

No. 1228(2)/VII-V-1-1(ka)17-2004
Dated Lucknow, August 13, 2004

In pursuance of the provisions of clause (3) of article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Rajya Rajmarg Pradhikaran Adhiniyam, 2004 (Uttar Pradesh Adhiniyam Sankhya 19 of 2004) as passed by the Uttar Pradesh Legislature and assented to by the Governor on August 12, 2004 :-

THE UTTAR PRADESH STATE HIGHWAYS AUTHORITY ACT, 2004

(U.P. Act No. 19 of 2004)

[As passed by the Uttar Pradesh Legislature]

AN

ACT

to provide for the constitution of a State Authority for the Development, maintenance and management of State Highways and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-fifth year of the Republic of India as follows:-

CHAPTER-1

Preliminary

Short title, extent
and
commencement

1. (1) This Act may be called by Uttar Pradesh State Highway Authority Act, 2004.
(2) It extends to the whole of the State of Uttar Pradesh.
(3) It shall be deemed to have come into force on June 21, 2004.

Definitions

(2) In this Act, unless the context otherwise requires:-

- a. "Authority" means the Uttar Pradesh State Highway Authority, established under section 3;
- b. "Chairperson" means the Chairperson of the Authority.
- c. "Vice-Chairperson" means the Vice-Chairperson of the Authority;
- d. "Council" means the Governing Council of the Authority constituted under section 4;
- e. "Committee" means the executive committee of the Authority constituted under section 9;
- f. "Employee" means a person in the full-time service of the Authority or for such period as may be decided by the Authority.
- g. "State Highway" means any highway including bridges thereon for the time being declared as a State Highway by the State Government.

CHAPTER-II

The Uttar Pradesh State Highways Authority

Establishment of the Authority

3. (1) With effect from such date as the State Government may, by notification in the Gazette, appoint in this behalf, there shall be established for the purposes of this Act an Authority to be called the Uttar Pradesh State Highway Authority.

(2) The Authority shall be a body corporate.

Governing Council

4. The Governing Council shall be the highest policy making body of the authority and shall be Chaired by the Chief Minister of the state. The other members of the council shall be :

a. The Minister, Public Works Department, Uttar Pradesh	Vice-Chairperson
b. The Minister, Finance, Uttar Pradesh	Member
c. The Minister, Planning, Uttar Pradesh	Member
d. The Chief Secretary, Uttar Pradesh	Member
e. The Principal Secretary, Finance, Uttar Pradesh	Member
f. The Principal Secretary, Planning, Uttar Pradesh	Member
g. The Principal Secretary, Public Works Department	Member Uttar Pradesh
h. The Engineer-in-Chief, Public Works Department	Member Uttar Pradesh
i. Two experts to be nominated by the Governing Council	Expert Members
j. The Chief Executive Officer of the Authority	Member Convener

Terms of office and conditions of service of the members of the Governing Council

5. (1) All members of the Governing Council, other than expert-members, shall be ex-officio members.

(2) The Expert-Members of the Governing Council, one from the field of economics, finance, administration or banking and the other from the field of civil (preferably, road) construction, shall be nominated by the Council for a period of three years and other conditions of their service shall be such as may be prescribed.

6. A person shall be disqualified for being appointed as an expert-member of the Governing Council if he:-

- a. Has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involved moral turpitude; or
- b. Is an undischarged insolvent; or

Disqualification for appointment as expert-members of the Governing Council

- c. Is of unsound mind and stands so declared by a competent court; or
- d. Has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the State Government; or
- e. Has, in the opinion of the State Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as an expert-member of the Governing Council.

7. (1)The Governing Council shall meet as such times and places and shall observe such rules of procedure, in regard to the transaction of business at its meeting, including the quorum threat, as may be provided by regulations.

Meetings of the Governing Council

(2)If for any reason the Chairperson is unable to attend any meeting of the Governing Council, the Vice-Chairperson shall preside at the meeting.

(3)All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

8. No act or proceeding of the Governing Council shall be invalidated merely by reason of -

Vacancy in the Governing Council not to invalidate proceedings

(a)Any vacancy in, or any defect in the Constitution of, the Governing Council; or

(b)Any defect in the appointment of a person acting as an expert-member of the Governing Council; or

(c)Any irregularity in the procedure adopted by the Governing Council not affecting the merits of the case.

