Highway Authority may acquire any land situated between a building line and the highway to which it relates, if in its opinion, such acquisition is necessary for the construction or improvement of the highway.

(2) If the purchase cannot be affected by agreement, the Highway Authority may certify that the land is required for the construction or, as the case may, the improvement of a highway, and thereafter acquisition may be effected under the Land Acquisition Act, 1894²³.

CHAPTER V

DUTIES OF HIGHWAY USERS

19. Conformity with rules, signs and directions of officer regulating traffic.— Every person using a highway, or who is in charge of a vehicle or animal on a highway shall himself conform and shall cause any such vehicle or animal as aforesaid to conform, to such general rules of traffic as may be prescribed and shall obey all traffic signs fixed on such highway and all lawful directions given to him by any police officer in uniform or other authorized person for the time being engaged in the regulating of traffic.

²² Substituted for the word "apply" by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.7.

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20. Vehicles and animals to be stopped in certain cases.— (1) Every person using a highway shall stop and remain stationery, and every person in charge of vehicle or animal on a highway shall cause such vehicle or animal to stop and remain stationery, for so long as may be reasonably necessary —

- (a) when required to do so by a police officer in uniform or by any authority lawfully empowered in this behalf under this Ordinance, or which is lawfully empowered to levy a toll or tax;
- (b) when required to do so by any person in charge of any animal, if such person apprehends that the animals in his charge being alarmed will become unmanageable; and
- (c) when the vehicle or animal is involved in the occurrence of any accident to any person, animal or vehicle, or damage to any property, whatever be the cause of such accident or damage.

(2) When any accident or damage such as is mentioned in clause (c) of the last preceding sub-section occurs, the person in charge of the vehicle or animal shall be bound on enquiry to give on the spot his own name and address and if he is not the owner, the name and address of the owner of such vehicle or animal to a police officer, or any other authorised person, and shall also be bound to state these particulars to any person who sustains loss, damage, or injury on account of such accident or damage, provided that such other person also states his own name and address, and any person who was a witness to the occurrence shall be bound to state his name and address, on demand by the person in charge of the vehicle or animal or by any person who has sustained loss, damage or injury in the occurrence, or by any police officer or other authorised person.

(3) In a case of accident or damage as aforesaid, if any person is injured, the person in charge of the vehicle or animal shall, unless he be himself incapacitated by injury sustained in the same occurrence—

- (a) take all reasonable steps, such as may appear necessary, to secure medical attention for the person injured; and
- (b) if no police officer or other authorized person be present at the spot, report the occurrence at the nearest police station as soon as possible and in any case, within twenty-four hours of the occurrence.

21. Driving of vehicles and animals.— (1) No person shall himself proceed on a highway or drive any vehicle or animal on a highway so as by such driving or the manner thereof to endanger human life, or be likely to cause hurt to any other person.

(2) No person shall drive a vehicle or an animal on a highway when he is under the influence of drink or a drug to such an extent as to be incapable of exercising proper control over such vehicle or animal.

22. Adequate control and care of vehicles and animals.— (1) No person in charge of a vehicle or animal shall cause or allow to remain on any highway, whether at rest or in motion, in such a condition or in such circumstances, as to cause or be likely to cause danger, obstruction, or undue inconvenience to other users of the highway.

(2) If a vehicle or animal is found abandoned or unattended on a highway, the Highway Authority may remove and impound it, and the cost of such removal and any maintenance provided by the Highway Authority shall be recoverable from the owner thereof.

(3) If no person appears to claim the property within seven days of such seizure, the Highway Authority may sell the vehicle or animal by auction, and recover such expenses, from the proceeds, and the balance, if any, shall be payable on application to the person entitled.

23. Power to arrest without warrant.— (1) A police officer in uniform may arrest without warrant, —

- (a) any person who in his view commits a contravention of section 21, provided that if the contravention be of sub-section (2) of section 21, the person arrested shall be subjected to medical examination within two hours of his arrest, and shall then be released from custody;
- (b) any person concerned or reasonably suspected of being concerned in a contravention of any provision of this Chapter, if the police officer has reason to believe that he will abscond or otherwise avoid the service of summons; or
- (c) any person who being required under the provisions of this Ordinance, to give his name and address refuses to do so, or gives a name and address which the police officer has reason to believe to be false.

(2) A police officer arresting the driver of a vehicle or a person in charge of an animal under the provisions of this section shall take or cause to be taken reasonable and necessary steps for the safe custody of the vehicle or animal.

CHAPTER VI

PROCEDURE AND PENALTIES

24. Cognizance of offence.— ²⁴[In addition to any specific provision made elsewhere in this Ordinance any contravention of the provisions of sections 6,7,8 and 17(1) shall be the offence which will be cognizable.]

25. Penalties.— ²⁵[(1) Whoever contravenes any provision of this Ordinance or any rules made thereunder or any lawful order passed by a Highway Authority under the provisions of this Ordinance, shall be punished with fine which may extend to five hundred rupees.

