

(Authoritative English Text of this Department notification No. PBW(B)A-6(2)2/2004 dated 28-8-2004 as required under clause (3) of Article 348 of the Constitution of India).

**Government of Himachal Pradesh
Public Works Department**

Notification

No. PBW(B)A-6(2)2/2004

Dated: Shimla, 2, the 3 January, 2005

Whereas, the draft Himachal Pradesh Road Infrastructure Protection Rules, 2004 was published in the Rajpatra Himachal Pradesh on the 30th October, 2004 vide this Department notification of even number dated the 28th August, 2004, for inviting objections and suggestions from the persons likely to be affected thereby as required under section 19 of the Himachal Pradesh Road Infrastructure Protection Act, 2002 (No. 20 of 2003);

And whereas no objection(s)/suggestion(s) have been received from any person within the specific period;

Now, therefore, in exercise of the powers conferred by section 19 of the Act (ibid), the Governor of Himachal Pradesh is pleased to make the following rules, namely:-

1. Short Title. These rules may be called the Himachal Pradesh Road Infrastructure Protection Rules, 2005.

2. Definitions. (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Himachal Pradesh Road Infrastructure Protection Act, 2002 (Act 20 of 2003);

(b) "Form" means a form appended to these rules;

(c) "Motor Vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer and shall also include bullock cart etc.; but does not include a vehicle running upon fixed rails; and

(d) "section" means the section of the Act.

(2) All other words and expressions used in these rules but not defined shall have the same meanings as assigned to them in the Act.

3. **Procedure for preparation of road infrastructure map.**-(1) The Executive Engineer concerned alongwith revenue staff shall fix different building lines, control line, controlled area and acquired area of the road infrastructure within his jurisdiction and shall prepare a map as required under sub sections (1) and(2) of section 4,which shall be signed jointly by the Executive Engineer and the Assistant Collector of Revenue Department.

(2) Upon finalization of road infrastructure map by the Executive Engineer concerned, the same shall be forwarded to the Chief Engineer of the department within fifteen days for his approval.

(3) After the approval of the road infrastructure map by the Chief Engineer, the same shall be forwarded to the Government for inviting objection(s) or suggestion(s) from General Public through notice published in the Rajpatra, Himachal Pradesh. If no objection(s) or suggestion(s) is received within sixty days from the date of its publication in the Rajpatra, the same shall be deemed to have become final.

(4) If any objection(s) or suggestion(s) is(are) received from general public, the same shall be considered by the Government and after adjudication upon the objection(s) or suggestion(s), road infrastructure map shall be finalized and this information shall also be made public through notice in the news paper having wide circulation and Rajpatra, Himachal Pradesh. In case of further addition and alteration in the road infrastructure map by the Executive Engineer, the entire procedure as prescribed under sub rules (1) to (3) of this rule shall be followed again.

(5) After finalization of road infrastructure map, the same shall remain available in the office of Executive Engineer concerned as a reference record and the copy of same shall be supplied by the Executive Engineer to the Work Inspector and the prescribed authority having respective jurisdiction free of cost in order to check contravention of section 3 and also granting facility under section 13 to the persons applying for the same.

(6) Any person by making an application may obtain certified copy of the road infrastructure map on payment of fee at the rate of five rupees per page of paper of the size of A-4 from Executive Engineer concerned and may also inspect the same in the concerned Division on payment of inspection fee at the rate of ten rupees per hour against proper receipt in form-IV, which shall be deposited in government Treasury by the Executive Engineer under receipt head of account of Government of Himachal Pradesh.

4. **Procedure for conduct of Proceeding.**-(1)On noting the occurrence of any prohibited act on road infrastructure under section 3 by the work inspector or prescribed authority, as the case may be, notice in form-I and II as the case may be, shall be issued by the work inspector or the prescribed authority to the defaulter in person or in his absence upon any adult male member of the family to stop forthwith the prohibited act on road infrastructure and order the restoration of status quo of the road infrastructure within three days. The Work inspector or prescribed authority shall be competent to issue notice to the defaulter for following prohibited acts on road infrastructure namely:-

(a) Work Inspector shall be competent to issue notice only for violation of prohibited acts on road infrastructure as provided under clause(iv), (v), (vi),(x), (xi), (xii) and (xiv) of section 3.

(b) prescribed authority shall be competent to issue notice for contravention of all prohibited acts on road infrastructure as provided under sections 3 and 7 for the removal of abandoned Motor Vehicle or machinery or goods as the case may be, on road infrastructure lying abandoned thereon and shall also impound the same and keep the same in the store of Division or sub-Division of the department. The prescribed authority shall also recover the cost of removal as well as penalty as specified under section 7.

(2) If after the issue of notice by the prescribed authority under clause (b) of sub-rule (1) of this rule, the aggrieved party files objection(s), the prescribed authority before passing final order shall give him a reasonable opportunity of being heard and shall pass order for the imposition of penalty with costs as specified under sub-section(2) of section 11, as the case may be.

