
AERIAL ROPEWAYS ACT, 2002

Act No. XII of 2002

THE JAMMU AND KASHMIR AERIAL ROPEWAYS ACT, 2002

(Act No. XII of 2002)

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THE JAMMU AND KASHMIR AERIAL ROPEWAYS ACT, 2002**(Act No. XII of 2002)**

[Received the assent of the Governor on 21st April, 2002 and published in Government Gazette dated 23rd April, 2002.]

An Act to authorize, facilitate and regulate the construction and working of the aerial ropeways in Jammu and Kashmir.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Aerial Ropeways Act, 2002.

(2) It extends to the ¹[whole of the Union territory of Jammu and Kashmir].

²[(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint].

2. *Definitions.*—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, 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, animals or goods or for any other purpose in connection with the working of an aerial ropeway ;

1. Substituted for “whole of the State of Jammu and Kashmir” vide S.O. 3808(E) of 2020 dated 26.10.2020.

2. Enforced vide SRO-22 dated 31st January, 2005 w. e. f. 1st February, 2005.

(c) “Circle” in relation to a local authority” means the area within the control of that authority ;

¹[(cc) “Collector” means Collector as defined under the Land Revenue Act, Svt. 1996 ;]

(d) “Government” means the Government of Jammu and Kashmir ;

(e) “Government Gazette” means the Jammu and Kashmir Government Gazette ;

²[(f) “Inspector” means an Officer, a Committee or an Agency so appointed by the Government under this Act ;]

(g) “local authority” means a Municipal Council, Town Area Committee, Notified Area Committee, Halqa Panchayat or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund ;

(h) “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 ;

(i) “post” means a post, trestle, standard, strulstay of other contrivance or part of contrivance for carrying, suspending or supporting a rope ;

(j) “prescribed” means prescribed by rules made under this Act ;

(k) “promoter” means—

(i) the State Government ;

(ii) a local authority ;

(iii) any person ;

1. Clause (cc) inserted vide S.O. 3808 (E) of 2020 dated 26.10.2020.

2. Clause (f) substituted *ibid*.

- (iv) any Company incorporated under the ³[Companies Act, 2013] ; or
- (v) any railway company as defined in the Indian Railway Act, 1980 ;

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 developed ;

- (l) “rate” includes any fare, charge or other payment for the carriage of passengers, animals or goods ; and
- (m) “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.

CHAPTER II

PROCEDURE AND PRELIMINARY INVESTIGATIONS

²[3. *Declaration for concessions.*— Every declaration by an intending promoter other than the Government in regard to a proposed aerial ropeway for undertaking the necessary preliminary investigations shall be submitted on an application to the Divisional Commissioner concerned.

4. *Contents of Declaration.*— Every such application shall be supported by a duly sworn affidavit and shall include—

- (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 ; and

1. Substituted for “Companies Act, 1956” vide S.O. 3808 (E) of 2020 dated 26.10.2020.

2. Sections 3 and 4 substituted *ibid*.

- (d) such maps, plans, sections, diagrams and other information as the Government may require in order to form an idea of the proposal.]

5. *Preliminary investigations.*—Subject to the provisions of this Act, the Government may accord sanction to any 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 consideration of the proposal. The promoter shall not in any event be entitled to claim any compensation from the Government for any expenses incurred under this section.

CHAPTER III

ORDERS AUTHORISING THE CONSTRUCTION OF AERIAL ROPEWAYS

6. *Publications of proposed order authorising constructions and contents of such orders.*—(1) The Government may, on application made by any promoter and after due consideration of the details supplied in accordance with section 5, publish in the Government 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 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 will, if submitted to the Government on or before a date to be specified in the notice, be received and considered.

(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.

(4) The draft of the proposed order may specify—

- (i) a time within which the capital required for the construction of the aerial ropeways 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 conditions 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 structural designs, quality of the material, factors of safety, method of computing stresses and other such technical details as may be considered necessary ;
- (ix) the rules relating to the construction of the aerial ropeway over road and other public ways of communication, except railways as defined by the Constitution and, with the previous sanction of the Central Government, over such railways ;
- (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 ropeways 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 points under the rope at which bridges on guards shall be constructed and maintained ;

- (xv) 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 ;
- (xvi) 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 Government ;
- (xvii) the amount of security, if any, to be deposited by the promoter in the event of his application being granted ; and
- (xviii) such other matters as the Government may deem necessary.

7. *Final order.*—(1) If, after considering objections which may have been made in respect to the proposed order under section 6, on or before the specified date, the Government is of the opinion that the application should be granted, with or without modification, or subject 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 Government Gazette, and such publication shall be conclusive proof that the order has been made as required by this section.

8. *Cessation of powers given by an order.*—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 ; or
- (b) make, in the opinion of the Government, substantial progress with the construction of the aerial ropeways ; or
- (c) complete the construction thereof, the powers given to the promoter by such order shall, unless the Government extends the time so specified, cease to be exercised.

