

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
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**GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK**

No. 11(656)L&PAD/2021/31

Dated: 03.05.2024

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 26th day of February, 2024 is hereby published for general information:-

THE SIKKIM AERIAL ROPEWAYS ACT, 2023

ACT NO. 11 OF 2023

AN

ACT

Whereas, it has been considered necessary to establish a legal framework regulating the procurement, operations and maintenance of Aerial Ropeways in Sikkim, in order to promote public private partnership and ensure quality and safety of all passenger and non-passenger aerial ropeways.

BE it enacted by the Legislature of Sikkim in the Seventy-fourth Year of the Republic of India as follows: —

CHAPTER I PRELIMINARY

**Short title,
extent and
commencement**

1. (1) This Act may be called the Sikkim Aerial Ropeways Act, 2023.
(2) It extends to the whole of Sikkim.
(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, —
- (a) **“Aerial ropeway”** means an aerial ropeway (or any portion thereof) for the public carriage of passengers, animals or goods, and includes all ropes, posts, carriers, stations, offices, ware-houses, 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, animals 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) **“Collector”** means the District Collector of a district and includes a person appointed by the Government, to the extent of power delegated, from time to time, in this regard and for the purpose of this Act;
 - (e) **“Expert Committee”** means a Committee constituted under section 12 of this Act;
 - (f) **“Government”** means the Government of Sikkim;
 - (g) **“Inspector”** means an Inspector of aerial ropeways appointed under this Act;
 - (h) **“Local authority”** means a Municipal Committee, Notified Area Committee, Gram Panchayat, Zilla 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 State Government Gazette;
 - (j) **“Order”** means an order authorizing the construction of an aerial ropeway under this Act, and includes a further order substituted for, or amending, extending or revoking that order;
 - (k) **“Post”** means a post, trestle, standard, strut, stay or other contrivance or part of contrivance for carrying, suspending or supporting a rope;
 - (l) **“Prescribed”** means prescribed by rules made by the State Government under this Act;
 - (m) **“Promoter”** means—
 - (i) the State Government;
 - (ii) a local authority;
 - (iii) any person acting on behalf or under the authority of the State Government;
 - (iv) any Company incorporated under the relevant Act in force;

- (v) any railway company as defined in the Indian Railways Act, 1980 (9 of 1890),
in whose favor 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;
- (n) “**Rate**” includes any fare, charge or other payment for the carriage of passengers, animals or goods;
- (o) “**Rope**” includes any cable, wire, rail or way, whether flexible or rigid, 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;
- (p) “**SPV**” means Special Purpose Vehicle formed by the State Government to coordinate the overall implementation, operation and maintenance of project till the concession or lease period, whichever is applicable.

CHAPTER II

PROCEDURE AND PRELIMINARY INVESTIGATIONS

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| Application for concession | 3. Every application by an intending promoter other than the State Government in regard to a proposed aerial ropeway for permission to undertake the necessary preliminary investigations shall be submitted to the State Government. |
| Contents of application | 4. Every application as mentioned in section 3 above shall include:— <ul style="list-style-type: none"> (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 estimated working expenses and profits expected; (e) a statement of the maximum and minimum rates proposed to be charged; and (f) such maps, plans, sections, diagrams and other information as the State Government may require in order to form an idea of the proposal. |
| Preliminary investigations | 5. Subject to the provisions of this Act and relevant section of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the State Government may accord sanction to the promoter to make such surveys, as |

may be necessary and require him 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 stress shall be in conformity with those as laid down by the Bureau of Indian Standards/International Standard as applicable and shall be duly certified by a qualified Structural Engineer.

Explanation. - For the purposes of this section a “qualified Structural Engineer” means a graduate Engineer having such qualifications and experience as may be prescribed.

