



The Assam Aerial Ropeways Act, 2022

Act No. 36 of 2022

Keywords:

Carrier, Circle, Promoter, Rate

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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NOTIFICATION

The 11th October, 2022

No. LGL.168/2021/3.— The following Act of the Assam Legislative Assembly which received the assent of the Governor of Assam on 7th October, 2022 is hereby published for general information.

ASSAM ACT NO. XXXVI OF 2022

(Received the assent of the Governor on 7th October, 2022)

THE ASSAM AERIAL ROPEWAYS ACT, 2022

AN ACT

to authorise, facilitate and regulate the construction and working of aerial ropeways in the State.

Preamble

Whereas it is expedient to authorize, facilitate and regulate the construction and working of aerial ropeways and to ensure legislative and administrative safeguards to the aerial ropeways in the state of Assam and the matters connected therewith or incidental thereto; It is hereby enacted in the Seventy-third Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Assam Aerial Ropeways Act, 2022.
- (2) It extends to the whole of the State of Assam.
- (3) They shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "aerial ropeway" means an aerial ropeway (or any portion thereof) for the public carriage of passengers or goods, and includes all ropes, posts, carriers, stations, offices, warehouses, workshops, machinery and other works used for the purposes of or in connection with, and all land appurtenant to, such aerial ropeway;
 - (b) "carrier" means any vehicle or receptacle hung or suspended from, or hauled by a rope and used for the carriage of passengers or goods or for any other purpose in connection with the working of an aerial ropeway;
 - (c) "circle" in relation to a local authority means the area within the control of that authority;
 - (d) "Deputy Commissioner" means the Deputy Commissioner of a district and includes any person representing him for the purpose of the Act;
 - (e) "Expert Committee" means a Committee constituted under section 11 of this Act;
 - (f) "Government" means the Government of Assam;
 - (g) "Inspector" means an Inspector of aerial ropeways appointed under this Act who have requisite knowledge and experience on aerial ropeway;
 - (h) "local authority" means a Municipal Committee, Small Town Committee, Notified Area Committee, Gram Panchayat, Zila Parishad or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

- (i) "Official Gazette" means the Official Gazette of the Government;
- (j) "order" means an order authorising the construction of an aerial ropeway under this Act, and includes a further order substituted for, or amending, extending or revoking that order;
- (k) "Regulation" means the Aerial Ropeway Operation and Maintenance Regulations framed under this Act;
- (l) "Post" means a post, trestle, standard, strut, stay, or other contrivance or part of a contrivance for carrying, suspending or supporting rope;
- (m) "prescribed" means prescribed by rules made by the Government under this Act;
- (n) "promoter" means-
- (i) the State Government,
 - (ii) a local authority,
 - (iii) any person or entity which may be selected by Government as per law,
 - (iv) any company incorporated under the Companies Act, 2013, or
 - (v) any railway company as defined in the Railways Act, 1989,
 - (vi) any person in whose favour an order has been made under section 7, or on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by rules and orders made under this Act, as to the construction, maintenance and use of an aerial ropeway, have devolved;
- (o) "rate" includes any fare, charge or other payment for the carriage of passengers or goods;
- (p) "rope" includes any cable, wire, rail, or way, whether flexible or rigid, used for suspending, carrying or hauling a carrier, if any part of such cable, wire, rail, or way, is carried overhead and is suspended from or supported on posts.

Central
Act No.
18 of
2013,
Central
Act No.
24 of
1989.

CHAPTER II

PROCEDURE AND PRELIMINARY INVESTIGATIONS

Application for
permission to
undertake
investigation

3. (a) Every application by an intending promoter other than State Government for permission to undertake necessary preliminary investigation in regard to a proposed aerial ropeway shall be submitted to the State Government.
- (b) In case of government funded project, there shall be a selection mechanism through bidding system to ensure open participation of intending companies/individual and to secure elements of competition and transparency.

Contents of
application

4. Every application to be made under section 3 of the Act shall contain all the information relevant to the proposed ropeway and shall include the following:-
- (a) a description of the undertaking and of the route to be followed by the proposed aerial ropeway;
 - (b) a description of the system of construction and management and the advantages to the community to be expected from the aerial ropeway;
 - (c) an approximate estimate of the cost of construction thereof;
 - (d) a statement of the estimate working expenses and profits expected;
 - (e) a statement of the maximum and minimum rates proposed to be charged;
 - (f) such maps, plans, sections, diagrams and other information as the Government may require in order to form an idea of the proposal;
 - (g) an application fees of Rupees Five lakhs;
 - (h) number of trees to be affected; and
 - (i) forest and animal corridors on the alignment of ropeway.

