



Government of Nepal  
Ministry of Physical Infrastructure and Transport  
**Department of Transport Management**  
**NEPAL INDIA REGIONAL TRADE AND TRANSPORT PROJECT (NIRTP)**  
SUB-PROJECT OFFICE

## **Road Transport Safety and Axle Load Control Study in Nepal**

### **Part A: Road Transport Safety**



#### **TASK-A1**

### **DRAFT AMENDMENTS ON MVTMA-1993 AND MVTMR-1997**

Submitted by:



**Katahira & Engineers International**

*in association with*



**FullBright Consultancy (Pvt.) Ltd.**

**June 2015**

## TABLE OF CONTENTS

### TABLE OF CONTENTS

#### ACRYNMS AND DISAMBIGUATIONS

<b>CHAPTER 1 INTRODUCTION.....</b>	<b>1-1</b>
1.1 General.....	1-1
1.2 Objectives .....	1-1
1.3 Scope of Work .....	1-1
1.4 Structure of Report.....	1-1
<b>CHAPTER 2 APPROACH AND METHODOLOGY .....</b>	<b>2-1</b>
2.1 Data Collection .....	2-1
2.2 Review of Documents .....	2-2
2.3 Interaction with Stakeholders .....	2-2
2.4 Incorporation of Task Specific Recommendation .....	2-2
2.5 Draft Amendments on MVTMA – 1993 and MVTMR -1997 .....	2-2
<b>CHAPTER 3 REVIEWED LEGAL, REGULATORY AND POLICY DOCUMENTS .....</b>	<b>3-1</b>
3.1 General.....	3-1
3.2 Reviewed Legal, Regulatory and Policy Documents.....	3-1
3.3 Review of International Practices .....	3-2
3.3.1 Central Motor Vehicle Act, 1988 (India).....	3-2
3.3.2 Central Motor Vehicle Rules, 1989 (India) .....	3-3
3.4 Review of National Legal Documents .....	3-3
3.4.1 Motor Vehicle and Transport Management Act – 1993 .....	3-3
3.4.2 Motor Vehicle and Transport Management Regulation – 1997 (MVTMR 1997).....	3-24
3.4.3 Public Road Act, 1975 .....	3-30
3.4.4 Local Self –Governance Act, 1999.....	3-31
3.4.5 Local Self Governance Rules, 1999.....	3-32
3.4.6 Road Board Act, 2002.....	3-32
3.4.7 Road Board Rules, 2004 .....	3-32
3.4.8 Road Board Directives, 2005.....	3-33
3.4.9 DoTM Transport Management Directive, 2003.....	3-33
3.4.10 DoTM Standard Guideline for Automobile Workshop and Factories, 2014 .....	3-33
3.4.11 Nepal Transport Pollution Standard 2069 B.S.....	3-33
3.4.12 DoTM Code Conduct for Public Passenger Transport, 2011.....	3-34
3.4.13 Policy Documents and Others (National) .....	3-35
3.5 Environmental and public concern.....	3-37
3.6 Financing modalities of the development of infrastructure; PPP etc.....	3-38
3.7 Best practice in the regional context.....	3-39
3.8 Institutional Recommendations.....	3-40
3.8.1 DoTM Organization.....	3-40
3.8.2 Nepal Police; Traffic Police.....	3-41

3.8.3	DoR.....	3-41
3.8.4	RBN .....	3-41
3.8.5	Local Bodies .....	3-41
3.8.6	Operator Associations.....	3-41
<b>CHAPTER 4 FINDINGS, DRAFT AMENDMENTS &amp; MVTMA/ MVTMR.....</b>		<b>4-1</b>
4.1	Finding .....	4-1
4.1.1	Section 67- Issuance of conductor license .....	4-1
4.1.2	Section 93- Listing the name of transport service .....	4-1
4.1.3	Section103- Recess of journey.....	4-1
4.1.4	Section 104- Shift change of driver .....	4-1
4.1.5	Section 105-Prohibition on traveling without ticket .....	4-1
4.1.6	Section 151 – Insurance of passenger luggage .....	4-2
4.1.7	Section 157- Appointment of transport inspector .....	4-2
4.1.8	Section 158(d) - Functions, duties and powers of transport inspector .....	4-2
4.1.9	Section 168- Operation of transport service in competitive manner.....	4-2
4.1.10	Section 176- Special powers .....	4-3
4.1.11	Rule 54-Passenger luggage insurance.....	4-3
4.1.12	Rule 55 b- Submission of insurance certificate and Insurance Policy	<b>Error! Bookmark not defined</b>
4.2	Draft amendments of MVTMA & MVTMR.....	4-3

## ABBREVIATIONS AND ACRONYMS

ADB	: Asian Development Bank
ALC	: Axle Load Control
ALC-MIS	: Axle Load Control – Management Information System
ANTLU	: All Nepal Transport Labor Union
C/P	: Counterpart
CDO	: Chief District Officer
CPI	: Consumer Price Index
DoLIDAR	: Department of Local Infrastructure Development and Agricultural Roads
DOR	: Department of Roads
DOTM	: Department of Transport Management
EA	: Executing Agency
FBC	: Full Bright Consultancy
FNNT	: Federation of Nepal National Transport Entrepreneurs
FTTEN	: Federation of Truck Transport Entrepreneurs Nepal
GoN	: Government of Nepal
KEI	: Katahira & Engineers International
LOCAFV	: Directives for Load Carrying Capacity for Freight Vehicles 2014
LRN	: Local Road Network
MOCS	: Ministry of Commerce and Supplies (Nepal)
MOPIT	: Ministry of Physical Infrastructure and Transport (Nepal)
MVTMA	: Motor Vehicle and Transport Management Act, 1993
MVTMR	: Motor Vehicle and Transport Management Rules, 1997
NFFA	: Nepal Freight Forwarders Association
NIRTTP	: Nepal India Regional Trade and Transport Project
NLC	: Nepal Law Commission
NRs	: Nepalese Rupees
NTILA	: Nepal Transport Independent Labor Association
RBN	: Road Board Nepal
RDC	: Route Designates Committee
RTS	: Road Transport Safety
SRN	: Strategic Road Network
STEP	: Sub-regional Transport Enhancement Project (ADB assisted)
TI	: Transport Inspector
TLU	: Transport Labor Union
TMC	: Transport Management Committee
ToR	: Terms of Reference
TPI	: Third Party Insurance
UK	: United Kingdom
UN	: United Nations
VFTC	: Vehicle Fitness Testing Center
VOC	: Vehicle Operating Cost
WB	: World Bank
WHO	: World Health Organization

## EXECUTIVE SUMMARY

This report has been prepared in conjunction with other experts and after reviewing of eight reports prepared by the Study Team members in the issues of road transport safety in Nepal. All the reports those are prepared, identified under RTS and taken a consideration of problem to address the issues that are arise from road accidents. Therefore, based on consultants eight of those prepared reports, Motor Vehicle Transport Management Act and Rules (amended draft) have been prepared from the road transport safety perspective to minimize or control road accidents in Nepal.

In preparing this report, existing MVTMA and MVTMR has been revised and recommended for amendments within the issues of road transport safety and recommendations made in the task-wise reports of this study. In addition, international transport laws and rules have been taken as reference for drafting this amendment. Further, DoTM, Traffic Police Directorate, DoR, FNTTE, Transport Labor Unions are consulted and taken their suggestions while drafting the amendments.

By consideration all these aspects of suggestions for road transport safety in Nepal, there has been number of issues that are summarized in the Table-1 for amendments within the MVTMA and MVTMR.

**Table-1 Issues and Amendment in MVTMA**

<b>Motor Vehicle and Transport Management Act</b>		
<b>Section</b>	<b>Existing Provision</b>	<b>Recommended Amendments</b>
<i>2 (b)</i>	<i>Motor vehicle weight</i>	Un-laden motor vehicle weight
<i>Au</i>	<i>Inserted</i>	Definition of axle load
<i>av</i>	<i>Inserted</i>	Definition of GVW
<i>6 (3)</i>	<i>Passenger transport services classified as Direct, Express and Local services.</i>	(a) Direct service; origin to destination operation, not allow pick and drop service within required road (b) Express service; pick and drop services available in certain stops and (c) Local service; can be operated within 25 Km or Metropolitan city/sub-Metropolitan city/ Municipality that may cover any distance within jurisdiction.
<i>23 (1)</i>	<i>Power to specify criteria for examination of motor vehicles</i>	It can be recommended that Motor Vehicle Pollution Standard 2013 require referring within the Rules to make applicable law for pollution measurements.

33	<i>Special provision relating to renewal</i>	The provision privileges require allowing any motor vehicle to renew for five years. It will harmonize a provision of Fiscal Act 2011.
74	<i>Designation of route</i>	Route designing require to proper way of forming committee under DoTM coordination along with DoR/ DoLIDAR, DAO, Local bodies. The Route designing committee may be proposed under the recommendation of TMC as well.
77	<i>Issuance of route permit</i>	-Recommended ZTMO of route permit but also empowered with legal mandates alter, cancel and creating route permit. It is recommended to harmonize road test certificate expiration Section 91 (2) by six months.
78	<i>Matters to be examined for issuance of route permit</i>	DoTM require shaving a committee to issue route permits. Within the route permit there require to put more requisites than existing provision such as photocopy of license of transport service and etc. The permits should not contribute negative pressure to flow of motor vehicles in the road.
79(2)	<i>In the event of require to change route</i>	In the case of route change, a committee formed under Section 78 (1)(proposed amendment) require be observing and reviewing. For this provision, a committee requires to assure the permit does not infringe Section 78 (2) (proposed amendment) as well.
80	<i>Power to issue multiple route permits</i>	For multiple route permits a committee formed under Section 78 (1)(proposed amendment)require to apply for issuing. In the meantime, Section 79 (2) (proposed amendment) require applying in the satisfactory condition to issue multiple permits.
81 (2)	<i>Ad hoc route permit</i>	Requires to apply under Section 78 (2) (proposed amendment)in the satisfactory condition to issue ad hoc route permit.
82	<i>Power to refuse to grant route permit</i>	DoTM requires power of refuse or grant route permit, DoTM should have exclusive right under Section 155(e)(proposed amendment), in case of TMC members are not agreed to issue or refuse route permit application.
83 (1)	<i>Renewal of route permit</i>	The renewable of routes permit requires to update and mention previous route permit while renewing after expiration.
85	<i>Power to re-issuance route permit</i>	Re-issuing route permit require to go through Section (proposed amendment)78 (2) and if find satisfactory as per Section (proposed amendment) 78 (1) route permit committee require to recommend for issuing permit.
95(1)	<i>Ipsa facto</i>	To implement MVTMA's provision for governance DoTM requires

	<i>revocation of license to operate transport service</i>	being proactive for conducting registering the service providers.
102	<i>Prohibition on taking passengers in excess of seats</i>	Requires special provision local public transport for standee capacity against seating capacity. All the passenger public motor vehicle require to display total number of passengers that includes school bus, differently and elderly accessible vehicle or other motor vehicle travelling in a group.
116	<i>Weight of motor vehicle</i>	Road instead place and GVW word inserted before 'weight'
117	<i>Prescription of number of passengers and quantity of goods to be hold in motor vehicle</i>	Require to put provision of standing capacity for local public transport service and inserted 'mandatorily' before information of the general public
	<i>Inserted</i>	Referring proposed sub-section (2), if more than prescribed standee passenger found, off-load excess numbered passenger (s) and to be issued fines.
	<i>Inserted</i>	Referring proposed sub-section (2), if motor vehicle found overloaded, off-load overloaded materials and to be issued fines. Clarification: 5% tolerance limit excused/ year/3 times
	<i>Inserted</i>	Referring proposed sub-section (3), overloading fines require to issue against driver, owner or manager of motor vehicle entail to share portion of fines to all stakeholders.
	<i>Inserted</i>	Referring proposed sub-section (4), referring proposed sub-section (3), and overloading fines entail to issue against motor vehicle.
	<i>Inserted</i>	Notwithstanding previous provisions, products those are non-seperable can be transported by paying in an advance, fined calculation based of total over weight and distance of travel.
119	<i>Posting, displaying or affixing traffic signs</i>	DoTM may handover right to DoR, Traffic Police, DoLIDAR or other local bodies to install the road sign and signal as per prescribed standard MVTMR.
126 (2)	<i>Warning signs to be placed while digging pit at</i>	Required to inform nearest police station can be done through DoR, DoLIDAR, local bodies in case of partial or full road obstruction or any maintenance, upgrading activities on the road or footpath.

	<i>public place</i>	
131 (2)	<i>Showing document as and when so demanded</i>	The documents to be produced on demand by the authority are elaborated for all modal of transport; applicable requirements are given in report.
133	<i>Duty of driver in case of accident</i>	Requires adding up additional ten percent fines and punishment in existing provision of Section 162 or 163, in case of hit-and-run occurred by the driver.
146	<i>Publicity to be made or cause to be made</i>	Requires giving a way for proper funding mechanism from DoTM to serve the purpose.
147	<i>Prohibition on driving motor vehicle recklessly</i>	Requires addressing close distance driving and towing motor vehicle. Section 147 recommended to amendment, regulating distance by at least six meters and geographical differences in between 15-22 meters.
148	<i>Insurance of motor vehicle to be made</i>	Requires applying all the motor vehicle mentioned in Sections, 4,5,6,7,8,9,10,11. To renew the blue book and insurance coverage from cut-off day and renew day are same to avoid gap between the duration of the insurance policy coverage and duration of the next renewal period. <ul style="list-style-type: none"> <li>• The provision for penalty in the Act to the vehicle owner or manager who drives their motor vehicle on the road without having insurance in place. There must be stringent act to penalize such vehicle owner.</li> </ul>
149	<i>Insurance of driver, conductor, security personnel and other employee</i>	Required to apply all the motor vehicle mentioned in Sections, 4,5,6,7,8,9,10,11.
150	<i>Insurance of passenger</i>	Required to apply all the motor vehicle mentioned in Sections, 4,5,6,7,8,9,10,11.
152	<i>Third party insurance</i>	Requires making abiding TPIs provisions. Requires provisions for funding in exception cases whereas motor vehicle does not have insurance or incapable to pay TPI amount to victims.
152a	<i>Inserted</i>	Livestock/freight Insurance



152b	<i>Inserted</i>	Proposed Road Accident Compensation Fund
153a	<i>Functions, duties and powers of Department</i>	To create accountable DoTM, it require making mandatory reporting to DoTM from ZTMO of issued route permits each month/ annually.
154	<i>Transport management committee</i>	Requires including representation from Chief of DoR office and District Police/Traffic Police to have effective implementation of purpose of the Section.
155	<i>Functions, duties and powers of transport management committee</i>	Recommended for TMC to have both way of power, whether to accept or reject for recommendations as required on the basis of number of motor vehicles and passengers.
157	<i>Appointment of TI</i>	Instead of GoN, DoTM recommended to have right to appoint TI by excluding GoN officials through outsourcing.
158	<i>Functions, duties and powers of TI</i>	Required power if find excessive passenger(s) or loads of freight (s) off-load it and fine on the spot. Mandatory provision for TI to cooperate inspection team deployed from DoTM.
159	<i>License to be obtained to operate training center, factory and workshop</i>	The provision does not cover all types of motor vehicle to be constructed within the workshop. To make accountable firm individual license for operating workshop can be put under registered company as firm, company or organization.
159a	<i>Inserted</i>	License to be obtained to operate Practical Test of Driving License Training Center
159b	<i>Inserted</i>	License to be obtained to operate Vehicle Fitness testing Center
159c	<i>Inserted</i>	License to be obtained to operate of weighbridge station
159d	<i>Inserted</i>	Private sector infrastructure can be used with coordination with PSP on Operation of Practical Test of Driving License Training Center
160	<i>Inserted / 2 (a) relating to proposed Section of 117 (4) and 160 (e)</i>	<ul style="list-style-type: none"> <li>• Punishment related provision Section 117 (a) elaborated provisions on proposed (d) and (e) by providing duties as per proposed Section 117, proposed sub section of 2, 3, and 4.</li> <li>• Provisions against Insurances Sections; 149, 150, 151. 115a (proposed), 152</li> <li>• Proposed Sections of 159a, 159b and 159c.</li> </ul>

164	<i>Inserted Other offences</i>	Amend and inserted; 23 offences added/ 2 offences amended and inserted Fines for all the sub-Section provisions including sub-section (5) are recommended to update as per time factors.
168	<i>Operation of transport service in competitive manner</i>	Requires addressing what types of operators for public transport service eligible to be operator. Recommended that instead of single owner, organized a company or cooperative proposed for operation to reduce competition within same route. Awarding franchise right to the single operator to the particular route can be option.  DoTM may require accepting operation of ex-post provision and ex-ante for route awarding system of passenger public transport service.  Recommended to introduce 'Naming and Shaming' provisions will help to establish benchmarking and to formulate transport friendly policies.
170	<i>Delegation of authority</i>	Recommended allow delegation of authority to GoN's agencies as well to have prompt, effective and workable implementation.
175a	<i>Inserted Special Provision on Fines</i>	Notwithstanding anything contained elsewhere in this Act, DoTM may change fines as per Nepal Rastra Bank's CPI. The changes fines mandatorily entail to publish through public notice.
176	<i>Special Provision</i>	The provision on special powers exempted any provision of MVTMA may cause to make DoTM as strong implementing agency. Therefore, it is recommended to be removed from MVTMA or exclusion issues can be added within the provision.
<b>Schedules of MVTMA</b>		
<i>Schedule-7</i>	<i>Relating to Section 77 Schedule Issuance of route permit</i>	Inserted issuance and expiry date of route permit
<i>Schedule-9</i>	<i>Inserted Relating to Section 102 Local Passenger Public Transport</i>	Provision and calculating of method of standee passengers in local passenger transport.