CHAPTER III ORDERS AUTHORISING THE CONSTRUCTION OF AERIAL ROPEWAYS

Publication of proposed order authorizing construction and contents of such order

6. (1) The State Government may, on application made by any promoter and after due consideration of the details supplied in accordance with section 5, publish in the Official Gazette a draft of the proposed order authorizing the construction of an aerial ropeway within any specified area or along any specified route by or on behalf of such promoter, subject to such restrictions and conditions as the State 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, if submitted to the State Government on or before a date to be specified in the notice, be received and considered.
- (3) The State 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.
- (4) The proposed order may specify: —
 - (a) a time within which the capital required for the construction of the aerial ropeway shall be raised;
 - (b) a time within which the construction shall be commenced;
 - (c) a time within which the construction shall be completed;
 - (d) the condition under which a concession, guarantee, or

financial assistance may be given by the State Government or a local authority to the promoter;

- (e) the right of purchase by the State Government or a local authority;
- (f) the rules regarding audit and accounts;
- (g) the rules regarding arbitration for the settlement of disputes;
- (h) 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;
- (i) the rules relating to the construction of the aerial ropeway over roads and other public ways of communication, except railways with the previous sanction of the Central Government, over such railways;
- (j) the conditions under which the promoter may sell or transfer his rights to the State Government, or to a local authority or to a person;
- (k) the conditions under which the aerial ropeway may be taken over by the State Government to be worked by itself or by a local authority or by a person other than the promoter;
- (l) the motive power to be used on the aerial ropeway and the conditions, if any, on which such power may be used;
- (m) the minimum headway to be maintained under different parts of the rope;
- (n) the points under the aerial ropeway at which bridges or guards shall be constructed and maintained;
- (o) the traffic which may be carried on the ropeway, the traffic which the promoter shall be bound to carry and the traffic which may be refused to be carried;
- (p) the maximum and minimum 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 State Government;
- (q) the amount of security, if any, to be deposited by the promoter in the event of his application being granted; and
- (r) such other matters as the State Government may deem necessary.

Order

7. (1) If, after considering objections or suggestions which may have been made in respect to the notice on or before the specified date, the State 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 authorizing 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.
- (3) The State Government may, on the application of the promoter, revoke, amend, or extend the order.

Cessation of powers given by an order

- 8. If a promoter authorized 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 State 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 State Government extends the time so specified, cease to be exercised.

Inspection of aerial ropeways before opening

- 9. (1) No aerial ropeway shall be opened for any kind of traffic until the State Government has by Official Order, sanctioned the opening thereof for that purpose. The sanction of the State Government under this section shall not be given until an Inspector has reported in writing to the State Government that, —
 - (a) he, as well as the Expert Committee has made a careful inspection of the aerial ropeway and appurtenances;
 - (b) the moving and fixed dimensions and other conditions prescribed under the order have been complied with;
 - (c) the aerial ropeway is sufficiently equipped for the traffic for which it is intended;
 - (d) the bye-laws and working rules prescribed by sections 29 and 34 have been duly made, approved, and promulgated in the manner prescribed in those sections; and
 - (e) in his opinion, as well as 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) shall extend to the opening of additional sections of the aerial ropeway, to deviation lines, and to any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sub-section (1) apply or are extended by this sub-section.

**Appointment
of Inspectors**

10. (1) The State Government may appoint Inspectors of aerial ropeways out of Graduate (Mechanical) Engineers, not below the rank of Superintending Engineer and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.
- (2) The Inspector shall exercise such powers and perform such functions and duties as may be prescribed. It shall also be the duty of such Inspectors, from time to time, to inspect such ropeways and to determine whether they are constructed and maintained in a fit condition and are 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:
- Provided that the Inspectors shall inspect the ropeway and its appurtenances, -
- (a) where human beings are carried, at least once in three months; and
- (b) where animals and goods are carried at least once in six months.
- (3) The State Government may also appoint other subordinate officers and servants with such designations and assign to them such powers, duties and functions as may be necessary for carrying out the purposes of this Act.

**Powers of
Inspectors**

11. 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, as defined in the Indian Penal Code, 1860 (45 of 1860) and shall for the purpose have such powers as may be prescribed by the State Government under clause (b) of sub-section (2) of section 34.

