

Public Roads Act, 2031 (1974)

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Amendments:

1. Public Roads (First Amendment) Act,
2035(1978) 2035.5.21(6 Sept. 1978)
 2. Public Roads (Second Amendment) Act,
2046 (1989) 2046.7.11(27 Nov. 1989)
 3. Administration of Justice Act,
2048(1991) 2048.2.16(30 May 1991)
 2. Republic Strengthening and Some
Nepal Laws Amendment Act, 2066
(2010)¹ 2066.10.7(21 Jan. 2010)
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Act Number 21 of the year 2031 (1974)

An Act Made To Provide For the Development, Maintenance and Expansion of Public Roads

Preamble: Whereas, it is expedient to make provisions to classify all kinds of public roads and acquire lands required for the development, maintenance, expansion or improvement of the public roads and to collect development tax from

¹ This Act came into force on 15 *Jestha* 2065(28 May 2008), "*Prasasti*" and the word "Kingdom" has been deleted.

landholders near the roads who benefit from the public roads, in order to maintain the convenience and economic interest of the general public;

Now, therefore, be it enacted by His Majesty King Birendra Bir Bikram Shah Dev, on the advice and with the consent of the *Rastriya Panchayat*.

Chapter-1

Preliminary

1. **Short Title, Extent and Commencement:** (1) This Act may be called the "Public Roads Act, 2031 (1974)".

(2) It shall come into force throughout Nepal.

(3) Chapter-4 of this Act shall come into force in such area or region on such date as specified by the Government of Nepal by a Notification in the Nepal Gazette, and the other Sections shall come into force immediately.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act:

(a) "Public roads" mean roads that are not subject to personal possession by any person, and this term also includes all kinds of bridges, causeways, culverts, ²bi-cycle ways and footpaths.

(b) "Road border" means a public road and the area of land as prescribed on the right and left hand sides of the central line of such a road, pursuant to Section 3.

(c) "Land" means any land, and this term also includes a shed, house, building, tree etc. situated in and anything permanently fixed to such a land.

² Inserted by the Second Amendment.

- (d) "Local Authority" means the authority designated by the Government of Nepal, and the Chief District Officer where no authority is so designated.
- (e) "Department of Roads" means the Department of Roads of the Government of Nepal.
- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter-2

Classification of Public Roads, Road Border and Acquisition of Land

3. **Classification of Public Roads and Road Border Thereof:** The Government of Nepal shall, by a notification in the Nepal Gazette, classify the public roads as follows and specify the road border not exceeding Thirty One meters on both right and left hand sides from the central line of such roads. Provided that even in relation to the whole length of the same kind of road, the Government of Nepal may, owing to the topography and habitation, ³specify the required border also setting out the four boundaries to limit speed or for the safety of a bridge or the river banks around the bridge:
- (a) High ways,
 - (b) Feeder roads,
 - (c) District roads,
 - (d) Urban roads.

³ Amended by the Second Amendment.

43A. Power to prohibit the making of building etc. within the prescribed distance: (1) The Government of Nepal may prohibit any person from building any kind of permanent structure or building within such distance specified by the Government of Nepal by a Notification in the Nepal Gazette, as not exceeding Six meters from the road border where it has been specified pursuant to Section 3 and from the side of the public road where the road border has not been specified.

⁵Provided that, the provisions of prevailing laws shall be applicable in the areas where Town Development Plan is being implemented.

(2) If any person constructs any kind of permanent structure or building within the distance prohibited pursuant to Sub-section (1), such a structure or building may be demolished by the order of the Department of Roads. The Department of Roads may recover also the expenses incurred in the demolition of such a structure or building from the concerned person.

4. Power To Acquire Land for Public Roads and Road Border: If it is required to acquire any land for the development, expansion or improvement of a public road or the road border, the Government of Nepal may temporarily acquire the land in accordance with the laws in force in relation to the acquisition of land.

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⁴ Inserted by the First Amendment.
⁵ Inserted by the Second Amendment.
⁶ Repealed by the First Amendment.
⁷ Repealed by the First Amendment.
⁸ Repealed by the First Amendment.