9. *Further order.*—(1) The Government may, on the application of the promoter, revoke, amend or extend the order by 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 the 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 by the promoter.

10. *Inspection of aerial ropeways before opening.*—(1) No aerial ropeways 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 Inspector has reported in writing to the Government that—

- (a) he 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 under sections 27 and 32 have been duly made, approved and promulgated in the manner prescribed in those sections ; and
- (e) in his opinion 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.

11. *Appointment of Inspector.*—(1) The Government may appoint Inspectors of aerial ropeways and may fix the fees to be charged from promoters for the performance by Inspector of their duties under this Act.

(2) It shall be the duty of such Inspectors, from time to time, to inspect aerial ropeways and to determine whether they are maintained in a fit condition and worked with due regard to the convenience and safety of the public, and consistently, with the provisions of this Act.

12. *Power of Inspectors.*— 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 under section 21 of the ¹[Indian Penal Code (45 of 1860)] and shall for that purpose have such powers as may be prescribed by the Government under clause (a) of sub-section (2) of section 32.

13. *Facilities to be afforded to Inspectors.*— The promoter and his servants and agents shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed or conferred upon him by this Act or by rules made thereunder.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF AERIAL ROPEWAYS

14. *Authority of promoter to execute works.* —(1) Subject to the provisions of this Act and to the rules made thereunder 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 purpose, 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 :

1. Substituted for “State Ranbir Penal Code, Samvat 1989” vide S.O. 3808(E) of 2020 dated 26.10.2020.

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 or occupier of the property affected thereby or any person interested therein and the amount to be paid to each.

15. *Temporary entry upon land for repairing or preventing accident.* —(1) Subject to the rules made under this Act, a promoter or his duly authorised 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 the 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 to the decision of the Collector by the promoter or the owner of such property by making an application.

16. *Removal of obstructions.* —(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 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 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.

17. Order of Collector subject to revision by the Government.— No suit shall lie, in respect of any matter referred to in the proviso to sub-section (1) of section 14, in sub-section (2) of section 14, section 15, or in sub-section (1) of 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 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 14, which award shall be subject to revision by the Principal District Judge of the District.

CHAPTER V

WORKING OF AERIAL ROPEWAYS

¹[18. *Promoter may fix rates.*— The promoter shall, for the purposes of working an aerial ropeway, have powers to fix the rates for the carriage of passengers, animals or goods on the aerial ropeway:

Provided that such rates shall be subject to such maximum and minimum rates as may be prescribed or ordered in case where concession, guarantee, or financial assistance have been granted by the Government or any local authority.]

19. Duty of promoter to work aerial ropeway without partiality.— 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.

20. Reporting of accidents.—When any of the following accidents occur in the course of working an aerial ropeway, namely :—

- (a) any accident attended with loss of human life or serious physical injury to any human being or with serious injury to property ;

1. Section 18 substituted vide S.O. 3808 (E) of 2020 dated 26.10.2020.

- (b) any accident of a description usually attended with loss of human life or with serious physical injury as aforesaid, or with serious injury to property ;
- (c) any accident of any other description which the Government may specify in this behalf, by notification in the Government Gazette,

the promoter shall, without unnecessary delay, send notice of the accident to the Government and to the Inspector, and the promoter's servant incharge 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 incharge 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 incharge 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 or hospital.

21. *Power to close and reopen aerial ropeways.* —(1) If after inspecting any aerial ropeway opened to public traffic an Inspector is of opinion that the aerial ropeway of 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 therefor to the Government and the Government after such further inquiry, 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), 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.

CHAPTER VI

DISCONTINUANCE OF AERIAL ROPEWAYS

22. *Cessation of powers of promoter on discontinuance of aerial ropeway.* —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 Government 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, or if the period has not been so determined, for a period of three months.

23. *Powers of the Government to remove aerial ropeway on cessation of promoter's powers.* —(1) When a declaration has been made by the Government under section 22 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 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

24. *Power of the Government and local authorities to purchase aerial ropeways.* —(1) Where the promoter is the Government, it 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 it 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 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 22 or within six months after the publication of a notification under section 26 ;

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, 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) 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 22 or section 26, 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 thereof 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 persons or firms may purchase an undertaking or part thereof.

(6) Where a purchase has been affected under sub-section (1) or sub-section (5),—

(a) the undertaking shall vest in the purchaser free from any debts, mortgages or similar obligation 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 for the undertaking ; and

(b) save as aforesaid, the order published under section 7 shall remain in full force and the purchase shall be deemed to be the promoter :

Provided that where the Government elects to purchase; the order under section 7 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 may be.

(8) Notwithstanding anything hereinbefore 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 referred to in clause (b) of subsection (2) upon such terms and conditions as may be stated in the agreement.

25. *Power of promoter to sell when option to purchase not exercised and revoked by consent.*— Where, on the expiration of any of the periods referred to in section 24 neither the 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 think fit.

CHAPTER VIII

INABILITY OR INSOLVENCY OF PROMOTER

26. *Proceedings in case of inability or insolvency of promoter.*— (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 Government 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 period of 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 23.