**Expert
Committee**

12. (1) The State Government may, by notification in the official gazette, constitute one or more Expert Committees consisting of such number of persons, having knowledge and experience in design, setting up and operating aerial ropeways, and any such terms and conditions as may be prescribed.
- (2) It shall be the duty of the Expert Committee, -
- (a) to aid and advise the State Government and the Inspector in regard to any matter connected with the administration of the Act; and also, in regard to-
- (i) design, erection or position of any aerial ropeway or of any work appertaining thereto;
- (ii) the addition to or the alteration or closure of an aerial ropeways;
- (iii) the variation of the character of any ropeway or of the mode of use thereof;

- (b) to conduct inspection of aerial ropeways and appurtenances-
 - (i) at the initial stage, before the sanction is granted for its operation under sub-section (1) of section 9 of this Act;
 - (ii) subsequently at least once in a year; and
 - (iii) on such other occasions as may be directed by the State Government;
- (c) to ensure that the ropeway is fit for public traffic, and no danger is involved in its use.

Facilities to be afforded to Inspectors and Expert Committee

13. The promoter and his servants and agents shall afford to the Inspector, 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 him by this Act or by rules made thereunder.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF AERIAL ROPEWAYS

Authority of promoter to execute works

14. (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 Collector, 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 Collector 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
accidents**

15. (1) Subject to the rules made under this Act, a promoter or his duly authorized servant or agent may, at any time 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 exercise of the powers conferred by sub-section (1), the promoter or his duly authorized servant 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 Collector.

**Removal of
obstructions**

16. (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 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 Collector shall, on the application of the promoter, cause the tree, structure or object to be removed or otherwise dealt with as he deems fit after obtaining permission from Forest Department.

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 Collector shall award to the person interested such compensation as the Collector deems reasonable, and the Collector may recover such amount from the promoter as if it were an arrear of land revenue.

**Order of Collector
subject to revision
by State
Government**

17. No suit shall lie in respect of any matter referred to in sub-section (1) and sub-section (2) of section 15 and section 16, but every order made by a Collector under any of those sections, and every award made by him under sub-section (2) of section 16, shall be subject to revision by the State Government except in the case of an award of compensation made by the Collector on account of action taken under sub-section (2) of section 15, which award shall be subject to revision by the District Judge.

CHAPTER V
WORKING OF AERIAL ROPEWAYS

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| Promoter may fix rates | 18. | The promoter shall, for the purposes of working an aerial ropeway and subject to such maximum rates as may be prescribed or ordered, have power, from time to time, to fix the rates for the carriage of passengers, animals or goods on the aerial ropeway as may be prescribed. |
| Duty of promoter to work aerial ropeway without partiality | 19. | <p>No promoter shall make or give any undue or unreasonable preference or advantage to or in favor 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 disadvantage in any respect whatsoever; except in favour of:</p> <ul style="list-style-type: none">(a) Differently abled persons;(b) In cases of emergency;(c) Security and medical reasons, etc. |
| Reporting of accidents | 20. | When any accident occurs in the course of working an aerial ropeway, the promoter shall, without unnecessary delay, send notice of the accident to the State Government and to the Inspector; and the promoter's servant-in-charge of the station on the aerial ropeway nearest to the place at which the accident occurred, or where there is no station, the promoter's servant-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 State 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. |
| Liability to pay compensation on the principles of no fault | 21. | <ul style="list-style-type: none">(1) Where death or permanent disablement of any person or livestock and/or damage to a property, has resulted from an accident arising out of the use of aerial ropeway, the promoter or promoters of the ropeway shall jointly and severally, be liable to pay compensation in respect of such death or disablement of any person and or livestock or damage to a property.(2) The amount of compensation for death or permanent disablement of persons or in the case of minor injury or in case of loss of livestock or loss or damage of property, to be paid under sub-section (1) shall be such sums as may be prescribed. |

- (3) A claim for compensation under sub-section (1) shall neither be defeated by reason of any neglect or default of the person or livestock, in respect of whose death or permanent disablement, the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person or livestock in the responsibility for such death or permanent disablement.
- (4) The right to claim compensation under this section in respect of death or permanent disablement of any person or livestock shall be in addition to the right of any such person to claim compensation in respect thereof under any other law for the time being in force:

Provided that the amount of compensation payable under any other law, for the death or bodily injury shall be reduced from the amount of compensation payable under this section.

