

NAGALAND ACT 5 OF 1966

[THE NAGALAND STATE ROAD TRANSPORT ACT, 1966.]

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An Act to provide for State Road Transport Services in Nagaland.

Preamble.- WHEREAS it is expedient in the interest of the general public and for the promotion of suitable and efficient road transport to provide for State Road Transport Service in Nagaland: -

It is hereby enacted in the Seventeenth Year of the Republic of India as follows: -

Short title, extent and commencement.- 1. (1) This Act may be called the Nagaland State Road Transport Act, 1966.

(2) It extends to the whole of Nagaland.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, specify in this behalf.

Definitions.- 2. In this Act unless there is anything repugnant in subject or context;

- (a) “appointed date” means the date immediately preceding the commencement of this Act;
- (b) “prescribed” means prescribed by rules made under this Act;
- (c) “public service vehicle” has the meaning assigned to it in the Motor Vehicles Act, 1939 (IV of 1939), and also includes a public carrier;
- (d) “route” means a road, or roads or part or parts of road or roads over which a transport vehicle may be authorized to be used under a permit granted or which, but for this Act, would have been granted under the Motor Vehicles Act, 1939 (IV of 1939);
- (e) “State Road Transport Service” means transport service by a public service vehicle owned by the State Government;
- (f) “State Government” means the Government of Nagaland;
- (g) “State Road Transport Board” means a Board constituted by the Government of Nagaland under the Act with a view to manage, control and supervise the State road Transport Services;
- (h) “Transport Commissioner” means the Transport Commissioner of Nagaland appointed by the State Government and includes any other officer who may be

authorized by the State Government to perform the functions of the Transport Commissioner under this Act; and

- (i) Words and expressions not defined in this Act, but defined in the Motor Vehicles Act, 1939 (IV of 1939) have the meanings assigned to them in the said Act.

Power of the State Government to run Road Transport Services.- 3. Where the State Government is satisfied that it is necessary in the interest of general public and for subserving the common good so to direct, it may, by notification in the Official Gazette declare that the road transport services in general or any particular class of such service on any route or portion thereof, as may be specified, shall be run and operated by the State Government exclusively or by the State Government and partly by others in accordance with the provisions of this Act.

Scheme of State Road Transport Services.- 4. (1) As soon as may be after the publication of notification under Section 3, the State Government or if the State Government so directs, the Transport Commissioner shall publish, in such manner, as may be specified, a scheme as to the State Road Transport Service framed in pursuance of the declaration under Section 3.

(2) The scheme under sub-section (1) shall provide for all or any of the following matters, that is to say: -

- (a) the date on which the State Road Transport Service shall commence to operate;
- (b) the route or any portion thereof on which the State Road Transport Service shall be provided;
- (c) the State Road Transport Services which are to be provided on the route or any portion thereof and for prohibiting or restricting the provision on the route or its portion of transport services otherwise than under the scheme;
- (d) the extent to which persons other than the State Government will be permitted to provide road transport services on the route or any portion thereof specified in clause (b);
- (e) the road transport services which will be provided by the State Government exclusively or by the State Government in conjunction with Railway;
- (f) the type and carrying capacity of transport vehicles to be used in such services;
- (g) the cancellation or the modification of the existing permits granted under Chapter IV of the Motor Vehicles Act, 1939 (IV of 1939);
- (h) the reduction in the number of transport vehicles plying on the route;

- (i) the curtailment of the route covered by the existing permits or transfer of the permits to any other route or routes; and
- (j) the convenience of the ordinary class of passengers;
- (k) such other consequential or incidental matters as may appear necessary or expedient for the purposes of the scheme.

Objections to the scheme.- 5. (1) Any person whose interests are affected may within thirty days from the publication of the scheme file objections to the same before the Transport Commissioner.

(2) The State Government or if the State Government so directs, the prescribed Authority, as the case may be, shall after having considered the objections either confirm, modify or alter the scheme.

(3) the scheme as confirmed, modified or altered under sub-section (2) shall then be published in the Gazette and the same shall thereupon become final and the route to which it relates shall be called a notified route.

Alteration or modification of scheme.- 6. (1) Any scheme published under sub-section (3) of section 5 may at any time be cancelled, altered or modified by the State Government or with the sanction of the State Government by the Transport Commissioner;

Provided that any increase or decrease merely in the number of road transport service run or operated by the State Government or by the State Government in conjunction with Railway or the transport vehicles used or their type or seating capacity or curtailment of any modified route shall not be deemed to be a modification or alteration of the scheme for purposes of this section.

(2) The procedure laid down in Section 4 and 5 shall, so far as can be made applicable, be followed in altering or modifying a scheme as if the alteration or modification were a separate scheme.

Consequences of the publication of the scheme under section 5. -7.- (1) Upon the publication of the scheme under section 5 and for so long as it remains in force the consequences as hereinafter stated shall, with affect from the date of the commencement of the scheme, have effect in respect of the notified route: -

- (a) The State Government may, in the case of Transport Vehicles to be used by the State Government or by the State Government in conjunction with Railway provide for dispensation from observance of the provisions of Chapter IV of the Motor Vehicles Act, 1939 (IV of 1939) as respects:-
 - (i) the necessity of taking out or granting or countersigning permits;

- (ii) the duration and renewal of permits;
 - (iii) the conditions attached to permits;
 - (iv) the cancellation and suspension of permits;
 - (v) the restrictions on the number of permits, as it may notify in that behalf in the Official Gazette.
- (b) No person (other than the State Government either single or in conjunction with Railway) shall except as may be provided under clause (c) be entitled to a permit under Chapter IV of the Motor Vehicles Act, 1939 (IV of 1939).
- (c) The State Government may specify the number of transport vehicles, if any, for which the permits may be granted or countersigned in favour of persons other than the State Government or the State Government and Railway conjointly.
- (d) The State Government or any officer or Authority empowered by it in this behalf may, in the manner prescribed, cancel any permit or direct that any permit or class of permits shall not be renewed or shall not be effective beyond such date as may be specified or reduced and curtail the number of vehicles or routes covered by any permit or alter the conditions attached to any permit or attach any new condition to any permit granted under Chapter IV of the Motor Vehicles Act, 1939 (IV of 1939).
- (e) The State Government may, by notification in the Official Gazette, direct that all or any of the functions, duties and powers under the Motor Vehicles Act, 1939 (IV of 1939) of the State Transport Authority, the Regional Transport Authority, the Registering Authority or the Licensing Authority shall to the extent and in the manner specified in the notification, be discharged, performed or exercised by such officer or other authority as may be specified in the notification.
- (f) The State Government may for purposes of this Act issue directions, as it considers necessary, to the State Transport Authority, Regional Transport Authority or other authority or officer and such officer or authority shall forthwith give effect to all such orders and directions.

(2) Nothing in sub-section (2) of section 44 of the Motor Vehicles Act, 1939 (IV of 1939), shall apply to any officer or authority specified in the notification under clause (e) of sub-section (1).

Principles and methods of determining compensation.- 8. (1) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7, the State Government or any officer or authority empowered by it in this behalf cancels any permit or modifies the

terms thereof so as to (i) render ineffective beyond a specified date any permit or class of permits of (ii) reduce and curtail the number of vehicles or routes covered by holder of the permit compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say: -

- (a) where the amount of compensation can be fixed by agreement on the scale specified in the Second Schedule it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the State Government shall appoint as arbitrator a person who is, or has been or qualified for appointment as a district judge;
- (c) the State Government or the person to be compensated may, in any particular case, nominate a person having expert knowledge of the matter under consideration as an assessor to assist the arbitrator and where such nomination is made by either party, the other party may, also nominate another person as assessor for the same purpose;
- (d) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of the compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid, and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-section (2) and (3), so far as they are applicable;
- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof under this section.

(2) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorized to be used thereunder for the full period for which the permit would otherwise have been effective, the amount of compensation payable to the holder of the permit on account of such cancellation or modification shall be a sum, if any, which is equal to the average net annual profit in relation to the vehicle multiplied by the unexpired period of the permit;

Provided that in no case, the amount of compensation shall be a sum which is less than the said average net annual profit.

(3) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 the terms of any existing permit are modified so as to curtail the route of any vehicle authorized to be used there under, the amount of compensation payable to the holder of the permit on account of such curtailment of the route shall be a sum, if any, which bears the same proportion to the compensation payable under sub-section (2) on account of the cancellation of the permit in relation to the vehicle as the length of the route curtailed bears the total length of the route covered by the permit.

(4) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route in lieu thereof has been offered and accepted by the holder of the permit.

(5) The average net annual profit in relation to a vehicle authorized to be used under a permit shall be in accordance with the provisions of the third Schedule with reference to the profits, if any, which have accrued to the holder of the permit in relation to the vehicle in respect of that notified route during the period for which the permit (including any renewal thereof) was effective or the period of two years, immediately proceeding the date on which the order under sub-section (1) of Section 7 was made, whichever is less.

Payment of compensation.- 9. The amount of compensation payable under an award shall be paid by the State Government to the person or persons entitled thereto in such manner and within such time as may be specified in the award;

Provided that where the State Government fails to make the payment within the time specified in the award or agreement, it shall pay interest @4% per annum from the date on which it falls due.

Taking over of vehicles etc.- 10. (1) Upon the cancellation of a permit, the State Government shall, when the owner of the vehicle so desires within a specified period, to take over such vehicles held under the cancelled permit, including spare-parts and other accessories as may be found in the opinion of the State Government in usable condition on payment of the value thereof determined in accordance with the provisions in sub-section (2).

(2) The value of the vehicles, spare-part and other accessories taken over under sub-section (1) shall be determined by the officer prescribed as follows: -

(a) In respect of vehicle, the value will be cost as at the date of transfer of replacing the vehicle by a new vehicle of a similar type, less depreciation at the rate of

25% per annum on the declining values from the date of first registration with a margin of Rs.500/- either was as an allowance for the condition of the vehicle.

- (b) Spare-parts and new tyres and tubes would be valued at cost to the owner subject to a maximum of the market price obtaining at the date of the transaction.
- (c) Other assets taken over by the State would be valued by negotiation.

Appeal.- 11. Any person aggrieved by the determination of the compensation under section 8 or the determination of the value of vehicle, accessories, etc. under Section 10 may prefer an appeal within thirty days to the High Court of Assam and Nagaland and the decision of the appellate authority shall be final.

Transport Commissioner.-12 (1) The State Government may constitute a State Road Board and appoint a Transport Commissioner for purpose of this Act.

(2)The State Road Transport Board and the Transport Commissioner shall perform such duties and exercise such Powers as may be prescribed.

Delegation of powers.- 13. The State Government may, by notification in the Gazette, delegate to an officer or authority subordinate to it, any of the powers conferred on it by this Act except those specified in Section 3 and sub-section (2) of Section 5 to be exercised subject to any restrictions and conditions as may be specified in the notification.

Repeals.- 14 (1) Where there is any conflict or inconsistency between the provisions of this Act and the provisions of the Motor Vehicles Act 1939 (Act IV of 1939), or any other Law, then the provisions of this Act, shall prevail.

(2) Any order made or deemed to be made under this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or any instrument having effect by virtue of such enactment.

Use of public service vehicle in contravention of section 7 to be an offence.-15 (1) Whoever drives a public service vehicle or causes or allows a public service vehicle to be used in contravention of the provisions of clause (c) of section 7 shall be punishable with fine which may extend to one thousand rupees.

(2) Nothing in this section shall apply to the use of any public service vehicle in the emergency for the conveyance of persons suffering from sickness or injury or for the transport of dead bodies or for the transport of medical supplies to relieve distress, when prior permission of the State Transport Authority or the Regional Transport Authority as the case may be for such use is not possible.

Provided that when no prior permission is obtained the person operating the vehicle shall report such use to such authority, as may be prescribed, within seven days.

Cognizance of offence.- 16. No prosecution for an offence under this Act shall be instituted without the previous sanction of the Transport Commissioner.

Validation- 17. (1) (a) Every:

- (i) State Road Transport Service commenced before the appointed date and operating on any route at such date, and
 - (ii) Order canceling or curtailing any permit for a transport vehicle, or attaching any new condition or altering the conditions already attached to any permit for such vehicle, and every order reducing or otherwise fixing the number of transport vehicle, to be used on route or changing the route relating to the permit, and every order refusing to renew any permit previously granted, made on or before the appointed date on account of the State Road Transport Service running and operating or commencing to run and operate on the route to which the permit related, shall be and is hereby made and declared to be valid in law, notwithstanding any provision in the Motor Vehicles Act, 1939 (IV of 1939) or any other law, and
- (b) The routes as specified in the First Schedule or any other route on which the State Road Transport Service was operating on the appointed date and every such service shall for purposes of this Act, be deemed as the case may be to a route specified in a notification under section 3, and the service operating under a scheme duly prepared and published under and in accordance with section 4 and 5, provided that the State Government publishes in the Official Gazette within thirty days of the commencement of this Act a scheme as to the aforesaid road transport service providing as far as may be, for all or any of the matters specified in sub-section (2) of section (4) and the scheme so published shall be and be deemed to be the scheme duly confirmed and published under sub-section (3) of section 5 and the route to which it relates shall be called a notified route and the provisions of Section 6 and 7 shall be applicable thereto.

(2) Any application for granting a permit for a transport vehicle made whether before or after the commencement of this Act in respect of route, which is or is deemed to be a notified route, shall notwithstanding anything in the Motor Vehicles Act, 1939 (IV of 1939) or any judgment decree or order of Court, be decided in accordance with the provisions of this Act as if the act had been in force at all material dates.

Authorization in respect of public carrier or contract carriage owned by State Government.- 18. Without prejudice to the provisions of section 7, but notwithstanding, anything contained in the Motor Vehicles Act, 1939 (IV of 1939), it shall be lawful for the Transport Commissioner or an officer appointed in that behalf by the Transport Commissioner to authorize a public carrier or contract carriage owned by the State Government to be used on any or all routes in Nagaland and the public service vehicles aforesaid may then be so used as if the authorization had been a permit granted under oblige in accordance with provisions of the Motor Vehicles Act, 1939 (IV of 1939).

Power to make rules.- 19 (1) The State Government may make rules for purposes of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for-

- (a) the form of the declaration under section 3;
- (b) the form in which the scheme shall be published under Section 4 and 5;
- (c) the authorities, officers and staff to be constituted or appointed for purposes of this Act and their constitution, powers and duties ;
- (d) the conditions of service and qualifications of the officers and the staff appointed for purposes of this Act ;
- (e) the delegation of powers conferred upon any officers or authority by or under this Act ;
- (f) the duties of any⁶ officer or authority having jurisdiction under this Act, the procedure to be followed by such officer or authority ;
- (g) imposing time limits within which things to be done under this Act must be done with or without powers to any authority therein specified to extend limits imposed ;
- (h) the procedure to be followed in application and other proceedings under this act in cases for which no specified provisions have been made ;
- (i) the fees, if any, to be paid in respect of any application or proceedings under this Act ; and
- (j) the matters which are to be and may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following the Nagaland

Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be ;so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

FIRST SCHEDULE

[See Section 17 (b)]

1. Dimapur	to Kohima	to Khuzama Gate.
2. Kohima	to Wokha.	
3. Kohima	to Pfutsero.	
4. Mokokchung	to Amguri Gate.	
5. Mokokchung	to Tuensang.	
6. Mokokchung	Zunheboto.	
7. Mokokchung	to Wokha.	
8. Mokokchung	to Charialy Gate.	
9. Mon	to Sonary Gate.	
10. Kohima	Town Bus Service.	
11. Dimapur	Town Bus Service.	
12. Mokokchung	Town Bus Service.	

SECOND SCHEDULE

[See Section 8 (i) (a)]

1. Where in exercise of the powers [conferred by clause (d) of sub- section (1) of section 7 any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorized to be used there under for the full period for which the permit would otherwise have been effective, the amount of compensation payable to the holder of the permit on account of such cancellation or modification shall be a sum which, if the unexpired period of the permit ;

(a) exceeds 24 months, is equal to a sum of Rs. !,000 ;

; (b) exceeds 12 months, but does not exceed 24 months, is equal to the sum of Rs. 700

(c) exceeds 6 months but does not exceed 24 months, is equal to a sum of Rs. 400

(d) does not exceed 6 months, is equal to a sum of Rs. 200.

2. Where in exercise of the powers conferred by clause (1) of sub-section (1) of section 7 the terms of any existing permit are modified so as to curtail the route of any vehicle authorized to be used there under, the amount of compensation payable to the holder of the permit on account of such curtailment of the route shall be a sum which bears the same proportion to the compensation payable under paragraph 1 on account of the cancellation of the permit in relation to the vehicle as the length of the route curtailed bears to the total length of the route covered by the permit.

THIRD SCHEDULE

[See Section 8 (5)]

The average net annual profit in relation to a vehicle authorized to be used under a permit in respect of [notified route shall be calculated as follows:-

1. The amount of profits made during a period of two years or during the period for which the permit (including any renewal thereof) was effective, whichever is less, shall be ascertained and the amount of losses sustained during the same period shall also be ascertained.

2. If there are no profits or if the amount of the profit does not exceed the amount of the losses, the average net annual profits shall be taken to be nil.

3. If the amount of the profits exceeds the amount of the losses the excess shall be the net profits.

4. From the net profits so found, the amount of profit for one year shall be ascertained by mathematical calculation and such profit shall be taken to be the average net annual profit.