(2) Notwithstanding the provisions of sub-section (1), whoever contravenes the provisions of section 6, 7, 8 and 17 (1) shall be punished with imprisonment which may extend to three months or with fine which shall not be less than five hundred rupees or with both.

(3) In case of conviction, the Court shall, in addition to the penalty imposed under sub-section (2) order the removal of the offending encroachment, structure,

²⁴ Substituted by the Punjab Highways (Amendment) Act, 1976 (XVIII of 1976); and published in the Punjab Gazette (Extraordinary), dated 8.12.1976, pages 2713-2717, s.8.

works, or other such articles, within a specified period not exceeding fifteen days and if the offender fails to comply with the order, he shall be deemed to be guilty of committing a continuing offence for which the minimum punishment shall be imprisonment.

(4) In case the Court finds that it is physically not possible for the offender to comply with the order passed under sub-section (3) or the offender fails to comply with it, the Court shall authorize the Highway Authority to remove the offending encroachment, structure, works etc, at the risk and cost of the offender.]

²⁶[**25-A.** All notices under this Ordinance shall be served in the following manner:-

- (i) In case the identity of the offender is known, the notice shall be served on him or on his known authorized representative or on the person found to be representing him at the site of occurrence of the offence personally and if these persons be not available or traceable or refuse to receive the notice, by affixation at a conspicuous place at the site of the offence.
- (ii) In case the Highway Authority is satisfied that the identity of the offender cannot be ascertained, a notice with the heading "To whom it may concern" affixed at a conspicuous place at the site of offence shall be deemed to have been served on the offender.]

CHAPTER VII

MISCELLANIOUS PROVISIONS

26. Persons deemed to be public servants.— All persons acting under the authority of Government or of any Highway Authority in the carrying out of any of the provisions of this Ordinance or of the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code²⁷.

27. Protection to persons taking action under the Ordinance.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under or in pursuance of this Ordinance or any rules made thereunder.

28. Payment of compensation and its determination.— (1) Except as specifically provided by this Ordinance, no compensation shall be payable to any person, on account of any order made, or any restriction imposed or any act performed by a Highway Authority.

(2) Where the amount of compensation payable cannot be agreed upon it shall be determined by arbitration.

29. Power of Government to make rules.— (1) Government may after previous publication make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

²⁶ Added *ibid*.

²⁷ XLV of 1860.

- (a) the prevention of obstruction to the free and rapid movement of traffic on highways, including obstruction to the vision of persons driving vehicles (including motor vehicles) constituted by trees and their branches, hedges and other vegetation, growing on or overhanging a highway;
- (b) the prevention of nuisances by the discharge of sullage water or the deposit of matter which is offensive or injurious to health, or the carrying on of dangerous or offensive trades, on or in the immediate vicinity of a highway;
- (c) the regulation of the exhibition of advertising matter on highways and along the boundaries thereof;
- (d) the regulation of the use of sound amplifying apparatus on or in the immediate vicinity of a highway;
- (e) the regulation of the grazings of animals on areas included within the boundaries of a highways;
- (f) the regulation of the loading of goods in vehicle on or in the immediate vicinity of a highway;
- (g) the regulation or prohibition of the use of the whole or part of a highway by pedestrians or animals;
- (h) the carrying or warring by all or any vehicles or animal using a highway of a horn or bell, or other contrivance for giving audible warning of their approach or position;
- (i) the carrying by all or any vehicles of lamps and reflectors and the regulation of the use thereof;
- (j) the regulation of the design of goods vehicles (including the materials and width of their tyres), and the maximum load to be carried thereon;
- (k) the fixing of the maximum weight of vehicles which may use a bridge or any class of bridges, forming part of highway;
- (l) the types of traffic signs which are to be employed on highways;
- (m) the proper provision and maintenance of highways, and the safe, convenient and orderly movement of traffic thereon;
- (n) the particulars to be entered in a notification of a proposal published under sub-section (2) of section 9;
- (o) the plans and particulars required to be furnished by any person making application under section 11;
- (p) the notices of temporary closure to be set up under section 12;
- (q) the procedure to be followed by the Tribunal appointed under section 13;
- (r) the manner in which notice of a proposal to determine a building line under section 16 is to be given; and
- (s) the manner in which building line determined under section 16 is to be published.

30. Repeal and savings.— (1) The following enactments are hereby repealed:-

- (a) The West Punjab Highways Act, 1948²⁸.
- (b) The North–West Frontier Province Ribbon Development Prevention Act, 1946²⁹.

(2) Notwithstanding the repeal of the enactments mentioned in the last preceding sub-section, everything done and all action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred , rule made and notification issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Ordinance.

²⁸ West Pakistan VI of 1948.

²⁹ N.W.F.P. XIII of 1946.