<i>Sechedule-10</i>	<i>Inserted Relating to Section 117 (D)</i>	Proposed format of fines for overloading.
<b>Motor Vehicle and Transport Management Rules</b>		
<b>Rule</b>	<b>Existing Provision</b>	<b>Proposed Amendments</b>
16.	<i>Inserted Classification, standards and capacity of cargo motor vehicles</i>	Explanation: to treat all the cargo motor vehicle registered within the country and registered beyond the Nepalese jurisdiction to apply same legal compliances.
18	<i>Standards, period of operation and speed of passenger motor vehicles</i>	High similarities in between direct and express bus service require differentiating services and others. Speed limit requires to be based on quality, width, footpath availability, bridges, pedestrians approaching and geographical condition to determine motor vehicle speed limit.
	<i>(1) e (4c)</i>	Recommended micro bus, route permit may be issued only for a distance of a maximum of 250 KM.
	<i>Inserted (10)</i>	Recommended process of color code of passenger motor vehicle
29a	<i>Inserted</i>	Recommended formation of route designate committee
30 (1)	<i>Applications for route permit</i>	As per Section 74 MVTMA, RDC to can be formed under DoTM along with Traffic Police and civil engineer from DoR. DoR, DoLIDAR, DDC, local bodies. OR can be made responsible to provide detail of the proposed road to operate and proceed through recommendation of TMCas well. RDC may designate route by conducting research, study and consider reasonable requisites such as details of road standard, design, size, distance, existing condition of road and landscape to ensure access of motor vehicle.
52 (4/5)	<i>Insurance of employees serving in transport service</i>	The amount of insurance requires to be based on CPI or has to be taken account of other factor such as earning of the deceased. The discretionary right always has to be under increased cap of limitation to decide the amount of compensation to the injured to avoid manipulation from medical practitioner.

53 (2/4/5/6)	<i>Procurement of Passenger Insurances</i>	Recommended to harmonizing compensation any age or staff or passenger is must. In case of casualties no recovery from non-insured vehicle, there require to basket fund from the government to provide recovery cost to the road accident victims.
55 (1/4/5)	<i>Third Party insurance</i>	The TPI for passenger transport require covering incase of deceased or victims. Recommended to increase of amount of insurance NRs 75 Lakh for consideration to cover all insurance aspects of compensation. Medical practitioner discretionary right requires putting under increased cap to avoid manipulation. Medical expenses require to be updated against inflation and which is considered low.
55a	<i>Certificate of insurance and Insurance Policy</i>	It is incorporated along with Section 131 (2) for mandatory provision.
55c	<i>Authority to handover the insurance amount and time frame for the same</i>	Providing insurance amount within time frame of 183 days to bring clarity and need to handover amount within 21 days of deceases to beneficiary.
56a	<i>Inserted</i>	License to be obtained to operate of Application for license to Center for Practical test of driving license entail to apply proceedings of obtain license as per proposed Schedule of 60a and license will be awarded under Schedule 61a.
56b	<i>Inserted</i>	License to be obtained to operate of Application for license to Motor vehicle testing center entail to apply proceedings of obtain license as per proposed Schedule of 60b and license will be awarded under Schedule 61b.
56c	<i>Inserted</i>	License to be obtained to operate of weighbridge station, entail to apply proceedings of obtain license as per proposed Schedule of 60c and license will be awarded under Schedule 61c.
58	<i>Inserted/ (a) Functions and duties of driver</i>	Not to allow the load of cargo or articles to be loaded in the motor vehicle to exceed the ceiling of weight determined by the motor vehicle manufacturer company
	<i>Inserted/ (c) Functions and duties of cargo motor vehicle</i>	(1) All the duties of sub-rule (a). (2) Driver must keep all the documents as per amended Section 131 of the MVTMA. (3) Require to drive slowly in slippery roads. (4) Require to have rest after six hour driving. (5) Require to follow rush-hour schedule

	<i>driver</i>	specific provision. (6) If cargo motor vehicle bigger than 22 meters, must put on sign of saying ' heavy and long vehicle' (7) If trailer attached, require to check properly. (8) Tightening ropes for goods require checking whether tighten-up properly or not. (9) Goods require putting against head park (10) Before stop or turning, require turning sign light till ten seconds. (11) If possible, cargo motor vehicle carries explosive products require avoiding tunnel road.
<b>Schedules</b>		
3	<i>Inserted Table of fees</i>	
	<i>Rule 56a (1) 0</i>	Registration fee for operating Center for Practical Test of Driving License
	<i>Rule 56b (1) p</i>	Registration fee for Motor Vehicle Testing Center
	<i>Rule 56c (1)q</i>	Registration fee for Weighbridge station
4	<i>(Relating to Sub-rule (1) of Rule 4) Application for registration of motor vehicle</i>	Weight of motor vehicle/ number of the seats (a) GVW of cargo carrier motor vehicle (b) Number of seats of passenger transports
5	<i>Relating to Sub-rule (2) of Rule 4 Motor vehicle register</i>	Weight of motor vehicle/ number of the seats (a) GVW of cargo carrier motor vehicle (b) Number of seats of passenger transports
32	<i>Relating to Sub-rule (1) of Rule 30) Application for route permit</i>	Weight of motor vehicle/ number of the seats (a) GVW of cargo carrier motor vehicle (b) Number of seats of passenger transports and standee capacity for local service
41	<i>Relating to Sub-rule (2) of Rule 39</i>	Recommended to amend to follow Nepal Motor vehicle pollution standard
59	<i>Relating to Sub-rule (1) of 56</i>	Instead of DoTM, ZTMO recommended for applied for license to operate training centre, workshop
59a	<i>Inserted</i>	Relating to sub-rule (1) of 56a, Application for license to Center for Practical test of driving license
59b	<i>Inserted</i>	Relating to sub-rule (1) of 56b, Application for license to Motor vehicle testing center

59c	<i>Inserted</i>	Relating to sub-rule (1) of 56c, Application for license to weighbridge station
60	<i>Relating to Sub-rule (2) of 56</i>	Instead of DoTM, ZTMO recommended Register of license to operate training centre, factory or workshop
60a	<i>Inserted</i>	Relating to sub-rule (2) of 56a, Application for license to Center for Practical test of driving license
60b	<i>Inserted</i>	Relating to sub-rule (2) of 56b, Application for license to Motor vehicle testing center
60c	<i>Inserted</i>	Relating to sub-rule (2) of 56c, Application for license to weighbridge station
61	<i>Relating to Sub-rule (2) of 56</i>	Instead of DoTM, ZTMO recommended Register of license to operate training centre, factory or workshop
61a	<i>Inserted</i>	Relating to sub-rule (2) of 56a, license to Center for Practical test of driving license
61b	<i>Inserted</i>	Relating to sub-rule (2) of 56b, license to Motor vehicle testing center
61c	<i>Inserted</i>	Relating to sub-rule (2) of 56c, license to weighbridge station
63	<i>Relating to rule 60</i>	Traffic Signs, an updated Traffic Signs Manual will be incorporated as part of the amended MVTMR to provide a legal basis for enforcement.
64/5	<i>Inserted</i>	An updated Code of Conducts will be incorporated as part of the amended MVTMR as Schedule will be provided a legal basis for enforcement.

There are number of the issues has been presented as de-jure but de-facto loopholes in the of the MVTMA and MVTMR, which are summarized in the Table-2.

**Table -2 Issues and Comments on MVTMA and MVTMR**

<b>Motor Vehicle and Transport Management Act</b>		
<b>Section</b>	<b>Issues</b>	<b>Comment</b>

67	<i>Issuance of conductor license</i>	Never implemented. Recommended to implement provision as per required to maintain road transport safety and effective implementation to abide national transport laws.
93	<i>Listing the name of transport service</i>	DoTM does not have record of listed transport services providers. Recommended to adopt enforcement measurement to all transport service providers to register their services to DoTM
103	<i>Recess of journey</i>	DoTM or enforcement authority failed to enforce driving of passengers' motor vehicle to have rest each four hour driving by half an hour rest.
104	<i>Shift change of driver</i>	DoTM or enforcement authority failed to enforce driver of passenger transport service to have shift change after six hours.
105	<i>Prohibition on traveling without ticket</i>	DoTM is not able to enforce transport operator to oblige legal provision on 'prohibit passenger to travel without having travel ticket.
151	<i>Insurance of passenger luggage</i>	Motor vehicle operating the transport service requires procuring the insurance of passenger's luggage in prescribed amount is not implemented.
157	<i>Appointment of TI</i>	MoPIT in the past instruction need to implement to appoint TI within the organization of ZTMO offices whereas Mechanical Engineer positioned, if not Chief of ZTMO. Outsourcing process of TI appointment recommended.
158(d)	<i>Functions, duties &amp; powers of TI</i>	DoTM failed to check passenger manifesto and that assume to be enforced against prescribed fares charged.

<b>Motor Vehicle and Transport Management Rules</b>		
<b>Rule</b>	<b>Issues</b>	<b>Comment</b>
54	<i>Passenger luggage insurance</i>	GoN has responsibility to prescribe the amount of insurance and to publish on the Nepal Gazette, the provision has not implemented yet.
55b	<i>Submission of insurance certificate and Insurance Policy</i>	Submit certificate of insurance and insurance policy to CDO of the district where such an accident occurs from owner and manager of motor vehicles.



## सार-संक्षेप

परियोजनाको विज्ञहरुले तयार गरेको ७ वटा प्रतिवेदनको आधारमा सडक सुरक्षा सम्बन्धि प्रतिवेदनहरु तयार भएका छन्। उक्त रिपोर्टहरु नेपालले भोग्नुपरेको सडक सुरक्षा सम्बन्धि समस्याहरुलाई पहिचान गरी सम्बोधन गर्न तयार गरिएका छन्। उक्त तयार पारिएका ७ वटा प्रतिवेदनहरु आधारमा विद्यमान सवारी तथा यातायात व्यवस्था ऐन तथा नियमावलीमा सडक सुरक्षा सम्बन्धि आवश्यक संसोधन गर्नका निमित्त लागी यो प्रतिवेदन तयार गरिएको छ।

यो प्रतिवेदन तयार पार्दा विद्यमान सवारी तथा यातायात व्यवस्था ऐन तथा नियमावलीमा सुधारसहितको संसोधन गर्न ७ वटै प्रतिवेदनहरुमा आएको सुझावहरुलाई कानूनीरूपमा व्यवस्थित गर्ने प्रयास गरिएको छ। यसको अतिरिक्त सवारी तथा यातायात व्यवस्था ऐन तथा नियमावलीलाई तथा अन्य अन्तराष्ट्रिय यातायात कानून तथा नियमहरुलाई पनि आवश्यक अध्ययनको स्रोत मानी सवारी ऐन तथा नियमावली माथी संसोधित प्रावधानहरु प्रस्ताव गरिएको छ। यस बाहेका प्रतिवेदन तयार पार्दा यातायात व्यवस्था विभाग, ट्राफिक प्रहरी निर्देशनालय, सडक विभाग, नेपाल यातायात व्यवसायी महासंघ, ट्रक यातायात व्यवसायी महासंघ, मालसामान ढुवानी महासंघ, यातायात मजदुर युनियनहरु संग समेत विस्तृत छलफल तथा अन्तरकृया गरिएको छ।

यी सम्पूर्ण अवस्थाहरुलाई मध्यनजर गरी प्रस्तावित सवारी तथा यातायात व्यवस्था ऐन तथा नियमावलीमा निम्न लिखित प्रावधानहरुलाई संसोधन प्रस्तावित गरी सुझावहरु सहित पेश गरिएको छ।

सवारी तथा यातायात व्यवस्था ऐन		
बि.सं.	बैरहेको व्यवस्था	संसोधन गर्न खोजिएको व्यवस्था
२ (ख)	परिभाषा	सवारीको बजनकोपरिभाषा
३११	थपिएको	धुरा भारको परिभाषा
३१२	थपिएको	कुल बजनको परिभाषा
६ (३)	यात्रीवाहक सार्वजनिक सवारी विभाजन	सवारीको ठाँउमा सेवा थप्ने/सिधै सेवा (छुट्टै स्थान देखि रोकिने स्थान सम्म)/दूत ( सेवा (छुट्टै स्थान देखि रोकिने स्थान सम्म तर तोकिएको तथा सिमित बिसौनीमा मात्र चढ्ने तथा ओर्लने सुविधा भएको)/साधारण (लोकल) सेवा (प्रत्येक बिसौनीमा चढ्ने तथा ओर्लने सुविधा भएको), संचालन गर्ने अनुमति २५ कि.मि. कम दुरी भएको वा महा/ उप नगरपालिका वा नगरपालिका भित्र कुनै पनि दुरी कायम हुने गरी सेवा संचालन हुन सक्ने।
२३ (३)	सवारीको जाँचबुझको लागि मापदण्ड तोक्न सकिने व्यवस्था थपिएको	सवारी साधनमा सवारी प्रदुषण मापदण्ड २०६९ वर्मोजिम नेपाल सरकारले तोके अनुसार हुने।
३३(२)	नवीकरण सम्बन्धी विशेष व्यवस्था थपिएको	जुनसुकै सवारी साधनएकमुष्ट रूपमा ५ वर्ष सम्मका लागि एकै पटक भुक्तानी गरी नवीकरण गराउन सकिने।
७४ (३)	वाटो निर्धारण गर्ने	वाटो निर्धारण गर्दा विभागको संयोजकत्वमा सडक विभाग, स्थानिय पूर्वाधार विकास तथा कर्षी सडक विभाग, जिल्ला विकास समिती, स्थानिय निकायलाई समेट्ने गरी वाटो निर्धारण समिति गठन गर्न सक्ने।
७७(३)	वाटो इजाजतपत्र दिनु पर्ने व्यवस्थाथपिएको	-यातायात व्यवस्था कार्यालयले वाटो इजाजतपत्र दिने बाहेक वाटो ईजाजतपत्र कायम, हेरफेर वा खारेज गर्ने अन्तिम निर्णय लिन सक्ने।

		- बाटो इजाजतपत्रको मान्यता छ महीनासम्मको लागि हुनेछ
७८	बाटो इजाजतपत्र दिंदा जाँचु पर्ने कुराहरू	बाटो इजाजतपत्र दिंदा जाँचु पर्ने कुराहरू थप गरिएको ।
७९	बाटो परिवर्तन गर्नु परेमा	दफा ७८ (१) बमोजिम गठित बाटो इजाजतपत्र दिन सक्ने तथा उप दफा (२) निवेदनलाई अध्ययन गर्नु पर्ने तथा उप दफा (२) बमोजिम इजाजतपत्र दिनु पर्ने।
८०	बहु बाटो इजाजतपत्र दिन सकिने	दफा ७८ (१) बमोजिम गठित बाटो इजाजतपत्र दिन सक्ने तथा उप दफा (२) बमोजिम इजाजतपत्र दिनका निमित्त अधिकार प्रदान गर्ने, समिति सकारात्मक भए इजाजतपत्र प्रदान गर्न सक्ने।
८१ (२)	पटके बाटो इजाजतपत्र	पटके बाटो इजाजतपत्र प्रदान गर्ने पक्यालाई अझै वैज्ञानिक बनाउन प्रस्ताव गरिएको ।
८२ (३)	बाटो इजाजतपत्र दिन इन्कार गर्न सकिने	दफा १५५ (ड) बमोजिम व्यवस्थापन समितिमा एक मतैक्य हुन नसके विभाग स्वयं कोनिर्णय अन्तिम हुने ।
८३ (१)	बाटो इजाजतपत्र नवीकरण	लेखिएको पछि एवं साविकको बाटो इजाजतपत्रमा उल्लेख भएको म्यादको व्यवस्थाथपिएको ।
८५	पुनः बाटो इजाजतपत्र दिन सकिने	दफा ७८(२) का बुदाहरू इकिन गरी निवेदनलाई अध्ययन गर्नु पर्ने तथा उप दफा (२) बमोजिम इजाजतपत्र इजाजतपत्र दिन सकिने ।
९५(१)	यातायात सेवा सञ्चालन गर्ने अनुमतिपत्र स्वतः रद्द हुने	अनुमतिपत्र नवीकरण नगराइयातायात सेवा सञ्चालन गरेमा, ऐनको दफा १६८ विपरित कार्य गरेमा थप गर्ने ।
१०२		यात्रुवाहक सार्वजनिक सवारी, स्कुल बस, शारिरिक रुपमा अशक्त अथवा जेष्ठ नागरिकहरूको सवारी साधन, निजी प्रयोजनमा समुहगत यात्रा गर्ने सवारीमा अनिवार्य रुपमा देखिने गरी जम्मा सिट संख्या तथा लोकल यात्रुवाहक सवारी साधनमा अधिकतम जमिन मिल्ने यात्रुहरूको संख्या उल्लेख गर्नु पर्ने / लोकल यात्रुवाहक सवारी साधनमा उभिन मिल्ने यात्रेहरूको संख्या निर्धारण गर्दा सवारी साधनको उचाई, उभिन मिल्ने सामान्य क्षेत्रफलको आधारमा निर्धारण गर्नुपर्ने विधि, सवारी साधनको उचाई र उभिन मिल्ने सामान्य क्षेत्रफल अनुसूची ९ बमोजिम हुने ।
११६	सवारीको वजन	स्थानकोठाँउमा सडक वजनको अगाडी कूल शब्द थप्ने
११७	१. सवारीमा राखिने मानिस र मालसामानको हद तोक्ने	साधारण (लोकल) सेवामा सार्वजनिक सवारीमा राख्न सकिने पछिसिटमा बस्न मिल्ने तथा उभिन मिल्ने अधिकतम र सर्वसाधारणको जानकारीको लागि पछिअनिर्वाय रुपमाशब्द थप्ने।
	थपिएको	निर्धारित मानिसको संख्या भएको पाइएमा यात्रुहरूलाई सवारी साधनबाट ओराल्न लगाई जरीवाना गर्नुपर्छ ।
	थपिएको	निर्धारित माल सामानको ओजन भन्दा बढि हुने गरी चलाएको पाइएमा बढि भएको सामान सवारी साधनबाट फार्न लगाई जरीवाना गर्ने/समष्टिगत भारबहन एवं एक्सलको भारबहन ५ प्रतिशत सम्म बढि भएको अवस्थामा प्रत्येक मालवाहक सवारी साधनलाई वर्षमा ३ पटक सम्म छुट हुने ।
	थपिएको	जरीवाना गर्दा चालक वा सवारी धनीबाट जरीवानोको रकम भराउनु पर्छ ।
	थपिएको	उपदफा (४) बमोजिम जरीवाना गर्दा उक्त सवारी साधनलाई जरीवानोको रकम अनुसूची-१० बमोजिम जाँच गरिएको स्थानमा जरीवानाको रकम भराउनु पर्ने ।
	थपिएको	माथिका उपदफाहरूमा जुनसुकै कुरा लेखिएको भएतापनि टुक्राउन नमिल्ने मालसामानको हकमा विभागको अनुमति लिई, कानुन बमोजिम जरीवाना तिरी उक्त विशेष प्रकृतिका मालसामानहरू ओसारपसार गराउन सकिनेछ ।
११९ (२)	ट्राफिक सङ्केत टाँस्ने, टाँग्ने वा जडान गर्ने	ट्राफिक सङ्केतहरू टाँस्न विभागले सडक विभाग, स्थानिय पुर्वाधार विकास तथा कृषि सडक विभाग वा स्थानिय निकायलाई अधिकार प्रदान गर्न सक्ने।
१२६ (२)	सार्वजनिक स्थानमा खाल्टो खन्दा साङ्केतिक चिन्ह राख्नु पर्ने	प्रस्तावित ११९ (२) मा उल्लेख गरिएका निकाय मार्फत नजिकको प्रहरी कार्यालयमा सुचना दिनु पर्ने ।
१३१ (२)	खोजेको बेला देखाउनु पर्ने	इजाजतपत्र पछि सवारी सक्षमताको प्रमाणपत्र वा जाँचपास प्रमाणपत्र वा विमा प्रमाणपत्र वा करचुक्ता प्रमाणपत्र वा विशेष प्रमाणपत्र (विशेष प्रकृतिका वस्तुहरू ओसारपोसार / प्रज्वनसिल पदार्थ, सेना वा प्रहरीका हातहतहारहरू इत्यादि) वा सबै प्रमाणपत्रहरू थप गर्ने ।

