

No. 340/XXXVI(3)/2015/77(1)/2014

Dated Dehradun, January 03, 2015

NOTIFICATIONMiscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of "the Uttarakhand Roapways Bill, 2014" (Adhiniyam Sankhya 02 of 2015).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 30 December, 2014.

THE UTTARAKHAND ROPEWAYS Act, 2014

(THE UTTARAKHAND Act No. 02 of 2015)

An

Act

to authorize, facilitate and regulate the construction, operations and maintenance of ropeways in the State.

Be it enacted by the Legislative Assembly of Uttarakhand in the sixty-fifth year of the Republic of India as follows:

CHAPTER - I PRELIMINARY

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| Short title,
extend and
Commencement | 1 | (1) This Act may be called the Uttarakhand Ropeways Act, 2014.
(2) It shall extend to the whole of Uttarakhand.
(3) It shall come in to force atonce. |
| Definitions | 2 | In this Act, unless there is anything repugnant in the subject or context,
(a) "Applicable Law" means all laws, brought into force and effect by the Government of India or the State Government including rules, regulations and notifications made there under, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force in the State, from time to time;
(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 operations of a ropeway; |

- (c) "Chief Inspector" and "District Inspector" mean the persons appointed under this Act respectively to be the Chief Inspector of Ropeways for the State and the Inspector of Ropeways for a District;
- (d) "Collector" means the chief officer in charge of the revenue administration of a district, and includes any officer specially appointed by the Government to discharge the functions of a Collector for the purpose of this Act;
- (e) "entity" means and includes a company, trust, society, firm, and / or a body corporate or any other organization established in accordance with the applicable laws.
- (f) "Government" or "State Government" means the State Government of Uttarakhand;
- (g) "Licence" means a licence authorising the construction, operation and maintenance of a ropeway under this Act and includes a licence authorising the continuance of the operations and maintenance of a ropeway existing immediately before the commencement of this Act and also any licence substituted for, or amending or extending any such licence;
- (h) "person" shall mean a natural person
- (i) "post" means a post, trestle, standard, strut, stay or other contrivance or part of a 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) any agency or department of the State Government;
 - (iii) any person or entity, which may be selected by the State Government as per Applicable Law;
 - (iv) any person or entity which is owning and or operating an existing ropeway on the date of coming in to force of this Act.

to whom a licence has been granted under section 10 or under sub-section (2) of section 5 or on whom the rights and liabilities conferred and imposed on the promoter by this Act, as to the construction, maintenance and operations of a ropeway, have devolved.
- (l) "public ropeway" means a ropeway used for public carriage of passengers, animals or goods or any of them.
- (m) "PPP" shall mean and refer to public private partnership
- (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, used for suspending; carrying or hauling a carrier;

- (p) "ropeway" means a ropeway used for public or private carriage of passengers, animals or goods or any of them and includes posts, ropes, carriers, stations, offices, warehouses, workshops, machinery and where the wheels of carriers are made to run on the rails laid on the surface of the earth, such rails as well as any such other works as are used for the purposes of, or in connection with, such ropeway and all land appurtenant thereto;
- (q) "State" means the State of Uttarakhand; and
- (r) "Undertaking" means all movable and immovable property of the promoter suitable to and used by him for the purposes of a ropeway.

CHAPTER - II

LICENSING AUTHORITY AND ESTABLISHMENT

Licensing Authority

- 3 The Authority having power to grant licences under this Act (hereinafter referred to as the Licensing Authority) shall be the Empowered Committee constituted of the following members:

1	Chief Secretary, Govt. of Uttarakhand	Chairman
2	Principal Secretary/Secretary, PWD	Member
3	Principal Secretary/Secretary, Tourism	Member
4	Managing Director, GMVN	Member
5	Managing Director, KMVN	Member
6	Concerned D.M.	Member
7	Engineer-in-chief of PWD Department	Member
8	Managing Director, UPCL	Member
9	Superintended Engineer - E&M, PWD	Member
10	Any other expert as nominated by State Government	Member
11	Chief Ropeway Inspector	Member Secretary