Preliminary
investigations

5. Subject to the provisions of this Act and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Government may accord sanction to the promoter to make such surveys, as may be necessary and require to submit such detailed estimates, plans, sanctions, specifications and such further information as it may deem necessary for the full consideration of the proposal. The promoter shall not in any event be entitled to claim any compensation from the Government for any expense incurred under this section:

Provided that the estimates, plans, specifications relating to the structural designs, quality of material, factors of safety, method of computing stresses shall be in conformity with those as laid down by the Bureau of Indian Standards and shall be duly certified by a qualified Engineer.

Explanation.-For the purposes of this section a "qualified Engineer" means a post graduate Engineer in structure having such qualifications and experience as may be prescribed.

Central
Act No.
30 of
2013

CHAPTER III

ORDERS AUTHORISING THE CONSTRUCTION OF AERIAL ROPEWAYS

Publication of proposed order authorising construction and contents of such order

6. (1) The Government may, on application made by any promoter and after due consideration of the details supplied in accordance with section 4, publish in one widely circulated local newspaper and one widely circulated national newspaper and in the departmental website a draft of the proposed order authorising the construction of an aerial ropeway within any specified area or along a specified route by or on behalf of such promoter, subject to such restrictions and conditions as the Government may deem proper.
- (2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order shall be taken into consideration, if submitted to the Government on or before a date to be specified in the notice.
- (3) The Government shall cause public notice of the intention to make the order to be given at convenient places within the said area, or along the said route and shall, so far as may be conveniently possible, cause a like notice to be served on every owner or occupier of land over which such route lies, and shall consider any objection or suggestion with respect to the proposed order which may be received from any person within a date to be specified in such notice. All applicable Forest and Wildlife clearances shall have to be obtained by the promoter under Forest Conservation Act, 1980 and from State Board of wildlife/National Board of Wildlife.
- (4) The draft of the proposed order shall specify:-
- (i) a time within which the capital required for the construction of the aerial ropeway shall be raised;
 - (ii) a time within which the construction shall be commenced;
 - (iii) a time within which the construction shall be completed;
 - (iv) the condition under which a concession, guarantee, or financial assistance may be given by the Government or a local authority to the promoter;
 - (v) the right of purchase by the Government or a local authority;
 - (vi) the rules regarding audit and accounts;
 - (vii) the rules regarding arbitration for the settlement of disputes;
 - (viii) the specifications relating to the structural designs, quality of material, factors of safety, method of computing stresses and other such technical details as may be considered necessary;

Central Act No. 69 of 1980

- (ix) the rules relating to the construction of the aerial ropeway over roads and other public ways of communication, except railways as defined by the Constitution and, with the previous sanction of the Central Government, over such rail ways;
- (x) the conditions under which the promoter may sell or transfer his rights to the Government, or to a local authority, or to a person;
- (xi) the conditions under which the aerial ropeway may be taken over by the Government to be worked by itself or by a local authority or by a person other than the promoter;
- (xii) the motive power to be used on the aerial ropeway and the conditions, if any, on which such power may be used;
- (xiii) the minimum headway to be maintained under different parts of the rope;
- (xiv) the minimum headway of 10 meters between the rooftop of the houses or buildings and base of the cabin, in the case of ropeway projects to be build under Public Private Partnership (PPP) mode;
- (xv) the points under the aerial ropeway at which bridges or guards shall be constructed and maintained;
- (xvi) the traffic which may be carried on the ropeway, the traffic which the promoter shall be bound to carry and the traffic which he may refuse to carry;
- (xvii) the maximum rates that may be charged by the promoter, and the circumstances in which, and the manner in which, these rates may be revised by the Government;
- (xviii) the amount of security, if any, to be deposited by the promoter in the event of his application being granted; and
- (xix) such other matters as the Government may deem necessary.

Final order

7. (1) If, after considering objections or suggestions which may have been made in respect to the draft on or before the specified date, the Government is of the opinion that the application should be granted, with or without modification, or subject or not to any restriction or condition, it may make an order accordingly.
- (2) Every order authorising the construction of an aerial ropeway shall be published in the Official Gazette, and such publication shall be conclusive proof that the order has been made as required by this section.