१३३	दुर्घटना भएमा चालकको कर्तव्य	दुर्घटना गराइ भाग्ने चलनलाई निरुत्साहित गनै प्रावधान लाइ व्यवस्थित गनै ।
१४६	प्रचार प्रसार गर्ने गराउने	विभागले उचित तथा भरपरो आर्थिक स्रोतको प्रवन्ध गरी प्रचार प्रसार गर्ने गराउने कार्य व्यवस्था गर्नु पर्ने ।
१४७	लापरवाहीसाथ सवारी चलाउन नहुने	अर्को सवारी साधन संगको दुरी ६ मिटर भन्दा कम गरी सवारी चलाउन नहुने । मालवाहक सवारी साधनको चालकले १५ देखि २२ मिटरको दुरी कायम गर्नु पर्ने । उद्धार गर्ने सवारी संचालन गर्दा उक्त साधनका अगाडि र उद्धार हुने सवारीको पछाडि प्रष्ट रूपमा सुचीत हुने गरी यातायात संचालन गर्नुपर्ने ।
१४८	सवारीको बीमा गराउनु पर्ने	ऐनको दफा ३, ४,५,६,७,८,९, १०, र ११ लाइ समेट्ने गरी सबै सवारी साधनहरु निरन्तर तथा अनिवार्यरूपमासबै सवारीमा लागु हुने ।
१४९	चालक, परिचालक, सुरक्षाकर्मी तथा अन्य कर्मचारीको बीमा	यातायात सेवामा संलग्न ऐनको दफा ३, ४,५,६,७,८,९, १०, र ११ कासवारीको चालक, परिचालक, सुरक्षाकर्मी तथा सो सवारीमा काम गर्ने अन्य कर्मचारीको निरन्तर तथा अनिवार्यरूपमातोकिएको रकमको दुर्घटना बीमा हुनु पर्ने ।
१५०	यात्रीको बीमा	तोकिएको बाटो हटाइएको । अन्य अवस्था दफा १४९ (१) बमोजम सबै पक्षमा लागु हुने ।
१५२	यात्रीगुण्टाको बीमा	दफा १४९ (१) बमोजम सबै पक्षमा लागु हुने ।
१५२ (क)	थपिएको मालवाहक सवारी साधन मार्फत सामान वा पशुधन ढुवानी विमा	मालवाहक सवारी साधन मार्फत सामान वा पशुधन ढुवानी गर्दा निरन्तर तथा अनिवार्यरूपमातोकिएको रकमको बीमा ऐनको दफा ३, ४ र ५ का सबै सवारी साधनलाई विमा गराउनु पर्छ ।
१५२ (ख)	थपिएको	विभागले दुर्घटनाबाट मानविय क्षती वा मृत्युको घटनालाई क्षतिपुर्त उपलब्ध गराउनका निमित्त सडक दुर्घटना क्षतिपुर्त कोष खडा गर्न सक्ने ।
१५३	थपिएको विभागको काम, कर्तव्य र अधिकार	(ब) यातायात व्यवस्था कार्यालय प्राप्त भएका सार्वजनिक सवारीसाधनहरुको प्रतिवेदन तथा बाटो इजाजत पत्रहरुको अभिलेख लाइ अध्ययन तथा अनुसन्धान गरि आवश्यक नीति निर्धारण गर्ने ।
१५४	थपिएको यातायात व्यवस्थापन समिति	(ख) प्रमुख, जिल्ला प्रहरी / ट्राफिक कार्यालय- सदस्य (च) प्रमुख सडक विभाग कार्यालय, सदस्य
१५५ (क)	यातायात व्यवस्थापन समितिको काम, कर्तव्य र अधिकार	पर्ने पछि आवश्यक देखेमा संचालनमा आउने संख्या निर्धारण गरी सार्वजनिक सवारी घटाउनु पर्ने भएमा वा देखेमा दफा ८२ (१) बमोजिम संचालन वा इनकार गर्न सिफारीस गर्ने थप्ने । कार्यान्वयन प्रकृया विस्तृत रूपमा राखिएको ।
१५७	यातायात निरीक्षकको नियुक्ति थपिएको	नेपाल सरकारको ठाउमा विभाग थपिएको । विभागले यातायात निरीक्षक नियुक्ति गर्दा खुल्ला प्रतिष्पर्धा वा करार सेवामा सरकारी सेवा बाहिरका समेतलाई (Outsourcing) गरी अवधि र कार्य सिमा तोकै नियुक्ति गर्न सक्ने व्यवस्था ।
१५८	क)यातायात सेवामा संलग्न सार्वजनिक सवारीले बाटोको इजाजतपत्र प्राप्त बाटोमा यातायात सेवा सञ्चालन गरे नगरेको निरीक्षण गर्ने ।  थपिएको	क)यातायात सेवामा संलग्न सार्वजनिक यात्रुवाहक सवारीले बाटोको इजाजतपत्र प्राप्त बाटोमा यातायात सेवा सञ्चालन गरे नगरेको निरीक्षण गर्ने यात्रुवाहक सवारी साधनमा तोकिएको संख्या वाहेक को संख्या भए नभएको निरीक्षण गर्ने, वढि यात्रु भए भार्ने र जरीवाना गर्ने ।  (च) मालवाहक सवारी साधनहरुले तोकिएको वजन बमोजिम प्रत्येक सवारीहरुको कूल भार एवं धुरा (एक्सलमा) पर्ने भार वढि भए नभएको निरीक्षण गरी वढि भएको ओजन भार्ने लगाई जरीवाना गर्ने तथा वढि हुन सक्ने वजन सिमाको अनुगमन एवं निरीक्षण गर्नका लागी विभागले खटाएको टोलीसंग समन्वय गरी काम गनै ।
१५९	प्रशिक्षण केन्द्र, कारखाना तथा वर्कसप सञ्चालन गर्न अनुमति लिनुपर्ने	बस तथा टुकको सट्टा सवारी साधन तथा विभागको सट्टा यातायात व्यवस्था कार्यालय राखिएको।
१५९क	थपिएको	चालक प्रशिक्षण केन्द्र अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन गर्न अनुमति लिनुपर्ने व्यवस्था गरिएको ।
१५९ख	थपिएको	सवारी जाँचपास केन्द्र सञ्चालन गर्न अनुमति लिनुपर्ने व्यवस्था गरिएको ।
१५९ ग	थपिएको	तौलपुल सञ्चालन गर्न अनुमति लिनुपर्ने व्यवस्था गरिएको ।

१५९घ	थपिएको	सवारी चालक अनुमति पत्रको लागी लिइने प्रयोगात्मक परिक्षा सञ्चालन गर्न आवश्यक पने पूर्वाधारका लागि निजि क्षेत्र संगको सहकार्य सम्बन्धि व्यवस्था गरिएको ।
१६०	२ (क)	(क)दण्ड सजाय सम्बन्धि दफा११७बाट हटाइ (घ) र (ङ) मा व्यवस्था गरिएको र दफा १२, ४५, १४८, १४९, १५०, १५१, १५१क, १५२ को विपरीत काम कारवाही गर्ने गराउनेलाई पाँचसय देखि दुई हजार रुपैयाँसम्म । (ग)दफा १५९, १५९क, १५९ख र १५९ग को विपरीत काम कारवाही गर्ने गराउनेलाई दुईहजारदेखि दशहजार रुपैयाँसम्म । (घ) दफा ११७(३) वमोजिम निर्धारित मानिसको संख्या भन्दा बढी भएको पाइएमा यात्रुहरुलाई सवारी साधनबाट ओराल्ने र दफा १६० (२) (क) वमोजिम जरीवाना गनुपर्छ । (ङ) दफा ११७(४) वमोजिम निर्धारित माल सामानको ओजन भन्दा बढि हुने गरी चलाएको पाइएमा बढि भएको सामान सवारी साधनबाट भार्न लगाई अनुसूची-१० वमोजिम जरीवाना गनुपर्छ ।
१६४	दण्ड सजाय	२५ वटा कसुर थप गरिएको ।
१६८	थपिएको प्रतिस्पर्धात्मक ढङ्गबाट यातायात सेवा सञ्चालन गर्ने	यात्रुवाहक सार्वजनिक सवारी साधनलाई छुट्टै वाटो इजाजत दिनुको सट्टा छुट्टै कम्पनी वा संस्थालाई मात्र इजाजत प्रदान वाटो इजाजत पत्र दिदा भिन्न कम्पनी वा संस्था विच प्रतिस्पर्धा कायम गराई प्रतिस्पर्धामा उत्रने कम्पनी वा संस्थालाई इजाजत प्रदान गरी तथा अर्बधि तोकि वाटो इजाजत प्रदान गर्न सकिने ।
१७०	अधिकार प्रत्यायोजन	अधिकारीले पछिकुनै सरकारी निकाय थप गनै ।
१७५क	थपिएको	जरिवानारकमको सम्बन्धमा नेपाल राष्ट्र बैकले प्रकाशित गरेको वजार सुचकाङ्क (कन्सुमर प्राइस इन्डेक्स) को आधारमा विद्यमान जरिवाना रकमलाई आधार बर्ष मानी विभागले जरिवाना रकम हेरफेर गर्न सक्ने।
१७६	विशेष अधिकार	खारेज गर्न सिफारिस गर्ने ।
अनुसूची-७	दफा ७७ सँग सम्बन्धित वाटो इजाजतपत्रको ढाँचा	मिति अगाडी जारी थपिएको र इजाजत पत्रको म्याद सकिने मिति थपिएको
अनुसूची-९	थपिएको अनुसूची-९ दफा १०२ सँग सम्बन्धित	साधारण लोकल बस, स्कूल बस वा निजि प्रयोजनमा समूहगत यात्रा गर्ने बसमा अधिकतम उभिन मिल्ने संख्या
अनुसूची-१०	थपिएको दफा ११७(४) र १६०(ड) सँग सम्बन्धित	अत्याधिक भार बहन गराउनेलाई जरिवाना सम्बन्धि व्यवस्थाको ढाँचा ।

**सवारी तथा यातायात व्यवस्था नियमावली**

नियम	भैरहेको व्यवस्था	संसोधन गर्न खोजिएको व्यवस्था
१६.	मालवाहक सवारीको वर्गीकरण, तथा क्षमता:	स्पष्टिकरण थपिएको: नेपाली तथा विदेश स्थित दर्ता भएका मालवाहक सवारी लाइ समान रुपमा नियम लागू गनै व्यवस्था गरिएको । काट्रक तथा टैकर : क तथा टैकर : अधिल्लो तर्फ चालक सहितको तीन सिट र अगाडीको धुरा भार ६ टन, पछाडी एउटा धुरा (सिङ्गल एक्सल) भएकोमा १०.२ टन अधिकतम भार, दुइ वटा धुरा (टयान्डेम एक्सल) भएकोमा १९ टन अधिकतम भार र तिन वटा धुरा(ट्राइडेम एक्सल) भार भएकोमा २४ टन अधिकतम भार मात्र थप्ने। ग ) (४) बसको भित्री उचाई कम्तीमा १.९० मिटर वा ७४.८० ईञ्च भएको ।
१८.	यात्रीवाहक सवारीको स्तर, सञ्चालन अवधि तथा गति	४ग)माईक्रोबसको हकमा बढीमा २५० किलोमिटर सम्मको दूरीका लागि मात्र वाटो इजाजत दिइने । (५) क) अत्याधिक रुपमा पैदल यात्रुहुने शहरी सडकहरुमा/२५ कि.मि./घण्टा, ख) वेली ब्रिज पार गर्दा/ २५ कि.मि./घण्टा, ग) न्यूनतम पैदलयात्रु भएको उच्चस्तरिय शहरीमा/६० कि.मि./घण्टा, घ) न्यूनतम पैदलयात्रु भएको दोहोरो लेन भएको चौडा सडकमा/५० कि.मि./ घण्टा, ङ) फूटपाथ नभएका शहरी तथा तराईका पूलहरु पार गर्दा बढीमा ५० कि.मि. प्रति

		घण्टा, च) शहरी सडकहरु, ठिकै मात्रामा पैदल यात्रुहरु भएको सडकमा बढीमा ४० कि.मि./घण्टा, छ) साँगुरो लेन भएको शहरी सडकमा बढीमा ४० कि.मि./घण्टा, ज) मूल सडक (हाइवे) दुवै तर्फ फूटपाथ भएको सडकमा बढीमा ..... कि.मि. प्रति घण्टा तथा मूल सडक (हाइवे) दुवै तर्फ फूटपाथ नभएको सडकमा बढीमा ..... कि.मि. प्रति घण्टा ।
	थपिएको	यात्रुवाहक सवारीलाई, अनुसूची ५ बमोजिमको प्रमाणपत्र सवारी धनीलाई दिदा सवारी नियमन गरिएको रंग स्पष्ट रुपमा उल्लेख गरिएको हुनु पर्ने छ ।
२९क	थपिएको	बाटो निर्धारण गर्ने, ऐनको दफा ७४ को उप-दफा (क) अनुरूप गठित बाटो निर्धारण समितिको व्यवस्था ।
३० (१)	बाटो इजाजतपत्रको लागि दरखास्त दिने	बाटो निर्धारणको विस्तृत प्रकृया प्रस्तावित नियममा उल्लेख भएको ।
५२ (४/५/)	यातायात सेवामा कामगर्ने कर्मचारीको बीमा	अङ्गभङ्ग वापत बढिमा दुई लाख पचास हजार रुपैयाँको विमा प्रस्ताव गरिएको ।
५३ (२/४/ ५/६)	यात्री बीमा	सवै उमेरका यात्रुको समान यात्रु विमा ५ लाख रुपैयाँको विमा प्रस्ताव गरिएको ।
५४	यात्री गुण्टाको बीमा	नेपाल सरकारको सट्टा विभाग प्रस्ताव गरिएको ।
५५ (१/४/५)	तेस्रो पक्षको बीमा	पचास लाखको सट्टा पचहत्तर लाख रुपैयाँ प्रस्ताव गरिएको ।
५५क	बीमाको प्रमाणपत्र र बीमालेख	बीमालेखको पछाडी साथै बाहिरबाट प्रष्ट देखिने गरि स्टिकरथप्ने ।
५५ ग	बीमा रकम उपलब्ध गराउने अधिकारी र अवधि	रकम पछि दुर्घटनाको कारणबाट १८३ दिन भित्र मृत्यु भएमा, मृत्यु भएको २१ दिन भित्र थप्ने ।
५६ (१)	प्रशिक्षण केन्द्र, कारखाना वा वर्कसप सञ्चालन गर्न अनुमति लिनु पर्ने	बस ट्रकको सट्टामा सवारी साधन थप्ने र व्यक्ति हटाउने ।
५६क	थपिएको	सवारी चालक प्रशिक्षण केन्द्र अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन गर्न अनुमति लिनुपर्ने।
५६ख	थपिएको	सवारी जाँचपास केन्द्र सञ्चालन गर्न अनुमति लिनुपर्ने।
५६ग	थपिएको	तौलपुल सञ्चालन गर्न अनुमति लिनुपर्ने ।
५८.	थपिएका (क)चालकको कामर कर्तव्य:	(७) सवारी निर्माता कम्पनीले निर्धारण गरेको सवारीको बजनको हदको सीमा नाघ्ने गरी सवारीमा माल बस्तु तथा सरसामानहरू राख्न नदिने ।
	थपिएको	मलबाहक सवारी साधनका सवारी चालकका उत्तरदायित्व: ११ वटा उत्तरदायित्व थप गरिएको ।
	ग)मालबाहक सवारी साधनका सवारी चालकका उत्तरदायित्व:	सवारी साधनका चालकको आचारसंहिता पछि संलग्न हुनेछ ।
६०	ट्राफिक संकेत	ट्राफिक संकेते आचारसंहिता पछि संलग्न हुनेछ ।
<b>प्रस्तावित अनुसूचीहरु</b>		
३	थपिएकोदस्तुर तालिका	
	नियम ५६ क (१) त	सवारी चालक अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन
	नियम ५६ ख (१) थ	सवारी जाँचपास केन्द्र
	नियम ५६ ग (१) द	तौलपुल सञ्चालन

