

**Thoroughfares (Amendment)
Act, No. 9 of 1988**

[Certified on 25th March, 1988]

L.D.—O. 24/85

AN ACT TO AMEND THE THOROUGHFARES ORDINANCE

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows : —

1. This Act may be cited as the Thoroughfares (Amendment) Act, No. 9 of 1988. **Short title.**

2. Section 4 of the Thoroughfares Ordinance (hereinafter referred to as the “ principal enactment ”) as amended by Law No. 37 of 1973, is hereby repealed and the following new section substituted therefor : — **Replacement of section 4 & Chapter**

**‘Appoint-
ment and
powers &c., of
officers and
servants.**

4. (1) There may be appointed all such officers and servants as may be necessary for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Director, the Chief Engineer of each region and the Executive Engineer of each division shall be responsible for the administration of this Ordinance in his region or division.

(3) In this Ordinance- ‘

(a) “ region ”, when used with reference to ‘a Chief Engineer, means the area for which he is appointed ;

(b) “ division ”, when used with reference to an Executive Engineer, means the area for which he is appointed.

(4) It shall be lawful for the Director to discharge any function assigned to the Chief Engineer by this Ordinance and it shall be lawful for the Chief Engineer to discharge any function assigned to the Executive Engineer by this Ordinance.

(5) It shall be lawful for the Director to authorize in writing any officer of the Department not being the Chief Engineer or the Executive Engineer to discharge any function assigned to the Chief Engineer or the Executive Engineer by this Ordinance, and it shall be lawful for such officer to discharge that function.’

Amendment
of section
7 of the
principal
enactment.

3. Section 7 of the principal enactment is hereby amended by the substitution for the words, "on behalf of the Government" wherever such words occur in that section of the words, "on behalf of the 'Authority'".

Insertion
of new
sections
7A, 7B, 7C
and 7D in the
principal
enactment.

4. The following new sections are hereby inserted immediately after section 7 and shall have effect as sections 7A, 7B, 7C and 7D of the principal enactment :-

" Persons
to make
use of road
only on the
authority
of
agreement.

7A. No person shall for the purpose of any public service or any private enterprise or object make use of a road or thoroughfare to which this Ordinance applies or execute any work, or set up or maintain any plant or erection therein, except under, and in accordance with the terms and conditions of an agreement referred to in section 7 :

Provided that before any excavation or digging or cutting of any road is allowed to commence in pursuance of any such agreement, the cost of reinstatement or repair of such road after such excavation or digging or cutting, as estimated by the Chief Engineer, together with an additional deposit amounting to ten per **cent** of the estimated cost of such reinstatement or repair, shall be paid to the Chief Engineer :

Provided further that the requirement for the payment of the additional deposit referred to in the proviso shall not apply in the case of a Government department.

Persons to
backfill
hole or
trench.

7B. Any person who has entered into an agreement under section 7 and who excavates, digs, cuts or does any other thing which causes damage to a road, shall, immediately after the completion of the work for which such excavation, digging or cutting was necessary, and in no case later than any time stipulated therefor in the agreement under section 7, backfill to a level indicated by the Executive Engineer, the trench or hole created by his excavation, digging or cutting, in layers of such compaction as specified by

the Executive Engineer, and using fill material approved by the Executive Engineer. Upon the Executive Engineer being satisfied that the backfilling has been satisfactorily completed, the additional deposit of ten per cent referred to in section 7A shall be refunded to the promotor :

Provided that, in the event of such person failing to carry out the backfilling within the time stipulated in such agreement or in the event of the backfilling not being completed in the manner directed by the Executive Engineer, then the Executive Engineer may cause the backfilling to be completed and shall set off the cost of backfilling against the amounts deposited under section 7A.

**Contra-
vention of
section 7A
an offence.**

7c. Any person who makes use of any road or thoroughfare to which this Ordinance applies or executes works or maintains any plant or erection therein in contravention of section 7A shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand rupees.