Appointment of certain Inspectors and subordinate officers and their powers and duties

- 4 (1) The State Government may appoint such person to be the Chief Inspector of Ropeways at the State level and other Inspectors of Ropeways at local level (hereinafter referred to as the "District Inspector") as it deems fit and may fix the fees to be charged to promoters for the performance by them of their duties under this Act and as prescribed.
- (2) The Chief Inspector and the District Inspector shall exercise such powers and perform such functions and duties as may be provided by or under the provisions of the Act. It shall also be the duty of any such Inspector from time to time and at least once a year in the case of the Chief Inspector and once in every six months in the case of the District Inspector to inspect the ropeways and to determine whether they are maintained in a fit condition and worked with due regard to the convenience and safety of the persons using them and of the general public, and consistently with the provisions of this Act.

- (3) The Chief Inspector and the District Inspectors shall, for the purpose of any of the duties which they are authorised or required to perform under this Act, be deemed to be public servants as defined in the Indian Penal Code, 1860 (Central Act 45 of 1860).
- (4) The promoter and his employees and agents shall provide to the Chief Inspector and the District Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon them by this Act.
- (5) The State Government may also appoint experts, advisors, consultants and other officers with such designations and assign them such powers, duties and functions as may be necessary for carrying out the purposes of this Act.

CHAPTER - III

PROCEDURE AND PRELIMINARY INVESTIGATION

Unauthorized construction, maintenance etc. of Ropeways prohibited

- 5 (1) No ropeway shall be constructed, opened, maintained or operated within the State, except in accordance with the provisions of this Act.
- (2) Notwithstanding anything in sub-section (1), any person and / or entity to whom a ropeway has been sanctioned or by whom a ropeway is being operated, in any part of the State, before the commencement of this Act, whether for public, private or industrial purpose may, on an application being made by him in this behalf in accordance with sub-section (3) hereunder, and after such enquiry as may be considered necessary, be, by licence, authorized to continue the development/ operations of such ropeway, as far as may be, in accordance with the provisions of this Act.
- (3) The application under sub-section (2) shall, within a period of sixty (60) days from the date of commencement of this Act, be made to the Licensing Authority in such form and manner and with such technical or other details regarding the concerned ropeway as may be prescribed.
- (4) Any person or entity aggrieved by the order refusing to grant a licence under sub-section (2) or by any order otherwise made under the sub-section may, within a period of sixty days of the date of the order, prefer an appeal to the State Government which may pass such order as it deems necessary.
- (5) Nothing contained in sub - section (1) shall affect the continuance of the operations of the ropeway referred to in sub-section (2) during the period within which an application under the sub-section (3) may be made or, where such application has been made, up to the date of grant of order or refusal to grant a licence under that sub-section becomes final.

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| Application for permission to undertake investigations | 6 | Every application by an intending promoter for permission to undertake the necessary preliminary investigations in regard to a proposed ropeway shall be submitted to the Licensing Authority in such format as prescribed. |
| Contents of applications | 7 | <p>Every application to be made under section 6 shall contain all the information relevant to the proposed ropeway and may include:</p> <p>(a) a description of all movable and immovable property of the promoter suitable to and used by him for the purposes of a ropeway and of the route to be followed by the proposed ropeway;</p> <p>(b) a description of the system of construction and management and of the advantages to the community to be expected from such ropeway;</p> <p>(c) an estimate of the cost of construction thereof;</p> <p>(d) a statement of the estimated working expenses and profits expected;</p> <p>(e) a statement of the maximum rates proposed to be charged; and</p> <p>(f) such maps, plans, sections, diagrams and other information as may be prescribed and such other information as the licensing authority may require in order to form an idea of the proposal.</p> |
| Sanction to preliminary investigations: | 8 | <p>(1) The Licensing Authority or, where the immovable properties not belonging to the intending promoter are involved, the State Government may, subject to the provisions of this Act and of the Land Acquisition Act, 2013, accord sanction to the intending promoter to make such surveys as may be necessary.</p> <p>(2) Before according sanction under sub-section (1), the Licensing Authority or, as the case may be, the State Government may also require the intending promoter to submit such detailed estimates, plans, sanctions and specifications and such further information as it may think necessary for the full consideration of the proposal.</p> <p>(3) The intending promoter shall not be entitled to claim any compensation from the State Government for any expense incurred under this section in the event of his application being refused.</p> |