**Rescue
operations**

22. If the State Government incurs any expenditure during any rescue operation, the promoter shall be liable to pay the expenditure incurred by the State Government and in case the promoter fails to pay the whole or part of it, it shall be recoverable as arrears of land revenue.

**Power to close
and reopen
aerial ropeways**

23. (1) If after inspecting any aerial ropeway opened to public traffic, an Inspector is of the opinion that the aerial ropeway or any specified part thereof is no longer in a fit state for the carriage of any specified class of traffic, he shall state the opinion, together with the grounds thereof to the State Government, and the State 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 State Government, such suspension shall be intimated to the State Government without fail.

- (2) When under sub-section (1), 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, as specified in the prescribed manner.

CHAPTER VI

DISCONTINUANCE OF AERIAL ROPEWAYS

Cessation of powers of promoter on discontinuance of aerial ropeway

24. If, at any time after the opening of an aerial ropeway, it is proved to the satisfaction of the State Government that the promoter has discontinued the working of the aerial ropeway or of any part thereof, without sufficient reason, in the opinion of the State Government, to warrant such discontinuance, the State 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, come to 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 to operate for the period determined in the order published under section 7, or, if the period has not been so determined, for a period of three months.

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

25. (1) When a declaration has been made by the State Government under section 24, in respect of any aerial ropeway or of any part thereof, an officer appointed in that behalf by the State 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 costs 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 State Government and local authorities to purchase aerial ropeways

26. (1) Where the promoter is the State Government, the State 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 of by, and with the consent of, such authority or authorities; or

- (b) to any other person under such terms and conditions as may be mutually agreed upon between the State Government and the transferee.
- (2) Where the promoter is not the State Government, the State 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) within two months after the publication of a notification under section 24 or within six months after the publication of a notification under section 28, by notice in writing, require the promoter to sell to the State 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, the total amount so payable to the promoter shall not exceed by more than 20 (twenty) per cent of 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) 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 24 or section 28, 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)

- (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 shall remain in full force and the purchaser shall be deemed to be the promoter:

Provided that where the State Government elects to purchase, the order under section 7 shall, after purchase, in so far as the State 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 State Government or the local authority, as the case may be.
- (8) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the State 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), 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

27. Where, on the expiration of any of the periods referred to in section 26, neither the State Government nor local authority purchases the undertaking, and the order published under section 7 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 deem fit.

CHAPTER VIII

INABILITY OR INSOLVENCY OF PROMOTER

Proceedings in case of inability or insolvency of promoter

28. (1) If, at any time, after the opening of an aerial ropeway, it appears to the State 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 State 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 State 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 25.

CHAPTER IX

BYE-LAWS

Power of promoter to make bye-laws

29. (1) A promoter shall, subject to the provisions of sub-section (3), 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 animals 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 servants;
 - (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 will 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 as notified from time to time and that, in the case of a breach of a bye-law made under clause (c) of sub-section (1), the promoter's servant 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 State 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

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| Returns | 30. A promoter shall, in respect of the aerial ropeway, submit to the State 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 | 31. No promoter shall, in the course of the construction, repair, working or management of an aerial ropeway, cause any permanent injury to any 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 | 32. The State Government may, if it deems 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 relevant provisions of 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. |
| Notification of claims to refund of overcharges and compensation for losses | 33. No person shall be entitled to a refund of an overcharge in respect of animals or goods carried by an aerial ropeway or to compensation for the loss, destruction or deterioration of animals or 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 animals or goods for carriage by the aerial ropeway. |

CHAPTER XI

RULES BY THE STATE GOVERNMENT

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| Power of State Government to make rules | 34. (1) The State Government may, subject to the condition of previous publication, by notification make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the qualifications and experience of the structural Engineer under section 5;