**Abate-
ment of
obstruc-
tions.**

7d. Notwithstanding anything contained in any agreement referred to in section 7 or anything contrary in any written law, it shall be lawful for the Executive Engineer to issue notice to any person who has in pursuance of an agreement referred to in section 7 caused an obstruction to any road or thoroughfare, to remove or abate such obstruction to the satisfaction of the Executive Engineer, within such time as may be specified in that behalf and if such person fails or neglects to remove or abate such obstruction within such time or if such person cannot be traced, it shall be lawful for the Executive Engineer or any person authorized by him, to remove or abate such obstruction and recover the costs incurred thereby in the manner provided in section 33. No compensation shall be payable to such person for any breach of such agreement occasioned by such removal or abatement.",

Amendment
of section
24 of the
principal
enactment.

5. Section 24 of the principal enactment is hereby **amend-**
ed as follows :—

(1) by the repeal of subsection (1) of that section and the
substitution **therefor** of the following subsection :—

‘ (1) From and after the date on which this **sub-**
section comes into force it shall not be lawful
for any **person**—

(a) except under the authority of a licence
granted by the Executive Engineer of
the division, to erect any building,
boundary wall, gateway or any other
structure or construct a basement **or**
other underground structure or dig a
well, pond or shaft, within a limit
(hereinafter referred to as the “ build-
ing limit ”) of-

(i) fifteen metres from the **centre** of
the road in the case of a road de-
clared by the Director to be an
“ A ” class road in charge of the
Department of Highways by
notification published in the
Gazette ;

(ii) twelve metres from the centre of
the road in the case of a road
declared by the Director to be a
“ B ” class road in charge of the
Department of Highways by
notification published in the
Gazette ;

(iii) seven decimal point five metres
from the **centre** of the road in the
case of a road declared by the
Director to be a “ C ” or “ D ”
class road in charge of the De-
partment of Highways by **notifi-**
cation published in the Gazette;

(b) except under the authority of a licence
granted by the Executive Engineer of
the division to re-erect, or to make any
addition to, any building, boundary
wall, gateway or any other structure or

any basement or other underground structure or any well, pond or shaft within the building limit of any such road :

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to apply to any repairs effected to any building, boundary wall, gateway or any other structure or basement, other underground structure or any well, pond or shaft existing on the date this subsection comes into force; not being repairs to any building, boundary wall or gateway for effecting which a license was necessary prior to the coming into force of this subsection.' ; and

- (2) in subsection (2) by the substitution for the expressions "building, boundary wall or gateway", or "building, wall or gateway" wherever such expressions occur in that subsection of the expressions "building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft".

6. The following new section is hereby inserted immediately after section 24 and shall have effect as section 24A of the principal enactment : —

"No building approval to be granted without permission* of the Executive Engineer.

24A. No authority whose approval is required for the erection or re-erection of a building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft shall grant such approval for the erection or re-erection of a building within the building limit specified in section 24 unless such erection or re-erection has been authorized by a licence granted under that section. "

Insertion of new section 24A of the principal enactment.

7. The following new section is hereby inserted immediately after section 25 and shall have effect as section 25A of the principal enactment : —

"Declaration of a reservation for new

25A. On the recommendation of the Director, the Minister may, by Order published in the **Gazette**, declare that the area of land depicted in a survey plan described in such Order in sufficient detail, and specifying the

Insertion of new section 25A in the principal enactment

length **and** breadth of the road, as to facilitate identification, is intended to be used for the construction of a public road of such class as is specified in the Order. Upon the publication of the Order in the **'Gazette'**, the provisions of this Ordinance prohibiting the erection or re-erection of any building, boundary wall, gateway or other structure or any well, pond or shaft, within the building limits applicable to the class of road specified in the Order shall apply to and in relation to the width of the area of land specified in such Order. ”.

Replacement
of section
26 of the
principal
enactment.

8. Section 26 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“ Procedure
to be
followed
upon
contravention
of section 24.

26. (1) If any person erects or re-erects any building, boundary wall, gateway or other structure or any basement, or other underground structure, or any well, pond or shaft or makes any addition to any building, boundary wall, gateway or other structure or any basement, or other underground structure or any well, pond or shaft in contravention of any of the provisions of section 24, the Executive Engineer shall, by written notice require such person to demolish or remove such building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft or any addition thereto, on or before such day as shall be specified in such notice, not being less than seven days from the date thereof.