४	थपिएको (नियम ४ को उपनियम (१) सँग सम्बन्धित) सवारी दर्ता गर्न दिइने दरखास्त	सवारीको वजन/सिट संख्या:- (क) मालवाहक सवारीको कुल वजन (ख) यात्रुवाहकसवारीको सिट संख्या
३२	नियम ३० को उपनियम (१) सँग सम्बन्धित) बाटो इजाजत पत्रको लागि दिइने दरखास्त	(अ) मालवाहक सवारीको कुल वजन - (आ) यात्रुवाहक सवारीको - (१)सिटसंख्या - (२)साधारण (लोकल) बसको हकमा उभिन मिल्ने अधिकतम यात्रु संख्या-
४१	नियम ३९ को उपनियम (२) सँग सम्बन्धित) सवारी जाँच गर्दा प्राविधिकले भर्नुपर्ने विवरण फाराम	८. सवारीको आवाज र धुँवाको मात्रा ठीक भए नभएको - नेपाल यातायात प्रदुशण मापदण्ड २०६९ बमोजिम सवारीको आवाज र धुँवाको मापदण्ड पालना भए नभएको?
५९	नियम ५६ को उपनियम (१) सँग सम्बन्धित) प्रशिक्षण केन्द्र, कारखाना वर्कसप सञ्चालन अनुमतिपत्रको लागि दिइने दरखास्त	यातायात व्यवस्था विभागको सट्टामा यातायात व्यवस्था कार्यालय थप गर्ने तथा व्यक्तिहटाउने ।
५९क	थपिएको	चालक प्रशिक्षण केन्द्र अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन अनुमतिपत्रको लागि दिइने दरखास्त
५९ख	थपिएको	सवारी जाँचपास केन्द्रअनुमतिपत्रको लागि दिइने दरखास्त
५९ग	थपिएको	तौलपुल सञ्चालन अनुमतिपत्रको लागि दिइने दरखास्त
६०	नियम ५६ को उपनियम (२) सँग सम्बन्धित) प्रशिक्षण केन्द्र, कारखाना वा वर्कसप सञ्चालन अनुमतिपत्र दर्ता किताब	यातायात व्यवस्था विभागको सट्टामा यातायात व्यवस्था कार्यालय थप गर्ने तथा व्यक्ति हटाउने ।
६०क	थपिएको	चालक प्रशिक्षण केन्द्र अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन अनुमतिपत्रको अनुमतिपत्र दर्ता किताब
६०ख	थपिएको	सवारी जाँचपास केन्द्रअनुमतिपत्रको लागि दिइने अनुमतिपत्र दर्ता किताब
६०ग	थपिएको	तौलपुल सञ्चालन अनुमतिपत्रको लागि दिइने अनुमतिपत्र दर्ता किताब
६१	नियम ५६ को उपनियम (२) सँग सम्बन्धित) प्रशिक्षण केन्द्र, कारखाना वा वर्कसप सञ्चालन अनुमति पत्र	यातायात व्यवस्था विभागको सट्टामा यातायात व्यवस्था कार्यालय थप गर्ने तथा व्यक्तिहटाउने ।
६१क	थपिएको	चालक प्रशिक्षण केन्द्र अनुमति पत्रको लागी दिइने प्रयोगात्मक परिक्षा स्थल सञ्चालन अनुमति पत्र
६१ख	थपिएको	सवारी जाँचपास केन्द्रअनुमतिपत्रको लागि दिइने अनुमतिपत्र
६१ग	थपिएको	तौलपुल सञ्चालन अनुमतिपत्रको लागि दिइने अनुमतिपत्र
६३	(नियम ६० सँग सम्बन्धित) ट्राफिक संकेत	पछि विस्तृत रुपमा राखिने
६४	सडक आचार संहिता	पछि विस्तृत रुपमा राखिने
कार्यान्वयन नभएका सवारी तथा यातायात व्यवस्था ऐन तथा नियमावलीका व्यवस्थाहरु		

सवारी तथा यातायात व्यवस्था ऐन		
६७	परिचालक अनुमतिपत्र दिने	कार्यान्वयन नभएको
९३	यातायात सेवाको नाम पञ्जीकृत गर्नु पर्ने	कार्यान्वयन नभएको
१०३	यात्रा विश्राम गर्नु पर्ने	कार्यान्वयन नभएको
१०४	चालकको पालो फेर्नु पर्ने	कार्यान्वयन नभएको
१०५	टिकट नलिई यात्रा गर्नमा प्रतिबन्ध	कार्यान्वयन नभएको
१५१	यात्रीगुण्टाको बीमा	कार्यान्वयन नभएको
१५७	यातायात निरीक्षकको नियुक्ति	कार्यान्वयन नभएको
१५८(घ)	यात्रुको सुची चेक जाँच	कार्यान्वयन नभएको
सवारी तथा यातायात व्यवस्था नियमावली		
५४	यात्री गुण्टाको बीमा	कार्यान्वयन नभएको
५५ख	बीमाको प्रमाणपत्र र बीमालेखको दाखिला	कार्यान्वयन नभएको

## CHAPTER 1 INTRODUCTION

---

---

### GENERAL

Motor Vehicle and Transport Management Act-1993 (MVTMA) states that the road transport safety is prime concern of Department of Department of Transport Management (DoTM). DoTM has to play key role of regulator and responsible for overall management of the road transport service sector. The DoTM requires managing and facilitating safe, effective and reliable road transport services by managing and controlling the vehicle fleet, driver's licensing, route permit, fare fixation, axle load control and minimize the road traffic accidents and making adequate provision of compensation of road accidents including regulating the insurance for road accidents.

### OBJECTIVES

The objectives of this service are to assess and improve the legislative aspects for road safety from the transport management perspectives along with to implement the actions plans to minimize road accidents through strengthening the road safety components related to the road safety management including legal provision; safer vehicles, safer roads, and safer road users.

### SCOPE OF WORK

Identify and prepare amendments required in MVTMA-1993, MVTMR-1997 and other documents to ensure road safety from transport management perspective accommodating following;

- Harmonization with the UN Conventions, international agreements on road safety;
- Incorporate the possibilities of adoption of new technologies in transport sector;
- Consideration of existing organizational structures of related to the road safety;
- Environmental and public health perception;
- Financing modalities of the development of infrastructure such as public private partnership models;
- Best Practices in the regional contexts; and
- Actions and issues raised on approved road safety action plan, Nepal.

### SURUCTURE OF REPORT

This report consists of four (4) chapters. Details of each chapter are shown below.

**Chapter 1:** This chapter provides background of the task, scope and objectives of the review and amendments, and structure of the report.



**Chapter 2:** This chapter provides a detailed approach and methodology of taken to accomplish the task.

**Chapter 3:** This chapter provides the review of various legal, regulatory and policy documents both national and international. The various provisions made in the documents reviewed, identified the constraint and made recommendations for the improvements.

**Chapter 4:** This chapter provides summary of findings followed by and draft amendments on MVTMA-1993 and MVTMR-1997.

## CHAPTER 2 APPROACH AND METHODOLOGY

### DATA COLLECTION

Since the scope of the study is to review and amend the MVTMA-1993 and MVTMR-1997 based on the results of technical studies pertaining to road transport safety and international practices particularly in regional context, the Study Team has collected relevant legal document, regulatory document, policy document and previous study reports related to axle load control in Nepal as well as in overseas particularly in India. The list of document collected is shown in **Table 2-1**.

**Table 2-1 List of Collected Documents Related to Road Transport Safety**

<b>Legal Documents (International to be harmonized with National Law)</b>
1. Consolidated Resolution on Road Traffic-2010
2. Central Motor Vehicle Act, 1988 (India)
3. Central Motor Vehicle Rules, 1989 (India)
<b>Legal Documents (National)</b>
1. Motor Vehicle and Transport Management Act 1993 (MVTMA 1993)
2. Motor Vehicle and Transport Management Regulation 1997 (MVTMR 1997)
3. Public Road Act, 1975
4. Local Self-Governance Act, 1999
5. Local Self-Governance Rules, 1999
6. Roads Board Act, 2002
7. Roads Board Rules, 2004 (around)
8. Roads Board Directives, 2005
9. Cargo Carriers Load Regulating Directive, 2014
10. DoTM Transport Management Directive, 2003
11. DoTM Standard Guideline for Automobile Workshops and Factories, 2014
12. DoTM Directive for Practical Test for Driver License Issue, 2013
13. DoTM Directive for Curriculum for Driver Training, 2013
14. DoTM Directive on Curriculum for Driving School, 2013
15. DoTM Code of Conduct for Public Passenger Transport, 2011
16. Nepal Transport Pollution Standard 2013 B.S
<b>Policy Documents and Others (National)</b>
1. Road Safety Action Plan (2013- 2020)
2. GoN MoHP National Strategies for Prevention and Control of Violence, Injuries and Disabilities
3. DoR Road Users Directive, 1997 (2053)
4. National Transport Policy 200/2001 (2058)

- |   |
|---|
| 5. DoR Heavy Vehicle Management Policy 2005 |
| 6. DoTM Organizational Chart, 2014          |

## **REVIEW OF DOCUMENTS**

The collected documents have been reviewed from the view point of road transport safety. While reviewing the documents, the following aspects were considered;

- Existing Provisions
- Constraints
- Recommendation

## **INTERACTION WITH STAKEHOLDERS**

The Study Team interacted with primary stakeholders as regulating and implementing agencies; DoTM, Nepal Police and collected written suggestions and those are incorporated in the report and recommended draft MVTMA/MVTMR. Similarly, the team has interacted and took suggestions and advices from DoR, Insurance Board, Roads Board Nepal, Nepal Law Commission, Federation of Truck Transport Entrepreneurs Nepal, Federation of Nepal National Transport Entrepreneurs, Nepal Freight Forwarders Association and Transport Labor Unions; Transport Labor Union, Nepal Transport Independent Labor Association and All Nepal Transport Labor Union.

In addition to above stakeholders meetings and consultations, seminars were also organized to share the information and incorporate the relevant issues raised in the seminar.

## **INCOPORATION OF TASK SPECIFIC RECOMMENDATION**

Under the Study, road transport safety (Part A) is divided into nine activities. The recommendation made based on technical study in Task A-2 to Task A-9, were incorporated in the draft MVTMA-1993 and MVTM-1997 for giving legal status of the recommendation.

## **DRAFT AMENDMENTS ON MVTMA – 1993 AND MVTMR -1997**

Based on the results of review of existing documents, international practices, recommendation made in task wise study and discussion with concerned stakeholders, draft amendments on MVTMA-1993 and MVTMR-1997 were prepared. This draft amendment is submitted to DoTM for their review and proceeds for the amendments from the council of minister and the parliament.

## CHAPTER 3 REVIEWED LEGAL, REGULATORY AND POLICY DOCUMENTS

### GENERAL

The report has been prepared after reviewing of number of legal, regulatory and policy documents. National and international legal documents that are available and related road transport safety issues have been reviewed and concluded within the report.

### REVIEWED LEGAL, REGULATORY AND POLICY DOCUMENTS

**Table 3-1** shows the legal and policy documents are currently available in Nepal in relation to road transport safety.

**Table 3-1 Reviewed legal Documents on Road Transport Safety**

<b>Legal Documents (International to be harmonized with National Law)</b>
1. Consolidated Resolution on Road Traffic-2010
2. Central Motor Vehicle Act, 1988 (India)
3. Central Motor Vehicle Rules, 1989 (India)
<b>Legal Documents (National)</b>
1. Motor Vehicle and Transport Management Act 1993 (MVTMA 1993)
2. Motor Vehicle and Transport Management Regulation 1997 (MVTMR 1997)
3. Public Road Act, 1975
4. Local Self-Governance Act, 1999
5. Local Self-Governance Rules, 1999
6. Roads Board Act, 2002
7. Roads Board Rules, 2004 (around)
8. Roads Board Directives, 2005
9. Cargo Carriers Load Regulating Directive, 2014
10. DoTM Transport Management Directive, 2003
11. DoTM Standard Guideline for Automobile Workshops and Factories, 2014
12. DoTM Directive for Practical Test for Driver License Issue, 2013
13. DoTM Directive for Curriculum for Driver Training, 2013
14. DoTM Directive on Curriculum for Driving School, 2013
15. DoTM Code of Conduct for Public Passenger Transport, 2011
16. Nepal Transport Pollution Standard 2013 B.S
<b>Policy Documents and Others (National)</b>
1. Road Safety Action Plan (2013- 2020)
2. GoN MoHP National Strategies for Prevention and Control of Violence, Injuries and Disabilities
3. DoR Road Users Directive, 1997 (2053)
4. National Transport Policy 200/2001 (2058)
5. DoR Heavy Vehicle Management Policy 2005
6. DoTM Organizational Chart, 2014

## REVIEW OF INTERNATIONAL PRACTICES

### 3.2.1 Central Motor Vehicle Act, 1988 (India)

The Act provided provisions for to reduce the vehicular pollution and to ensure the safety of the road users for securing road safety and maintaining a clean environment. The Act allow to suspend the certificate of registration of a motor vehicle, if the vehicle is used for hire or purposely used for operation without a permit. It further allow registering authority to suspend the certificate of registration of a vehicle if the vehicle is mechanically defective or endanger public safety until the defects are rectified and the vehicle is certified to be road worthy to ply on the road.

In the purpose of public safety if motor vehicle carries of the chemicals or explosives entail to be references for human life for precaution.

For the safety measurements, the Act has provisioned such as use of safety glasses including prohibition of the use of tinted safety glasses; safety belts, handle bars or motor cycles, auto-dippers and other equipment's essential for safety of drivers, passengers and other road users. The Act is aware of to make rules regarding equipment and in built safety measures to be provided in motor vehicle at the manufacturing point such as safety belt, standards of component, controlling air and noise pollution, etc. and along with exemption to be granted in certain cases.

Instead of central government, the state government to limit the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in the Gazette and by putting appropriate road traffic signs can be placed in pertinent sections.

The Act prescribes certain duties for a driver in any public place should not violate the standard prescribed in relation to road safety such as control of noise and air-pollution, shall be punishable for the first offence with a fine of one thousand rupees and for any second or subsequent offence with a fine of two thousand rupees.

The Act provisioned another penalty for persons driving and person permitting to drive a motor vehicle which is in an unsafe condition. It also provides for penalty for driving a motor vehicle which violates the standards prescribed for safety, control of noise and air pollution.

By giving priority for road safety issues, Indian Act empowered the Central Government to constitute a National Road Safety Council in national level, State Safety Council for State level and District Road Safety Committee for district level for effective implementation of road safety issues.

### **3.2.2 Central Motor Vehicle Rules, 1989 (India)**

The Rules of India tries to ensure that an applicant of license for driving test must satisfy, show courtesy and consideration for the safety and convenience of other road users, such as pedestrians, drivers of other motor vehicles or cyclists.

The Rule is regulated for motor vehicle that must have laminated Safety glass in glass of windscreens and the windows of every motor vehicles and the safety check kit components installation within the vehicle.

The Rule provisioned on safety guidelines for LPG vehicle within the Rule.

Safety devices for driver, passengers and road users and different modals of transport or motor vehicle safety belt, glass etc. has been regulated in the vehicle along with rear window screen, window, ventilation, luggage and etc.

Every goods carriage and carrying any dangerous or hazardous goods should be equipped with safety equipments for preventing fire, explosion or escape of hazardous or dangerous goods.

The Rule regulated to the entire vehicle to equip with necessary first-aid, safety equipment and antidotes as may be necessary to contain any accident.

Finally, the rule has prioritized signal and additional safety measures to be adopted for road transport.

## **REVIEW OF NATIONAL LEGAL DOCUMENTS**

### **3.3.1 Motor Vehicle and Transport Management Act – 1993**

The MVTMA has been promulgated to make transportation services consolidated, efficient and effective with a view to preventing motor vehicle accidents, enabling the victims of accidents to have compensation, providing for insurance and making transportation facilities available to the public generally in a simple and easily accessible manner.

The Act and regulation makes provisions for Traffic & Transport Management, vehicle emission, pollution control, road accident prevention and control, issue of driving license, route permit of public vehicles, overloading vehicles, vehicle registration and renewal vehicle inspection and so on. It empowers DoTM to carry out its responsibilities stated in the Act.

The MVTMA has following to review on road transport safety issues;

The Act defines various terms relevant to road transport safety as follows:

**(1) Section 2: Public motor vehicle**

**a. Existing Provisions**

Public transport categorized as passenger and freight. Passenger public transport service has been classified as day and night bus services and categorized into the following classes which are specified on the license to operate the transport service:

- Direct service;
- Express service; and
- Local service.

**b. Constraints**

Direct, express services are identical and local service is not specific for operating differences.

**c. Recommendation**

- Direct service; origin to destination operation, not allow pick and drop service within required road
- Express service; pick and drop services available in certain stops and
- Local service; can be operated within 25 Km or Metropolitan city/sub-Metropolitan city/ Municipality that may cover any distance within jurisdiction.

**(2) Section 6(3): Public motor vehicle**

**a. Existing Provisions**

Public transport categorized as passenger and freight. Passenger public transport service has been classified as day and night bus services and categorized into the following classes which are specified on the license to operate the transport service:

- Direct service;
- Express service; and
- Local service.

**b. Constraints**

Direct, express services are identical and local service is not specific for operating differences.

**c. Recommendation**

- Direct service; origin to destination operation, not allow pick and drop service within required road
- Express service; pick and drop services available in certain stops and
- Local service; can be operated within 25 Km or Metropolitan city/sub-Metropolitan city/ Municipality that may cover any distance within jurisdiction.