Cessation of powers given by an order

8. If a promoter authorised by an order to construct an aerial ropeway does not, within the time specified in the order,-

- (a) succeed in raising the full amount of capital required for the completion of the aerial ropeway;
- (b) make, in the opinion of the Government, substantial progress with the construction of the aerial ropeway; or
- (c) complete the construction thereof;
- the powers given to the promoter by such order shall, unless the Government prolongs the time so specified, cease to be exercised.
- Further order 9. (1) The Government may, on the application of the promoter, revoke, amend, or extend the order by a further order.
- (2) An application for a further order shall be made in the same manner, and subject to the same conditions, as an application for an order.
- (3) If the Government grants the application it shall make further order in the same manner as an order, except that the rights, powers and authorities asked for, in the said application shall not be increased, modified or restricted by the further order without the consent in writing of the promoter.
- Inspection of aerial ropeways before opening 10. (1) No aerial ropeway shall be opened for any kind of traffic until the Government has, by order, sanctioned the opening thereof for that purpose. The sanction of the Government under this section shall not be given until an Expert Committee has reported in writing to the Government,-
- (a) that the Expert Committee has made a careful inspections of the aerial ropeway and appurtenances as certified by Inspectors;
- (b) that the moving and fixed dimensions and other conditions prescribed under the order have been complied with as certified by Inspectors;
- (c) that the aerial ropeway is sufficiently equipped for the traffic for which it is intended;
- (d) that the bye-laws and working rules prescribed under sections 32 and 37 have been duly framed in the manner prescribed in those sections; and
- (e) that in the opinion of the Expert Committee the aerial ropeway is fit for public traffic and can be used without danger to the public using it, or to the person employed thereon, or to the general public.
- (2) The provisions of sub-section (1) above shall extend to the opening of additional sections of the aerial ropeway, to deviation lines, and to any alternation or reconstruction materially affecting the structural character of any work to which the provisions of sub-section (1) above apply or are extended by this sub-section.
- Expert Committee 11. The Government may, by notification in the Official Gazette, constitute one or more Expert Committees consisting of such number of persons, having such knowledge and experience in design, setting up and operating aerial ropeways, and on such terms and conditions as may be prescribed.

Duties of the
Expert
Committee

12. The Expert Committee shall discharge the following duties, namely:-

- (i) to aid and advise the Government and the Inspector in regard to any matter connected with the administration of the Act; and also in regard to-
 - (a) design, erection or position of any aerial ropeway or of any work appertaining thereto;
 - (b) the addition to, or the alteration or closure of an aerial ropeways;
 - (c) the variation of the character of any ropeway or of the mode of use thereof;
 - (d) to ensure that the ropeway is fit for public traffic, and no danger is involved in its use; and
 - (e) fixation of the fare rates.
- (ii) to conduct inspection of aerial ropeways and appurtenances-
 - (a) at the initial stage, before the sanction is granted for its operation under sub-section (1) of section 10 of this Act;
 - (b) subsequently at least twice in a year;
 - (c) on such other occasions as may be directed by the State Government; and
 - (d) advise Inspectors on operation and maintenance of regulations under this Act.

Appointment of
Inspectors and
their powers and
duties

13. (1) The Government shall appoint such Chief Inspector and Inspectors of aerial ropeway who have requisite qualification, experience (minimum Graduate in Civil/Mechanical/Electrical along with experience of 10 years in aerial ropeway) and may fix the fees to be charged to promoters for the performance by them for their duties under this Act and the rules framed thereunder.

(2) The Inspector shall perform following duties:-

- (i) it shall be the duty of Inspector, from time to time, to inspect such ropeways and to determine whether they are constructed and maintained in a fit condition and working properly to the entire convenience and safety of the persons using them and of the general public and consistent with the provisions of this Act.
- (ii) to see that the operation and safety measures are strictly followed as per the operation and maintenance regulations of this Act.
- (iii) the Inspector shall inspect the ropeway and its appurtenances,-
 - (a) where human beings are carried, atleast once in three months;
 - (b) where goods are carried, atleast once in a six months; and
 - (c) on such other occasions as may be directed by the State Government.

(3) The Government may also appoint experts, advisors, consultant, and other officers with such designations and assign to them such powers, duties and functions as may be prescribed for carrying out the purposes of this Act.

Powers of Inspectors

14. An Inspector shall, for the purpose of any of the duties which he is authorized or required to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 and shall, for that purpose, have such powers as may be prescribed by rules made under this Act.