(2) It shall be the duty of the person on whom a notice is issued under subsection (1) to comply with any requirement specified in such notice within the time specified therein, or within such extended time as may be granted by the Executive Engineer, on application made in that behalf.

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(3) (a) Where in pursuance of a notice issued under subsection (1), any building, boundary wall, gateway, or other structure or any basement or other underground structure or any well, pond or shaft, is 'not demolished or removed, within the time specified in the notice or within such extended time, as may have been granted by the Executive Engineer, the Executive Engineer may apply to the Magistrate to make a mandatory order, authorizing the Executive Engineer to demolish or remove such building, boundary wall, gateway or other structure or any basement, or other underground structure, or any well, pond or shaft, and the Magistrate on issuing notice on the person, who had failed to comply with the requirement of the Executive Engineer under subsection (1), to demolish or remove such building, boundary wall, gateway, or other structure, or any basement, or other underground structure or any well, pond or shaft, may, if he is satisfied to the same effect, make order accordingly.

(b) If such person undertakes to demolish or remove such building, boundary wall, gateway or other structure or 'any basement or other underground structure or any well, pond or shaft, the Magistrate may if he thinks fit, postpone the operation of the Order for 'such time not exceeding two months as he thinks sufficient for the purpose, of giving the person an opportunity of demolishing or removing such building, 'boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft.

(4) Where a mandatory order has been made under subsection (3), it shall be the duty of the police authorities to render all 'necessary assistance to the Executive Engineer in carrying out the order.

(5) The Executive Engineer shall be entitled to recover any reasonable expenses incurred by him in demolishing or removing any building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft in pursuance of an order made by the Magistrate under subsection (3). ”.

Amendment
of section
27 of the
principal
enactment.

9. Section 27 of the principal enactment is hereby amended by the substitution for the expression “building, boundary wall or gateway” wherever such expression occurs in that section (except in paragraph (d) thereof) of the expression “ building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft ”.

Amendment
of section
28 of the
principal
enactment.

10. Section 28 of the principal enactment is hereby amended as follows : —

- (1) by the substitution, in subsection (1) of that section for the expression “ any building, boundary wall or gateway” wherever that expression occurs in that subsection, of the expression “ building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft ” ;
- (2) by the substitution, in paragraph (a) of subsection (2) of that section, for the expression “building, boundary wall or gateway ” wherever that ~~expression~~ **expression** occurs in ~~that~~ subsection, of the expression “building, boundary. wall, gateway or other structure or any basement or ~~other~~ **other** underground structure or any well, pond or shaft” ;
- (3) by the substitution, in paragraph (b) of subsection (2) of that section-
 - (i) for the expression “ building, boundary wall or gateway ” wherever such expression occurs in that paragraph (**except** in sub-paragraph (ii) thereof) of the expression “ building, boundary wall, gateway or other structure or any basement or other underground ~~structure~~ **structure** or any well, pond or shaft ” ; and

(ii) for the words " in the case of a boundary wall or gateway, " **appearing** in sub-paragraph (ii) thereof, the words "in the case of a boundary wall, gateway or other structure or any basement or other underground structure or any well, pond or shaft " ; and

(4) by the substitution in subsection (3) of that section for the expression, " building, boundary wall or gateway " wherever that expression occurs in that section, of the expression, " building, boundary wall, gateway or other structure or any basement: or other underground structure or any well, pond or shaft ".

11. Section 30 of the principal enactment is hereby amended in subsection (2) thereof by the substitution, for the expression " building, boundary wall or gateway " occurring in that section of the expression, "building, boundary wall, gateway or other structure or any basement or other underground structure or any well, pond, or shaft ".

Amendment of section 30 of the principal enactment.