9. There shall be an Executive Committee headed by the Chief-Executive Officer. The Committee shall report to the Governing Council and shall be responsible for such functions and exercise such powers as may be prescribed or assigned to it by the Governing Council

Executive Committee

(10.) The Executive Committee shall consist of	Constitution of the Executive Committee
a. Chief-Executive Officer	Chairperson
b. Member (Finance)	Member
c. Member (Technical)	Member
d. Member (Administration)	Member
11. The Chief Executive Officer and the Member (Finance), Member (Technical) and Member (Administration) of the Executive Committee shall be full time employees of the Authority and the method of their appointment and the terms and conditions of their service shall be such as may be prescribed.	Terms and Conditions for appointment of Chief-Executive Officer and Members of the Committee Appointed of officers, consultants and other employees of the Authority.
12. (1) For the purpose of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be laid down in the regulations.	
(2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary, on such terms and conditions as may be laid down in the regulations.	
13. Authority to act on business principles	In the discharge of its function under this Act, the Authority shall act, so far as may be, on business principles.

CHAPTER-III

Property and Contracts

Power of the State Government to vest or entrust any State highway in the Authority	14. The State Government may, from time to time, by notification in the Gazette, vest in, or entrust to, the Authority, such state highway or any stretch thereof as may be specified in such notification.
Transfer of assets and liabilities of the State Government to the Authority	15. (1.) On and from the date of publication of the notification under section 14:- a. All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the State Government, immediately before such date for or in connection with the purposes of any state highway or any stretch thereof vested in, or entrusted to, the Authority under that section, shall be deemed to have been incurred entered into and engaged to be done by, with or for, the Authority; b. All non-recurring expenditure incurred by or for the State Government for or in connection with the

purposes of any state highway or any stretch thereof, so vested in, or entrusted to, the Authority, up to such date and declared to be capital expenditure by the State Government shall, subject to such terms and conditions as may be prescribed, be treated as capital provided by the State Government to the Authority;

- c. All sums of money due to the State Government in relation to any state highway or any stretch thereof, so vested in, or entrusted to, the Authority immediately before such date shall be deemed to be due to the Authority;
- d. All suits and other legal proceedings instituted or which could have been instituted by or against the State Government immediately before such dated for any matter in relation to such state highway or any stretch thereof may be continued or instituted by or against the Authority.

(2.) If any dispute arises as to which of assets, rights or liabilities of the State Government have been transferred to the Authority, such dispute shall be decided by the State Government.

Acquisition of land for the Authority

16. Any land required by the Authority for discharging its functions under this act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1984.

Contracts by the Authority

17. Subject to the provisions of section 18, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

Mode of executing contracts on behalf of the Authority

18. **(1)** Every contract shall, on behalf of the Authority, be made by the Chief Executive Officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contract or classes of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract for the sale of immovable property shall be made unless it has been previously approved by the State Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be laid down in the regulations.

(3) A contract which is not in accordance with the provisions of this Act, Rules and the regulations shall not be binding on the Authority.

CHAPTER-IV

Functions of the Authority

Functions of the Authority

(19) 1. Subject to the rules made under this Act, It shall be the function of the Authority to develop, maintain and manage the state highways and any other highways vested in, or entrusted to it, by the State Government in the manner that the authority becomes largely independent of Government funding for the maintenance of the Highways within three years from the date it is set up.

2. Without prejudice to the generality of the provisions contained in sub section(1), the Authority may, for the discharge of its functions

(a) Survey, develop, maintain and manage highways vested in, or entrusted to it and to achieve whereof the Authority will, inter-alia

- i. Prepare immediate and long-term plans for the maintenance and up-gradation of the State Highways that are entrusted to it;
- ii. Develop a scientific Pavement Management System for systematizing the maintenance operations and also lay down the standards for design and construction of state highways;
- iii. Develop models for bringing in private and institutional, including international funding into the road sector.
- iv. Develop methods of Performance based maintenance systems for maintenance of the state highways by quality private contractors;
- v. Raise institutional resources for undertaking the maintenance and up-gradation of these highways;
- vi. Maintain and upgrade the highways as per approved plan while encouraging private partnership and resources for these purposes;

(b) Regulate and control and the plying of vehicles on the highways vested in, or entrusted to, it for the proper management thereof;

(c) Develop and provide constancy and construction services in the State and carry on research activities in relation to the development, maintenance and management of highways or any facilities thereof;

(d) Provide such facilities and amenities for the users of the highways vested in, or entrusted to, it as are, in the opinion of the Authority, necessary for the convenience and smooth flow of traffic on such highways;

(e) Form one or more companies under the Companies Act, 1956 (Act no. 1 of 1956) to further the efficient discharge of the functions imposed on it by this Act;

- (f) Engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;
- (g) Advise the State Government on matters relating to State Highways;
- (h) Collect fees on behalf of the State Government on such terms and conditions as may be specified by the State Government; and
- (i) Take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on its by this Act;

3. Nothing contained in this section shall be construed as:-

- a. Authorizing the disregard by the Authority of any law, for the time being, in force or
- b. Authorizing any person to Institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject under this Act.