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Chapter-3

Monitoring, Maintenance of Public Roads and Other Provisions

14. Power to Requisition Other Land in Developing, Expanding or

Improving Roads: (1) The Department of Roads may temporarily requisition any land for the following purpose until the development, expansion or improvement of a public road is completed:

- (a) To hold (store) the construction materials and equipment required for the development, expansion or improvement of such a road and to build a house, and/or shed for the persons who monitor or control the acts relating to such development, expansion or improvement,
- (b) To build a separate road of temporary kind as required to continue the traffic or movement in such a road until the development, expansion or improvement of such a road is completed or to transport the materials or

⁹ Repealed by the First Amendment.
¹⁰ Repealed by the First Amendment.
¹¹ Repealed by the First Amendment.
¹² Repealed by the First Amendment.
¹³ Repealed by the First Amendment.
¹⁴ Repealed by the First Amendment.

equipment related thereto until the development is completed.

(2) The following house, land shall not be requisitioned except in a special situation for the purpose set forth in Sub-section (1):

- (a) A house, shed or structure being used by a person for habitation,
- (b) A land being used for a shrine, school, hospital, public rest house (*Dharmashala*) or orphanage.

(3) A land requisitioned pursuant to Sub-section (1) shall, after the completion of the purpose for which it has been requisitioned, be returned to the concerned landowner or his or her heir in the same condition as it was when requisitioned, to the extent possible.

15. Compensation of Land To Be Requisitioned and Fixation of Compensation: No compensation shall be provided against the requisition of any land pursuant to Section 14 except in the following circumstance:

- (a) Where any land along with a house, shed or structure has been requisitioned, the loss sustained by the owner of such a house, shed or structure because of being unable to use the same,
- (b) Where any land has been requisitioned for a period beyond the time for cultivation of crops, loss sustained by the concerned landowner because of being unable to cultivate the crops,
- (c) The amount that had to be borne by the person entitled to have any requisitioned land returned to restore the land into

the situation when requisitioned as a result of building any temporary road or holding construction materials in the land.

(2) The amount of compensation as referred to in Sub-section (1) shall be determined as follows:

- (a) As per the agreement, if any, concluded between the Department of Roads and the concerned landowner,
- (b) If agreement cannot be made pursuant to Clause (a), compensation shall be fixed by arbitration, and there shall be following arbitrators for that purpose:
 - (1) One member of the District Development Committee or Village Development Committee as designated by the District Development Committee,
 - (2) Chief District Officer, and
 - (3) Chief of Land Administration Office or Land Revenue Office.

16. Plantation of Trees on Both Sides of Road and Taking Care

Thereof: (1) The Department of Roads shall plant trees on the right and left hand sides of a public road, as per necessity.

(2) It shall be the duty of the concerned Village Development Committee or Municipality to take care of and protect the trees planted pursuant to Sub-section (1).

(3) It shall be the responsibility of the Department of Roads to trim the trees planted pursuant to Sub-section (1) and remove such trees if they obstruct the movement or traffic.

(4)¹⁵Notwithstanding anything contained in Sub-sections (1), (2) and (3), the Department of Roads may get the acts mentioned in these Sub-sections carried out by any other person or organization as prescribed.

16A. Determination of Ceiling of Weight: The Government of Nepal may, by a Notification in the Nepal Gazette, specify the ceiling of load that a public road can bear and prohibit the plying of a motor vehicle with a load exceeding the ceiling so specified.

17. Soil, Stone Or Sand May Be Taken From Land In Vicinity: (1) If it is necessary to take soil, stone or sand from any land in vicinity for the development, maintenance of a public road, the soil, stone or sand in required quantity may be taken by the order of the Department of Roads. If, in taking soil, stone or sand from such a land, any damage is caused to any crops, plants, trees or other things in that land, compensation shall be paid for such damage. If in taking soil, stone or sand from such a land, any hole is made, compensation in the sum required to fill up the hole has to be paid.

(2) Notwithstanding anything contained in Sub-section (1), if it is required to take soil, stone or sand from a surrounding land near any house, soil, stone or sand shall not be taken from such a land without obtaining approval from the concerned house owner.

18. Power To Remove Goods Causing Obstruction To Movement On Public Roads: (1) If the movement on a public road is obstructed in any manner as a result of any goods left, placed or thrown on the public road, the Department of Roads may issue an order to the concerned person to remove such goods within a reasonable period of time as specified in the order.

¹⁵ Inserted by the Second Amendment.