(b) the powers, functions and duties of an Inspector appointed under section 10;

(c) the constitution of the Expert Committee under section 12 and terms and conditions of the appointment, qualifications and experience of its members; |
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- (d) the accidents of which, notice shall be given to the State Government and to the Inspector;
 - (e) the duties of the promoter's servants and of police officers, and magistrate, on the occurrence of an accident;
 - (f) the maximum and minimum rates for various classes of goods which a promoter may fix under section 18;
 - (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 29;
 - (i) the intervals at which a promoter shall submit returns under section 30 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, tramway or another aerial ropeway;
 - (l) the safe and efficient working of aerial ropeway;
 - (m) the conditions under which, and the manner in which the powers conferred on promoters by section 14 and section 15 may be exercised;
 - (n) the procedure for the disposal of applications under sub-section (2) of section 23 to reopen an 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 licenses, applications, enquiries, inspection and services rendered under this Act; and
 - (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.

**Power to
remove
difficulties**

- 35.** (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that, no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

- (2) Every order made under this Section shall, as soon as may be after it is made, be laid before the Legislature of the State.

CHAPTER XII

OFFENCES, PENALTIES AND ARRESTS

Failure of promoter to comply with Act

36. If a promoter —
- (a) constructs or maintains an aerial ropeway otherwise than in accordance with the terms of an order made under section 7; or
 - (b) opens an aerial ropeway or permits it to be opened in contravention of any of the provisions of section 9; or
 - (c) fails to comply with the provisions of section 13; or
 - (d) fails to pay within a reasonable time any compensation awarded by a Collector under sections 14, 15, 16 or by the State Government or a District Judge under section 17; or
 - (e) contravenes any of the provisions of section 19; or
 - (f) fails to send notice of any accident as required by section 20; or
 - (g) fails to close an aerial ropeway in accordance with an order passed under sub-section (1) of section 23 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 24 or section 28; or
 - (i) fails to comply with the provisions of section 29 or section 30; or
 - (j) contravenes the provision of section 31; or
 - (k) contravenes the provisions of any rule made under section 34,

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 prescribed as notified from time to time, and in the case of a continuing offence, to a further fine as prescribed by the Authorities during which the offender is proved to have persisted in the offence.

Unlawfully obstructing promoter's servant in discharge of his duty

37. If a person, without lawful excuse, the burden of proving which shall lie upon him, willfully obstructs or impedes any servant of a promoter in the discharge of his duty, he shall be punishable with fine as prescribed in the bye-laws.

Unlawfully interfering with aerial ropeways

- 38.** If any person, without lawful excuse, the burden of proving which shall lie upon him, willfully 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 (Central Act 45 of 1860) the doing of anything mentioned in clause (a) or clause (b);
- he shall, without prejudice to any other remedy which may be obtained against him in a civil court, be punishable with fine as prescribed in the bye-laws.

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

- 39.** (1) If any person does anything mentioned in clause (a), clause (b) or clause (c) of section 38 or does, attempts to do, or abets, within the meaning of the Indian Penal Code, 1860 (Central Act 45 of 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 as per the prescribed section of Indian Penal Code, 1860.
- (2) If the promoter does anything or omits to do anything, mentioned in section 36, 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 as per the prescribed section of Indian Penal Code, 1860.

Arrest for offence against certain sections and procedure thereupon

- 40.** (1) If any person commits any offence under section 37 or section 38 which obstructs the working of an aerial ropeway or commits any offence punishable with imprisonment under section 39, he may be arrested without warrant or other written authority by any servant of the promoter or by any police officer, or by other persons whom such servant 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.

Savings

- 41.** Any action taken or purporting have been done or taken (including any rules, notification or orders made or issued) by the State Government and is not consistent with the provisions of this Act, be deemed to have been done or taken under this Act.

**SURAJ CHETTRI (SSJS)
L.R - cum - SECRETARY**

LAW & PARLIAMENTARY AFFAIRS DEPARTMENT