CHAPTER V

Finance, Accounts and Audit

Additional capital and grants to the Authority by the State Government **(20)** The State Government may, after due appropriation made by State Legislature, by law in this behalf:-

- a. Provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose, connected therewith on such terms and conditions as the State Government may determine;
- b. Pay to the Authority, on such terms and conditions as the State Government may determine, by way of loans or grants such sums of money as the State Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

Fund of the Authority **(21.)** 1. There shall be constituted a fund to be called the Uttar Pradesh State Highways Authority Fund and there shall be credited thereto:-

- a. Any grant or aid received by the Authority;
- b. Any loan taken by the Authority or any borrowings made by it;
- c. Any other sums received by the Authority.

2. The fund shall be utilized for meeting -

- a. Expenses of the Authority in the discharges of its functions having regard to the purposes for which such grants, loans or borrowings is received and for matters connected therewith or incidental thereto;
- b. Salary, allowances other remuneration and facilities provided to the members, officers and other employees of the Authority;
- c. Expenses on objects and for purposes authorized by this Act.

Budget (22.) The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure of the Authority and forward the same to the State Government.

Investment of funds (23.) The Authority may invest its funds (including any reserve fund) in the securities of the State Government or in such as other manner as may be prescribed.

Borrowing powers of the Authority (24.) 1. The Authority may, with the consent of the State Government or in accordance with the terms of any general or special authority given to it by the State Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

2. Subject to such limits as the State Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amounts as it may required for discharging its functions under this Act.

3. The State Government may guarantee in such manner as it thinks fit the repayment of the principal and the payment of interest thereon with respect to the borrowings made by the Authority under sub-section (1).

Annual report (25.) The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

(26.) The account of the Authority shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State be prescribed and the Authority shall furnish, to the State Government before such date as may be prescribed, its audited copy of accounts together with the auditor's report thereon.

Accounts and audit

(27.) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be, after they are received before each House of Legislature.

Annual report and auditor's report to be laid before legislature

CHAPTER VI

Miscellaneous

28. The Governing Council may, be general or special order in writing delegate to the Chairperson or a sub-committee of the Council or to the Executive Committee or to Chief-Executive officer or any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary except that the following functions and powers shall be exercised only by the council:-

Delegation of Powers

- a. To borrow long term funds from the market or financial institutions. This will not include arranging short-term funds and overdraft to meet the working capital requirements.
- b. To appoint officers or employees whose basic pay exceeds a sum as prescribed in rules;
- c. Framing regulations for the working of the authority and if required, amendments thereto.
- d. Any other matter, as may be prescribed.

29. All orders, decision and other instruments or the Authority shall be authenticated by the signature of the Chairperson or any officer of the Authority authorized by it in this behalf.

Authentication of orders and other instruments of the Authority

30. All members, officers and employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act no. 45 of 1860) and under the rules or directions made by the State Government.

Employees of the Authority to be public servants

31. (1) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith

(2) No suit, prosecution or other legal proceeding shall lie against the Authority or

any member or officer or employee of the Authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

32. The Authority may undertake to carry out on behalf of the State Government or any local authority, any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the State Government or the Local authority concerned.

Power of the Authority to undertake certain works

(33) Subject to any regulations made in this behalf any person, generally or specially authorized by the Authority in this behalf, may, whenever it is necessary so to do for any of the purposes of this Act, at all reasonable times, enter upon any land or premises, and-

Power to enter

- a. Make any inspection, survey, measurement, valuation or enquiry;
- b. Take levels;
- c. Dig or bore into sub-soil;
- d. Set out boundaries and intended lines of work;
- e. Mark such levels, boundaries and lines by placing marks and cutting trenches; or
- f. Do such other acts or things as may be prescribed:
Provided that no such person shall enter any boundary or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

Power of the State Government to temporarily divest the Authority of the Management of any State Highway

34.

1. If, at any time, the State Government is of opinion that in the public interest, It is necessary or expedient so to do, it may, by order, direct the Authority to entrust the development, maintenance or management of any State Highway or a part thereof with effect from such date and for such period and to such person as may be specified in the order and the Authority shall be bound to comply with such direction.
2. Where development, maintenance or management of any State Highway or part thereof is entrusted to any person specified under subsection(1) (hereafter in this section referred to as the authorized person). The

Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such highway or part thereof and such powers and functions shall be exercised and discharged by the authorized person in accordance with the instructions, if any, which the State Government may give to the authorized person from time to time: Provided that no such power or function as may be specified by the State Government by a General or special order shall be exercised or discharged by the authorized person except with the previous sanction of the State Government.