CHAPTER - IV CONSTRUCTION OF ROPEWAYS

**Publication of
proposed
licence
authorizing
construction
and contents of
such licence**

- 9 (1) The Licensing Authority may, on an application being made by any intending promoter, and after due consideration of the details supplied in accordance with sub-section(2) of section 8, publish in at-least one widely circulated local newspapers and one widely circulated National newspaper in the State, a draft of the proposed licence authorizing the construction by, or on behalf of, such promoter, subject to such restrictions and conditions as the Licensing Authority may think proper, of a ropeway within any area or along any route specified in such licence -
 - (a) for the public carriage of passengers;
 - (b) for the public carriage of passengers and goods;
 - (c) for the public carriage of animals and goods;
 - (d) for the public carriage of passengers, animals and goods; or
 - (e) for any private or industrial purpose.
- (2) A notice shall be published with the draft licence stating that any objection or suggestion which any person may desire to make with respect to the proposed licence will, if submitted to the Licensing Authority, within a period of thirty days from the date of the notice be received and considered by it.
- (3) The Licensing Authority shall also cause public notice of the intention to grant the licence to be given at conspicuous places within the said area or along the said route, and shall, so far as may be 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 licence, which may be received from any person within the period specified in sub-section (2) and take decision thereon.
- (4) The draft of the proposed licence shall contain such details of the proposed ropeway as may be prescribed.

**Grant of
licence**

- 10 (1) If, after considering any objections or suggestions, which may have been made in respect to the draft before the expiry of the period specified in sub-section (2) of section 9, the Licensing Authority is of opinion that the application should be granted with or without modifications, or subject to any restrictions or conditions, it shall grant a licence accordingly.
- (2) Every licence authorizing the construction of a ropeway granted under sub-section (1) shall, in such form as may be prescribed, be uploaded on the website of the State Government.

**Cessation of
powers given
by licence
under section
10**

- 11 If a promoter authorised by a licence granted under section 10 to construct a ropeway does not, within the time specified in the licence, make progress according to the schedule of progress approved by the Licensing Authority, the powers given to the promoter by such licence shall, unless, on an application made by the promoter in this behalf, the Licensing Authority, extends the time so specified, cease to be exercised:

Provided that in case the Licensing Authority rejects an application made under this section, it shall do so by an order made in this behalf and for reasons to be recorded in writing.

**Revocation of
licence and
grant of a
further licence**

- 12 (1) The Licensing Authority may, on the application of the promoter, by order, revoke the licence or amend or extend it by a further licence.
- (2) An application under sub-section (1) for an amendment or extension of the licence shall be made in the same manner and subject to the same conditions as an application for licence.
- (3) If the Licensing Authority grants the application, it shall, by order, revoke the licence or, as the case may be, grant the further licence in the same manner as a licence except that the rights, powers and authorities asked for in the said application shall not be increased, modified or restricted by the further licence without the consent in writing of the promoter.