**(3) Section 23 (1): Power to specify criteria for examination of motor vehicles**

**a. Existing Provisions**

GoN has set criteria of motor vehicle registration to examine whether a motor vehicle is capable of being plied:

- Mechanical condition of the motor vehicle.
- Length, breadth, height, structure and body of the motorvehicle.
- Pollution likely to be generated from the motor vehicle.
- Period during which the motor vehicle can be plied.

**b. Constraints**

Lack of specific codification of law to apply for pollution measurement

**c. Recommendation**

It can be recommended that Motor Vehicle Pollution Standard 2013 require referring within the Rules to make application law for pollution measurements.

**(4) Section 33: Special provision relating to renewal**

**a. Existing Provisions**

The special provision privileges' for motor vehicle of GoN, corporation, motor vehicle diplomatic institutions and private owner may renew registration certificate for five years.

**b. Constraints**

The provision does not allow renewing other vehicle mentioned above than others.

**c. Recommendation**

The provision privileges require to allow any motor vehicle to renew for five years. It will harmonize a provision of Fiscal Act 2011.

**(5) Section 74: Designation of route**

**a. Existing Provisions**

DoTM Department whenever required necessary for transport service operation for public motor vehicles may designate routes and publish notice information for general public.

**b. Constraints**

The Section has provision to design the route but it does not facilitate procedures of forming route under DoTM.



**c. Recommendation**

Due to critical stage of route designing there require to proper way of forming committee designing the routes. Such a committee can be formed on demand under DoTM coordination along with DoR/DoLIDAR, DAO, local bodies or etc. The Route designing committee may be proposed under the recommendation of transport management committee (TMC) as well.

**(6) Section 77: Issuance of route permit**

**a. Existing Provisions**

Issuance of route permit issues from the competent authority, ZTMO.

**b. Constraints**

ZTMO lacks of clear mandate to create, alter and cancel route permit as per demand and supply basis.

**c. Recommendation**

It can be suggested ZTMO of route permit but also empowered with legal mandate alter (changes), and cancel along with creating route permit as well. It is recommended to harmonize rode test certificate expiration Section 91 (2) along with route permit by six months..

**(7) Section 78: Matters to be examined for issuance of route permit**

**a. Existing Provisions**

DoTM shall examine following issues before issuing a route permit to any public motor vehicle, if issues are addressed satisfactorily by owner or manager of that public motor vehicle:

- Insurance coverage of staff of the motor vehicle and third partyinsurance (TPI),
- Road test of the motor vehicle, and
- Renewal of the registration certificate.

**b. Constraints**

The Section lacks of route permit committee to issue route permit. In further, lacks of number of requirements to issue route permit to the applicant.

**c. Recommendation**

It can be suggested DoTM require to have a committee to issue route permits. Within the route permit there require to put more requisites than existing provision such as photocopy of license of transport service and etc. The permits should not contribute negative pressure to

flow of motor vehicles in the road. In further permit should meet demand but should not put negativity on demand and supply side and to be as per standard of roads which is observed from a committee before issuing permit.

**(8) Section 79(2): In the event of require to change route**

**a. Existing Provisions**

If route permit is replaced against previous ones before expiration, the owner or manager of the motor vehicle shall have to make an application again for obtaining a new route permit as per Section 76. In this case, previous route permit shall revoke before awarding new one.

**b. Constraints**

To change a route provision discretionary power to DoTM distorts or influences the operation of service.

**c. Recommendation**

Even the case of to change route a committee formed under Section 78 (1) (*proposed amendment*) require to be observed and reviewed. For this provision, a committee require to assure the permit does not infringe Section 78 (2) (*proposed amendment*) as well.

**(9) Section 80: Power to issue multiple route permits**

**a. Existing Provisions**

The exemption allow for extending route permit through multiple route permit for public motor vehicle operation, if route is adjoining with existing route, without affecting regular transport service.

Exempted multiple route permit shall have to pay regular route permit fees chargeable for each of routes.

**b. Constraints**

To issue multiple route permit loopholes appears in the Section.

**c. Recommendation**

For multiple route permits a committee formed under Section 78 (1) (*proposed amendment*) require to apply for issuing. In the meantime, Section 79 (2) (*proposed amendment*) require to apply in the satisfactory condition to issue multiple permits.

**(10) Section 81 (2): Ad hoc route permit**

**a. Existing Provisions**

Ad hoc route permit can be issued not extending seven days, before that there require to be an inquiry whether award the permit to the operator or not.

**b. Constraints**

Legal lacunae allow irregularities, therefore procedural guidelines are recommended.

**c. Recommendation**

The legal compliances require to apply under Section 78 (2) (*proposed amendment*) in the satisfactory condition to issue ad hoc route permit.

**(11) Section 82: Power to refuse to grant route permit**

**a. Existing Provisions**

The provision contained right to refuse issue of route permit for the operating public motor vehicle with determining factors such as flow of passengers, number of public motor vehicles already plying on that route, in view of pollution or any other reason that may go against to public interest can be rejected along with consultation of management committee.

To operate public motor vehicle in long and medium route for safety concern of passengers, staffs of motor vehicle, standards of motor vehicle shall be as prescribed and unsuitable motor vehicle for particular route may be refused.

**b. Constraints**

DoTM lacks of exclusive right to grant or refuse route permit as regulating body, which is relying on transport management committee.

**c. Recommendation**

To strengthen DoTM as regulating body to refuse or grant route permit, DoTM should have exclusive right under Section 155(e) (*proposed amendment*), in case of TMC members are not agreed to issue or refuse route permit application.

**(12) Section 83(1): Renewal of route permit**

**a. Existing Provisions**

Renew of route permit shall have to be done within fifteen days from date of expiration.

**b. Constraints**

Not mentioned of previous route in the provision for renewable of route permit.

**c. Recommendation**

The renewable of routes permit requires to update and mention previous route permit while renewing after expiration.

**(13) Section 85: Power to re-issuance route permit**

**a. Existing Provisions**

Re-issuance route permit can be done if permit was cancelled in past and that can be revived by collecting the renewal fees, additional fees and fines as per Section 83 from the owner or manager of a motor vehicle.

**b. Constraints**

The provision does not provide procedural guidelines and additional fee for re-issuance route permit.

**c. Recommendation**

Re-issuing route permit require to go through Section (proposed amendment) 78 (2) and if find satisfactory as per Section (proposed amendment) 78 (1) route permit committee require to recommend for issuing permit.

As per Section of (proposed amendment) 83 (1) reissuing permits along with charging additional fee additional NRs. 2,000, the route permit require to issue as per Section 77.

**(14) Section 95 (1): Ipso facto revocation of license to operate transport service**

**a. Existing Provisions**

License to operate the transport service require to renew within prescribed time frame, if not it will be revoked.

**b. Constraints**

Evidently revocation of license requirements are not enough to regulate, monitor or surveillance the transport service and operation.

**c. Recommendation**

DoTM does not have record data of service provider for registering of transport service under Section 94 of MVTMA. In further, natural revocation of license requisites such as proposed provision under Section 78 not operation or operation beyond the route permit limit more than three times a year and operating transport service against Section 168. To implement the MVTMA's provision for governance the department requires being proactive for conducting registering the service providers.

**(15) Section 102: Prohibition on taking passengers in excess of seats**

**a. Existing Provisions**

The Act has prohibited taking in passengers in any passenger public motor vehicle more than number of seats specified in the registration certificate.

**b. Constraints**

The restriction of number of passengers as per number of seat on public motor vehicle is not practical approach for local or urban public transports.

**c. Recommendation**

The provision requires exempting local public transport for standee capacity against seating capacity. All the public motor vehicle require to display total number of passengers that includes school bus, differently and elderly accessible vehicle, private motor vehicle travelling in group or other motor vehicle passengers travelling in a group. In further, public motor vehicle for local transport feed in capacity require to be based on height, and available space of motor vehicle. The extended version of requisites will be attached in proposed amendments of MVTMA and MVTMR.

**(16) Section 117: Prescription of number of passengers and quantity of goods to be hold in motor vehicle**

**a. Existing Provisions**

DoTM has responsibility to determine the number of passengers and the weight of goods permissible in a public motor vehicle and require to publish a notice to that effect for information of the general public.

A public motor vehicle may not carry persons or goods in excess of such number of persons or weight of goods as may be specified in a notice as per Sub-section (1).

**b. Constraints**

The provision contradicts with Public Roads Act Section 16a whether to off load that violated limit of goods or weight.

The provision does not have provision for maximum feed in capacity to local public transport.

**c. Recommendation**

The provision requires amendments those motor vehicle violate axle load limit are subjected to fine as well as off-load the goods from motor vehicle. If the motor vehicle is local public transport that carries more than limited number, the driver of motor vehicle subjected to fine

and passenger(s) require to be drop-off from vehicle as per Directives for Load Carrying Capacity for Freight Vehicles (LOCAFV) 2014, Section 11 (1).

Based on international experience for those motor vehicles crossing overload limit, responsibility sharing mechanism required to be established. In the result, that motor vehicle cannot be ply on the road for certain times along with fines and for driver of motor vehicle along with process of disqualifying from driver license by counting axle load violations require to be considered. Similarly, if driver continues to violate axle load more times, there require to be provision of disqualifying from driver license responsibility. In terms of fines, axle load control mechanism, there should be calculation of weight, axle load limit, distance and number of violation at the time. Based on consultant report, within proposed amendment draft of MVTMA a separate Schedule will be proposed for axle load offences.

**(17) Section 119: Posting, displaying or affixing traffic signs**

**a. Existing Provisions**

DoTM is responsible for post, display or affix the necessary traffic signs of color, size and model as per international practice to public places where is necessary.

DoTM or a person deputed by the DoTM only solely responsible to remove, replace, alter, erase, tear or deface the traffic signs which are posted, displayed or affixed by DoTM.

**b. Constraints**

Installing road sign centralized even where DoTM does not have sufficient access to successful implementation.

**c. Recommendation**

DoTM role to regulate traffic signs and signal require to remain same. In addition, DoTM may handover right to DoR, Traffic Police, DoLIDAR or other local bodies to install the road sign and signal on the behalf of DoTM as per prescribed standard of DoTM and followed by MVTMA and MVTMR.

**(18) Section 126(2): Warning signs to be placed while digging pit at public place**

**a. Existing Provisions**

It is mandatory to obtain approval to dig a pit at any public place from police and require to put warning signs to avoid an accident to the place.

**b. Constraints**

Relevant agencies' responsibility to inform the police is not identified.

**c. Recommendation**

The facilitating responsibility to inform nearest police station can be done through DoR, DoLIDAR, local bodies in case of partial or full road obstruction or any maintenance, upgrading activities on the road or footpath.

**(19) Section 131 (2): Showing document as and when so demanded**

**a. Existing Provisions**

The driver, owner or manager of motor vehicle requiresto produce documents such as registration certificate and route permit for inspect or examine by police or TI.

**b. Constraints**

Number of requisites showing documents on demand are less and generalized for both passenger and freight transport.

**c. Recommendation**

The documents to be produced on demand by the authority are required to be categorized for both passenger and freight transport. This may apply for all the motor vehicle coming from other country, freight transport, passenger transport, GoN, corporation or organization that has certain ownership of GoN and private motor vehicle as shown below.

S N	Freight Transport (motor vehicle registered within country or coming from other country)	Passenger Transport (motor vehicle registered within country or coming from other country)	GoN or corporation or organization that has certain ownership of GoN or private motor vehicle
1.	Renewed Blue Book	Renewed Blue Book	Renewed Blue Book
2.	Registration certificate	Registration certificate	Registration certificate
3.	Route permit (other national only)	Route permit along with standing capacity for local transport	-
4.	Insurance certificate	Insurance certificate	Insurance certificate
5.	Road test certificate	Road test certificate	Road test certificate
6.	Tax clearance certificate	Tax clearance certificate	Tax clearance certificate
7.	Load from origination of the freight	-	-
8.	-	List of passengers	-
9.	-	Name of privileged passengers within motor vehicles	-
10.	Special permits for explosive, hazardous or weapons or similar products	-	-

**(20) Section 133: Duty of driver in case of accident**

**a. Existing Provisions**

In case of accident occurred, the staff of the motor vehicle or security personnel require to arrange treatment facility to the injured person.

If no availability of security personnel to accident spot, the driver of motor vehicle has responsibility to inform nearest police station about the accident. The driver requires to cooperate to enforcement authority to provide information regarding the accident.

**b. Constraints**

The provision lacks of in case failure of driver to act in accordance with duty of accident.

**c. Recommendation**

The provision requires to add up additional ten percent fines and punishment in existing provision of Section 162 or 163, in case of hit-and-run occurred by the driver.

**(21) Section 146: Publicity to be made or cause to be made**

**a. Existing Provisions**

DoTM has responsibility to broadcast programs relating to traffic signs through various means of communication to aware the public to prevent motor vehicle accidents.

**b. Constraints**

The provision lacks of procedures to conduct awareness and funding mechanism as well.

**c. Recommendation**

The provision requires giving a way for proper funding mechanism from DoTM to serve the purpose.

**(22) Section 147: Prohibition on driving motor vehicle recklessly**

**a. Existing Provisions**

Recklessness while driving is prohibited.

**b. Constraints**

The provision lacks such as close distance driving with another motor vehicle and towing vehicles operational precondition require to be addressed.

**c. Recommendation**

The provision requires addressing close distance driving that increase probabilities of accident. It can be suggested that driving distance in between motor vehicle without infringing



provisions of Section 147 (b) motor vehicle require being at least six meters. In the meantime, heavy motor vehicle is distinguished in geographical differences in between 15-22 meters.

Towing motor vehicle must display warning notice in front of the vehicle and behind the rescued vehicle as warning signals.

**(23) Section 148: Insurance of motor vehicle to be made**

**a. Existing Provisions**

Owner or manager has responsibility to insure own motor vehicle as prescribed.

Motor vehicle which is not insured would not be renewed; if that vehicle is public transport would not allow operating and route permit cannot be issued.

**b. Constraints**

Not to having harmonized legal provisions to renew blue book and insurance cover in the same time frame.

**c. Recommendation**

- There require to legal provisions to renew the blue book and insurance coverage from cut-off day and renew day are same to avoid gap between the duration of the insurance policy coverage and duration of the next renewal period.
- The provision for penalty in the Act to the vehicle owner or manager who drives their motor vehicle on the road without having insurance in place. There must be stringent act to penalize such vehicle owner.
- There must be provision of checking whether there was insurance purchased by the vehicle owner or manager in the past, if not found there must be penalty in retrospective way.

**(24) Section 149: Insurance of driver, conductor, security personnel and other employee**

**a. Existing Provisions**

The owner or manager of a motor vehicle should insure staffs and security personnel of motor vehicle against accident.

In case of casualty of staffs or security personnel of motor vehicle in accident, insurance beneficiary will be victim and if someone dies, nearest successor is entitled payable the amount.

If casualty occurred by the un-insured motor vehicle owner or manager liable to pay same amount of money as insured one to victims or to successor.

**b. Constraints**

The provision lacks of motor vehicle staffs employed by the private institution or government or any other salaried driver and workers deputed in the motor vehicle.

**c. Recommendation**

Due care provision require to establish to penalize the vehicle owner or manager who drives public or private vehicle without purchasing insurance coverage for all the crew, passengers and third party. There must strict provision of penalty to the motor vehicle owner or manager if found operation of transport service without having insurance coverage as specified.

**(25) Section 150: Insurance of passenger**

**a. Existing Provisions**

The owner or manager of a motor vehicle should insure each passenger against accident.

In case of casualty of passenger of motor vehicle in accident, insurance beneficiary will be victim and if someone dies, nearest successor is entitled payable the amount.

If casualty occurred by the un-insured motor vehicle, owner or manager liable to pay same amount of money as insured one to passenger victims or to the successor.

**b. Constraints**

The section provisioned insurance for all fare paying public passengers motor vehicle. The section lacks carrying government employees by using office vehicle, school children using their school bus, army travelling by their own truck, private vehicle carrying family and friends, construction company carrying labors from their house to construction site and others working with private registered organization.

**c. Recommendation**

There require to be provisions for funding in exception cases whereas motor vehicle owner or manager of uninsured vehicle that met accident, unable to pay for amount to the victim or kin of family members.

**(26) Section 151: Insurance of passenger luggage**

**a. Existing Provisions**

The owner or manager should insure passenger luggage of each passenger traveling by the motor vehicle.

The owner or manager of motor vehicle is liable to pay only actual value of insurance amount of compensation in event of loss or destroy of such luggage.

In case of loss or destroy of luggage which has not insurance to cover, either passenger or nearest successor is entitled to payable the compensation amount.

**b. Constraints**

GoN has not published provisions on procuring insurance of passenger's luggage as per Rule 54, MVTMR-1997.

**c. Recommendation**

The Gazette is not published as it required for regulating of luggage of passenger transport. Therefore, in-detail gazette for procuring insurance on passenger luggage is urgently required.

**(27) Section 152: Third party insurance**

**a. Existing Provisions**

The owner or manager of a motor vehicle requires covering TPI to compensate against a loss or accident.

If a motor vehicle accident results in a loss to a third party or any property belonging to the third party, the third party or his or her successor is entitled to get paid against the loss.

If owner or manager of a motor vehicle a motor vehicle does not cover comprehensive insurance in result of loss or accident third party or his or her successor is entitled for such a loss or damage to him or her or his or her successor as compensation.

**b. Constraints**

It is learnt that still there are vehicle which has not covered TPI coverage but plying on the roads. The provision again does not provide way out solution in case of casualty and whereas vehicle owner or manager is not financially sound. In such a case, the real victims may not be fully compensated or may suffer from recovering the claim amount for the property or injury.

**c. Recommendation**

Enforcement agencies require to surveillances for those who are not abiding TPI provisions. There require provisions for funding in exception cases whereas motor vehicle owner or manager of uninsured vehicle that met accident, unable to pay for amount to the victim or kin of family members.