12. Section 33 of the principal enactment is hereby amended by the substitution for the words "It shall be lawful for the Executive Engineer to give order verbally or by notice' in writing, to any person obstructing or encroaching upon- any thoroughfare, forthwith to remove or abate the same ; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time," of the words " It shall be lawful for the Executive **Engineer** to give order by notice ' in writing, to any person obstructing or encroaching upon any thoroughfare, forthwith to remove or abate the same on or before a specified date ; and if **any** such person to whom such order shall have been given shall refuse or neglect to comply with the same, ".

Amendment of section 33 of the principal enactment.

13. The following, new section is hereby inserted immediately after section 33 and shall have **effect** as section **33A** of the principal enactment :-

Insertion of new section 33A in the principal enactment.

33A. For the purpose of the application of the provisions of the State Lands (Recovery of Possession). Act, No. 7 of 1979 to any road to **which** this Ordinance applies-

(a) every written notice given under section 33 of this Ordinance shall be deemed to be a notice served under section. 3 of that Act ;

"Action where resistance is anticipated.

- (b) the expression “ competent authority ” in that Act shall be deemed to include a reference to the Director, the Chief Engineer and the Executive Engineer ;
- (c) the expression “ State Land ” shall be deemed to include a reference to every road to which this Ordinance applies. ” .

**Amendment
of section
35 of the
principal
enactment.**

14. Section 35 of the principal enactment ‘is hereby amended as follows :—

- (1) by the substitution for the words “fifty rupees” occurring in that section of the words “five thousand rupees ” ;
- (2) by the addition, immediately after paragraph (8) of that section, of the following new paragraphs which shall have effect as paragraphs (9); (10) and (11) of that section :-
- “ (9) whosoever shall cause the opening of any culvert, bridge or side drain to be completely or partially blocked to prevent, obstruct or impede the free passage of water through it or causes a structure to be erected, a dam to be built, or the ground to be raised, or carry out any other act in any land contiguous to a road in the vicinity of a culvert or a bridge, so as to cause any interruption to or impede the free flow of water through a culvert, bridge or side drain ;
- (10) whosoever shall cause damage to a thoroughfare by any excavation of any thoroughfare without authority or by the excavation of any land adjoining or near any thoroughfare ;
- (11) whosoever shall drive, tow or cause to be moved along or across any public road a vehicle which has a device for traction other than wheels or tyres and which bears directly on the road **surface.** ”.

15. The following new sections are hereby inserted immediately after section 35 and shall have effect as sections 35A and 35B of the principal enactment :—

Insertion
of new
Sections
35A and
35B in the
principal
enactment.

“ Continuing
offences,

35A. Any person convicted of an offence under section 35 shall, if the offence is continued after conviction, be liable to a fine not exceeding two hundred rupees for each day during which such offence is continued after conviction.

Abatement
of injuries
to thorough-
fares.

35B. Notwithstanding the provisions of section 35, it shall be lawful for the Executive Engineer to order either verbally or in writing any person who is committing or who has committed any act referred to in section 35, to forthwith abate the same, and if such person to whom such order is given shall refuse or neglect to comply with the order within the period specified therein, or if there be any doubt as to the proper person to whom such order should be given, it shall be lawful for the Executive Engineer or any person authorized in writing in that behalf by the Executive Engineer, to enter or cause to enter any house, garden, enclosure or other premises with such persons, instruments and things as may be necessary and to do or cause to be done therein all such things as may be necessary for such abatement ; and the Executive Engineer may recover the costs incurred in such abatement, in the manner provided in section 33 for the recovery of costs therein mentioned. ”

-16. Section 37 of the principal enactment is hereby amended as follows :—

Amendment
of section
37 of the
principal
enactment.

(1) by the substitution for the words “ less than four feet of the length of such drain ” occurring in that section, of the words “ less than 25 metres of the length of such drain, and which shall provide an opening the cross section of which shall not be less than 3720 square centimetres or such other area as the Executive Engineer may, by notice in writing

direct. ” and

- (2) by the substitution for the words “costs therein mentioned”, of the following :—

“ Costs therein mentioned :

Provided that if the Executive **Engineer** gives notice to the public of the intention to construct or excavate such a drain the preceding provision of this section shall apply **in** the same manner as if there was a **drain** in existence by the side of such road. ”.