CHAPTER - V

INSPECTION OF ROPEWAYS

**Inspection of a
ropeway before
opening:**

- 13 (1) No ropeway shall be opened for any kind of traffic until the licensing authority has, by order, sanctioned the opening thereof for that purpose. The sanction of the licensing authority under this section shall not be given until the Chief Inspector has reported in writing to the licensing authority -
- (a) that it has made a careful inspection of the ropeway and appurtenances;
- (b) that the moving and fixed dimensions and such other conditions as may be prescribed have been complied with;
- (c) that the ropeway is sufficiently equipped for the traffic for which it is intended;
- (d) that due compliance of the terms and conditions of licence has been made;
- (e) that in his opinion sufficient measures have been taken to prevent and control the pollution caused or likely to be caused by the working of the ropeway; and
- (f) that in his opinion the ropeway is fit for traffic and can be used without danger to those using it, or to the persons employed thereon, or to the general public.
- (2) The provisions of sub-section (1) shall extend to the opening of additional sections of the ropeway, to deviation lines, and to any alteration or reconstruction materially affecting the structural character or any work to which the provisions of sub-section (1) apply or are extended by this sub-section. The said provisions shall also extend to the continuance of the ropeways referred to in sub-section (2) of section 5.

CHAPTER - VI

CONSTRUCTION AND MAINTENANCE OF PUBLIC ROPEWAYS

Constitution of District Committee	14	A District Level Committee shall be constituted consisting of the following members: <table><tr><td>(a) District Magistrate</td><td>Chairman</td></tr><tr><td>(b) Superintendent of Police</td><td>Member</td></tr><tr><td>(c) Divisional Forest Officer(of the concerned division)</td><td>Member</td></tr><tr><td>(d) Sub-Divisional Magistrate (of the concerned sub-division)</td><td>Member</td></tr><tr><td>(e) District Ropeway Inspector</td><td>Member Secretary</td></tr><tr><td>(f) Any other member invited by District Magistrate</td><td>Member</td></tr></table>	(a) District Magistrate	Chairman	(b) Superintendent of Police	Member	(c) Divisional Forest Officer(of the concerned division)	Member	(d) Sub-Divisional Magistrate (of the concerned sub-division)	Member	(e) District Ropeway Inspector	Member Secretary	(f) Any other member invited by District Magistrate	Member
(a) District Magistrate	Chairman													
(b) Superintendent of Police	Member													
(c) Divisional Forest Officer(of the concerned division)	Member													
(d) Sub-Divisional Magistrate (of the concerned sub-division)	Member													
(e) District Ropeway Inspector	Member Secretary													
(f) Any other member invited by District Magistrate	Member													
Functions of the District Level Committee	15	(1) With regard to the ropeway projects being implemented by the State Government or any of its departments or agency or by any entity/person selected by or on behalf of the State Government or in case a ropeway project is being implemented on PPP basis, the committee shall discharge following functions, or as may be prescribed by the State Government: (a) Assistance in Forest land diversion and clearance process; (b) Assistance in Private land acquisition / procurement and land registration; (c) Assistance in procuring clearance from State Pollution Control Board; (d) Assistance in getting supply of electricity & water to the ropeway projects; (e) Assistance in the diversion of transmission lines, electric poles, pipelines, etc. falling along the route alignment; (f) Assistance in resolution of Relocation and Rehabilitation issues, if any, involved in the project; (g) to act as a single window for providing district level clearances to the promoter; and (h) to review the progress of the project in view of terms of licence and report progress to the State Government on bi-monthly basis.												
Authority of promoter to execute works	16	(1) Subject to the provisions of this Act, the rules made there under, 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 it thinks necessary; (b) place and maintain a rope over, along or access 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 a public ropeway;
- (2) Subsequent to the consideration of objections or suggestions, if any, by the Licensing Authority and grant of license under section 10, the promoter may take any action under clause (b) or clause (c), notwithstanding the objection of the owner or occupier of the property affected.
- (3) The Collector shall fix the amount of compensation, or of 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.
- (4) The order so made shall also fix the date by which such amount of compensation or of the first annual rent shall be paid.

**Temporary
entry
upon
immovable
property
adjoining
ropeway**

- 17 (1) The promoter, subject to the rules made under this Act, at any time for the purpose of examining or repairing a public ropeway, or of preventing any accident, enter upon any immovable property adjoining such 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 authorised 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, or the person to whom it shall be paid, the matter shall be referred to the decision of the Collector.