Facilities to be afforded to Inspectors and Expert Committee

15. The promoter and his employees and agents shall afford to the Inspector or as the case may be, to the members of the Expert Committee all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon them by this Act or by rules made there under.

Central Act No. 45 of 1860

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF AERIAL ROPEWAYS

Authority of promoter to execute works

16. (1) Subject to the provisions of, and to the rules made under this Act, and, in the case of immovable property not belonging to the promoter, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, a promoter may,-

- (a) make such survey as he thinks necessary;
- (b) place and maintain posts in or upon any immovable property;
- (c) suspend and maintain a rope over, along or across any immovable property;
- (d) make such bridges, culverts, drains, embankments and roads as may be necessary;
- (e) erect and construct such machinery, offices, stations, warehouses and other buildings, works and conveniences as may be necessary; and
- (f) do all other acts necessary for constructing, maintaining altering, repairing and using the aerial ropeway:

Provided that a promoter may take any action under clause (b) or clause(c) of this sub-section, notwithstanding the objection of the owner or occupier of the property affected thereby, if the Deputy Commissioner, after giving such owner and occupier by notice in writing, an opportunity of being heard, by an order in writing, permits such action.

- (2) When making an order under the proviso to sub-section (1), the Deputy Commissioner shall fix the amount of compensation, or of an annual rent, or of both, which should, in his opinion, be paid by the promoter to the owner of the property affected thereby, or in the case of immovable property, to the owner or occupier thereof, or any person interested therein and the amount to be paid to each.
- Temporary entry upon land for repairing or preventing accident 17. (1) Subject to the rules made under this Act, a promoter or his duly authorized employee or agent may, at anytime for the purpose of examining, repairing or altering an aerial ropeway, or of preventing any accident, enter upon any immovable property adjoining such aerial ropeway, and may do all such works as may be necessary for such purposes.
- (2) In the exercise of the powers conferred by sub-section (1), the promoter or his duly authorized employee or agent, as the case may be, shall cause as little damage as possible, and compensation shall be paid by him for any damage so caused; and in the case of any dispute as to the amount of such compensation, the matter shall be referred for the decision of the Deputy Commissioner.
- (3) Trees falling on the alignment of ropeway shall be lifted alongwith roots and replanted at suitable location by the promoter.
- Removal of obstructions 18. (1) When any tree standing or lying near an aerial ropeway, or where any structure or other object which has been placed or has fallen near an aerial ropeway subsequent to the issue of an order under section 7 of the Act in regard to such aerial ropeway, interrupts or interferes with, or is likely to interrupt or interfere with the construction, maintenance, alteration, or use of the aerial ropeway, the Deputy Commissioner may, on the application of the promoter, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.
Explanation.-For the purpose of this sub-section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.
- (2) When disposing of an application under sub-section (1), the Deputy Commissioner shall award to the person interested such compensation as the Deputy Commissioner deems reasonable, and the Deputy Commissioner may recover such amount from the promoter as if it were an arrear of land revenue.

- Order of Deputy Commissioner subject to revision by the Government 19. No suit shall lie in respect of any matter referred to in the proviso to sub-section (1) and sub-section (2) of section 16, section 17, or in sub-section (1) of section 18 of the Act, but every order made by a Deputy Commissioner under any of those sections, and every award made by him under sub-section (2) of section 18 of the Act, shall be subject to revision by the Government except in the case of an award of compensation made by the Deputy Commissioner on account of action taken under sub-section (2) of section 16 of the Act, which award shall be subject to revision by the District Judge.