**(28) Section 153 (a): Functions, duties and powers of Department:**

**a. Existing Provisions**

DoTM determines policy as required on operation of the transport service as well as conducting research works to create efficient transport services.

**b. Constraints**

DoTM institutional practice lacks of ZTMO recording of data of issued route permits.

**c. Recommendation**

To create accountable DoTM, it requiremaking mandatory to report monthly reporting DoTM from ZTMO of issued route permits each month and annually.

**(29) Section 154: Transport management committee**

**a. Existing Provisions**

To make public transport operation systematic, TMCforms as per MVTMA;

- a. Chief District Officer (of the district where the TransportManagement Office is located) -Chairperson
- b. Chief, District Police Office – Member
- c. One representative of transport entrepreneurs -Member
- d. One representative of transport labors -Member
- e. Chief, Transport Management Office -Member secretary

**b. Constraints**

Within a management committee there require to proper representation to perform the task deliverance. In further, the main stakeholder of road management, DOR is missed out from transport management committee.

**c. Recommendation**

The committee requires including representation from Chief of DoR office and District Traffic Police to have effective implementation of purpose of the Section.

**(30) Section 155: Functions, duties and powers of transport management committee**

**a. Existing Provisions**

Functions, duties and powers of the transport management committee

- a. To engage public motor vehicles in operating the transport service uninterrupted manner;
- b. Fix a route in ad-hoc basis where a route is not fixed and make a recommendation to DoTM fixation of fares on that particular route;
- c. Observe and inspect public motor vehicles are operating the transport service within jurisdiction;
- d. Observe and inspect frequently public motor vehicles legal compliances such as the road tests and others;
- e. Whereas it's necessary, the committee recommends and report DoTM on the basis of feed in capacity and number of public motor vehicles, and
- f. Conduct other functions to make smooth operation within jurisdiction.

**b. Constraints**

The committee does recommend on the basis of number of public transport service and feed in capacity of public transport. The committee lacks reject specific service and recommendation for operating public transports.

**c. Recommendation**

The committee should have both way of whether to accept or reject for recommendations as required on the basis of number of motor vehicles and passengers that comes along with feed in capacity as well.

**(31) Section 157: Appointment of transport inspector**

**a. Existing Provisions**

GoN may appoint a transport inspector to inspect, monitor and surveillance to comply MVTMA and MVTMR.

**b. Constraints**

DoTM is missing from appointment proceeding that comes under department.

**c. Recommendation**

Instead of GoN, DoTM requires to empower for regulatory practices under MVTMA and MVTMR to establish as regulatory authority. In further, DoTM should have right to appoint Transport Inspector by excluding GoN officials and appoint Inspector through outsourcing to provide operational, economic and productive efficiency through private sector involvement.

**(32) Section 158: Functions, duties and powers of transport inspector**

**a. Existing Provisions**

- To inspect operating the transport service as per route permit;
- To inspect transport service limitation of total number of passengers and loads of goods along with weight capacity;
- Constant inspection or monitoring whether motor vehicle has complied road test and transport service requisites;
- To check the driving license, conductor license and passengermanifesto and fares charged to the passengers against thepassenger and check determined speed;
- Constant inspection or monitoring on the drivers, conductors, ownersor managers of motor vehicles has complied with the provisions of MVTMA and MVTMR.

**b. Constraints**

The provision lacks of power to deliver the duties for passenger public transport and load carrying vehicles from transport inspector.

**c. Recommendation**

The provision is not specific to deliver the duties for passenger public transport and load carrying motor vehicle from transport inspector. The transport inspector require to have right to check the number of passenger public transport as well as standee passengers in local public transport. If passenger motor vehicle found more than capacity, transport inspector should have right to off load excessive number of passenger(s). In further, the provision lack of powers to check loads of eachaxle and check limit of gross vehicle weight. Similarly, if limit of load carrying found more than axle load limit or gross vehicle weight limit, transport inspector should have right to off load from motor vehicle. There requirebeing mandatory provision for transport inspector to cooperate inspection team deployed from DoTM to coordinate to fulfill the requirements.

**(33) Section 159: License to be obtained to operate training center, factory and workshop**

**a. Existing Provisions**

The Section provides license for a person, firm, company or organization intending to operate any kind of motor vehicle factory for construction of bodies of buses or trucks or anautomobile workshop from the DoTM.

**b. Constraints**

The provision lacks of clarity on types of motor vehicle to get service from workshop.

**c. Recommendation**

The provision does not cover all types of motor vehicle to be constructed within the workshop. In addition individual license for operating workshop can be put under registered company as firm, company or organization. This will make accountable to the registered organization to comply with the GoN rules and regulation.

**(34) Section 160(2): Punishment**

**a. Existing Provisions**

Traffic police or DoTM may punish a person who commits, or causes the commission of, the following act with the following fine:

A person who commits or causes	Offences	Fines/NRs.
	using of other purpose of motor vehicle, driving motor vehicle without license and overloading	500-2,000
	Without registering motor vehicle, plying foreign motor vehicle without obtaining permission, alteration without obtaining approval, operating transport service without obtaining route permit, against determined of the rate offers, causing obstruction to traffic, causing loss and damage to passenger and motor vehicle involved in accident and not listing the name of transport service	1,000- 5,000
	operating training center, factory and workshop without operating license	2,000 - 10,000

**b. Constraints**

Repeated action against Section 117 has not been addressed and prohibited.

**c. Recommendation**

In the Section, single and multiple offences against Section 117 by violating axle load limit of require to fine through measurements such as limit of excessive weight, travel distance by following certain matrix to fine the violators. In the same time, proposed operating driving school practical test center, weighbridge operation, motor vehicle testing center have recommended to put on under the provision.

**(35) Section 164: Power to transport inspector or police to impose fine on the spot**

**a. Existing Provisions**

Transport Inspector or police can impose spot fine for offences;

<i>Finable offences on the spot</i>	<i>1st time</i>	<i>2nd time</i>	<i>3rd time or more than 3rd</i>

	NRs.	NRs.	time / NRs.
<i>Finable offences on the spot</i>	<i>1st time offence / NRs.</i>	<i>2nd time offence / NRs.</i>	<i>3rd time or more than 3rd time offence / NRs.</i>
violating traffic signs and signals, stopping where is prohibited, doing against restricted provisions; blow horn or turning, driving opposite in one way, over speed, vehicle not in condition, driving without turning light on, drink driving, obstructing public place, driving in prohibited time and place, driving without a number-plate, driving overloading vehicle, driving without fastening the seat-belt or without using the helmet, carrying passengers or goods exceeding such determined number or weight, refusing to accept a passenger, by the driver of a public motor vehicle, charging excessive fares, reckless driving, operating public motor vehicle without obtaining the route permit and driving without license	25-50	50-100	100-200

In the case of failure to pay fine on prescribed time frame to the authority, driving license or if that person is owner or manager of that motor vehicle, route permit may be suspended for a month.

**b. Constraints**

Drugs using while driving is not prohibited. In provision lacks Helmet standards provision as well. Motor vehicle overtaking from left hand is required to put on within provisions of spot fine.

**c. Recommendation**

Along with alcohol, banned drug consumption as well requires to be prohibited while driving. Safe helmet standard required to introduce for road safety reason. In urban areas, there is high risk of left overtaking requires to regulate only permissible right hand over taking whether it's for any areas.

Within this section there require to provide further power to transport inspector or traffic police to take on the spot action against using adulterated fuel, using passenger public transport as good carrier, excessive air pollution from motor vehicle, stopping passenger public transport other than bus stops and feed-in and drop-off passenger other than bus stops, driving motor vehicle on the footpath, allocated lane of cycle, wheel chair, rickshaw,



ox/buffalo/horse-cart, not giving priority to pedestrian crossing on the zebra cross or not slowing down approaching zebra cross, blocking footpath, blocking road by celebrating private ceremony, not carrying documents under Section 131 (~~proposed~~), not abiding provisions of Section 147, not displaying seating capacity in passenger transport and in local public transport standing capacity of passengers, not reserved or not been able to use allocated seats for protected citizens, using phone while driving, driving motor vehicle meander way, blow up pressure horn in residential areas, educational areas, hospital areas, reserved forest areas or other restricted areas.

Fines for all the sub-Section provisions including sub-section (5) are recommended to update as per time factors.

**(36) Section 168: Operation of transport service in competitive manner**

**a. Existing Provisions**

MVTMA assures and allow operation of public transport competitive manner and rejected queue system.

**b. Constraints**

The provision lacks of procedure to make competitive, fair and transparent proceedings of operation of transport service.

**c. Recommendation**

The provision holds and allows operational right provision for individual operator on public transport service. In the meantime, the provision seriously lack of what types of operators for public transport service eligible to be operator. The provision allows single owner as well to apply and operate passenger transport service. Therefore it can be suggested that instead of single owner to allow the passenger public transport there can be organized a company or cooperative can be proposed for operation to reduce ugly part competition within same route in the same time. Instead of ugly competition, awarding franchise right to the single operator to provide the passenger public service for certain period would be better option for passenger public transport operation. However, there can be effective competitive regime be occurred while inviting the applicants to provide the service. Through the open, fair and competitive process, a competitive organization can be awarded to provide competitively better and lower fare to passenger public transport service for the particular route.

DoTM may require to accept ex-post provision for existing route awarding system of passenger public transport service whereas ex-ante provision based on competitive bid proposal for future route permit awarding mechanism. This process may maintain existing passenger public transport service without having tussle in between DoTM and operator organizations. Through this process, number of single existing operator will be phased out

and gradually new entrant operators come through competitive process to create fair transport market for passenger public transport and freight transport services.

Finally, to improve operating and service efficiency, national law and rule require to allow 'Name and Shame' provisions through legal support for vehicle operators organization. The particular efforts by naming and shaming will establish benchmarking for transport operators and will help GoN to formulate transport friendly policies.

**(37) Section 170: Delegation of authority**

**a. Existing Provisions**

DoTM or competent authority may delegate power as required to any committee, official, transport inspector or police.

**b. Constraints**

GoN's agency is not included to delegate authority from DoTM.

**c. Recommendation**

It is recommended and suggested to allow delegation of authority to GoN's agencies as well to have prompt, effective and workable implementation of purpose of MVTMA and MVTMR.

**(38) Section 176: Recommended to remove Special powers provision**

**a. Existing Provisions**

The provision includes each of provision of the Act that may exempt the application of any provision of any vehicle for the prescribed period.

**b. Constraints**

Need to provide certain exclusive provisions to stop misusing of legislative body's good intention.

**c. Recommendation**

The provision on special powers exempted any provision of MVTMA may cause to make DoTM as strong implementing agency. Therefore, it is recommended to be removed from MVTMA or exclusion issues can be added within the provision.

**(39) Section 176: Special powers**

**a. Existing Provisions**

GoN may exempt the application of any provision of MVTMA in respect of any vehicle for the prescribed period.

**b. Constraints**

Need to provide certain exclusive provisions or remove provision to stop misusing of legislative body's good intention.

**c. Recommendation**

The provision on special powers exempted any provision of MVTMA may cause to make DoTM as strong implementing agency. Therefore, it is recommended to be removed from MVTMA or exclusion issues can be added within the provision.

**3.3.2 Motor Vehicle and Transport Management Regulation – 1997 (MVTMR 1997)**

The Rules has following provision In exercise of the powers conferred by Section 179 of the MVTMA 1993, Government of Nepal has framed the following Rules, the Rules has following issues to review on road transport safety;

**(1) Rule 16- Classification, standards and capacity of cargo motor vehicles**

**a. Existing Provisions**

The standards and capacity of cargo motor vehicles; Truck and tanker: load bearing capacity of a maximum of 10.2 tons, Mini truck: maximum of five tons, Power tiller: a maximum of one ton and Pick-up: a maximum of one ton per axle.

**b. Constraints**

Heavy motor vehicles that violated axle load limit and that are registered in other countries are not defined.

**c. Recommendation**

The Rule require to provide more explanation for cargo motor vehicle by making inclusive provision for vehicle registered within country and abroad by prohibiting any vehicle that are against axle load as well as road transport safety while plying in Nepal. It is inferred to address this problem to remove lacunae foreign plated motor vehicles require to put under defined provisions to make control freight transport system in Nepal.

For cargo motor vehicles truck and trailer are recommended to have clear regulating provision such as front axle limit 6 ton, rear axle 10.2 ton, tandem axle 19 ton and tridem axle 24 ton based on international practices.

**(2) Rule 18- Standards, period of operation and speed of passenger motor vehicles**

**a. Existing Provisions**

The Rule has extended definition of passenger motor vehicle direct, express, local, mini and micro bus services. The provision excluded micro bus allowed to ply more than 300 KM distance. DoTM determines the speed of motor vehicles other than those referred motor vehicles in the MVTMA in consideration of geographical situation and the condition of road.

**b. Constraints**

High similarities occur in between direct and express bus services. Micro bus exempted service to operate more than 300 KM. Motor vehicle based on speed limit contradiction with international practice against road and geographical conditions.

**c. Recommendation**

High similarities in between direct and express bus service required differentiating services and others. These might be classified as point to point service and stopping in limited number of stops in operation.

Speed limit or management require to be based on quality, width, footpath availability, number of pedestrians on the side of the road and bridge to make consideration by the side of geographical condition to determine motor vehicle speed limit. Team of consultant recommended making appropriate maximum operating distances for 250 KM to harmonize with definition of the Act.

Further, color code of the passenger motor vehicle has been recommended and inserted in the draft MVTMR Rules provision to create uniformity on passenger transport.

**(3) Rule 30 (1) - Applications for route permit**

**a. Existing Provisions**

The provision of route permit issues from DoTM under Section 76 of the Act and Schedule 3 of the Rules, in prescribed format and accompanied the prescribed fees.

**b. Constraints**

The Rule lacks of detail proceedings of designate route through specific committee.

**c. Recommendation**

As per Section 74 of the Act, necessitate of formation of the route designate committee (RDC) to simplify the route permit designating process. In such those proposed committee can be formed under DoTM along with Traffic Police and civil engineer from DoR. DoR,

DoLIDAR, DDC, local bodies be made responsible to provide detail of the proposed road to operate and proceed through recommendation of TMCas well.

RDC may designate route by conducting research, study and consider reasonable requisites such as details of road standard, design, size, distance, existing condition of road and landscape to ensure access of motor vehicle. Apart from other consideration such as road safety, comfort beside route observation and evaluation in the site. Additional, a committee require to make consideration of whether rainy season, foggy condition operation can be smooth or not.

**(4) Rule 52 (4/5) - Insurance of employees serving in transport service**

**a. Existing Provisions**

The insurance regarding for a grievous hurt such as permanent and incompetence (complete) and other caused disability compensation provided.

An insurance medical provision for victim, require to cover medical bills of victim and caregiver (Kuruwa) expenditure from total insurance cost.

**b. Constraints**

The medical bill provision does not give objective claim provision. Billing amount of medical bill has not updated against inflation rate of order.

**c. Recommendation**

It seems that revision of the insurance amount of is necessary. The amount of insurance require to based on Consumer Price Index (CPI) or has to be taken account of other factor such as earning of the deceased.

The discretionary right always has to be under increased cap of limitation to decide the amount of compensation to the injured to avoid manipulation from medical practitioner.

**(5) Rule 53(2/4/5/6) - Insurance of employees serving in transport service**

**a. Existing Provisions**

The Rules differentiated insurance amount to be compensate for the death by the accident of a motor vehicle such as NRs.1,00,000 each passenger whose age is more than Five years, NRs. 50,000 for each passenger whose age is more than One year and up to Five years and NRs. 25,000 if the age of the passenger is below One year.

Insurance of a passenger grievously hurt has to cover cent percent to both eyes, legs or hands or permanent or complete incompetency. Mean a while partial compensation to cover for

single organ disability. In further, other grievance hurt in other organs, insurance amount covers through determined cost my medical practitioner.

A passenger that sustained injury through motor vehicle accident, medical expenditure for the hurt, waiter and others will cover up to NRs. 1,00,00 for medical expenditure and NRs. 500 for caregiver on the behalf of victim not exceeding 30 days.

The rule provision that guarantee incase of passenger death or suffer injuries which carries excess number of passenger more than number of seats. The owner or the manager of the vehicle shall have to provide same amount of compensation to the heir of the deceased or grievously injured or victim.

#### **b. Constraints**

The discrimination against life for compensation of same people requires to be changed. The differentiated in terms of compensation amount in between the transport workers and passengers require to be harmonized. The staff of motor vehicle is paid NRs. 5, 00, 000 while a passenger is paid only NRs 1,00, 000 and infant get really low in the case of road accidental death.

To provide discretionary power to medical practitioner is not ensuring fair practice of compensation. The maximum amount to be paid or decided by the doctor must be fixed under certain cap provision to avoid so manipulation as per inflation rate.

The Rule has loopholes for compensating standee passengers in local transport and that is carrying more than number of seats that may meet accident or death. There is no provision for child seat that may not include nor recorded in case of casualties. The difficulties has been found that in some time total recovery of compensation for victims or dead may not recovered , there is no legal provision to recover it.

#### **c. Recommendation**

Harmonizing compensation any age or staff or passenger is must. The maximum amount to be paid or decided by the doctor must be fixed under certain increased cap provisions by considering inflation rate of present to avoid so manipulation.

In case of casualties no recovery from non-insured vehicle, there require to basket fund from the government to provide recovery cost to the road accident victims.

### **(6) Rule 54 - Passenger luggage insurance**

#### **a. Existing Provisions**

GoN prescribes the amount of insurance of passenger luggage by a notification in the Nepal Gazette.

**b. Constraints**

GoN has not published passengers' luggage amount of insurance provision in the Gazettes.

**c. Recommendation**

It is highly recommended publishing passenger luggage amount of insurance provision in the Gazette to ensure passenger access and rights.