**Removal of
obstructions**

- 18 (1) When any structure standing or lying near a public ropeway, or where any other object which has been placed or has fallen near such ropeway subsequent to the grant of a licence under section 10 in regard to such ropeway, interrupts or interferes with, or is likely to interrupt or interfere with the construction, maintenance or use of such ropeway, the Collector may, subject to the provisions of other Applicable Laws in this regard, on the application of the promoter after affording a reasonable opportunity of being heard to the persons affected, cause the structure or object to be removed or otherwise dealt with as it thinks fit.
- (2) When disposing of an application under, sub-section (1), the Collector shall award to the person interested such compensation as the Collector may recover such amount from the promoter as if it were an arrear of land revenue.

CHAPTER - VII WORKING OF ROPEWAYS

Promoter may fix tariff	19	The promoter shall for the purposes of operation of a public ropeway and subject to such maximum rates as may be prescribed by the Licensing Authority, have power, from time to time, to fix the tariff for the carriage of passengers, animals or goods on the ropeway
Duty of promoter to operate ropeway without partiality	20	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 disadvantage in any respect whatsoever.
Reporting of accidents	21	When any accident occurs in the course of operations of a ropeway, the promoter shall, with the least possible delay, send notice of the accident to (i) the State Government; (ii) to the Licensing Authority and to District Ropeway Inspector; (iii) to the Collector of the District; (iv) to the police station within the local limits of which the accident has 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 medical facility.
Liability to pay compensation on the principles of no fault	21 A	(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 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 be 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.

**Power to close
and reopen
ropeways**

- 22 (1) If after inspecting any ropeway opened to traffic, the District Inspector is of opinion that the 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, it shall state that opinion, together with the grounds thereof to the Licensing Authority and the Licensing Authority 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 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 District Inspector may order the suspension of the working of the ropeway or any part thereof which it considers necessary pending the order of the Licensing Authority. The District Inspector shall forthwith make a report of his order to the Licensing Authority who will make necessary order within a period of seven days.

- (2) When under sub-section (1), a 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 - VIII

DISCONTINUANCE OF ROPEWAYS

**Cessation of
powers of
promoter on
discontinuance
of public
ropeway**

- 23 If, at any time after the opening of a ropeway, it is proved that the promoter has discontinued the operations of such ropeway or of any part thereof, without a reason sufficient, in the opinion of the Licensing Authority to warrant such discontinuance, the Licensing Authority may, if it thinks fit after providing a reasonable opportunity of being heard to the promoter, declare, that the powers of the promoter in respect of such ropeway or part thereof shall, from such dates as it may determine, be at an end; and thereupon the said powers shall cease and determine.

Explanation. - The working of a ropeway shall be deemed to have been discontinued if it has ceased for the period determined in the licence granted under section 10, or if the period has not been so determined, for a period of three months.

Powers of licensing Authority to remove a ropeway on cessation of promoter's powers

- 24 (1) When a declaration has been made by the Licensing Authority under section 23 in respect of any ropeway or of any part thereof, an officer appointed in that behalf by the Licensing Authority may at any time after the expiration of two months from the date determined as aforesaid, remove such 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 by private sale, and with due notice to the promoter but without prejudice to any other remedy which it may have for the recovery of the said amount, sell and dispose-off the materials of the ropeway or part thereof so removed; it may, out of the proceeds of the sale, pay and reimburse to himself the amount of costs certified as aforesaid and the costs of sale, and shall pay over residue (if any) of such proceeds to the promoter.

CHAPTER - IX PURCHASE OF ROPEWAYS

Power of State Government and its departments and agencies to purchase ropeways:

- 25 (1) Where the promoter is the State Government, the State Government may at any time transfer the undertaking or any part thereof to
- (a) its departments and or agencies under terms and conditions approved by, and with the consent of, such departments or agencies; or
 - (b) to any other person selected in accordance with the Applicable Law, 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 or its agency or department, the State Government may in its sole discretion,
- (a) Within such limits of time and upon such terms and conditions as specified in this behalf in the license, or
 - (b) Within two months after the publication of a notification under section 23 or, within six-months after the publication of a notification under section 27,
- By a notice in writing, require the promoter to sell to the State Government or to any of its department or agency the ropeway or a part thereof, and thereupon the promoter shall sell the same upon the terms specified in the license, or if the terms were not specified in the license, then upon such terms as may be prescribed in this regard.
- (3) A requisition shall not be made under sub-section (2) requiring the promoter to sell to any department or agency of the State Government, unless such requisition has been approved by the concerned department or agency.
- (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 23 or section 27, 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 ropeway had been constructed by it under a licence granted under this Act.