3. The State Government may reduce or extend the period mentioned in sub-section (1) as it considers necessary.
4. During the operation of an order made under sub-section (1), it shall be competent for the State Government to issue, from time to time, such directions to the Authority as are necessary to enable to authorized people to exercise the powers and discharge the functions of the Authority under this Act in relation to the State Highway or part thereof, the management of which has been entrusted to him and in particular, to transfer any sum of money from the Fund of the Authority to the Authorized person for the management of the State Highway or part thereof and every such direction shall be complied with by the Authority.
5. On the cessation of operation of any order made under sub-section (1) in relation to any State Highway or part thereof, the authorized person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such state highway or part thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provision of this Act.
6. On the cessation of operation of any order made under sub-section (1) in relation to any State highway or part thereof, the authorized person shall hand over to the Authority any property (including any sum of money or other assets) remaining with him in connection with the management of such highway or part thereof.

Power of the State Government to make rules

35.

1. The State Government may, take rules for carrying out the purposes of this Act.

2. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-
 - a. The terms of office and other conditions of service of the expert-members of the Governing Council Chief-Executive Officer and Member (Technical), Member (Finance and Member (Administration);
 - b. The powers and duties of the chairperson, Chief Executive Officer and other members of the Committee;
 - c. The terms and conditions subject to which the non recurring expenditure incurred by or for the State Government for or in connection with the purposes of any State highway shall be treated as capitol provided by the State Government to the Authority under clause (b) of sub-section (1) of section;
 - d. The basic salary under clause (b) of section 28;
 - e. The terms and conditions subject to which the functions of the Authority may be entrusted to any person under clause (f) or sub-section (2) of section 19;
 - f. The form in which and the time within which the Authority shall prepare its budget under section 22 and its annual report under section 25;
 - g. The manner in which the Authority may invest its funds under section 23;
 - h. The manner in which the accounts of the Authority shall be maintained and audited and the date before which the audited copy of the account together with the auditor's report thereon shall be furnished to the State Government under section 26;
 - i. The conditions and restrictions with respect to the exercise of the power to enter under section 33;
 - j. any other matter which is required to be, or may be prescribed.

Power of the State Government to make rules

36.
 1. The Authority may, by notification in the Gazette, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.
 2. In particular, and without prejudice to the generality of the foregoing power, such as regulations may provide for all or any of the following matters, namely:-
 - c. The times and places of the meetings of the Council and the Committee and the procedure to be followed for the transaction of business at such meetings;
 - d. The terms and conditions of service, method of recruitment and the remuneration of officers and other employees appointed by the Authority;
 - e. The form and manner in which a contract or class which is to be made by the Authority and the contracts or classes of contracts, which are to be sealed with the common seal of the Authority;

- f. The manner of preventing obstructions on the State highways for their normal functioning;
- g. The manner of prohibiting the parking or waiting of any vehicle or carriage on the State highway except as places specified by the Authority;
- h. The manner of prohibiting or restricting access to any part of the State highway;
- i. The manner of regulating or restricting advertisements on the around State Highway;
- j. The manner of transaction of the business of the authority including the delegation of powers; and
- k. Generally for the efficient and proper maintenance and management of the State highways.

Power to
remove
difficulties

37.

1. If any difficulty arises in giving effect to the provisions of this Act, the State Government, any be notification in the Gazette, make such order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:-
Provided that no such order shall be made after the expiration of two years from the commencement of this Act.
2. Every order made under this section shall be laid, as soon as may be after it is made, before each House of Legislature.

U.P.
Ordinance
no. 9 of 2004

38.

1. The Uttar Pradesh State Highways Authority Ordinance, 2004 is hereby repealed.
2. Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in subsection(1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.

Statement OF OBJECTS AND REASONS

With a view to motivating advancement and strengthening of the State Highways it was decided to make a law to provide for the establishment of Uttar Pradesh State Highways Authority on the lines of the National Highways Authority of India ACT, 1988 (ACT no. 68 of 1988). The main functions of the Authority would be to develop, maintain and manage the State Highways and any other highways vested in, or entrusted to, it by the State Government. The Authority should consist of the Governing Council which will be the highest policy making body of the a\said Authority. There should be an Executive Committee to assist the Governing Council in discharging the functions of the Authority. Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh State Highways Authority Ordinance, 2004 (U.P. Ordinance No.9 of 2004) was promulgated by the Governor on June 17, 2004. This Bill is introduced to replace the aforesaid Ordinance.

**By order,
D. V. SHARMA,
Pramukh Sachiv.**