(3) After the expiry of ten days if the impounded Motor Vehicle, Machinery or goods, as the case may be, remains impounded with Prescribed Authority without payment of fine and cost of removal under section 7, the prescribed authority shall forward the matter to the confirmatory authority, who shall take action under sections 25, 26 and 27 of the Indian Police Act, 1861 within fifteen days for disposal of the abandoned property.

(4) The order passed by Work Inspector or prescribed authority shall be sent by him or it to the confirmatory authority either on the same day or the next day positively for its confirmation and the order if confirmed shall be final.

(5) If the Work Inspector or the prescribed authority both fails to take action as specified in clauses(a) and (b) of sub-rule (1) of this rule for contravention of any prohibited acts under the Act and for providing facility under section 13, the confirmatory authority shall report the matter to the Chief Engineer of the Zone concerned within seven days from the date of his knowledge for not taking action under section 5.

(6) Before sending the matter to the Chief Engineer, the confirmatory authority shall exercise the powers vested in Work Inspector and prescribed authority under clauses (a) and (b) of sub-rule (1) of this rule and itself issue the notice to the defaulter in form-II for contravention of prohibited acts and also take action for providing facility under section 13 and only thereafter it shall forward the case to the Chief Engineer.

5. Procedure for recovery of Cost and penalty.-(1) In case of default to recover the cost and penalty the prescribed authority shall determine the cost and penalty recoverable as per the provisions of clauses (1) and (2) of section (2) of section 11, which shall be recovered by the confirmatory authority by making a request to the concerned Collector to recover the same as arrears of Land Revenue.

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(b) prescribed authority shall be competent to issue notice for contravention of all prohibited acts on road infrastructure as provided under sections 3 and 7 for the removal of abandoned Motor Vehicle or machinery or goods as the case may be, on road infrastructure lying abandoned thereon and shall also impound the same and keep the same in the store of Division or sub-Division of the department. The prescribed authority shall also recover the cost of removal as well as penalty as specified under section 7.

(2) If after the issue of notice by the prescribed authority under clause (b) of sub-rule (1) of this rule, the aggrieved party files objection(s), the prescribed authority before passing final order shall give him a reasonable opportunity of being heard and shall pass order for the imposition of penalty with costs as specified under sub-section(2) of section 11, as the case may be.

(3) After the expiry of ten days if the impounded Motor Vehicle, Machinery or goods, as the case may be, remains impounded with Prescribed Authority without payment of fine and cost of removal under section 7, the prescribed authority shall forward the matter to the confirmatory authority, who shall take action under sections 25, 26 and 27 of the Indian Police Act, 1861 within fifteen days for disposal of the abandoned property.

(4) The order passed by Work Inspector or prescribed authority shall be sent by him or it to the confirmatory authority either on the same day or the next day positively for its confirmation and the order if confirmed shall be final.

(5) If the Work Inspector or the prescribed authority both fails to take action as specified in clauses(a) and (b) of sub-rule (1) of this rule for contravention of any prohibited acts under the Act and for providing facility under section 13, the confirmatory authority shall report the matter to the Chief Engineer of the Zone concerned within seven days from the date of his knowledge for not taking action under section 5.

(6) Before sending the matter to the Chief Engineer, the confirmatory authority shall exercise the powers vested in Work Inspector and prescribed authority under clauses (a) and (b) of sub-rule (1) of this rule and itself issue the notice to the defaulter in form-II for contravention of prohibited acts and also take action for providing facility under section 13 and only thereafter it shall forward the case to the Chief Engineer.

5. Procedure for recovery of Cost and penalty.-(1) In case of default to recover the cost and penalty the prescribed authority shall determine the cost and penalty recoverable as per the provisions of clauses (1) and (2) of section (2) of section 11, which shall be recovered by the confirmatory authority by making a request to the concerned Collector to recover the same as arrears of Land Revenue.

(2) The proceeds received under the Act on account of costs, penalty and fee shall be deposited in the Government Treasury by the confirmatory authority under receipt head of account of Government of Himachal Pradesh.

By Order

Principal Secretary (PWD) to the
Government of Himachal Pradesh

Endst. No. As above, dated: Shimla-2, the

13 January, 2004

Copy forwarded to :-

1. All the Administrative Secretaries to the Government of Himachal Pradesh.
2. All the Heads of Departments, H.P.
3. All the Deputy Commissioners, Himachal Pradesh.
4. The Controller, HP Printing & Stationery Department, Shimla-5 for publication in the Rajapatra.
5. The Engineer-in-Chief, HPPWD, Shimla-171001.
6. All the Chief Engineers of HP PWD.
7. All the Superintending Engineers HP PWD.
8. The Under Secretary (GAD) to the Government of Himachal Pradesh.
9. Guard File.