**(7) Rule 55(1/4/5)–Third Party insurance**

**a. Existing Provisions**

The owner or manager of motor vehicle require to do TPI against For the any death, grievous hurt, at least NRs. 5,00, 000 and another NRs. 5, 00,000 on loss of property.

The sub-Rule provisioned insurance amount to the third party for a grievous hurt such as permanent complete incompetency, loss of both eyes or other both organs hands or feet become useless for NRs. 5, 00, 000 and caused partially useless NRs. 2,50,000. For other grievances insurance compensate determined cost by medical practitioner.

For medical expenditure for the hurt, caregiver of victim and miscellaneous expenditure, the insurance will cover up to an amount of NRs. 1,00,000 and NRs. 500 each day, not exceeding 30 days for caregiver of victim and other expenditure.

**b. Constraints**

TPI for passenger transport may not cover to the entire victim in case of all deceased. The amount of insurance may be insufficient against inflation; cost of goods and properties may have to increase to harmonize with the cost.

Medical practitioner discretionary right decides the amount of compensation is on loop holes. It cannot guarantee fair practice to the victims.

The limited the medical expenses related to the road accident to the third party seems really low and require to be updated.

**c. Recommendation**

- TPI for passenger transport require recovering in case of deceased or victims. The amounts of insurance NRs 50 Lakh require increasing for consideration to cover all insurance aspects of compensation.
- Medical practitioner discretionary right requires putting under increased cap to avoid manipulation.
- Medical expenses require to be updated against inflation and which is considered low.

**(8) Rule 55 a –Certificate of insurance and Insurance Policy**

**a. Existing Provisions**

It is mandatory to the owner or the managers keep the insurance certificate and insurance in the motor vehicle.

**b. Constraints**

The Rule states that a copy of the insurance policy must be in the vehicle. Sometime it takes time to find it from the vehicle. It can be made more easily checked whether a vehicle is insured or not by placing sticker on the vehicle. The Beema Samiti can issue the sticker with an authority's signature on it and insurance company can provide it to the vehicle owner or manager when they purchase insurance policy.

**c. Recommendation**

It is incorporated along with Section 131 (2) for mandatory provision.

**(9) Rule 55 c – Authority to handover the insurance amount and timeframe for the same**

**a. Existing Provisions**

Chief District Officer is responsible handover insurance amount to heir of the deceased, in a within 21 days and for accident within 3 months in presence of motor vehicle owner or the manager.

**b. Constraints**

The rule (55) (ga) states that compensation must be paid within 30days of accident. But sometimes injured passengers die long after the date of accident. Therefore, the correction should be placed "From the time of death" in place of "Time of accident".

**c. Recommendation**

To avoid complexity, it has been recommended to provide insurance amount up to 183 days from the date of accident occurred. Victim's kin may get compensation within the 15 days of claim after deceased, one of the only caused from accident.

**(10) Rule 58 – Functions and duties of driver and conductor**

**a. Existing Provisions**

The functions and duties of the driver serving in the transport service such as drive carefully the motor vehicles, obey instruction of owner or manager, not to allow to drive other person without consent of owner, not to act prohibited action, stop staff to do prohibited actions and inform to owner or manager or DoTM or traffic police in case of possible accident condition of the road and lacking of traffic signs, among others.



**b. Constraints**

For over loading provision driver are excluded for obligatory provision to check motor vehicle against loads. Driver of Cargo Carrier Motor Vehicle specific provisions are missing from the rules.

**c. Recommendation**

An updated Code of Conduct including driver, conductor will be incorporated as part of the amended MVTMR as Schedule 64 to provide a legal basis for enforcement.

**(11) Rule 60- Traffic Signs**

**a. Existing Provisions**

The traffic signs required to be observed by a driver while driving a motor vehicle pursuant to Section 120 of the Act shall be as set forth

**b. Constraints**

Number traffic signs are missing in the Rules.

**c. Recommendation**

An updated Traffic Signs Manual 2015 will be incorporated as part of the amended MVTMR as Schedule (within Schedule 60 as amended traffic signs) to provide a legal basis for enforcement.

**3.3.3 Public Road Act, 1975**

The PRA has promulgated to make provisions to classify all kinds of public roads and acquire lands required for the development, maintenance, expansion or improvement of the public roads and to collect development tax as a road externalities from beneficiaries such as landholders near the roads who benefit from the public roads, in order to maintain the convenience and economic interest of the general public.

The PRA defines the Public Road including all kinds of bridges, causeways, culverts, bi-cycle ways and footpaths prohibits any type of structure to be constructed within the boundary of the roads. The PRA empowers the government to acquire any land on a temporary basis for construction and upgrading of roads. Any buildings and other structures such as houses, sheds, schools, and temples are to be avoided wherever possible. The government is required to pay compensation for any damages caused to buildings, standing crops and trees. Compensation rates are negotiated between the government and the landowners.

The Act is addressed the Axle overloading legal provision under Act, Section 16 (a) that allow off-loading without penalty and further legal action require to be put under draft

MVTMA and existing MVTMA Section 117 with amendments of hand over power of off-loading, further penalty and legal action for strengthening DoTM's capacity enhancement or power of implementation of legal and regulatory mandates to avoid conflicts among MVTMA and Public Road Act.

The contradiction occurs in obligation of overloaded motor vehicle but also contradict fine as well within these MVTMA and Public Roads Act. In MVTMA, Section 117 fine ranges Rs. 500-2000 for overloading vehicle whereas Public Roads Act -1975, Section 30 differentiates with up to Rs. 2,000 fines. As per a recent provision, all the fines thus collected goes to the road fund and are used for the maintenance of the roads in the area.

Apart from other provisions, the Axle overloading legal provision under PRA, Section 16 (a) require to be put under draft MVTMA and existing MVTMA Section 117 for strengthening DoTM capacity and to implement the rules to avoid legal and regulatory conflicts.

### **3.3.4 Local Self –Governance Act, 1999**

The Local Self-Governance Act, 1998 aims to provide the opportunity for the local people to participate in the process of resource mobilization, development and distribution of the result of development process to the local communities by the process of decentralization of different powers in the country. Particularly, the Act provides Local Government as autonomous and corporate body formulation of plans and implementation of project such as construct, maintain and repair or cause to be constructed, maintained and repaired are important features of this Act.

The Act has facilitated devolution of power, responsibility, resources and means to empower the local bodies. In the same time the power of local bodies to collect and mobilize the resources with accountable and responsible manner.

The Act has mentioned that Local Bodies the municipality may impose parking charge (Section 144) as prescribed, at vehicles parking places managed by it. It is also arrange or cause to be arranged for bus parks and parking places in their areas.

The Local Bodies (in relating to Transport, Section 96) to prepare plans of un-pitched and pitched roads, bridges and culverts as required within the Municipality area, except those roads which are under the responsibility and control of Government of Nepal, and to be arranged for bus parks and parking places of rickshaws (three-wheelers), horse-carts, trucks etc. within the Municipality area. The local bodies to prescribe the upper limit of pushcarts, rickshaws, horse-carts etc. in consideration of transport requirement of the Municipality and register and provide number to them.

### **3.3.5 Local Self Governance Rules, 1999**

Local Self Governance Rules, 2056 (1999) stated that (Rules 147) the maximum and minimum rates of the parking fee that may be charged by a Municipality within its area shall be as referred to in Schedule-19.

- i. Municipality may levy a parking charge of not exceeding Forty Rupees per hour each time on the buses, minibuses or trucks and tractors which have been parked.
- ii. A Municipality may levy a parking charge as fixed by the Municipality Council at the bus park with modern facilities constructed and operated by itself.
- iii. A Municipality may levy a parking charge of up to Twenty Rupees each time on the basis of the time of parking on the parking area as prescribed by the Municipality.
- iv. A Municipality may levy a parking charge of upto Ten Rupees on the vehicles other than the vehicles referred to in Clauses 1, 2 and 3 to be parked in the areas managed by the Municipality on the basis of the parking time.

### **3.3.6 Road Board Act, 2002**

The RBA is promulgated to make necessary provisions on having the roads repaired and maintained, making cost effective the expenditures to be incurred in repairing and maintaining the roads and making transparent and effective the repairing and maintenance works of the roads.

The RBA establishes the Road Board to carry out routine, recurrent periodic and emergency repair and maintenance works of the road and to make arrangement for imposition on and collection of tolls from the motor vehicles plying on the road. The Act with the aim of providing sustainable fund for planned maintenance of the roads. The aim of planned maintenance is to keep existing maintainable roads in serviceable condition, reduce vehicle operating cost and provide more comfort to the road users. The board is empowered to collect the tolls prescribed by the government through public notification in the Nepal Gazette. The board provides fund for repair and maintenance of roads included in the integrated annual programme prepared.

### **3.3.7 Road Board Rules, 2004**

The Road Board may implement under the Rule (6 (1) g, and 7, (1) d road safety 5 year action plan. Apart from that, Board may allocate up to 10 % of the fund for the road safety awareness programme.

### **3.3.8 Road Board Directives, 2005**

The Road Board Directives 2005 has adopted safety measurement, Section 26 (1) while road maintenance occurred of the road there require to be focused on safety of pedestrians and to minimize road accidents. The Directive Section 26 (3) provisioned that incase of any sort of road accident, it has to documented and recorded, reason behind accident and if that accident occluded due to road structure, than it require to be reported to Road Board, Nepal.

### **3.3.9 DoTM Transport Management Directive, 2003**

The Directives is to identify areas of operating of workshop and driver training center, registration of transport service and operator association, issuing of root-permit for night bus services, reviewing of public transport fares, issuing of road worthiness certificate, issuing certificate against vehicle air pollution. The Policy recommended to inform to the ZTMO to cancel driving license by close distance relatives, in case of driver faces death or casualties.

### **3.3.10 DoTM Standard Guideline for Automobile Workshop and Factories, 2014**

Workshop Standard 2014, under the provision of MVTMA, Section 159, and the Guidelines has been developed to regulate automobile factory for construction of bodies of buses or trucks or anAutomobile workshop shall obtain a license from the DoTM.

The Guidelines has classified motor vehicle as following for servicing;

- a. Two Wheeler (Motor Cycle workshop) maintenance workshop
- b. Four wheeler (Car, Jeep and Van) maintenance workshop
- c. Four wheeler (Truck, Bus, Mini Bus, Micro Bus etc. ) maintenance workshop
- d. Heavy Equipment; Roller, Dozer, Excavator, Loader, Crain maintenance workshop

Physical Infrastructure and Layout for workshop is much more adequate. The provision only includes bodies of bus and a truck requires change inclusive provisions for all the motor vehicles. Implementing pars seems more crucial for the guidelines.

### **3.3.11 Nepal Transport Pollution Standard 2069 B.S**

The Nepal Vehicle Pollution Standard-2069 and the National Standard on Air Quality- 2069 BS aim to enhance environmental cleanliness at the sites important from the cultural, religious and touristic perspectives, and to improve the air quality for residents of these areas.

### **3.3.12 DoTM Code Conduct for Public Passenger Transport, 2011**

#### **(1) Public Transport Code of Conduct 2067 B.S**

The Public Transport Code of Conduct ensuring following;

1. The women, disabled people and children are able to travel comfortably, enjoyable and safely, to reduce sexual harassment on public transport vehicles.
2. Provide decent standards in provision of public transport, operators and staffs.
3. Public Transport Driver and helper language should be decent and has to provide a friendly environment for elderly people, women and children.
4. Public transport has to allocate seats for pregnant women, old people, and women. Night bus services shall allow women to be seated together.
5. Rights of access to transport of elderly people, people with disabilities and the sick.
6. Prohibition of smoking and placing stickers and pictures provoking sexual indecency.
7. Public transport operators requested to display the message to restrict women sexual violence and immorality and expel passengers from the vehicles if these rules are violated.
8. Prohibit passenger or luggage loading more than the vehicle capacity.
9. Restriction using mobile phone while driving vehicles.
10. Public transport vehicles require to display fares rate inside the vehicle for the particular route and prohibition against taking excess fares than specified.
11. Public transport vehicles require to have a clearly displayed number place.
12. Public transport vehicle are required to be regularly tested and maintained.
13. Stoppage, departure and arrival time requires to be followed.
14. Vehicle operation related documents require to be produced for checking on request by a member of an enforcement agency.
15. Long and medium distance public transport vehicles require a First Aid box inside the vehicle.
16. Stoppage and passenger loading only at authorized places.
17. Public transport vehicle driver and helper require to display their identity card.

18. In case of a public transport vehicle failed complete a route, fares are to be refunded to the passengers.
19. Prohibition of any music or video that is loud and / or promotes sexual violence.
20. Prohibition of pressure horns, and use of horns only when required.
21. Restriction against child labor working in public transport.
22. To reduce women sexual violence, women driver and helper will get priority for the operation.
23. Restriction of Public transport parking to defined locations.

### **3.3.13 Policy Documents and Others (National)**

#### **(1) DoR Road Users Directive, 1997 (2053)**

The purpose of Directive was to safer travel and transport. It has identified and advised to use safer means and should not misused or create obstruction on the road.

The Directive has identified safe use of roads in following:

- Not to cause roads and footpaths;
- Not to obstruct roads and footpaths; and
- Not to obstruct roads and footpaths that may cause accident.

The Directive has made aware of pedestrians in following:

- Not to expect much from drivers and motor vehicle to avoid accidents
- Way of crossing roads
- Not to stop motor vehicle by the roads and give precaution for upcoming motor vehicles
- Cross the roads to high attention
- Cross the road following by zebra-cross (It has enlisted some of risk places that can be endanger of pedestrians)
- Way of crossing in junction where traffic lights are installed
- Pedestrians require to cross the road where crossing signs are allocated
- Way of road crossing for children or minors

The Directive has set the rules for cycle, motor cycle and other motor vehicles:

- Precautions to be taken while driving motor vehicle
- Way of driving skills
- Speed of vehicles
- Signs and Signals
- Pedestrians and pedestrians crossings

- Overtaking and way of overtaking (left, right and roundabout)
- Driving in night and in dawn
- Way of driving reverse
- Way of waiting and parking

The directive has provisioned safety measurements in followings:

- Special Advices and suggestions for professional drivers
- Advices and suggestions Motor cycle drivers
- Advices and suggestions for cycles
- Most common causes of road accidents
- How to manage motor vehicles
- In case of vehicle does not work
- In case of accident
- First aid
- Traffic signals

**(2) National Transport Policy 200/2001 (2058)**

National Transport Policy 2001 is consisting provision, in order to attain the objective on axle load control to operate the appropriate axle load system vehicles to reduce load on roads. The Policy has generalized the issue but lacks of addressing specifically to control axle loaded vehicle plying on the roads.

**(3) DoR Heavy Vehicle Management Policy**

DoR's Heavy Vehicle Management Policy 2005 further differentiated the axle load limit for individual axle of heavy vehicles (front, rear single and rear tandem) to guide both the government and the private transport sector in further preserving the road asset. This policy was introduced in the wake of lack of institutional capacity within DoTM to tackle overloading despite the acts and rules vesting the authority for heavy vehicle management to this department. The Policy was approved by the Ministerial Cabinet of GoN but require to be part of MVTMA 1993 and MVTMR 1997 to have the full legal mandate to be enforceable.

The Policy clearly defined contradiction of 'Fine but no off-loading' of MVTMA and 'Off-loading without further penalty' Public Roads Act-1975. Although the existing two road infrastructure and transport management statutes; Public Roads Act –1975 and Motor Vehicles and Transport Management Act –1993 (MVTMA) do not specifically deal with the axle overloading.

The Policy's provision on axle load control require to harmonize along draft MVTMA and MVTMR, such as franchising vehicle inspection to private workshops, incorporate

comprehensive vehicle insurance, heavy penalty for travelling on rooftops, etc. so that the amendment is conducted comprehensively and efficiently.

The Policy has following objectives;

- Preventing premature failure of road pavement and thus ensuring that road provide the desired serviceability throughout its design life.
- Enhancing road capacity by increasing average vehicular speed.
- Enhancing road safety by adhering to vehicle manufacturers' specifications and road design standards.
- Reducing vehicular emission thereby reducing adverse effects on the environment of the road corridor.

**(4) DoTM Organization Chart**

The Organization Chart lacks of provision and number of Transport Inspectors for Road safety and traffic rules surveillances or monitoring. In the Organization Chart Technical Responsibility within the organization, Transport Inspectors, require to put under the Technical Section instead Administration and Route Permit Section. In proposed draft MVTMA and MVTMR may have to be recommended to deployadequate number of transport inspectorsby well defining their roles and responsibilities.

DOTM requirehaving regular Section for research and analyzing of traffic data, accidents and other relevant factors to improve road safety situation in Nepal, which may help to formulate new types of transport law, regulation and policy. In the result, this sort of research would help continuing policy recommendation to amend the act and regulation related to motor vehicle law and regulations.

**ENVIRONMENTAL AND PUBLIC CONCERN**

As per MVTMA 1993, Section 23 (1) (c) and, 24 (3) Government of Nepal may specify criteria for examination of vehicles that pollution likely to be generated from the motor vehicle.DoTM may refuse to register the vehicle under Section 24 (3), if it is reasonable to stop the registrationof any type of motor vehicle to be made under Section 14 for public interestowing to environmental pollution.

Currently, apart from motor cycles other types of motor vehicle are not applied for emission testing only inside the valley. GoN has recently introduced the Nepal Vehicle Emission Standard 2069 (2013) conforming to EURO-3 standard in August 2014. This new standard replaces the previous Nepal Vehicle Mass Standard 2056 which was conforming to EURO-1 standard. Government has however allowed importation of vehicles that had already been booked and imported before August 2014 while it is mulling a separate monitoring to curb older vehicles conforming to EURO-1 standard.