17. **Section 38** of the principal enactment is hereby amended as follows : —

- (1) by the substitution for the words “ **fifty** rupees ” occurring in that section, of the words “five thousand rupees ” ;

- (2) in the proviso to paragraph (2) **of** that section-

(u) by the substitution for the words “ one rupee ” wherever those words occur in that proviso, of the words “ seventy-five rupees ” ; and

(b) by the substitution for the words “thirty cents ”, of the words “ten rupees ” ;

- (3) by the deletion in paragraph (9) of that section of all the words from “ and shall allow ” to “ removal thereof ” ; and

- (4) by the insertion, immediately after paragraph (14) of that section, of the following new paragraphs which shall have effect as paragraphs (15), (16) and (17) of that section :-

“ (15) whoever shall erect any sign board, **direction** board, or hoarding on a **thoroughfare** without the permission of the Executive Engineer ;

(16) whosoever without lawful authority **shall tie** a rope or wire or lay a tube or a pipe or any other thing **across** or alongside ‘any road ;

(17) whosoever without lawful authority **shall** wash any carriage, motor vehicle, cart, or other thing or **any** cattle or any other animal **on any** road : ”.

Amendment
of section
38 of the
principal
enactment.

Insertio
of new
sections
38A and 38B
in the
principal
enactment.

18. The following new sections are hereby inserted immediately after section 38 and shall have effect as sections 38A and 38B of the principal enactment : —

Continuing offences.

38A. Any person convicted of an offence under section 38 shall, if the offence is continued after conviction, be liable to a fine not exceeding two hundred rupees for each day during which such offence is continued after conviction.

Abatement of nuisances on thoroughfares.

38B. Notwithstanding the provisions of section 38, it shall be lawful for the Executive Engineer to order either verbally or in writing any person committing or who has committed any act referred to in section 38, to forthwith abate the same, and if such person to whom such order is given shall refuse or neglect to comply with the order within the period specified therein, or if there be any doubt as to the proper person to whom such order should be given, it shall be lawful for the Executive Engineer or any peace officer to take all such action as may be necessary to abate such nuisance, including the taking into custody and removal of any animal, vehicle, object or thing which is the cause of, or contributory to, such nuisance and the Executive Engineer may recover the costs incurred thereby in the manner provided in section 33 for the recovery of costs. ”.

19. The following new section is hereby inserted immediately after section 39 and shall have effect as section 39A of the principal enactment : —

Insertion
of new
section 39A
in the
principal
enactment.

Regulations.

39A. (1) The Minister may make regulations for or in respect of all or any of the following matters : —

- (a) the general specifications to which the construction of any public road or bridge should conform ;

- (b) the prevention of ribbon development along public roads ;
- (c) the regulation, control and management of access to principal thoroughfares ;
- (d) 'the maximum load and other related characteristics of vehicles which may be permitted for use on a public road or any class of public road ;

(2) Every regulation made under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made under subsection (1) shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation not so approved shall be deemed to have been rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

(5) The contravention of any regulation shall be an offence under this Ordinance and shall be punishable with a fine not exceeding five thousand rupees. ”.

20. Section 40 of the principal enactment is hereby amended as follows :—

(1) by the insertion? immediately before the definition of “ canal ” occurring in that section, of the following new definition : —

‘ “ Authority ” means' the Road Development Authority established by the Road Development Authority Act, No. 73 of 1981. ’ ;

(2) by the insertion, immediately after the definition of "centre of the road" occurring in that section of the following new definition :-

‘ “ Chief Engineer ” means the Chief Engineer for any region.’ ;

(3) by the substitution for the definition of “ Director ”, of the following new definition :-

‘ “ Director ” means the Director of Highways ; ’ ;
and

(4) by the omission of the definition of “ Superintending Engineer ” appearing in that section.

21. In the principal enactment, there shall be substituted - **Substitution of new expressions in the principal enactment.**

(a) for the expression “ Department of Highways or a Department of the Director of Works ” the expression “ Department. of Highways ” ; and

(b) for the expression “ Superintending Engineer ” the expression “ the Chief Engineer or the Executive Engineer. ”.