¹⁶ Inserted by the Second Amendment.

(2) The Department of Roads may set aside on the road any goods that have not been removed within the period of order issued pursuant to Sub-section (1) or of which owner has not been identified or take such goods elsewhere to be held in its possession.

(3) Notwithstanding anything contained in Sub-section (1), if any goods left, placed or thrown on a public road cause obstruction to the whole movement of such a road, the Department of Roads shall have the power to immediately remove such goods from the road.

(4) If it is held that anything or arm or branch of a door or tree or wire, other than the goods as referred to in Sub-section (1), that is so held, installed or made with a house or wall on either side of a public road as to project towards the road causes obstruction to the movement on the road, the Department of Roads may issue an order to the concerned person to remove such obstruction or arrange the goods in a manner not to cause obstruction within a reasonable period of time as specified in the order, and may also specify in the order the form or structure in which the concerned goods or door have to be held, made or installed and the height that has to be maintained by cutting the trees or branches thereof.

Provided that, if it is required to remove any goods or door already made or held prior to the commencement of this Act, the Department of Roads shall provide compensation for the same and bear the expenses to be incurred in some alteration therein if such alteration is to be made.

(6) In the event of failure to do act as mentioned in the order within the time limit specified pursuant to Sub-section (4) or even within the time limit extended pursuant to Sub-section (5), the Department of Roads may do, or cause to be done, the act set forth in such an order by deputing its

own employee or other person. ¹⁷In such a case, the concerned person shall not be entitled to claim any compensation or expenses pursuant to the proviso to Sub-section (4).

¹⁸**19. Prohibition On Doing Any Act On Public Roads Or Road Border**

Without Obtaining Permission: (1) No person shall build an access road joined to a public road or dig or demolish a hole or ditch on a public road or within the road border or install or place barrier, peg or fort on the public road or build a house or shed thereon or cultivate a land within the road border or do any other similar act without obtaining the permission of the Department of Roads.

(2) If any person does any act as set forth in Sub-section (1) without obtaining the permission of the Department of Roads, the Department of Roads shall also institute an action, if required to be instituted pursuant to the other Sections of this Act against that person and may issue an order to the concerned person to close down the access road built, fill up the hole or ditch dug or remove the barrier, fort or peg made or demolish the house or shed built or barren the land cultivated without obtaining the permission within a reasonable period of time as specified in the order.

(3) If the concerned person fails to observe the order issued pursuant to Sub-section (2), the Department of Roads may close down the access road built, fill up the hole or ditch dug or remove the barrier, fort or peg made or demolish the house or shed built or barren the land cultivated by that person, and recover the expenses incurred therein from the concerned person.

20. Power To Cause Deposit Furnished Or Collect Fees: (1) If any person is required to dig or demolish a public road or road border for any

¹⁷ Inserted by the First Amendment.

¹⁸ Amended by the Second Amendment.

work, the person has to obtain permission of the Department of Roads, and if a request is made for such a permission, the Department of Roads shall make necessary inquiry into the matter and may give permission by taking a deposit of the expenses that may be incurred in maintaining and restoring into its original form of the public road or road border to be so dug or demolished.

(2) In giving permission to dig a public road or road border pursuant to Sub-section (1), the Department of Roads may specify the manner to be followed in so digging of the public road or road border and other terms to be observed until the purpose for which it is to be dug is served, and if the Department of Roads thinks it necessary to have a bond executed by the person asking for permission to observe such terms, it may also have such a bond executed.

21. Power Of Department of Roads To Recover Expenses: (1) The Department of Roads may recover the amount of expenses incurred in setting aside the goods left or held on the road pursuant to Sub-section (2) of Section 18 or doing any work pursuant to Sub-section (6) of that Section from the concerned person.

(2) The Department of Roads shall issue a time limit of Thirty Five days in the name of the concerned person to pay the amount to be recovered pursuant to Sub-section (1), and shall institute action to make recovery as government dues in the event of failure to pay the amount even within the said time limit or to make a request for additional time limit.

(3) If the Department of Roads has taken into its control any goods left or held in a manner to obstruct the movement on a public road, it may hold up such goods until the expenses incurred in setting such goods aside or taking them elsewhere are recovered; and if such expenses cannot be

recovered until One year or the owner of such goods cannot be found out, such goods shall devolve on the Government of Nepal.