CHAPTER IX

BYE-LAWS

27. *Power of promoter to make bye-laws.*—(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 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
- (g) 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 servants 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 Government 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

28. *Returns.*—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.

29. *Protection of roads, railways, tramways and waterways.*— 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.

30. *Acquisition of land on behalf of a promoter.*— The Government may if it thinks fit, subject to the provisions of this Act, on the application of any promoter desirous of obtaining any land for the purpose of constructing, executing, working or managing an aerial ropeway, acquire on his behalf such land under the provisions of ¹[The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(30 of 2013)], whether the said promoter is or is not a company as defined in the said Act.

31. *Notification of claims to refund of overcharges and compensation for losses.*— 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.

1. Substituted for "Part VII of the State Land Acquisition Act, Samvat 1990" vide S.O. 3808 (E) of 2020 dated 26.10.2020.

CHAPTER XI

RULES BY THE GOVERNMENT

32. *Power of the Government to make rules.* —(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 powers and duties of an Inspector appointed under section 11 ;
- (b) the accidents of which notice shall be given to the Government and to the Inspector ;
- (c) the duties of the promoter's servants and of police officers, and magistrate, on the occurrence of an accident ;
- (d) the maximum and minimum rates for various classes of goods which a promoter may fix under section 18 ;
- (e) the standard dimensions and specifications to which the aerial ropeway is to conform ;
- (f) the manner of previous publication of bye-laws made under section 27 ;
- (g) the intervals at which a promoter shall submit returns under section 28 and the forms in which such returns shall be submitted ;
- (h) the manner in which notices under this Act shall be served ;
- (i) the manner in which and the conditions under which, booking of goods may be permitted between an aerial ropeway and railway, tramway or another aerial ropeway ;
- (j) the safe and efficient working of aerial ropeway ;

- (k) the conditions under which, and the manner in which the powers conferred on promoters by section 14 and section 15 may be exercised ;
- (l) the procedure for the disposal of applications under sub-section (2) of section 21 to reopen an aerial ropeway or part thereof and conditions under which such aerial ropeway may be reopened ;
- (m) the preparation, submission and auditing of the accounts of the promoter ;
- (n) the method of arbitration for the settlement of disputes ;
- (o) the fees to be charged to promoters and other persons in respect of licences, applications, enquiries, inspection and services rendered under this Act ; and
- (p) the procedure for making, hearing and disposing of applications under this Act.

(3) All rules made under this section shall be published in the Government Gazette.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before ¹[Legislature of Union territory of Jammu and Kashmir] while it is in session for a total period of not less than thirty 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 session immediately following, ²[Legislative Assembly of Union territory of Jammu and Kashmir] agree in making 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 amendment shall be without prejudice to the validity of anything previously done under that rule.

1. Substituted for "each House of the State Legislature" vide S.O. 3808 (E) of 2020 dated 26.10.2020.

2. Substituted for "both Houses" *ibid*.

CHAPTER XII

OFFENCES, PENALTIES AND ARRESTS

33. *Failure of promoter to comply with Act.*—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 10 ; or
 - (c) fails to comply with the provisions of section 13 ; or
 - (d) fails to pay within a reasonable time any compensation awarded by the Collector or by the Government under sections 14, 15, 16 or 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 21 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 22 or section 26 ; or
 - (i) fails to comply with the provisions of section 27 or section 28 ; or
 - (j) contravenes the provision of section 29 ; or
 - (k) contravenes the provisions of any rule made under section 32,

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 five thousand rupees, and in the case of a continuing offence, to a further fine which may extend to one hundred rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

34. *Unlawfully obstructing promoter's servant in discharge of his duty.*— If a person, without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs or impedes any servant of a promoter in the discharge of his duty, he shall be punishable with fine which may extend to ¹[five thousand rupees].

35. *Unlawfully interfering with aerial ropeway.*— 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 ; or
- (c) attempts to do or abets, within the meaning of the ²[Indian Penal Code (45 of 1860)], the doing of any thing 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 which may extend to two thousand rupees.

36. *Punishments for acts of attempts tending to endanger safety of persons travelling or being upon aerial ropeway.*— If any person does anything mentioned in clause (a), clause (b) or clause (c) of section 35 or does, attempts to do, or abets, within the meaning of the ²[Indian Penal Code (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 for a term which may extend to fourteen years and with fine which may extend to ten thousand rupees.

1. Substituted for “one thousand rupees” vide S.O. 3808 (E) of 2020 dated 26.10.2020.

2. Substituted for “State Ranbir Penal Code, Samvat 1989” *ibid*.

37. Arrest for offence against certain sections and procedure thereupon. —(1) If any person commits any offence under section 34 or section 35 which obstruct the working of an aerial ropeway or commits any offence punishable with imprisonment under section 36, he may be arrested without warrant or other written authority by any servant of the promoter or by any police officer or by other person whom such servants or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before magistrate having authority to try or to commit him for trial.