CHAPTER V WORKING OF AERIAL ROPEWAYS

- Promoter may fix rates 20. The promoter shall, for the purposes of working an aerial ropeway, and subject to such maximum rates as may be prescribed, have power, from time to time, to fix the rates for the carriage of passengers or goods on the aerial ropeway with approval of Expert Committee.
- Fixation of fare rates of Public Private Partnership and Built Operate and Transfer Ropeway Projects 21. (1) The Government, on the recommendations of the Expert Committee, shall fix and notify the maximum limit of the fare rates for the Ropeway Projects build under Public Private Partnership (PPP) and Built Operate and Transfer (BOT) mode.
(2) Every application made under this section for fixation of fare rates shall be decided within a period of 90 days from the date of receipt of such application, failing which the application shall be deemed to have been accepted for fixation of fare rates.
- Duty of promoter to work aerial ropeway without partiality 22. No promoter shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or any particular description of traffic in any respect whatsoever, or subject any particular person or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.
- Reporting of accidents 23. In case where any accident occurs in the course of working in aerial ropeway, the promoter shall, without unnecessary delay, send notice of the accident to the Government, Expert Committee and to the Inspector; and the promoter's employee-in-charge of the station of the aerial ropeway nearest to the place at which the accident occurred, or where there is no station, the promoter's employee-in-charge of the section of the aerial ropeway on which the accident occurred shall, with the least possible delay, give notice of the accident to the magistrate of the district in which the accident occurred and to the officer-in-charge of the police station within the local limits of which it occurred or to such other magistrate and police officer as the Government may appoint in this behalf and shall also, if the accident is attended with loss of human life or serious physical injury to any human being, send information to the nearest dispensary.

- Rescue operations 24. If the Government incurs any expenditure during any rescue operation, the promoter shall be liable to pay the expenditure incurred by the Government and in case the promoter fails to pay the whole or part of it, it shall be recoverable as an arrears of land revenue.
- Insurance cover 25. (1) In case of any accident or mishap, the promoter shall provide comprehensive insurance cover, in the manner as may be prescribed, to the persons availing aerial ropeway services of the Ropeway Projects built under Public Private Partnership (PPP) or Built Operate and Transfer (BOT) mode:
Provided that the Government shall not be liable for any claim on account of any accident or mishap in such Ropeway Projects.
- (2) The rate of comprehensive insurance shall be decided by the Government on the advice of the Expert Committee.
- Power to close and reopen aerial ropeways 26. (1) If after inspecting any aerial ropeway opened to public traffic, an Inspector is of opinion that the aerial ropeway or any specified part thereof cannot be used without danger to the public or is no longer in a fit state for the carriage of any specified class of traffic, he shall state that opinion, together with the grounds therefore to the Government, and the Government, after such further enquiry, if any, as it may think fit, may thereupon order that, for reasons to be set forth in the order, the aerial ropeway, or the part thereof so specified, be closed to all traffic or to any specified class of traffic:
Provided that, in any case of extreme urgency, the Inspector may order the suspension of the working of the aerial ropeway or any part thereof which he considers necessary pending the orders of the Government.
- (2) When under sub-section (1) above an aerial ropeway or any part thereof has been closed to any traffic it shall not be reopened to such traffic until it has been inspected and its reopening sanctioned, in the prescribed manner.
- (3) The Deputy Commissioner of the concerned District may issue necessary notification for suspension of operation of Ropeway in case of natural and/or man-made disaster or any crisis situation when normalcy is adversely affected by any law and order situation of acts sabotage and/or terrorism.

CHAPTER VI

DISCONTINUANCE OF AERIAL ROPEWAYS

Cessation of powers of promoter on discontinuance of aerial ropeway

27. If, at any time after the opening of an aerial ropeway, it is proved to the satisfaction of the Government that the promoter has discontinued the working of the aerial ropeway or of any part thereof, without a reason sufficient, in the opinion of the Government, to warrant such discontinuance, the Government may, if it thinks fit, declare, by notification in the Official Gazette, that the powers of the promoter in respect of such aerial ropeway or part thereof shall, from such date as it may determine, be at an end; and thereupon the said powers shall cease and determine.

Explanation.- The working of an aerial ropeway shall be deemed to have been discontinued if it has ceased for the period determined in the order published under section 7 of the Act, or, if the period has not been so determined, for a period of three months.

Powers of the Government to remove aerial ropeway on cessation of promoter's powers

28. (1) When a declaration has been made by the Government under section 27 of the Act in respect of any aerial ropeway or of any part thereof, an officer appointed in that behalf by the Government may, at any time after the expiration of two months from the date determined as aforesaid, remove such aerial ropeway or part thereof, as the case may be; and the promoter shall pay to the officer so appointed such costs of removal as shall be certified by that officer to have been incurred by him.
- (2) If the promoter fails to pay the amount of costs so certified within one month after the delivery to him of the certificate or of a copy thereof, such officer may, either by public auction or private sale, and without any previous notice to the promoter, and without prejudice to any other remedy which he may have for the recovery of the said amount, sell and dispose of the materials of the aerial ropeway or part thereof so removed; and may, out of the proceeds of the sale, pay and reimburse to himself the amount of costs certified as aforesaid and the cost of the sale, and shall pay over the residue (if any) of such proceeds to the promoter.