13/1/04
Special Secretary (PWD) to the
Government of Himachal Pradesh

FORM-I

(See rule 4(1)(a)

Notice to be issued (in duplicate) by the Work Inspector under clause(a) of sub - rule (1) of rule 4 of the Himachal Pradesh Road infrastructure Protection Rules,2004)

To

(Name of the defaulting person with permanent address)

Subject: Notice under rule (4)(1)(a) of Himachal Pradesh Road Infrastructure Protection Rules, 2004 for contravention of prohibited acts on road infrastructure as provided under section 3 of the Himachal Pradesh Road Infrastructure Protection Act, 2002 .

Sir/Madam.

It has come to notice that on Road infrastructure belonging to the Government of Himachal Pradesh as per enclosed sketch, you are carrying on prohibited activities on a portion of road which has caused damage or is likely to cause further damage to the Road Infrastructure at chainage _____ of road (name) _____. The said activity is prohibited under section 3 of the Himachal Pradesh Road infrastructure Protection Act,2003.

Hence, by way of present notice under section 5 of the Act the undersigned being competent to do so, hereby, directs you to stop the said prohibited activity at once. You are, further directed to start within three days of the receipt of this notice the process of restoration of the damage so caused and complete the same within one week. Failing which the work of restoration of status quo ante shall be initiated by the department at your risk and cost alongwith restoration cost so imposed by the confirmatory authority as per the provisions of sub-section(4) of section 6 of the Act.

WORK INSPECTOR
(Complete Designation)

Place:

Time:

Date:

Copy forwarded for information and further necessary action to:

1. Junior Engineer(Prescribed Authority), Incharge of the section.
2. Executive Engineer (Confirmatory Authority)

WORK INSPECTOR.

FORM-II

(See rule 4(1)(b)

(Notice to be issued (in duplicate) by the Prescribed Authority under clause(b) of sub-rule (1) of Rule 4 of Himachal Pradesh road infrastructure protection Rules,2004)

To

(Name of the defaulting person with permanent address)

Subject: Notice under sub rule (4)(1)(b) of Himachal Pradesh Road Infrastructure Protection Rules, 2004 for contravention of prohibited acts on Road Infrastructure as provided under Section 3 of the Himachal Pradesh Road Infrastructure Protection Act, 2002.

Sir/Madam.

It has come to the notice that on Road Infrastructure belonging to the Government of Himachal Pradesh as per enclosed sketch, you are carrying on work of _____ on the portion of road which has caused damage or is likely to cause further damage to the Road infrastructure at chainage _____ of road (name) _____. The said Act is prohibited under (_____) section 3 of the Himachal Pradesh Road Infrastructure Protection Act,2003.

Hence, the undersigned in exercising of the powers vested in him under section 5 of the Act, issues the present notice to you with the direction to stop the said prohibited activity at once. You are, further directed to start within three days from the date of receipt of this notice the process of restoration of the damage caused to the road infrastructure and complete the same within one week. Failing which, the work of restoration of status quo ante shall be initiated by the department at your risk and cost alongwith restoration cost so imposed by the confirmatory authority as per the provisions of sub-section (4) of section 6 of the Act.

Please acknowledge the receipt.

Prescribed Authority
(Junior Engineer, Assistant Engineer
or Executive Engineer)
(Complete Designation)

Place:

Time:

Date:

Copy forwarded for information and further necessary action to:

1. Executive Engineer (Confirmatory Authority)

Prescribed Authority
(Junior Engineer, Assistant Engineer
or Executive Engineer)
(Complete Designation)

FORM-III
(see rule 3(5))

(APPLICATION UNDER RULE 3(5) OF HIMACHAL PRADESH ROAD INFRASTRUCTURE PROTECTION RULES,2004 FOR PERMISSION TO AVAL FACILITY WITH RESPECT TO ROAD INFRASTRUCTURE AS PROVIDED UNDER SECTION 13 OF THE ACT)

To
The Executive Engineer.

Subject: Application under rule 3(5), for permission to avail facility as provided under section 13 of Himachal Pradesh Road Infrastructure Protection Act, 2002.

1. Name of the person seeking permission:
2. Father's Name:
3. Address:
4. Facility to be availed:
5. a) If approach road then sanction letter of the house construction of the competent authority /department.
b) If any other facility as specified under clause(ii) to (vi) of section 13 is sought then complete map in the sketch may be annexed.
6. Description enclosure:
7. Any other information:
8. Whether previously such permission has been sought or not? If yes its date:
9. Amount of the work so deposited in the department alongwith copy of receipt. -----?

I, _____ do hereby solemnly affirm that the particulars alongwith documents in the above form so given by me are true and correct. No part of it is wrong and nothing has been concealed in it. I further declare that in case of failure to comply with the requirement (s) as required from me, the same amount as per the provisions of section-11 of Himachal Pradesh Road Infrastructure Protection Act, 2003 may be recovered from me.

(Signature of the Applicant)

Place:
Time:
Date:

Form-IV
(see rule-3(6))

By order

Principal Secretary (PW) to the
Government of Himachal Pradesh

Endorsement: