

THE ANDHRA PRADESH MUNICIPAL TRAMWAYS (CONSTRUCTION,
OPERATION AND MAINTENANCE) ACT, 2008

(ACT No. 38 OF 2008)

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THE ANDHRA PRADESH MUNICIPAL TRAMWAYS (CONSTRUCTION,
OPERATION AND MAINTENANCE) ACT, 2008

(ACT No. 38 OF 2008)

[29th September, 2008]

AN ACT TO PROVIDE FOR THE DEVELOPMENT, CONSTRUCTION, MANAGEMENT, OPERATION AND MAINTENANCE OF MASS RAPID TRANSIT SYSTEM, AND TO REGULATE THE WORKING AND COMMERCIAL EXPLOITATION OF REAL ESTATE FORMING PART OF SUCH MASS RAPID TRANSIT SYSTEM IN MUNICIPAL AREAS IN THE STATE OF ANDHRA PRADESH AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Fifty-ninth Year of the Republic of India as follows:

CHAPTER - I
Preliminary

1. Short title, extent and commencement - (1) This Act may be called the Andhra Pradesh Municipal Tramways (Construction, Operation and Maintenance) Act, 2008.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force on the 30th June, 2008.

2. Definitions - In this Act, unless the context or subject otherwise requires

(1) "agreement" means an agreement entered into between the State Government and any person under section 5 for the development, construction, management, operation and maintenance of a tramway system in a municipal area and includes any subsequent agreement amending, varying, extending or substituting that agreement;

(2) "carriage" means, a carriage or coach (whether powered or not) utilized for carrying passengers, or luggage in a tramway system;

(3) "claims commissioner" means a claims commissioner appointed under section 38;

(4) "company" means a company as defined in Section 3 of the Companies Act, 1956 (Central Act No.1 of 1956);

(5) "electric line" shall have the meaning assigned to it under Clause (20) of section 2 of the Indian Electricity Act, 2003 (Central Act No. 36 of 2003);

(6) "fare" means the charges levied for the carriage of passengers or luggage on a tramway and includes charges levied for provision of any services or facilities provided by the tramway operator under and in accordance with the order or the agreement, as the case may be;

(7) "land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and any right or interest in any land;

(8) "local authority" means a municipal corporation, municipal council, or other authority constituted or continued under any law for the time being in force for a municipal area;

(9) "luggage" means baggage of a passenger carried by him; or entrusted to the tramway operator for carriage;

(10) "municipal area" means the area comprised in the boundaries of a local authority;

(11) "Notification" means a notification published in the Andhra Pradesh Gazette and the work "notified" shall be construed accordingly;

(12) "order" means an order made by the State Government under sub-section (3) of section 4, and published in the Andhra Pradesh Gazette as required under sub-section (4) thereof, granting to a local authority, other authority, government company, agency or body of the State Government, the right and authorization to develop, construct, manage, operate and maintain a tramway system in a municipal area and includes any subsequent order amending, varying, extending or substituting that order;

(13) "pass" means an authority given by the tramway operator or by an officer appointed by the tramway operator, to a person allowing him to travel as a passenger on the tramway but does not include a ticket;

(14) "passenger" means a person travelling on a tramway with a pass or ticket;

(15) "person" includes a local authority or statutory or other authority, a company including a government company, a department or other agency of the state government or a corporation or body constituted under any law for the time being in force in the State of Andhra Pradesh.

(16) "prescribed" means prescribed by rules made under this Act;

(17) "railway" shall have the meaning assigned to it in Clause (31) of section 2 of the Railways Act, 1989(Central Act No.24 of 1989);

(18) "Safety Commissioner" means the commissioner of tramway systems safety appointed under section 30;

(19) "State Government" means the Government of Andhra Pradesh;

(20) "telegraph line" shall have the meaning assigned to it in Clause (4) of section 3 of the Indian Telegraph Act, 1885 (Central Act No.13 of 1885);

(21) "tramway" or "tramways" including "rolling stock" means any carriages, coaches, wagons and trolleys (whether powered or not), and engines, and vehicles of all kinds or any combination thereof operating on a tramway system and includes all mechanical, internal combustion or other devices for propulsion thereof on a tramway system;

(22) "tramway official" means any person employed by the tramway operator in connection with the services of a tramway system or authorized by the tramway operator to act as a tramway official, whether or not employed by the tramway operator;

(23) "tramway operator" means the local authority or any other person who is granted by an order or under an agreement, as the case may be, the right to develop, construct, manage, operate and maintain a tramway system in a municipal area;

(24) "tramway station" includes a regular stopping place on the tramway system meant for boarding, and alighting of passengers from the tramways and/ or provision of other passenger facilities;

(25) "tramway system" means a guided mass rapid transit system having one, two or more rails or guide ways or a dedicated right-of-way with carriages or coaches having steel flange-wheels or rubber-tyred wheels or any other wheels or systems to operate on the rails or guide ways or dedicated right-of-way and includes monorail, sky train, sky bus and maglev, but excludes suburban and other rail lines which are governed by the Railways Act, 1989 (Central Act No.24 of 1989), for carriage of passengers and luggage within a municipal area and includes:-

(a) all land within the boundary marks indicating the limits of the land appurtenant to any tramway system;

(b) any part of a tramway system, or any siding, turnout, connection, line or track belonging to a tramway system;

(c) all tramway stations, offices, ventilation shafts and ducts, warehouses, workshops, factories, fixed plants and machineries, sheds, depots, communication lines and equipments, electrical equipments, electric lines transmitting power to the tramway system from a generating station, or grid substations of the local utility agency to the tramway system, either directly or through a sub-station and other works or facilities constructed for the purpose of, or in connection with the tramway system including the systems for provision of communication and transportation services;

(26) "tramway system alignment" in relation to any municipal area means such alignment of the tramway system as has been notified by the State Government for construction of the tramway system;

(27) "tramway system premises" means any area, space or building occupied by the tramway system, and includes the area below the tramway system and air space above the tramway system, which is designed, equipped and set apart for the provision of any services in relation to the tramway system, whether or not such area, space or building is owned by the tramway operator:

(28) "tramway undertaking" includes all properties, moveable and immovable, located on or within the tramway system premises and includes the tramway system rails, guide ways, dedicated rights of way, elevated structures, tunnels, sub-way box-structures, over-bridges, under bridges, station buildings and installations, carriages, and other rolling stock, signalling, telecommunication, air-conditioning and ventilation equipments, power transmission system including electrical sub-stations, drainage pumps, escalators, lifts, stairs, lighting installations, depots, workshops, ticket vending machines, ticket barriers, electric traction and related equipments, and such other properties as the state government may specify but excludes public roads.

CHAPTER - II

Grant of Rights, Functions and Powers of the Tramway Operator

3. Application for operating system - (1) A local authority in respect of a Municipal area within its jurisdiction or any other authority, agency or body of the State Government or a Government company may make an application for

the development, construction, management, operation and maintenance of a tramway system in a municipal area.

(2) A local authority or any other authority agency or body of the State Government or a Government company, as the case may be, shall not make an application or an Order, unless the making of such application has been approved in the manner prescribed.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the State Government may on its own motion or on an application or otherwise, by an order in writing, require a local authority or any other authority, a Government company or an agency or body of the State Government to make an application for development, construction, management, operation and maintenance of a tramway system in a municipal area.

4. Procedure for making order on application - (1) On receiving an application under section 3, if the State Government is satisfied as to the propriety and necessity of proceeding thereon, publish a notice in such manner and containing such information as may be prescribed, together with the draft of a proposed order authorising the development, construction, management, operation and maintenance of the tramway system in a municipal area.

(2) A notice under sub-section (1) above shall state that any objections or suggestions which any person may desire to make with respect to the proposed order, if submitted to the Government on or before the date to be specified in such notice, will be considered.

(3) If after considering objections or suggestions, if any, which may have been made with respect to the draft order on or before the date specified in the notice published pursuant to sub-section (1), the State Government is of the opinion that the order should be made, with or without addition or modification or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorizing the development, construction, management, operation and maintenance of a tramway system shall be published in the Andhra Pradesh Gazette and such publication shall be conclusive proof that the order has been made as required by this section.

5. Power of the State Government to enter into agreement for development, construction, management, operation and maintenance of tramway system - Notwithstanding anything contained in this Act,- (1) the State Government may enter into an agreement or other arrangement (whether by way of partnership, joint venture or in any other manner) in writing, with any person selected through open competitive bidding or otherwise for grant of concession to develop, construct, manage, operate and maintain a tramway system for any Municipal area on build, own, operate and transfer or any other basis and on such other terms and conditions as may be agreed upon or prescribed by the State Government;

(2) the tramway operator appointed pursuant to an agreement referred to in sub-section (1) is entitled to collect and retain fare, subject to the provisions of the agreement for services or benefits rendered by him, at such rate as the State Government may, by notification, in the official Gazette, specify subject, however, to the rules that may be made in this behalf.

6. Authorisation for construction and operation of tramway system - (1) the order or the agreement, as the case may be, shall upon its coming into force and effect, entitle the person authorized thereunder to develop, construct, manage, operate and maintain the tramway system subject to the terms and conditions set forth therein and to all applicable laws and regulations. The person so authorized by the order or under the agreement, as the case may be shall, upon it coming into force and effect, be the tramway operator under this Act for such tramway system.

(2) The right to develop, construct, manage, operate and maintain a tramway system pursuant to an order or the agreement, as the case may be, shall include the right to use thereof and to undertake such other commercial operations, as may be expressly permitted by such order for the purposes of the development, construction, management, operation and maintenance of a tramway system and not other wise.

7. Contents of order or agreement - (1) An order made under section 4 or an agreement entered under Section 5, may provide, for all or any of the following matters, namely:-

(a) the period before the expiration of which the tramway system shall commence operations, and the conditions subject to which the local authority or person may within that period commence commercial operations and opened for public traffic;

(b) the conditions subject to which the tramway operator may burrow tunnels for the purposes of the tramway system, under any public or private property.

(c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway system or any part thereof, an the method of, and materials to be used in the reinstating of the roads and the approval of the method and materials by the State Government or the authority designated by the State Government before the commencement of the work;

(d) the conditions on which any part of the tramway system may be constructed over a bridge or across a railway or a tramway carriageway, when the carriage-way over the bridge is to form part of the tramway system or when any part of the tramway system is to cross a railway or another tramway carriage-way on any level;

(e) the space which shall ordinarily intervene between the outside of the carriage-way on either side of a road whereon the tramway system is to be constructed, and-

(i) in the case of a tramway system having one rail or guide way or dedicated right-of-way, the rail or guide way or dedicated right-of-way of the tramway, or

(ii) in the case of a tramway system having two or more rails or guide ways or dedicated right-of-way the nearest rail or guide way or dedicated right-of-way of the tramway and the conditions on which a smaller space may be permitted.

(f) the gauge of the rails or guide ways or dedicated right-of-way to be used, and the mode in which and the level at which, they shall

be laid and maintained; and the adoption and application by the tramway operator of such improvements in the rails or guide ways or dedicated right-of-way and in their situation, and in the sub-structure upon which they rest, as the state government may from time to time require;

(g) the portion of the road or roads traversed by the tramway system to be kept in repair by the tramway operator; the maintenance by the tramway operator to the satisfaction of the State Government of that portion of the road or roads; and the liability of the tramway operator, on the requisition of the State Government, from time to time to adopt and apply such improvements in the tramway as the State Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alteration in the road or roads;

(h) the application of material excavated by the tramway operator in the construction or maintenance of the tramway system;

(i) the provision of such crossings, passing places, sidings, junctions and other works, in addition to those specified in or authorised by the order or agreement, as may from time to time be necessary or convenient to the efficient working of the tramway;

(j) the powers which may from time to time be exercised by the State Government, the local authority, or any other authority in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway system, the notice (if any) to be given of the intended exercise of those powers, the manner in which the powers shall be exercised, and the extent to which the tramway system and the traffic thereon may be interfered with in the exercise thereof.

(k) the conditions subject to which the tramway operator may from time to time interfere with, or alter or require the alteration of the position of drains (not being sewers or main drains), telegraph lines, gas-pipes, water-pipes or other things as aforesaid;

(l) the provision of a temporary tramway system or part thereof in place of a part of a tramway system which has been removed, or the use of which has been discontinued by reason of the execution of any work affecting a road along which a part of the tramway system was laid, or by reason of the use of the road being interrupted by floods or other cause;

(m) the motive power to be used on the tramway system and the conditions on which any mechanical power or electrical power may be used;

(n) the nature, dimensions, fittings, appliances and apparatus of the carriage to be used on the tramway system and the inspection and examination thereof by officers of the State Government or the concerned regulatory or other authority, and the liability of the tramway operator, on the requisition of the State Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the

State Government may consider necessary or desirable for the safety or convenience of the public or the tramway system;

(o) the traffic which may be carried on the tramway system, the traffic which the tramway operator shall be bound to carry, the traffic which the tramway operator may refuse to carry, the fares leviable by the tramway operator, and the periodical revision thereof by the State Government and the regulation of the traffic and of the levy of the fares;

(p) the use of the tramway system free of any payment by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway system;

(q) the conditions subject to which tramway operator may be permitted to encumber or create any security interest in the tramway undertaking or any part thereof, by sub-lease, sub-licence or otherwise including substitution of the tramway operator under the order or the agreement, as the case may be, and the conditions subject to which any Government authority or any other person including any local authority or any other authority may be the transferee;

(r) the performance by the State Government or by the local authority or any other authority or any work required by the Act or the order or the agreement to be done by the tramway operator; and

(s) the penalty to be incurred by the tramway operator for failure to observe any condition or direction contained in the order or the agreement, as the case may be, and the application of the penalty when recovered.

(2) The State Government may, in providing in the order for the acquisition of land for the purpose of a tramway system, direct that land may be acquired for the tramway system under the provisions of the Land Acquisition Act, 1894 (Central Act No.1 of 1894); or under any other law for the time being in force.

(3) Nothing contained in this Act shall be construed as-

(a) authorising the disregard by the tramway operator of any law for the time being in force; or

(b) authorising any person to institute any proceedings in respect of duty or liability to which the tramway operator or its officers or other employees would not otherwise be subject.

8. Amendment of orders and agreement - (1) The State Government may, on the application of the tramway operator, revoke, amend, extend or vary the order by a further order, or agree to the revocation, amendment, variation or extension of the agreement by a further agreement, as the case may be.

(2) An application for a further order or agreement shall be made in the same manner and subject to the same conditions as an application for an order or agreement, as the case may be.

(3) The State Government may, in its discretion, either grant or reject the application.

(4) If the State Government grants the application, it shall make the further order or enter into a further agreement, as the case may be, in the same manner as an order or agreement except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the tramway operator.

9. Lease of land - (1) Notwithstanding anything contained in this Act, the State Government may, in the public interest or in the interest of better tramway system grant lease or licence of the land acquired or otherwise being made available by the State Government to a tramway operator for the purposes set forth in the order or the agreement, as the case may be, including for a tramway system or any tramway system premises (including buildings and structures thereon and appertaining thereto) to carry out some of the functions of the tramway operator on such terms as the State Government may deem fit:

Provided that such lease or licence shall not affect the powers and functions of the State Government under this Act.

(2) No lease or licence of any land shall be made by a local authority in favour of a tramway operator appointed under an agreement pursuant to Section 5, without the previous approval of the State Government.

10. Vesting of assets and liabilities of tramway system - The tramway system, together with any and all assets, liabilities, obligations, contracts and employees shall vest with the tramway operator in accordance with the order or the agreement, as the case may be, for the duration as set forth in such order or agreement. In the event of change of the tramway operator which has been approved by the State Government, the tramway system, together with any and all assets, liabilities, obligations, contracts, and employees shall vest with such tramway operator on such terms and for such duration as the State Government may prescribe by the order published in Official Gazette, or in the agreement entered into by the State Government, as the case may be, approving such change of the person acting as the tramway operator:

Provided that nothing contained in this section shall affect:

- (i) any sub-contract entered into by the tramway operator pursuant to section 11 with any other person, or
- (ii) the vesting of all or part of a tramway system vested in any person pursuant to an agreement entered into by the state government under section 5(1).

11. Power of Tramway Operator to Sub-contract - (1) Subject to the provisions of the order or of the agreement, as the case may be, the tramway operator may sub-contract to any person such part of its obligations, duties and functions relating to the development, construction, management, operation or maintenance of the tramway system, as the tramway operator may deem fit.

(2) Notwithstanding entering into of any such sub-contract, the tramway operator shall remain liable and responsible to the State Government for the performance of its obligations and functions in relation to the tramway system

including but not limited to those pursuant to or under the order or the agreement, as the case may be.

12. Functions of tramway operator - Subject to the provisions of sections 10 and 11 and the terms and conditions of the order or the agreement, as the case may be, the functions of the tramway operator shall include,-

(a) to develop, construct, manage, operate, maintain and use the tramway system and provide rapid mass transportation services for public carriage of passengers and luggage on such tramway system within a Municipal area;

(b) to engage in and perform such other functions and provide such other services as are incidental to or may be considered necessary for the purpose of development, construction, management, operation, maintenance and use of a tramway system for providing rapid mass transportation services for public carriage of passengers and luggage within a Municipal area; and

(c) to undertake such other operations and functions as may be expressly permitted by the order or the agreement, as the case may be, for the purposes of the development, construction, management, operation, maintenance and use of the tramway system.

13. Power of the State Government to direct grant of licenses etc., to the tramway operator - Without prejudice to the provisions of sections 6 and 9 and subject to and in accordance with in any applicable law for the time being in force and effect, the State Government may, for the purposes of the development, construction, management, operation and maintenance or use of a tramway system, and subject to such conditions as it may prescribe in this behalf and for such duration as it may consider necessary, require any local or other authority to grant leases, licenses or enter into other contracts with any tramway operator to facilitate the development, construction, management, operation and maintenance and use of any tramway system.

14. Cessation of powers given by an order or agreement - (1) If a tramway operator authorised under an order made under section 4 or an agreement under section 5, as the case may be,-

(a) does not within the time specified in such order or agreement, substantially commence the construction of the tramway system, or

(b) having commenced the construction, suspends it without reasons sufficient in the opinion of the State Government to warrant the suspension, or

(c) does not within the time specified in such order or agreement, as the case may be, complete the tramway system and open it for public traffic, or

(d) committed material breach of any terms and conditions of such order or agreement, as the case may be, the State Government shall have the power to suspend by a notification the powers, rights and authority of the tramway operator under the order, or under the agreement, as the case may be. Any such suspension by

the State Government, shall, notwithstanding anything to the contrary contained herein, be deemed to be under the order or the agreement, as the case may be, and without prejudice to the respective rights and remedies which the State Government and the tramway operator may have with respect to such suspension under the order or under the agreement, as the case may be.

(2) A notification published by the State Government in the Andhra Pradesh Gazette to the effect that on a date specified in the notification the construction of a tramway system had not been substantially commenced or a tramway system had not been completed and opened for public traffic or that the construction of a tramway system had been suspended without sufficient reasons, and that the power, rights, and authority of the tramway operator under the order or under the agreement, as the case may be, shall for the purpose of this Section, be conclusive proof of the matter stated therein without prejudice to the rights and remedies which the tramway operator may have under the order or under the agreement, as the case may be.

(3) The rights and remedies of the State Government under this Act or any other law for the time being in force, in respect of any breach of or default under the order of the agreement, as the case may be, are without prejudice to the rights and remedies which the State Government may have under the order or the agreement, as the case may be.

15. Transfer of rights and obligations - The tramway operator appointed by the State Government either through an order, or agreement, shall not transfer its rights or obligations to any person except with the prior express consent in writing of the State Government which the State Government may in its sole discretion refuse or give subject to such conditions as the State Government may deem appropriate:

Provided that nothing contained in this section shall affect,-

- (a) any sub-contract entered into by the tramway operator pursuant to Section 11 with any other person or
- (b) the vesting of all or part of a tramway system vested in any person pursuant to an agreement entered into by the State Government.

CHAPTER - III

Construction, Operation and Maintenance of Tramways

16. Mode of construction of tramway - A tramway shall be developed, constructed, managed, operated and maintained in the manner provided by the order, or as set forth in the agreement, as the case may be.

17. Powers of tramway operator in relation to the construction and maintenance of tramway system - (1) Subject to the terms and conditions of the order, or the provisions of the agreement, as the case may be, and the provisions of this Act and of all other laws and rules for the time being in force, the tramway operator may for the purpose of development, construction, management, operation and maintenance of the tramway system,-

- (a) make or construct in, upon, across, under or over any land or other premises, streets, roads, rails or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes,

electric lines or telegraph lines, or optical fibre cables, such temporary or permanent planes, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages,

(b) alter the course of any river, canal, brook, stream or water course for the purpose of constructing tunnels, passages or other works over or under them and divert or alter temporarily as well as permanently, any drain, water pipe, gas pipe, electric line or telegraph line or optical fibre cables and raise or sink the level thereof, in order to carry them more conveniently;

(c) make drains or conduits into, through or under any lands adjoining the tramway system for the purpose of conveying water, sewage and/or ventilation from or to the tramway system, and regulate drilling of tube wells or sinking of wells, public or private, in the proximate vicinity of the tramway system;

(d) erect, construct and maintain roads, structures for motor transport meant for accommodation of the traffic passing through or along the tramway system alignment, or for the provision of integrated transit or convenient transfer at or near tramway stations;

(e) erect, construct and maintain tramway station buildings, operation control centers, and other structures;

(f) erect, maintain and repair any signalling and other communication facilities, telegraph or optical fibre cable and electric supply line, any electric traction equipment, power supply and distribution installation, electric substations, and other works in connection with the working of the tramway system and obtain any licenses required for the same;

(g) construct and maintain works for convenience of the owners and occupiers of lands and buildings adjoining the tramway system such as crossing, bridges, over-bridges, under-bridges, culverts, tunnels, roads, drains, water sources or other passages over, under or by the side of, or leading to a tramway station; and

(h) do all other acts necessary or expedient for making, maintaining, altering or repairing and using the tramway system or for the purpose of carrying out its functions under the Act.

(2) Without prejudice to the powers under sub-section (1), the powers of the tramway operator for the purpose of performing its obligations and discharge of its functions under the Act and the order or the agreement, as the case may be, shall include the power to-

(a) acquire, hold and dispose of all kinds of properties, movable and immovable;

(b) improve, develop or alter any tramway system premises or and of the properties;

(c) authorize any tramway official, to enter temporarily in or upon the lands adjoining the tramway system alignment in order to remove obstructions, or prevent imminent danger from or which may obstruct the movement of the tramways, or passengers, or the view of the signal provided for movement of rolling stock;

(d) enter into, assign and rescind any contract or obligation in accordance with the provision of this Act, the order or the agreement, as the case may be;

(e) apply for and obtain license from the state and such other government as may be required to establish and maintain communication lines;

(f) open or divert or temporarily close, as the case may be, any street, road, cable, trench, water supply line, drain (including a sewer), channel, ditch, culvert or any other device (whether for carrying of sullage, sewage, offensive matter, polluted water, trade affluent, rain water, sub-soil water or any other object), electric or gas supply line or telecommunication line, or telegraph installation, over, across, or under any tramway system premises; and

(g) exercise such other powers and discharge such other functions as may be granted by the state government under the order or the agreement, as the case may be.

(3) The exercise of the powers conferred by sub-sections (1) or (2) above by the tramway operator shall be subject to obtaining of all necessary approvals, license, authorization and permissions in accordance with all applicable laws for the time being in force and under any rules or regulations prescribed by the state government or the central government.

18. Power to underpin building or otherwise strengthen it - (1) If the tramway operator is of opinion that it is necessary or expedient to do so for facilitating the construction of tramway system or for ensuring the safety of tramway system or any building or construction along the tramway system alignment, it may, after following the procedure under sub-section (2), underpin or otherwise, strengthen any building within a radius not exceeding fifty meters from the tramway system alignment.

(2) The tramway operator shall give to the owner or occupier of such building at least ten days notice in writing before undertaking the work of underpinning or otherwise strengthening the building:

Provided that where the tramway operator is satisfied that an emergency exists, no such notice shall be necessary.

(3) Where the underpinning or strengthening was executed in connection with,-

(a) the carrying out of the works upon the land where any building is situated; or

(b) the construction or operation of tramway system,

the tramway operator may at any time, after underpinning or strengthening of such building is completed and before the expiration of a period of twelve months therefrom, -

(i) in a case referred to in Clause (a) above, from the date of completion of such works; and

(ii) in a case referred to in Clause (b) above, from the date on which traffic was opened in the tramway system;

enter upon and survey such building and do such further underpinning or strengthening thereon, as it may deem necessary:

Provided that nothing shall prevent the tramway operator from undertaking the work of underpinning or strengthening of a building any number of times, provided it does so in compliance with sub-sections (1) and (2).

19. Power to enter for inspection, measurement etc., - The tramway operator or any person authorized by it may, with a view to making survey or ascertaining the nature or condition of any land or building for the purpose of construction of tramway system or any other work connected therewith, at any reasonable hour during the day and after giving reasonable notice to the owner or occupier enter upon or enter into such land or building, in, along, over or near the tramway system alignment to,-

(a) inspect the same;

(b) take measurements, make drawings and take photographs thereof and such other suitable measures as may be necessary to explore and check up, by digging trial pits or otherwise, the foundation of any building in the vicinity of the tramway system alignment;

(c) take such other measures as the tramway operator deems it necessary and proper.

20. Amount payable for damage, loss or injury - (1) Where the tramway operator exercises any power conferred on it by or under this Act or otherwise by the State Government for the development, construction, management, operation and maintenance of a tramway system, and in consequence thereof, any damage, loss or injury is sustained by any person interested in any land, building, street, road or passage, the tramway operator shall be liable to pay to the person for such damage, loss or injury such amount as may be determined by the State Government or any other competent authority appointed or authorized in this behalf by notification by the State Government.

(2) The State Government shall prescribe the manner and the considerations upon which the State Government or such other competent authority appointed or authorised by the State Government, and shall, determine the amount under sub-section (1), as also the procedure and the manner of deposit and payment of the amount payable.

21. Period for claim of damages - No claim in respect of any damage, loss or injury alleged to have been caused as a consequence of construction of a tramway system pursuant to an order or agreement, as the case may be, under this Act, shall lie against the tramway operator unless such claim is made within a period of six months from the date on which date, the alleged damage was caused.

22. Prohibition of removal of marks - No person shall remove any mark placed or fill up any trench cut for the purpose of marking levels, boundaries or lines in relation to the development of a tramway system.

23. Inspection of tramway before opening - A tramway system, or portion or extension of, or addition to a tramway system, shall not be opened for public

traffic until it has been inspected and certified to be fit for such traffic by the Safety Commissioner appointed by the State Government under section 30.

24. Certificate of fitness for the opening of tramway system - (1) The Safety Commissioner shall, before giving the certificate of fitness for the opening of the tramway system under Section 23, issue a report containing, inter alia, the following,-

- (a) he has made, or caused to be made, a careful inspection of the tramway system and the rolling stock that may be used thereon;
- (b) the track structure, rolling stock, bridges, viaducts, tunnels, signalling and telecommunication system, traction system, ventilation and air condition systems complying with the standards and safety parameters prescribed under section 33; and
- (c) in his opinion, the tramway system can be opened for public carriage of passengers without any danger to the public using it.

(2) If the report referred to in sub-section (1) above recommends that the tramway system can be opened for public carriage of passengers without any danger to the public using it, the Safety commissioner shall issue to the tramway operator forthwith the certificate of fitness and forward copy of the same along with a copy of the report to the State Government for its information.

(3) If the Safety Commissioner reports that the tramway system cannot be opened without any danger to the public using it, he shall state the grounds therefor and the Safety Commissioner shall submit the same to the State Government for its consideration with copy to the tramway operator. The State Government shall upon receipt of such report, by an order determine the conditions, if any, on the fulfilment of which the tramway system can be opened for public carriage of passengers by it. Upon fulfilment of the conditions prescribed by such order, the Safety Commissioner shall undertake an inspection to determine the satisfaction or otherwise of the conditions prescribed by the State Government by the order made under this sub-section and issue a report. If it is reported that the conditions prescribed by the order of the State Government pursuant to this subsection have been fulfilled, the Safety Commissioner shall issue to the tramway operator its certificate of fitness and forward a copy of the same along with a copy of its report to the State Government. If, however, the Safety Commissioner is of the opinion that the conditions prescribed by the State Government by its order under this sub-section have not been fulfilled, the report shall state the grounds therefor and the Safety Commissioner shall submit the same to the State Government for its consideration with copy to the tramway operator and the procedure set forth in this sub-section shall apply on submission of such reports by the Safety Commissioner till issue of certificate of fitness or termination of rights of the tramway operator under the order or the agreement, as the case may be.

(4) In the event that an independent safety consultant or independent engineer is appointed pursuant to an agreement entered under Section 5, the Safety Commissioner while making his report under sub-section (1) above, may rely on a report of such independent safety consultant or independent engineer:

Provided that where the Safety Commissioner is of the opinion that the report under sub-section (1) above cannot be made despite a report from such independent safety consultant or independent engineer appointed pursuant to a concession, he may make a report to the contrary, giving detailed reasons for making a contrary report.

25. Opening of certain works - The provisions of section 24 shall apply to the opening of the following works if they form part of, or are directly connected with, the tramway system used for the public carriage of passengers and have been constructed subsequent to the giving of report by the Safety Commissioner under sub-section (1) of section 24, namely:-

- (i) opening of additional lines of tramway system,
- (ii) opening of stations and junctions;
- (iii) re-modelling of yards, re-building of bridges, viaducts and tunnels; and
- (iv) any alternation or reconstruction materially affecting the structural character of any work.

26. Use of rolling stock - The tramway operator may use such rolling stock as it may consider necessary for operation and working of the tramway system. Where the tramway system is being operated under an agreement entered into pursuant to section 5, such tramway operator may, subject to the terms of the agreement, use such rolling stock as it may consider necessary for operation and working of the tramway system:

Provided that before using any rolling stock of a design or type different from that already running on any section of the tramway system, the previous sanction of the Safety Commissioner shall be obtained for such use.

27. Carriage of Dangerous or offensive goods - (1) No person shall carry or require to be carried on a tramway system, developed, constructed managed, operated and maintained under this Act, any goods of dangerous or offensive nature as prescribed by the Safety Commissioner of tramway system.

(2) No person shall, while travelling in the tramway, carry with him any luggage or articles which are prohibited by the Safety Commissioner of tramway system. However, he may carry on the tramway only such luggage or articles which are permissible for carriage by the regulations, provided, that such luggage or articles shall not exceed in volume and weight as prescribed by the Safety Commissioner of tramway system.

(3) Where any person travels on the tramway system in contravention of the provisions of sub-section (1), he shall, notwithstanding that he holds a valid pass or ticket for any travel in such Tramway be liable to be removed from such tramway by any tramway official authorized in this behalf.

28. Right to display commercial advertisements on tramway system or on tramway system premises - The tramway operator, or the entity developing the tramway system may, subject to the terms and conditions of the order or the agreement, use the tramway system including carriages and the tramway system premises for displaying commercial advertisements and for that purpose may erect or construct or fix any hoardings, billboards, show cases, and such other things for the display of posters or other publicity materials.

29. Power to remove persons from tramway - Any person, entering upon or into any tramway station or other tramway system premises without lawful authority, and on being asked to leave the same by any tramway official, does not leave therefrom, then he may be removed from the tramway system by such tramway official or by any other person or persons authorized in this behalf by the tramway operator or by the police.

CHAPTER - IV Tramway System Safety

30. Commissioner of tramway system safety - (1) The State Government shall appoint such officer, as may be prescribed by rules made hereunder, to act as the Commissioner of tramway system safety.

(2) The Safety Commissioner shall exercise powers and perform and discharge functions as specified in the Act and may exercise such other powers and perform and discharge such other functions, as may be prescribed by the State Government from time to time.

31. Powers of the Safety Commissioner - The Safety Commissioner, whenever it is necessary to do so for discharging any of its functions under this Act or any rules made hereunder, may,-

- (a) enter upon and inspect any tramway system, or any rolling stock used thereon and its other installations;
- (b) by order in writing addressed to the tramway operator, require the attendance before him of any tramway official and to require answers or returns to such inquiries as it thinks fit to make from such official or from the tramway operator.
- (c) require the production of any book, document or material object belonging to or in the possession or control of the tramway operator, which appears to it to be necessary to inspect; and
- (d) take any other measures that the Safety Commissioner may deem necessary for the performance of its duties and functions under this Act or rules made hereunder.

32. Facilities to be provided to the Safety Commissioner - (1) The State Government shall provide to the Safety Commissioner all reasonable facilities for the discharge of his duties or for the exercise of the powers imposed or conferred on it by or under this Act or rules made hereunder.

(2) The State Government shall allocate funds annually for the costs and expenses required by the Safety Commissioner for discharge of his duties, provided that the State Government may recover such costs and expenses through the levy of a fee upon all tramway system(s) and/ or users of tramway system(s). The procedure of allocation of funds and levy of, if any, shall be such as may be prescribed.

33. Standards for Safety of Tramway system and its users - The State Government may prescribe such Standards for safety of tramway system and for users thereof as it may consider necessary.

34. Annual safety report of Safety Commissioner. - (1) The Safety Commissioner shall prepare, in such form and in such time, for each financial

year, as may be prescribed, an annual report giving a full account of its activities during the previous financial year.

(2) The State Government shall cause the annual report of the Safety Commissioner to be laid, after its receipt, before each House of the State Legislature.

CHAPTER - V

Fare

35. Fares leviable by tramway operator - (1) The tramway operator shall be entitled to charge and collect fare not exceeding the limits specified in or determined in accordance with the formula prescribed for carriage of passengers and their luggage by the tramway system.

(2) A fare chart containing fares authorized to be levied shall be exhibited in such languages and in such manner, including on or about the carriages, as may be prescribed.

36. Constitution of Fare Fixation Committee - (1) The State Government may, once in five years appoint a fare fixation committee to recommend suitable changes, if any, to the prescribed formula and fare structure for travel on the tramway system developed, constructed, managed, operated and maintained under an order made under section 4. The terms and conditions of the fare fixation committee and the procedure to be followed by the said committee shall be as may be prescribed.

(2) The provisions of sub-section (1) shall not apply to and the fare fixation committee shall have no jurisdiction to make any recommendations with respect to the prescribed formula and fare structure for tramway system developed, constructed, managed, operated and maintained under an agreement entered under Section 5.

CHAPTER VI

Accidents

37. Notice of tramway system accident - (1) Where in the course of working of the tramway system,-

- (a) any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code, 1860; or
- (b) any collision between any rolling stock or of any rolling stock with any vehicle or thing; or
- (c) any derailment of any rolling stock carrying passengers, or of any part thereof; or
- (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid; or
- (e) any accident of any other description which the State Government may notify in this behalf;

occurs, the tramway official, in charge of the station nearest to the place of accident shall, without delay, give notice of the accident in such form and containing such particulars, as may be prescribed, to the Safety Commissioner, the Deputy Commissioner of Police, and the officer in charge of the concerned

police station and to such other magistrate or police officer as may be appointed in this behalf by the State Government.

(2) The tramway operator shall, without delay give notice of the accident to the State Government and the Safety Commissioner, who shall conduct an inquiry into such accident in the manner prescribed by rules made in this behalf.

(3) The inquiry into such accidents, including the procedure for such enquiries, the powers of the Safety Commissioner for the purpose of conducting an inquiry and the filing of returns upon the completion of such inquiry and powers in relation to such accidents including temporary suspension of traffic on the affected sections of the tramway system, shall be regulated by rules made in this behalf.

CHAPTER VII

Claims Commissioner

38. Claims Commissioner - (1) The State Government may, by notification, appoint a claims commissioner on part-time or whole- time basis for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, a person, in the course of working of the tramway system.

(2) The qualifications, salary, tenure, allowances and other terms and conditions of service of the claims Commissioner shall be as may be prescribed.

39. Procedure followed by Claims Commissioner - (1) In enquiring into and determining any claim for payment of compensation, the claims commissioner may, follow such procedure as may be prescribed.

(2) The claims commissioner shall have regard to the provisions made in the notification issued under section 43 in determining claims.

40. Decision of Claims Commissioner - (1) Any question as to the liability of the tramway operator for payment of compensation or as to the person to whom such compensation is payable, shall be determined by an order of the claims Commissioner.

(2) Every order made under sub-section (1) shall be final.

41. Savings as to certain rights - (1) Notwithstanding anything contained in any other law for the time being in force, where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under any other law in force, the person entitled to compensation may claim such compensation only once either under this Act or under any other law in force.

(2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for compensation for death or personal injury or any sum payable under any policy of insurance.

CHAPTER - VIII

Liability Due to Accidents

42. Extent of liability - The tramway operator shall, notwithstanding anything contained in any other law, be liable to pay compensation for loss occasioned by the death of or bodily injury to such extent as may be prescribed:

Provided that the tramway operator shall not be liable to pay any compensation under this section, if the passenger dies or suffers injury due to:

- (a) Suicide or attempted suicide;
- (b) Self-inflicted injury;
- (c) Any criminal act for which he is responsible;
- (d) Any act committed by him in a state of intoxication or insanity;
- (e) Any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by an accident on the tramway system;

Explanation - For the purpose of this section, the term "passenger" includes a tramway official travelling on duty.

43. Application for compensation - An application for compensation arising out of an accident may be made to the claims commissioner by-

- (a) the person who has sustained the injury or suffered any loss; or
- (b) all or any of the dependants of the deceased where death has resulted from the accident; or
- (c) an agent duly authorized by the person injured or all or any of the dependants of the deceased, as the case may be:

Provided that where all the dependants of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the dependants of the deceased and the dependants, who have not so joined, shall be impleaded as respondents to the application.

Explanation - For the purpose of this section, the word "dependent" shall mean any of the following relatives of a deceased passenger namely:-

- (a) the wife, husband, minor or dependent son and minor or unmarried daughter or widowed daughter dependent on the deceased and in case the deceased passenger is unmarried or is a minor, his parent(s);
- (b) the parent(s), minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependent wholly or partly on the deceased passenger;
- (c) a minor child of a pre-deceased daughter, if wholly dependent on the deceased passenger.
- (d) the paternal grand - parent wholly dependent on the deceased passenger.

CHAPTER - IX

Offences and Penalties

44. Drunkenness or nuisance on tramway system - (1) If any person, in any carriage of tramway system, or any tramway station or upon any other part of the tramway system premises-

- (a) is in a state of intoxication; or
- (b) commits any nuisance or vandalism or act of indecency, or uses abusive or obscene language; or
- (c) willfully or without excuse interferes in any way with the comfort of any passenger or with any tramway official while in the lawful discharge of his duties; or
- (d) is found smoking;

he shall be punishable with fine which may extend to ten thousand rupees and shall also be liable to forfeiture of the fare which he may have paid or any pass or ticket which he may have obtained or purchased, or be removed from such coach, carriage, tramway station or other part of the tramway system premises by any tramway official authorized by the tramway operator in this behalf. Nothing, in this sub-section shall affect the provisions of any other law for the time being in force or shall be construed as limiting the power of the State Government to prescribe additional offences by rules made in this behalf or of the power of the tramway operator to prescribe additional offence by regulations made in this behalf.

(2) If any tramway official is found in a state of intoxication while on duty, he shall be punishable with fine which may extend to twenty thousand rupees or, where improper performance of his duty is likely to endanger the safety of any passenger travelling or being upon the tramway system, with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both.

45. Penalty for taking or causing to be taken any offensive material upon tramway system - (1) If in contravention of sub-section (1) of section 27, a person takes or causes to be taken any offensive material in any coach or carriage or upon the tramway system or within any part of the tramway system premises, he shall be punishable with fine of five thousand rupees.

(2) In addition to the fine that may be imposed under sub-section (1), if a person takes or causes to be taken any offensive material in any coach or carriage or upon the tramway system, or within any part of the tramway system premises, he shall be responsible, in addition to any fines that may be imposed upon him under sub-section (1), for any loss, injury or damage which may be caused by reason of such material having been so brought upon the tramway system.

46. Penalty for taking or causing to be taken any dangerous material upon tramway system - (1) If, in contravention of this Act or rules made hereunder, a person takes or causes to be taken any dangerous material in any coach or carriage or upon the tramway system or within any part of the tramway system premises, he shall be punishable with imprisonment for a term which may

extend to four years or with fine which may extend to five thousand rupees or both.

(2) In addition to the penalties specified in sub-section (1), if a person takes or cause to be taken any dangerous material in any coach or carriage or upon the tramway system, or within any part of the tramway system premises, he shall be responsible, in addition to any fines that may be imposed upon him under sub-section (1), for any loss, injury or damage which may be caused by reason of such material having been so brought upon the tramway system.

47. Prohibition of demonstrations upon tramway system - (1) No demonstration of any kind whatsoever shall be held on any part of the tramway system or other tramway system premises and it shall be open to the tramway operator to remove from any part of the tramway system premises any person attending such demonstration whether or not he is in possession of a pass or ticket entitling him to be in the said part or other premises.

(2) No person shall paste or put up any poster or write or draw anything or matter in any coach or carriage of the tramway system, or any part of the tramway system or the tramway system premises, without any lawful authority and any person found engaged in doing any such act may be removed from the coach or other part of the tramway system premises by any tramway official authorized by the tramway operator in this behalf.

(3) Whoever contravenes any of the provisions of sub-section (1) or subsection (2) or on being asked by any tramway official, to leave any carriage or any part of the tramway system premises refuse to do so, shall be punishable with a fine of ten thousand rupees.

48. Penalty for travelling on roof, etc., of a tramway - If any passenger travels on the roof of a coach or carriage of the tramway or persists in travelling in any part of a tramway not intended for the use of passengers or projects any part of his body out of a tramway after being warned by any tramway official and entrusted with such duty, to desist, he shall be punishable with fine of five thousand rupees, and shall also be liable to be removed from the tramway by any tramway official authorized by the tramway operator in this behalf.

49. Penalty for unlawfully entering or remaining upon tramway system or walking on tramway system track - (1) If a person enters into or upon the tramway system premises without any lawful authority or having entered with lawful authority remains there unlawfully and refuses to leave on being requested to do so by any tramway official, he shall be punishable with imprisonment for a term which may extend to six months or with fine of five thousand rupees.

(2) If any person walks on the tramway system track without any lawful authority, he shall be punishable with imprisonment for a term which may extend to six months or with a fine of twenty thousand rupees, or both.

50. Endangering the safety of passengers by tramway official - If any tramway official or any person authorized by a tramway operator appointed under an order or an agreement as the case may be, and entrusted with a duty relating to the tramway system, when on duty endangers the safety of any passenger-

(a) by any rash or negligent act or omission; or

(b) by disobeying any rule, regulation or order which such official or person was bound by the terms of his employment to obey, and of which he had notice,

he shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to five thousand rupees, or with both.

51. Abandoning tramway etc., without authority - If any tramway official, when on duty, is entrusted with any responsibility connected with the running of a tramway, or any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such tramway or rolling stock to another authorized tramway official, he shall be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

52. Obstructing running of tramways etc - If any person obstructs or causes to be obstructed or attempts to obstruct any tramway carriage way or rolling stock on the tramway system by squatting, picketing or keeping without authority any rolling stock on the tramway system or tampering with any signalling or other installations or by interfering with the working mechanism thereof, or otherwise, he shall be liable to be removed by any tramway official, authorized by the tramway operator in this behalf and shall also be punishable with imprisonment for a term which may extend to six months or with a fine of twenty-five thousand rupees, or both.

53. Obstructing tramway official in his duties - If any person willfully obstructs or prevents the discharge of his duties by a person duly authorized to discharge any such duties, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

54. Travelling without proper pass or ticket or beyond authorized distance - (1) If any passenger-

(a) travels in the tramway system without having a proper pass or ticket with him; or

(b) being in or having alighted from a tramway, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor,

he shall be liable to pay, the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the tramway originally started.

(2) If any passenger travels or attempts to travel in a coach or travels in or on a coach beyond the place authorized by his pass or ticket, he shall be liable to pay, the excess charge mentioned in sub-section (3) in addition to any difference between any fare paid by him and the fare payable in respect of the journey he has made.

(3) The excess charge referred to in sub-sections (1) and (2) shall be one hundred rupees.

55. Interference with means of communication in a tramway - If any passenger or any other person without reasonable and sufficient cause, makes use of, or interferes with, or tampers with fire-extinguisher or such other safety measures or any means provided in a tramway, for communication between passengers and the tramway official, in charge of the tramway, or misuses alarm bell of the tramway, he shall be punishable with fine which may extend to ten thousand rupees.

56. Altering or defacing or counterfeiting pass or ticket - (1) If any person willfully breaks the security code of any pass or ticket, or alters or counterfeits or duplicates it, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or both.

(2) If any person willfully defaces any pass or ticket while travelling on the tramway system or while or before the presentation thereof for examination by or before the delivery thereof on requisition being made therefore by a person authorized in this behalf by the tramway operator, he shall be punishable with fine which may extend to ten thousand rupees.

57. Defacing public notices - If any person without lawful authority in this behalf:-

(a) pulls down or willfully damages any board, document or gadgets posted or set up by the order of the tramway operator on the tramway system, or any rolling stock, or

(b) obliterates or alters any letters or figures upon any such board, document or gadget or upon any rolling stock,

he shall be punishable with fine which may extend to ten thousand rupees.

58. Any sale of articles on tramway system premises - If any person sells or exposes for sale, any article whatsoever in any coach or carriage or upon any part of the tramway system premises not authorized by the tramway operator, he shall be punishable with fine of five thousand rupees.

59. Maliciously wrecking a tramway or causing sabotage - (1) If any person -

(a) loosens or displaces any rail or any other matter or thing belonging to the tramway system;

(b) turns, moves, unlocks or diverts any point or other machinery belonging to the tramway system;

(c) does or causes to be done any act of sabotage in relation to any tramway or to the tramway system with intent or with knowledge that it is likely to endanger safety of any person upon the tramway system or any part of the tramway system;

he shall be punishable with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years:

Provided that in the absence of special and adequate reasons where a person is punished with rigorous imprisonment, such imprisonment shall not be less than,-

(i) three years in the case of first conviction; and

(ii) seven years in the case of conviction for the second or subsequent offence.

(2) If a person unlawfully does any act of sabotage or any other act referred to in sub-section (i) with intent to cause the death of any person, or with knowledge that such act is so imminently dangerous that it must in all probability cause the death of any person or such bodily injuries to any person that is likely to cause the death of any person, he shall be punishable with death or imprisonment for life.

60. Penalty for unauthorized sale of pass or ticket - If any person not being duly authorized in this behalf, sells or attempts to sell any ticket or pass in order to enable any other person to travel therewith, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and shall also forfeit the ticket or pass which he sells or attempts to sell.

61. Maliciously hurting or attempting to hurt persons travelling by tramway system - If any person unlawfully throws or causes to fall or strike at, against, into or upon any rolling stock forming part of a tramway, any wood, stone or other matter or thing with intent, or with knowledge that it is likely to endanger the safety of any person being in or upon such rolling stock or in or upon other rolling stock forming part of the same tramway or with the knowledge or intent of causing any damage to the tramway system, he shall be punishable with imprisonment for life or with imprisonment for a term which may extend to ten years.

62. Endangering safety of persons travelling by tramway system by rash or negligent act or omission - If any person in a rash or negligent manner does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon the tramway or to the tramway system, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

63. Damage to or destruction of certain tramway system properties - Whoever, with intent to cause or knowing that he is likely to cause or causes damage to or destruction of any of the properties of the tramway system as defined in clause (25) of section 2 by fire, explosive substance or otherwise to such premises, he shall be punishable with imprisonment for a term which may extend to ten years.

64. Endangering the safety of persons travelling by tramway by unlawful act or willful omission - If any person by unlawful act or by any willful omission or neglect or by tampering with safety devices, endangers or causes to be endangered the safety of any person travelling on or being upon on any tramway or endangers the tramway system, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any tramway system, he shall be punishable with imprisonment for a term which may extend to seven years:

Provided that in the absence of special and adequate reasons such imprisonment shall not be less than-

(a) six months in the case of first conviction; and

(b) two years in the case of conviction for the second or subsequent offence.

65. Penalty for making a false claim for compensation - If any person claiming compensation under Chapter VIII makes a claim which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

66. Offences by companies - (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

67. Arrest of person without warrant - (1) If any person commits any offence under sections 46, 50, 51, 59, 61, 63, 64 and 65 any police officer not below the rank of Head Constable, may without warrant arrest him.

(2) A person so arrested shall be produced before the nearest Magistrate, having authority to try him or commit him for trial, as early as possible but within a period not exceeding twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Court of the Magistrate.

68. Prohibition against travelling of persons suffering from infectious or contagious diseases and powers to remove them - (1) No person suffering from infectious or contagious diseases as may be prescribed, shall travel by the tramway system.

(2) Any person travelling in contravention of sub-section (1) above shall be liable to be removed from the tramway system.

CHAPTER - XII Miscellaneous

69. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the State Government, any tramway

operator, tramway official or against any other person duly authorised by the tramway operator, the State Government, or a person authorised under Section 10 or Section 15 as the case may be, acting under and in accordance with the Act, for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

70. Officials of tramway operator to be public servants - All persons in the employment of the tramway operator or a tramway official or a sub-contractor or in the employment of an entity by the State Government under section 10 or section 15 or a tramway official or a sub-contractor, as the case may be, to undertake any activities, shall, when acting or purporting to act in pursuance of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860(Central Act No. 45 of 1860).

71. Procedure for summary delivery to the tramway operator of property detained by a tramway official - If a tramway official is discharged or suspended from his office or dies or absconds or absents himself, and he or his wife or widow or spouse or legal representative, refuses or neglects, after notice in writing for that purpose, to deliver up to the tramway operator or to a person appointed by the tramway operator in this behalf, any station, dwelling house, office or other building with, its appurtenances or any books, papers, keys, equipments or other things relating to the tramway system and belonging to the tramway operator and in the possession or custody of such tramway official, then on the occurrence of any such event as aforesaid, any Metropolitan Magistrate or Judicial Magistrate of the First Class may, on application made by or on behalf of the tramway operator, order any police officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers, keys, equipment and other things, as the case may be, and to deliver the same to the tramway operator or to a person appointed by the tramway operator in that behalf.

72. Proof of entries in records and documents - (1) Entries made in the records or other documents of the tramway operator shall be admitted in evidence in all proceedings, by or against the tramway operator and all such entries may be proved either by the production of the records or other documents of the tramway operator containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the tramway operator in his possession.

(2) Notwithstanding anything contained in any other law, a Court shall presume that the entries in the records of the tramway operator admitted in evidence under subsection (1) are true, unless there is evidence to the contrary.

73. Service of notice, etc., on the tramway operator - Any notice or other documents required or authorized by this Act to be served on tramway operator shall be,-

(a) by delivering it or tendering it at the office of the tramway operator, to an official who is empowered to receive any such service, and who shall give an acknowledgement of service; or

(b) by registered post or by a recognized courier to the registered address of the tramway operator.

74. Service of notices by the tramway operator - (1) Any notice or other documents required or authorized by this Act to be served on any person by the tramway operator may be served by,-

(a) delivering it to the person; or

(b) leaving it at the usual or the last known place of abode of the person: or

(c) registered post addressed to the person at his usual or the last known place of abode.

(2) Where a notice or other document is served by registered post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

75. Representation of the tramway operator - The tramway operator may by order in writing, authorize any of its officials or other person, to act for it or represent it, as the case may be, in any proceeding before any Civil or other Court or authority.

76. Appointment of Security Staff - The tramway operator may constitute and maintain or sub-contract security staff for the tramway system, and along the tramway system alignment, and the powers, duties and functions of such staff shall be such as may be notified by the State Government from time to time.

77. Taxation on tramway system by local authorities - (1) Notwithstanding anything to the contrary contained in any other law, the tramway operator shall not be liable to pay any tax in aid of funds of any local authority.

(2) Nothing in this section shall be construed to prevent any tramway operator from entering into a contract with any local authority for the supply of water or light, or for the disposal of waste generated in the tramway system premises, or for any other service which the local authority may be rendering or be prepared to render.

78. Delegation of powers - (1) The State Government may by notification direct that all or any of the powers exercisable by it, under this Act or rules made thereunder, except under sections 79 and 81, shall in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority authorized by the State Government, including the tramway operator, or by any officer of the tramway operator, authorized by the State Government.

(2) Subject to the provisions of the order or the agreement, as the case may be, the tramway operator may, by general or special order in writing and with the previous approval of the State Government, delegate to any of its officials, subject to such conditions and limitations, if any, as may be specified by it, such of its powers and functions under this Act, except its power under section 82.

79. Power to remove difficulties - (1) If any difficulty arises in giving effect to the provisions incorporated in the Act, the State Government may, by order, not inconsistent with such provisions of this Act, remove the difficulty:

Provided that no such order shall be made, after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid before each House of the State Legislature.

80. Effect of the Act and rules etc., inconsistent with other enactments - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument having effect by virtue of any law other than this Act.

81. Power to make rules - (1) The Government may, by notification, make 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 all any of the following matters, namely:-

- (a) notification of standards and safety parameters;
- (b) powers of tramway operator in relation to the development, construction, management, operation and maintenance of tramway system;
- (c) the arrangements to be made for and the formalities to be complied with before opening the tramway system for the public carriage of passengers;
- (d) for regulating the mode in which, and the speed at which rolling stock used on the tramway system is to be moved or propelled;
- (e) the cases in which and the extent to which the procedure provided in this Act may be dispensed with;
- (f) the manner and consideration for determination of amount payable for any loss, damage or injury under section 20 and the manner of deposit and payment thereof;
- (g) the particulars of the ticket such as the value, the period of validity and other particulars in relation thereto;
- (h) for regulating the travel upon, and the use, working, maintenance and management of the tramway system;
- (i) the persons to whom notices in respect of any inquiry under this Act are to be sent, the procedure to be followed in such inquiry and the manner in which a report of such inquiry shall be prepared;
- (j) the making of an inquiry into the cause of the accident under section 39;
- (k) material which is offensive or dangerous under section 27;
- (l) the use of the tramway system by persons suffering from infectious or contagious diseases under section 68;
- (m) for determination (including revision), regulation and collection of fares;

(n) to regulate the working of the tramway system, including the pre-requisites to and manner of opening of traffic on a tramway system under section 24 the suspension of traffic on a tramway system, the closing of the tramway system or of any rolling stock, and the pre-requisites to, and manner of, reopening of traffic on a tramway system wherein traffic has been suspended or which has been closed.

(o) any other matter which is required to be or may be prescribed to carry out the provisions of this Act.

(3) The tramway operator shall keep at every station on its tramway system, and at all other tramway system premises, a copy of all the rules made under this section and shall also allow any person to inspect it free of charge.

(4) Every rule made under this Act shall immediately after it is made, be laid before each House of State legislature if it is in session and if it is not in Session in the Session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the ex-piry of the session in which, it is so laid or the Session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, 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.

82. Power of the tramway operator to make regulations - The tramway operator may make regulations not inconsistent with the Act and the Rules made thereunder, to provide for all matters for which provisions are necessary or expedient for the purpose of giving effect to the provisions of the Act.

83. Vesting of property on Government - All the assets and liabilities of the Metro Rail Limited including rolling stock, machinery shall stands transferred to and vested in the State Government on the expiry of the concession period.

84. Repeal of Ordinance 5 of 2008 - The Andhra Pradesh Municipal Tramways (Construction, Operation and Maintenance) Ordinance, 2008 is hereby repealed.