CHAPTER VII

PURCHASE OF AERIAL ROPEWAYS

Power of the Government and local authorities to purchase aerial ropeways

29. (1) Where the promoter is the Government, the Government may at any time transfer the undertaking or any part thereof to,-
- (a) a local authority or local authorities under terms and conditions approved by, and with the consent of, such authority or authorities; or

- (b) to any other person under such terms and conditions as selected through a transparent bidding system between the Government and the transferee.
- (2) Where the promoter is not the Government, the Government may,-
- (a) within such limits of time and upon such terms and conditions as may be specified in this behalf in the order; or
 - (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
 - (c) within two months after the publication of a notification under section 27 of the Act or within six months after the publication of a notification under section 31 of the Act, by notice in writing, require the promoter to sell to the Government or to a local authority the aerial ropeway or a part thereof, and thereupon the promoter shall sell the same upon the terms specified in the order, or if the terms were not specified in the order, then upon the terms of receiving the then value of the aerial ropeway or of the part thereof. The then value of the aerial ropeway, shall be deemed to be twenty-five times the amount of the average yearly net earnings derived by the promoter from the aerial ropeway or part thereof, during the three years immediately preceding the date of sale: Provided that, if the terms were not specified in the order published under section 7 of the Act, the total amount so payable to the promoter shall not exceed by more than twenty per cent the total capital expenditure of the promoter on the aerial ropeway, or part thereof.
- (3) A requisition shall not be made under sub-section (2) above requiring the promoter to sell to the local authority unless the making thereof has been approved by the local authority.
- (4) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 27 or section 31 of the Act, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authorities to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the aerial ropeway had been constructed by it under an order made under this Act.
- (5) Subject to, and in accordance with the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

- (6) Where a purchase has been effected under sub-section (1) or sub-section (5) above,-
- (a) the undertaking shall vest in the purchaser free from any debts, mortgages or similar obligations of the promoter or attaching to the undertaking:
Provided that any such debts, mortgages or similar obligations shall attach to the purchase money in substitution of the undertaking; and
 - (b) save as aforesaid, the order published under section 7 of the Act shall remain in full force and the purchaser shall be deemed to be the promoter:
Provided that where the Government elects to purchase, the order under section 7 of the Act shall, after purchase, in so far as the Government is concerned, cease to have any further operation.
- (7) Not less than two years' notice in writing of any election to purchase under clause (a) or clause (b) of sub-section (2) of this section shall be served upon the promoter by the Government or the local authority, as the case maybe.
- (8) Notwithstanding anything herein before contained, a local authority may, with the previous sanction of the Government, waive its option to purchase and enter into an agreement with the promoter for the working by him of the undertaking until the expiration of the next subsequent period mentioned in the order or referred to in clause (b) of sub-section (2) above, upon such terms and conditions as may be stated in the agreement.
- Power of promoter to sell when option to purchase not exercised and order revoked by consent
30. Where, on the expiration of any of the periods referred to in section 29 of the Act, neither the Government nor local authority purchases the undertaking, and the order published under section 7 of the Act is, on the application or with the consent of the promoter, revoked, the promoter shall have the option of disposing of all lands, buildings, works, materials, plants and apparatus belonging to the undertaking in such manner as he may think fit.

CHAPTER VIII

INABILITY OR INSOLVENCY OF PROMOTER

- Proceedings in case of inability or insolvency of promoter
31. (1) If, at any time, after the opening of an aerial ropeway, it appears to the Government that the promoter is insolvent or is unable to maintain the aerial ropeway or to work the same with advantage to the public, or at all the Government may, after considering any statement which the promoter may desire to make, and after such enquiry as it deems necessary, declare by notification in the Official Gazette that the powers of the promoter in respect of such aerial ropeway, shall, at the expiration of six months from the date of such declaration, be at an end, and thereupon the said powers shall, at the expiration of that period, cease and determine.

- (2) At any time after the expiration of the said six months, an officer appointed by the Government in that behalf, may remove the aerial ropeway in the same manner and subject to the same provisions as to the payment of costs and to the same remedy for the recovery thereof in every respect as in cases of removal under section 28 of the Act.