Recently introduced Environmental Friendly Transport and Transport Policy 2014 has emphasized on electricitybased transport system through renewable energy supported vehicle to address public concern of living in healthy environment. The Policy has adopted to ply and operate upto 20% of environmental friendly vehicles within 2020. To create friendly environment for public it is forecasted that there will be a policy to adopt and to create laws will be amended and infrastructure will be constructed to obtain policy objectives. To obtain that Income Tax Act, 2002, Value Added Tax Act, 1996, Custom Act, 2007 may recommended getting import tax incentives to promote environmentally friendly vehicle. In further, the policy has highlighted and encouraged of 'polluter pays principle' long term goal to curb down polluter motor vehicles.

**FINANCING MODALITIES OF THE DEVELOPMENT OF INFRASTRUCTURE;  
PPP ETC.**

PPP model can be successful if Private sector can participate through PPP model into road and transport infrastructure and axle load control mechanism through competitive and fair procurement awarding basis to enter as new entrants. There is no legal or regulatory hurdle arise to involve private sector for these sorts of process. The cooperation and participation of private sector in controlling the axle load limit in a freight vehicle is very vital as almost all freight vehicles are operated by the private entrepreneurs.

Despite this fact, Private Financing in Build and Operation of Infrastructure Act, 2006 (BOOT Act) failed to provide clarity PPP financing models itself. It also failed for exact procurement procedures, formal tendering proceedings. For road infrastructure development this may undermine to promote development of road infrastructure PPP projects. Therefore, 'updated newly proposed PPP Act require to take consideration (while it becomes accessible to the public) whether specific financing model of PPP for road infrastructure projects would be viable for private sector participation.

DoTM has entered some contractual agreements (for data entry proceeding) with private companies. It is practice that DoTM enters into agreement with private companies for operation. Therefore it can be advised that private sector participation for financing infrastructure buildings can be obtained through private sector participation.

DoTM has introduced Carriers Load Regulating Directive, 2014 which stipulates some general provisions on operation of weighbridges. Such a guideline require to offer advise on a range of issues confronting weighbridge operation such as appropriate locations for weighbridge; type of weighbridge to adopt (portable/fixed/weigh-in-motion); training requires for axle-load control; modality of public-private partnership to adopt (service, management, lease, concession, etc.).

However, in the Directives operational exclusive rights has given to one particular operator FTTEA require to be change to provide private sector participation on the basis of fair market practices to entry as service provider. The Directive provision on Section 4 requires to open up for private sector participant or other sector that may be intended to involve into the sector. In further, Directive, Section 14 (5) and (6) that excludes Weigh Bridge for certain measured vehicles that carries soli, sand, stone, bricks and petroleum products or LPG gas etc. excluded even carrying for load-sheet. These exclusive exemptions for certain modal of transportation for certain operator association require to be changed for fair, transparent and competitive access for private sector participation.

### **BEST PRACTICE IN THE REGIONAL CONTEXT**

For the best practice of road safety issue to the regional context require to be consider under infrastructure facility; motorized and non-motorized roads. While road safety measurement can be taken the condition and quality of road infrastructure along with enough road safety instruments require to closely taken care for consideration. For the best practice behaviors there could couple of issues can be take in consideration such as behavior of drivers or other supporting staffs of motor vehicle or passengers or pedestrians, enforcement measurement uses and crash reporting and ability to tackle the road safety issues.

For practical best practice, there require to be done following issue to improve road safety issues;

1. Drivers are required regulator random or accidental checking of such as breathalyzer test, festival oriented checking on motor vehicle or checking passengers feed-in more than prescribed or alcohol consumption enforcement entail to mobilize large number of enforcement officer along camera/equipment for speed control and to increase detention in case of violation by the driver, such those practices occurred in Asian region.
2. Vehicle Road Worthiness annually check commercial vehicle such as goods carrying trucks, passenger public transports, random or regular checks as per required and similarly vehicle inspection before sold or bought recommended. Random inspection from enforcement authority to all the modals of vehicle (exempting any) can bring road safety and efficiency for roads, motor vehicles and passengers.
3. Road safety can be maintained through minimizing road obstruction that caused to safety. Vehicles parking by the side of road, using road for private ceremony, to put on the road of construction materials, lack of traffic signals, lights, other devices and warning signal for immediate or high risky areas for the driving require to be put on consideration.

4. In the same time, lack of data of traffic accidents or casualties require to be put on consideration for making road design on to put on warning signals to the highly risky areas for driving. Efficient accident data system can help to establish research unit within the traffic division (unit) and will find out and resolve the issues of the accidents.
5. There require being broader commitment and support through financial support for improvement of road safety. Without satisfactory financial support the achievement can hardly met.
6. To improve road safety there require to improvement of road related infrastructure improvements.
7. Road safety management system, in the issues of institutional management requires being workable and efficient to produce the positive result.
8. Harmonization of vehicle regulations that can promotes global best practices in vehicle safety standards and minimizes contradiction to apply against violation of standards within the country or cross country movement.
9. Economic analysis that can measure road safety issue to apply the certain provision for the road project.
10. Sweden can be the best example for best practice for the road safety segment. However, it is leant that sustainable road safety improvement is taking time for the improvements.

## **INSTITUTIONAL RECOMMENDATIONS**

### **3.7.1 DoTM Organization**

DoTM require to be established as strong regulating body for regulating transport sector.

The DoTM organization lacks regulator as transport inspector to comply traffic rules and regulation. Therefore, recommendation has been made to deploy adequate number of transport inspectors that can be outsourced excluding GoN officials by well defining their roles and responsibilities.

Further, DOTM requires having regular Section for research and analyzing of traffic data, accidents and other relevant factors that may help to review and formulate new types of transport law, rule and policy. This would help continuing policy recommendation to amend the Act and Rule that are related RTS in Nepal.

DoTM is recommended to establish fund with the support of insurance agencies for providing compensation in the cases of 'hit and run', whereas driver or owner or manager of the motor vehicle is not identified or some other reason victim's kin are not able to receive monetary compensation.

Very importantly, there is require of separate form of legislation/Act to establish as regulating body of DoTM for transport sector as other network industries has been established in Nepal such as telecom, banking, insurance and aviation to perform independently.

### **3.7.2 Nepal Police; Traffic Police**

There is requiring of continuing support from DoTM and Traffic Police vice-versa to bring in safer motor vehicle and road safety issues. In the meantime, information and data sharing in between two enforcement agencies is very essential.

### **3.7.3 DoR**

Road and Traffic Unit, the one responsible for road sign and traffic lights require to closely coordinated with DoTM and require close coordination with traffic police for requirements and identifying the spots where required to installed the signs and signals.

### **3.7.4 RBN**

RBN can contribute through financing of certain percent of budget for road safety safer transport operations and campaigning to aware the motor vehicles.

### **3.7.5 Local Bodies**

Local bodies can be made responsible smoothen passenger public transport operation within their jurisdiction. In addition, local bodies within their jurisdiction can be made responsible for making operation as per local body's requirements. Local bodies can be very good facilitator for operating transport services in the basis of general economic interest through support of subsidy or cross subsidy support for local passenger transport operation.

### **3.7.6 Operator Associations**

For passenger transport operation, operators associations can play very good role to make operation better and safer services. Operators associations mandatorily entail registering in DoTM as per MVTMA provisions to make responsible and accountable transport services. Operator associations required to strictly apply safety measurement against staffs, passengers of the vehicle and pedestrians to abide passenger public transport code of conduct and other safety measurements.

## **CHAPTER 4 FINDINGS, DRAFT AMENDMENTS & MVTMA/ MVTMR**

---

### **FINDING**

After reviewing legal and regulatory documents, having discussions with DoTM, Traffic Police, DoR officials and based on task-wise reports of study team, it can be concluded that DoTM effectively require to pro-active to regulate issues that has been raised from over loading issues. There are following axle load issues that are enlisted as findings;

There are number of the issues has been presented as de-jure but de-facto loopholes of the MVTMA and MVTMR;

#### **4.0.1 Section 67- Issuance of conductor license**

An action requires to be taken to oblige the public transport service staffs and the Act's provision of issuance of conductor license requires to be done through pro-activism of DoTM. Issuing the conductor license will make staffs responsible towards traffic law and regulation. It further make responsible to staffs of the motor vehicle and its recording system to create accountability and to abide national transport laws.

#### **4.0.2 Section 93- Listing the name of transport service**

Another presumption of MVTMA to be listed transport services, DoTM does not have record of transport service providers. To implement the Act's provision for governance the department require to be proactive for conducting registering, if not require to adopt enforcement measurement to all transport service providers.

#### **4.0.3 Section103- Recess of journey**

DoTM or enforcement authority failed to make comply driving of passengers' motor vehicle to have rest for half an hour after continuous four hour driving.

#### **4.0.4 Section 104- Shift change of driver**

DoTM or enforcement authority failed to enforce driver of passengertransport service to have shift change after six hours.

#### **4.0.5 Section 105-Prohibition on traveling without ticket**

DoTM is not able to enforce transport operator to oblige legal provision on 'prohibit passenger to travel without having travel ticket.

**4.0.6 Section 151 – Insurance of passenger luggage**

The owner or manager of motor vehicle operating the transport service requires procuring the insurance of passenger's luggage in prescribed amount. The provision is not implemented despite necessity of the insurance facility.

**4.0.7 Section 157- Appointment of transport inspector**

The MVTMA has presumed for regulating efficient road and traffic governance through support of Transport Inspector, despite this fact except from some occasional times, deploying DoTM officials for monitoring or regulating the road vehicles seems insufficient. However, MoPIT in the past has instructed to appoint Transport Inspector within the organization of ZTMO offices whereas Mechanical Engineer positioned, he/she would be appointed, if not Chief of ZTMO or an officer can be appointed as Transport Inspector. It is suggested that instead of GoN official from DoTM, other independent, which are outsourced can be appointed to bring in efficiency for monitoring and surveillances.

**4.0.8 Section 158(d) - Functions, duties and powers of transport inspector**

It is observed that DoTM failed to check passenger manifesto and that assume to be enforced against prescribed fares charged. Through this surveillance, it will ensure number of the passengers in case of casualties and help to determine number of passengers within motor vehicle.

**4.0.9 Section 168- Operation of transport service in competitive manner**

The Section holds one of the provisions that allow operational right provision for individual operator on public transport service. In the meantime, the Act seriously lacks of what type of operators are eligible to operate service. The Section allows individual owner as well to apply and operate passenger transport service. Therefore it can be suggested instead of single owner to allow operate passenger public transport, organized company or cooperative can be proposed for operation to reduce worst part competition within same route in the same time by awarding franchise right to the single operator to provide the passenger public service for certain period could be better option for public transport operators. However, there can be effective competitive regime can be occurred while inviting the applicants to provide the service. Through the open, fair and competitive process, a competitive organization can be awarded to provide competitively better and lower fare passenger public transport service to the particular route.

#### **4.0.10 Section 176- Special powers**

The provision on special powers exempted any provision of MVTMA cannot be of assistance DoTM as strong implementing agency. Therefore, it is recommended that such those exclusive provision require to be removed from MVTMA or number of exclusion issues can be added within the provision.

#### **4.0.11 Rule 54-Passenger luggage insurance**

GoN has responsibility to prescribe the amount of insurance and to publish on the Nepal Gazette, the provision has not implemented yet. Therefore, it is suggested to make responsible for this provision to DoTM instead of GoN.

#### **DRAFT AMENDMENTS OF MVTMA & MVTMR**

Based on consultant's reports there are number of road transport safety issues has been endorsed and amended within transport legal and regulatory frameworks to obtain road safety objectives that require to be done as per suggestions in proposed amendments.

Here is reviewed report conclusion which is prepared with conjunction of experts enlisted as per task deliverance in related road transport safety in Nepal;

#### **Task A-2:**

Within MVTMA and MVTMR number of amendments and improvements has been proposed for road transport safety and those are proposing required to be fall- under the offences for which are liable to be punished or fined such as breach of helmet safety standard, driving close distance with other vehicles, driving on footpath or cycle lane, hit and run offences, ill-treatment while vehicle accident accord, clear number of allocation standing of passengers in local public transport as per vehicle occupancy, not giving priority or slowing down motor vehicle at zebra-cross or crossing section to the pedestrians people, obstructing foot-paths, provisions of wheel-chair users facility and access on footpath obstructing street or roads on private ceremony such as marriage or etc, parking by blocking traffic, towing vehicle provision, using fuels which is not recommended and vehicle causing excessive air pollution, using passenger public transport as goods carrier vehicle etc.

In proposed MVTMA and MVTMR, provisions of traffic rules violations on road safety measurement which are significantly low as well as for repeated violations of traffic rules.

In MVTMA and MVTMR, there are number of issues has been identified and recommended for DoTM to be pro-activated to implement the legal provision that may ensure road safety in Nepal, such as issuance of conductor license, listing the name of transport service, motor

vehicle to have rest for half an hour after continuous four hour driving, shift change after six hours, prohibition on traveling without ticket and appointment of transport inspector.

**Task A-3:**

In proposed MVTMA and MVTMR, equal amount of death compensation to all types of road accident victims (passenger (adult, infant and child), TPI, motor vehicle staffs has been recommended. Similarly, equal amount of medical expenses to all type of road accident victim who has suffered bodily injuries recommended within the MVTMR.

Further, provision for 'hit and run' compensation has been recommended to establish Road Accident Victim Fund for unresolved road accident cases and the cases uninsured motor vehicle is not able to cover the compensation to the victims.

Finally, no motor vehicle has been recommended to exempt from insurance liability in whatsoever.

**Task A-4:**

In order to improve the procedure concerning route selection and permitting in Nepal, the assessment that is necessary prior to route selection several new provisions are incorporated in the amended MVTMA and MVTMR as described below.

- Regarding route selection, establishment of a Route Selection Committee in DoTM, its membership structure; requirement whether to open or deny new or existing route based on desk study of the design elements followed by site inspection are incorporated in the amended act and regulation. The specific areas that the concerned Transport Management Committee chaired by the Chief District Officer has to analyze while awarding or denying temporary route permits are also added.
- Regarding route permits, while the demarcation of the local, short, medium and long routes for passenger transport has been retained, a new provision of restricting minibus and microbus on long routes been introduced. The qualities of service that passenger transport services can provide are re-classified as (i) direct service or normal service. The application process, administrative procedure for issuing or denying permit are improved with formalization of the requirement for a Route Permit Committee for existing route through the ZTMO or a Route Selection and Permit Committee for newly constructed roads whose route selection has not taken place. In this respect, the amendment stipulates clearly the legal requirement for such newly constructed roads to undergo route assessment and its selection as described previously before the whole process of examination for issuing a route permit can take place. New requirement to specify (i) type and capacity of seating; (ii) number of stops, terminal points; (iii)



maximum and minimum trips daily in the permit certificate is introduced in the amendment. These new provision are envisaged to assist DoTM in improving its monitoring and regulating mechanism for public passenger transport services in the country.

**Task A-5:**

As per the MVTMA-1993, any individual, firm or organizations intending to operate body building factories, vehicle maintenance workshop must have license from DoTM. However, thousands of such facilities and workshops are running their business without having license.

The reason behind this is the lack of dedicated units or personnel in DoTM. Further, DoTM does not have specific directives and guidelines for monitoring and inspection of such workshops and facilities.

**Task A-6:**

The report has recommended the improvement of road accidents data recording by the establishment of 'Road Accident Information Management System'. The existing organizational structure should be re-arranged and duties of the concern authorizes should be well defined for launching system.

Legal provision for the reorganization of the concern authorizes such as establishment of 'Road Safety Council' and etc. should be simultaneously completed.

This task raised the issue of establishment of 'Road Accident Compensation Fund ' for specific cases and disputes raised during the compensation process. This fund may address mainly the compensation of victims in the case of hit and run type accident.

**Task A-7:**

An updated schedule of traffic signs (which includes sign-posts, road-markings and signals) is included in the amended MVTMR. The updated Traffic Sign Manual developed and new speed-limits have been incorporated in the amended MVTMR to be legally binding. The updated manual provides guidance for DoTM, designers, manufacturers and contractors to ensure a consistent approach is adopted for signage throughout Nepal.

**Task A-8:**

MVTMA and MVTMR do not have modal based code of conduct for different transport operation; despite it have proposed driver and conductor roles and responsibilities. There are some prohibitory provisions under section of the Act, implementing obligation rely on to traffic police or transport inspector. Therefore, it has been proposed in the reports that code of conduct for Private Vehicle Drivers and Passengers, Motorcyclists, public passenger vehicles,

freight transport, pedestrians, and bi-cyclist to have properly implemented road transport safety in Nepal.

An updated Code of Conduct will be incorporated as part of the amended MVTMR to provide a legal basis for enforcement.

Comprehensive code of conduct will be proposed under Rule 58 and will be made legally binding.

**Task A-9:**

DoTM has responsibility to broadcast programs relating to traffic sign through various means of communication to aware the public to prevent motor vehicle accidents. However, provision lacks of procedures to conduct awareness and funding mechanism as well as targeting awareness for specific purposes.

Here are some of the issues that may be discussed and suggested but that may not in a straight line of amendment but elaborated for the further discussion;

One of the weak parts of existing law is penalizing or rewarding delineation. MVTMA or MVTMR only holds issues of penalizing, instead it entail to develop incentives such as tax exemptions, if motor vehicle staffs do not fall under traffic law or rule violation while operating required to be awarded for traffic rule abiding incentives.

DoTM may entail to accept ex-post provision for existing route awarding system of passenger public transport service whereas ex-ante provision based on competitive bid proposal for future route permit awarding mechanism. This course of action may maintain existing passenger public transport service without having altercation in between DoTM and operator organizations. Throughout this process, number of single existing operator will be phased out and gradually new entrant operators come through competitive process to make public transport market run in a company structure that is more efficient and competitive as well.

Finally, to improve operating and service efficiency in the public transport, national laws and rules entail to allow 'Name and Shame' provisions to be introduced for vehicle operators organization. The efforts by naming and shaming will establish benchmarking for transport operators and help GoN to formulate transport friendly policies to establish and recommend optimal issues within the sector.

The amendments in MVTMA and MVTMR from the view point of Road Transport Safety are summarized than recommended in Appendix-1 and Appendix-2 respectively.