(5) Subject to, and in accordance with the preceding provisions of this section, two or more government departments and or agencies may jointly purchase an undertaking or so much thereof as is within their jurisdiction.

(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;

(b) save as aforesaid, the licence granted under section 10 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 licence granted under section 10 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 department /agency 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 licence revoked by consent

26 Where, on the expiration of any of the periods referred to in section 24, neither the State Government nor any of its department or agency purchases the undertaking, and the licence granted under section 10 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 it may think fit.

Expropriation by the State Government:

27 (1) If, at any time, after the opening of a ropeway, the State Government is of the opinion that an existing ropeway is required or needed by the Government in the national security interest or in the interest of the public, the State Government may, after considering any statement which the promoter may

desire to make, and after such enquiry as it deems necessary, declare, subject to such terms and conditions as the State Government may prescribe in this regard, that the powers of the promoter in respect of such ropeway, shall, at the expiration of six months from the date of such declaration, be at an end and thereupon all the rights, powers and authorities of the promoter in respect of the said ropeway shall vest absolutely in the State Government, free from all debts, encumbrances or similar obligations.

- (2) As soon as may be, after a notification under sub-section (1), has been made, the State Government shall by a notice in writing, require the promoter to transfer and handover the undertaking including all land, building, equipments and assets, clearances and permits and documents pertaining thereto, forming part of the ropeway subject matter of the notification under sub-section (1), to the State Government;

Provided that the notice set forth in sub-section (2) shall set forth the modalities for the handover of the ropeway and the amount of compensation payable to the promoter in lieu of the takeover of the ropeway by the State Government, which shall be an amount equivalent to the cost of procurement of all land, if owned by the promoter, and the depreciated value of the buildings, plant and machinery of the promoter, suitable to, and used by him for the purposes of the undertaking and taken over by the Government and which compensation shall in all events be paid to the promoter by the State Government prior to the expiration of the period set forth in sub-section (1) of this Section 27:

CHAPTER - X

INABILITY OR INSOLVENCY OF PROMOTER

Proceedings in case of inability or insolvency of promoter

- 28 (1) If, at any time, after the opening of a ropeway, it appears to the State Government that the promoter is insolvent or is unable to maintain the ropeway or operate 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 that the powers of the promoter in respect of such 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 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 24.

CHAPTER - XI REVIEW

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| Review by the Licensing Authority | 29 | <p>(1) All orders made by the Licensing Authority under this Act except those which are made by the Collector under the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894), shall be reviewable within thirty days from the date of order and the review shall lie to the Licensing Authority.</p> <p>(2) Any review preferred under sub-section (1) shall normally be disposed of by the Licensing Authority within three months from the date of receipt of the review.</p> <p>(3) The State Government may, of its own motion, call for and examine the records of any proceedings for the purpose of satisfying itself as to the legality or propriety of any order made under this Act by the Licensing Authority not being an award or order made or passed by the Collector under the provisions of the Land Acquisition Act, 2013 and if in any case it shall appear to the State Government that any such order should be modified, annulled or revised or remitted for reconsideration, the State Government may, after giving the party to be affected thereby a reasonable opportunity of being heard, pass such order thereon as it may deem fit.</p> |
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CHAPTER - XII SUPPLEMENTARY PROVISIONS