CHAPTER IX

BYE-LAWS

Power of
promoter to
make bye-laws

32. (1) A promoter shall, subject to the provisions of sub-section (3) of this section, make bye-laws consistent with this Act,-

- (a) for regulating the speed at which carriers are to be moved or propelled;
- (b) for declaring what shall be deemed to be dangerous or offensive goods and for regulating the carriage of such goods;
- (c) for regulating the maximum number of passengers and the maximum weight of goods to be carried in each carrier;
- (d) for regulating the use of steam power or any other mechanical power or electrical power on the aerial ropeway;
- (e) for regulating the conduct of the promoter's employees;
- (f) for regulating the qualifications of the staff employed for running and maintaining the aerial ropeway;
- (g) for regulating the terms and conditions on which the promoter shall warehouse or retain goods at any station on behalf of the consignee or owner of such goods; and
- (h) generally for regulating the travelling upon, and the use, working and management of the aerial ropeway.

- (2) Such bye-laws may provide that any person who contravenes the provisions of any of them shall be liable to fine which may extend to any sum not exceeding fifty rupees and that, in the case of a breach of a bye-law made under clause (c) of sub-section (1), the promoter's employee responsible for the same shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the promoter from his pay.

- (3) A bye-law made under this section shall not take effect until it has been confirmed by the Government and published in the Official Gazette:

Provided that no such bye-law shall be so confirmed until it has been previously published by the promoter in such manner as may be prescribed.

CHAPTER X

SUPPLEMENTARY PROVISIONS

- Returns 33. A promoter shall, in respect of the aerial ropeway, submit to the Government returns of capital and revenue expenditure, receipts and traffic, at such intervals, and in such form, as may be prescribed.
- Protection of roads, railways, tramways, and waterways 34. No promoter shall, in the course of the construction, repair, working or management of an aerial ropeway, cause any permanent injury to any trees in public road, railway, tramway or waterway, or obstruct or interfere with, otherwise than temporarily as may be necessary, the traffic on any public road, railway, tramway or waterway.
- Acquisition of land on behalf of a promoter 35. The Government may, if it thinks fit, subject to the provisions of the Act, on the application of any promoter desirous of obtaining any land for the purpose of constructing, extending, working or managing an aerial ropeway, acquire on his behalf such land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 whether the said promoter is or is not a company as defined in the said Act and may if it thinks fit transfer the land owned acquired or controlled to any promoter for the purpose of the Act.
- Notification of claims to refund to overcharges and compensation for losses 36. No person shall be entitled to a refund of an overcharge in respect of goods carried by an aerial ropeway or to compensation for the loss, destruction or deterioration of goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the promoter within six months from the date of the delivery of the goods for carriage by the aerial ropeway.

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CHAPTER XI

POWER TO MAKE RULES AND REGULATIONS BY THE GOVERNMENT

- Power of the Government to make rules 37. (1) The Government may, after previous publication, make rules to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe-
- (a) the operation and maintenance regulations under this Act;
- (b) the constitution of the Expert Committee under section 11 of the Act and terms and conditions of the appointment, qualifications and experience of its members;
- (c) the power, functions and duties of an Inspectors appointed under section 13 of the Act;
- (d) the accidents of which notice shall be given to the Government and to the Inspector;

- (e) the duties of the promoter's employees and of police officers, and magistrate, on the occurrence of an accident;
 - (f) the maximum rates for passengers and various classes of goods which a promoter may fix under section 20 of the Act;
 - (g) the standard dimensions and specifications to which the aerial ropeway is to conform;
 - (h) the manner of previous publication of bye-laws made under section 32 of the Act;
 - (i) the intervals at which a promoter shall submit returns under section 33 of the Act and the forms in which such returns shall be submitted;
 - (j) the manner in which notices under this Act shall be served;
 - (k) the manner in which, and the conditions under which, the booking of goods may be permitted between an aerial ropeway and railway, tram way or another aerial ropeway;
 - (l) the safe and efficient working of aerial ropeways;
 - (m) the conditions under which, and the manner in which, the powers conferred on promoters by section 16 and section 17 of the Act may be exercised;
 - (n) the procedure for the disposal of applications under subsection (2) of section 26 of the Act to reopen aerial ropeway or part thereof and the conditions under which such aerial ropeway may be reopened;
 - (o) the preparation, submission and auditing of the accounts of the promoter;
 - (p) the method of arbitration for the settlement of disputes;
 - (q) the fees to be charged to promoters and other persons in respect of licences, enquiries, inspections, and services rendered under this Act shall be fixed and notified by the Government;
 - (r) the procedure for making, hearing, and disposing of applications under this Act.
- (3) All rules made under this section shall be published in the Official Gazette.
- (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of the Government to make regulations