Chapter-4

Provisions Relating to Development Tax

22. **Power to Recover Development Tax:** The Government of Nepal may once levy the development tax on lands on either side of a road developed/built after the commencement of this Act and recover such tax.
23. **Land Subjected to Development Tax and Division of Portion Thereof:** ¹⁹(1) The development tax shall be levied on the land that is within Two Hundred Fifty meters on either side from the road border, if any specified, and from the road edge where the road border has not been specified.

Provided that, no development tax shall be charged on the land falling within the prescribed distance in which construction of a permanent structure or building is prohibited pursuant to Section 3A.

(2) For the purpose of the development tax, the land as referred to in Sub-section (1) shall be divided into 125-meter portions and classified as follows:

- (a) Land of up to 125 meters as portion "A",
- (b) Land of 125 meters to 250 meters as portion "B".

24. **Determination of Development Tax:** (1) The development tax shall be collected in an amount to be set by the following percent of the price of a land in a region or area set for the payment of compensation in acquiring the land pursuant to Section 5:

¹⁹ Amended by the First Amendment.

- (a) 20 per cent for a land of portion "a",
- (b) 10 per cent for a land of portion "b".

Illustration: In acquiring a land in a region or area, compensation has been paid by setting the price of the land at the rate of Rs. 5,000.00 per *Ropani*, and out of a total of One and half *Ropani* of the land of a person subjected to tax in such a region or area, half *Ropani* land falls within portion "a" and One *Ropani* within portion "b", the amount of development tax required to be paid by that person pursuant to this Section shall be as follows:

Rs. 500.00 by 20 per cent of half *Ropani* falling within portion "a"

Rs. 500.00 by 10 per cent of One *Ropani* falling within portion "b"

Total Rs. 1,000.00

(2) Notwithstanding anything contained in Sub-section (1), if the Government of Nepal considers necessary to reduce the rate of the development tax leviable on a land or make exemption from the development tax leviable on the land, in consideration of the situation of the land or for any other reasons, it may, by a Notification in the Nepal Gazette, reduce the rate of the development tax or make exemption from the development tax. The Government of Nepal shall also take into account of the recommendation of the compensation fixation committee in relation to the reduction of the rate of the development tax or make exemption from the development tax.

25. Period For Payment Of Development Tax and Office: (1) The development tax required to be paid pursuant to this Act has to be paid to the prescribed office in the installments as prescribed.

Provided that, if a person wishes to pay in lump sum the whole amount of the development tax required to be paid by the person, this Section shall not be deemed to bar for making of such payment.

(2) The time limit for the payment of the development tax and other relevant procedures shall be as prescribed.

26. Development Tax To Be Recovered as Due Land Revenue: (1) If a person does not pay the development tax within the time limit as referred to in Section 25, action shall be taken and the recovery thereof shall be made as if it were due land revenue in accordance with the Nepal laws in force.

(2) Where the concerned land has to be auctioned while taking action for the recovery of the development tax that is due pursuant to Sub-section (1), notwithstanding anything contained in the Nepal laws in force, auction sale of the land subjected to such development tax shall be made only after obtaining the approval of the Government of Nepal Ministry of Works and Transportation.

Chapter-5

Miscellaneous

27.²⁰ Authority For Determination of Compensation and Petition Against Determination: (1) The amount of compensation to be provided pursuant to Sub-section (4) of Section 17 or Sub-section (4) of Section 18 shall be as determined by the Department of Roads in presence of the concerned Ward Member of the local Village Development Committee or Municipality.

(2) A person who is not satisfied within the compensation determined pursuant to Sub-section (1) may make a petition to the

²⁰ Amended by the First Amendment.

Government of Nepal within Thirty Five days after the date of receipt of the notice of compensation.

28.²¹ Not To Bar Requisition Of Land By Reason Of Petition Being

Made: The requisition of a land for the purpose of this Act shall not be barred only for a reason that a petition has been filed in relation to compensation pursuant to Sub-section (2) of Section 27.

29. Notice To Be Given When Road Is To Be Dug By Government

Office: If any office of the Government of Nepal has to dig a public road or road border for any work, it has to dig by obtaining approval of the Department of Roads, and such an office has also to observe the method (norms) or terms, if any, prescribed by the Department of Roads in relation to so digging the road or road border.