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| Returns | 30 | A promoter shall, in respect of the 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 a 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 by the State Government | 32 | <p>(1) The State Government may, suo motto, acquire land for the purposes of this Act, in accordance with the provisions of the Land Acquisition Act, 2013, and may if it thinks fit, transfer the land owned, acquired or controlled by it to any promoter, for the purposes of this Act.</p> <p>(2) The State 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 a ropeway, acquire on his behalf such land under the provisions of the Land Acquisition Act, 2013, whether the said promoter is or is not a company as defined in the Land Acquisition Act.</p> |

**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 a 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 ropeway.

CHAPTER - XIII DELEGATION OF POWERS AND MAKING OF RULES BY STATE GOVERNMENT

**Power of State
Government to
make Rules**

- 34 (1) The State Government may, after previous publication, make rules to carry out the purpose of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe-
- (a) the power and duties of the Chief Inspector and the District Inspector appointed under section 4;
 - (b) the accidents of which notice shall be given to the Licensing Authority and to the District Inspector
 - (c) the maximum rates for passengers, animals or various classes of goods on the ropeway, which a promoter may fix under section 19.
 - (d) the duties of the promoter, promoter's employees and of police officers, and magistrate on the occurrence of an accident;
 - (e) the standard dimensions and specifications to which the ropeway is to conform;
 - (f) the manner in which notice under this Act shall be served;
 - (g) the safe and efficient working of ropeways;
 - (h) the conditions under which, and the manner in which, the powers conferred on promoters by section 16 and section 17 may be exercised;
 - (i) the procedure for the disposal of application under sub-section (2) of section 22 to reopen any ropeway or part thereof and the conditions under which such ropeway may be reopened;
 - (j) the procedure for filing, hearing and disposing of appeals under this Act;
 - (k) the fees to be charged to promoters and other persons in respect of licenses, application, enquiries, inspection, and services rendered under this Act;
 - (l) the procedure for making, hearing and disposing of applications under this Act
 - (m) provisions for first-aid and other amenities; and
 - (n) any other matter which is to be or may be prescribed 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 House of the State Legislature 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 House 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
State
Government
to award
projects:

- 35 The State Government may, if it deems fit, enter into an agreement with an entity/ person for implementing and operating a ropeway project within the State on a PPP basis, provided that, the process for selection of such an entity/ person shall be such as stipulated under the Applicable Law.

CHAPTER – XIV BYE-LAWS

Power to make
bye-laws:

- 36 (1) The Licensing Authority 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 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 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 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 ropeway.
- (2) Such bye-laws may provide that any person who contravenes the provisions of any of them shall be liable to such fine which may extend to any sum not exceeding one hundred rupees 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 approved 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 - XV OFFENCES AND PENALTIES

Failure of promoter to comply with Act

- 37 If a promoter:
- constructs or opens or operates or maintains a ropeway otherwise, than in accordance with the terms of a licence granted under section 10 or under sub-section (2) of section 5; or
 - contravenes any of the provisions of this Act or the provisions of any rule made under section 35; or
 - fails to pay within a reasonable time any compensation awarded by a Collector or by the State Government under the provisions of this Act;

It 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 ten thousand rupees and in 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 employees in discharge of his duty

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

Unlawfully interfering with ropeways

- 39 If any person, without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely:-
- interferes with, removes or alters any part of a ropeway or of the works connected therewith;
 - does anything in such manner as to obstruct any carrier travelling on a ropeway;
 - 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);

It 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 four hundred rupees.

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

- 40 (1) If any person does anything mentioned in clause (a), clause (b) or clause (c) of section 39 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 a ropeway with intent, or with knowledge that it is likely to endanger the safety of any person travelling or being upon the ropeway, it shall be punishable with imprisonment for a term which may extend to fourteen years.

- (2) If the promoter does anything or omits to do anything, mentioned in section 37, in relation to an 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 ropeway, it 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. -**

- 41** (1) If any person commits any offence under section 38 or section 39 which obstructs the working of a ropeway or commits any offence punishable with imprisonment under section 40, it 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.

By Order,

JAÍ DEO SINGH,
Principal Secretary.