38. (1) The Government may, in particular and without prejudice to the generality of the forgoing power, and in consistent with the Act, make regulations for,-
- (a) approval of surveyors, competent persons, controllers and operators;
 - (b) supply of operation manual and manner of records to be kept maintaining an operational log;
 - (c) method of employment and duties of operational personnel;
 - (d) manner of operating the ropeway;
 - (e) pre-operational examinations, tests and requirements as to speed, load, etc;
 - (f) reporting of certain occurrences;
 - (g) prohibition of persons, goods and prohibition of using tobacco product, pan masala, smoking, etc;
 - (h) scheduled maintenance of the ropeway;
 - (i) prohibition on use of certain ropes;
 - (j) use of counter weight, cars, communication systems, electrical systems, maintenance of station and posting of warning notices;
 - (k) rescue operations and equipments;
 - (l) general safety precautions.
- (2) All regulations made under this section shall be published in the Official Gazette.
- (3) Every regulations made under this Act shall be laid, as soon asmay be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the regulation or decides that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

CHAPTER XII

OFFENCES, PENALTIES AND ARRESTS

Failure of promoter to comply with Act

39. If a promoter,-
- (a) constructs or maintains an aerial ropeway otherwise than in accordance with the terms of an order made under section 7 of the Act; or
 - (b) opens an aerial ropeway or permits it to be opened in contravention of any of the provisions of section 10 of the Act; or

- (c) fails to comply with the provisions of section 15 of the Act; or
- (d) fails to pay within a reasonable time any compensation awarded by a Deputy Commissioner under sections 16,17,18 or by the State Government or a District Judge under section 19 of the Act; or
- (e) contravenes any of the provisions of section 22 of the Act; or
- (f) fails to send notice of any accident as required by section 23 of the Act; or
- (g) fails to close an aerial ropeway in accordance with an order passed under sub-section (1) of section 26 of the Act or reopens any aerial ropeway in contravention of sub-section (2) of that section; or
- (h) continues to exercise the powers of a promoter in respect of any aerial ropeway in contravention of the provisions of section 27 or section 31 of the Act; or
- (i) fails to comply with the provisions of section 32 or section 33 of the Act; or
- (j) contravenes any of the provisions of section 34 of the Act; or
- (k) contravenes the provisions of any rule made under section 37 of the Act;

he shall, without prejudice to the enforcement of specific performance of the requirements of this Act, or of any other remedy which may be obtained against him, be punishable with fine which may extend to fifty thousand rupees and in the case of a continuing offence, to a further fine which may extend to one thousand rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Unlawfully obstructing promoter's employee in discharge of his duty

40. If a person, without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs or impedes any employee of a promoter in the discharge of his duty, he shall be punishable with fine which may extend to five hundred rupees.

Unlawfully interfering with aerial ropeways

41. If any person, without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely:-

- (a) interferes with, removes or alters any part of an aerial ropeway or of the works connected therewith;
- (b) does anything in such manner as to obstruct any carrier travelling on an aerial ropeway;
- (c) attempts to do or abets within the meaning of the Indian Penal Code, 1860 the doing of anything mentioned in clause (a) or clause (b);

Punishments for acts or attempts tending to endanger safety of persons travelling or being upon aerial ropeways

42. (1) If any person does anything mentioned in clause (a), clause (b) or clause (c) of section 41 of the Act or does, attempts to do, or abets, within the meaning of the Indian Penal Code, 1860, the doing of any other act or thing in relation to an aerial ropeway with intent, or with knowledge that he is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall be punishable with imprisonment for a term which may extend to fourteen years.

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- (2) If the promoter does anything or omits to do anything, mentioned in section 39 of the Act, in relation to an aerial ropeway with intent or with knowledge that such act or omission is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall be punishable with imprisonment for a term which shall not be less than one month but may extend to five years.

Arrest for offence against certain sections and procedure thereupon

43. (1) If any person commits any offence under section 40 or section 41 of the Act and obstructs the working of an aerial ropeway or commits any offence punishable with imprisonment under section 42 of the Act, he may be arrested without warrant or other written authority by any employee of the promoter or by any police officer, or by other persons whom such employee or officer may call to his aid.
- (2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or to commit him for trial.

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