30. Penalty: (1) ²²A person who causes obstructions or objection while posting any notice while requisitioning ²³any land pursuant to Section 14 or posting any notice pursuant to this Act, he/she shall be punished with an imprisonment for a term not exceeding Three months or a fine of ²⁴ up to Two Thousand Rupees or with the both.

(2) If a person roots out or cuts any tree planted pursuant to Section 16 or plies a motor vehicle with more weight in contravention of Section 16A, or objects or obstructs to or with the taking of soil, stone or sand pursuant to Section 17 or does any act in contravention of Section 18, such person shall be punished with a fine of up to Two Thousand Rupees.

²¹ Amended by the First Amendment.

²² Deleted by the First Amendment.

²³ Deleted by the First Amendment.

²⁴ Amended by the Second Amendment.

²⁵(3) If a person does any act in contravention of Sub-section (1) of Section 19 or objects or obstructs to or with any work being done by the Department of Roads pursuant to Sub-section (3) of the said Section, the person shall be punished with imprisonment for a term not exceeding One year or a fine of ²⁶up to Five Thousand Rupees or with the both.

²⁷**30A. Investigation and Filing of Cases:** An employee of at least gazetted first class shall investigate into the cases of offenses punishable under this Act, and upon the completion of such investigation, the concerned chief of office of the Department of Roads shall file such case before the Department of Roads or the authority specified pursuant to Section 31.

31. Power to try and appeal there against: ²⁸(1) In relation to the offenses of making obstruction while acquiring land for the purposes of Section 14, of cutting or rooting out trees planted pursuant to Section 16, or of making objection or obstruction while taking soil, stone or sand pursuant to Section 17, of holding, throwing, installing or hanging of any goods in such a manner as to obstruct the movement of a public road in contravention of Section 18 and of doing any act within a public road or road border in contravention of Section 19, ²⁹the Department of Roads or the authority specified by the Government of Nepal by publishing a Notification in the Nepal Gazette shall have the powers to make trial and impose punishment.

³⁰(2) In taking action pursuant to Sub-section (1), the Department of Roads or specified authority may exercise the same powers as the District Court has pursuant to the laws in force.

²⁵ Amended by the Second Amendment.

²⁶ Amended by the Second Amendment.

²⁷ Inserted by the Second Amendment.

²⁸ Amended by the First Amendment.

²⁹ Amended by the Second Amendment.

³⁰ Amended by the Second Amendment.

(3) A person who is aggrieved by an order of punishment made by the ³¹Department of Roads or the specified authority pursuant to Sub-section (1) may make an appeal to the Court of Appeal³² within Thirty Five days.

32. Delegation of authority: The Government of Nepal may delegate any or all powers conferred to the Department of Roads pursuant to this Act to any authority.

33. Powers to frame Rules: (1) The Government of Nepal may frame Rules to implement the objects of this Act.

(2) Without prejudice to the generality of the powers conferred by Sub-section (1), the Rules may provide for on the following matters, in particular:

- (a)
- (b)
- (c) Grounds for the determination of compensation for the loss of crops, trees and other goods,
- (d)
- (e) Terms and conditions to be abided by in building or placing anything of which frontage or exit is towards a public road,
- (f) Terms and conditions to be abided by while making any road or door on either side of a public road,
- (g) Matters to be abided by while making or erecting or building any type of house, wall, sewerage, road, pillar

³¹ Amended by the Second Amendment.

³² Amended by the Administration of Justice Act, 2048.

etc. to be made or erected in the road boundary or road side,

- (h) Specification of the height of wire or similar other thing to be held over a public road or road boundary or on the side of a road boundary and of the manner for placing the same,
- (i) The procedures to be followed while making any sewerage or laying a pipe or wire crossing a public road or road boundary,
- (j) The duties of any person doing any act on a public road in a manner to obstruct the movement and other terms and conditions to be observed by that person.

34. Repeal and consequences thereof: (1) The Highway (Construction Provision) Act, 2021 (1964) and the Rules framed thereunder are, hereby, repealed.

(2) If any compensation for any land acquired under the Highway (Construction Provision) Act, 2021 (1964) is due at the time of the commencement of this Act, the compensation shall be paid pursuant to that Act.