

Himachal Pradesh Aerial Ropeways Act, 1968

7 of 1969

[10 July 1969]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and extent
2. Definitions

CHAPTER 2 :- PROCEDURE AND PRELIMINARY INVESTIGATIONS

3. Application for concession
4. Contents of application
5. Preliminary investigations

CHAPTER 3 :- ORDERS AUTHORIZING THE CONSTRUCTION OF AERIAL ROPEWAYS

6. xxx xxx xxx
7. Final order
8. Cessation of powers given by an order
9. Further order
10. Inspection of aerial ropeways before opening
11. Appointment of Inspectors
12. Powers of Inspectors
- 12A. Expert Committee
13. Facilities to be afforded to Inspectors and Expert Committee

CHAPTER 4 :- CONSTRUCTION AND MAINTENANCE OF AERIAL ROPEWAYS

14. Authority of promoter to execute works
15. Temporary entry upon land for repairing or preventing accident
16. Removal of obstructions
17. Order of Collector subject to revision by State Government

CHAPTER 5 :- WORKING OF AERIAL ROPEWAYS

18. Promoter may fix rates
19. Duty of promoter to work aerial ropeway without partiality
20. Reporting of accidents
- 20A. Rescue operations
21. Power to close and reopen aerial ropeways

CHAPTER 6 :- DISCONTINUANCE OF AERIAL ROPEWAYS

22. Cessation of powers of promoter on discontinuance of aerial ropeway

23. Powers of State Government to remove aerial ropeway on cessation of promoters powers

CHAPTER 7 :- PURCHASE OF AERIAL ROPEWAYS

24. Power of State Government and local authorities to purchase aerial ropeways

25. Power of promoter to sell when option to purchase not exercised and order revoked by consent

CHAPTER 8 :- INABILITY OR INSOLVENCY OF PROMOTER

26. Proceedings in case of inability or insolvency of promoter

CHAPTER 9 :- BYE-LAWS

27. xxx xxx xxx

CHAPTER 10 :- SUPPLEMENTARY PROVISIONS

28. Returns

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

30. Acquisition of land on behalf of a promoter

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

CHAPTER 11 :- RULES BY THE STATE GOVERNMENT

32. Power of State Government to make rules

CHAPTER 12 :- OFFENCES, PENALTIES AND ARRESTS

33. Failure of promoter to comply with Act

34. Unlawfully obstructing promoters servant in discharge of his duty

35. Unlawfully interfering with aerial ropeways

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

37. Arrest for offence against certain sections and procedure thereupon

38. Repeal and savings

Himachal Pradesh Aerial Ropeways Act, 1968

7 of 1969

[10 July 1969]

PREAMBLE

Amended, repealed or otherwise affect by,-

(i) H.P. Act No. 13 of 1995², published in Hindi and English in R.H.P. Extra., dated 22nd November, 1995, p. 4649-4656.

An Act to authorise, facilitate and regulate the construction and working of aerial ropeways in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows :-

1. For Statement of Objects and Reasons, see R. H. P. Extra., dated the 8th July, 1968, P. 580, and for Authoritative Hindi Text see R. H. P. Extra., dated 3-1-1987, p. 57.

2. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see R. H. P. Extra., dated 29.9.1995, p. 3958 & 3964.

CHAPTER 1 PRELIMINARY

1. Short title and extent :-

(1) This Act may be called the Himachal Pradesh Aerial Ropeways Act, 1968.

(2) It extends to the whole of Himachal Pradesh.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(a) "Aerial ropeway" means an aerial ropeway (or any portion thereof) for the public carriage of passengers, 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;

(c) "circle" in relation to a local authority means the area within the control of that authority;

(d) "Collector" means the Deputy Commissioner of a district and includes any person appointed by the Government for the purpose of this Act;

¹["(dd) "Expert Committee" means a Committee constituted under section 12-A of this Act;"]

(e) "Inspector" means an Inspector of aerial ropeways appointed under this Act;

(f) "local authority" means a Municipal Committee, Small Town Committee, Notified Area Committee, Gram Panchayat, Zila Parishad or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(g) "Official Gazette" means the Rajpatra, Himachal Pradesh;

(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, strut, stay, or other contrivance or part of a contrivance for carrying, suspending or supporting a rope;

(j) "prescribed" means prescribed by rules made by the State Government under this Act;

(k) "promoter" means-

(i) the State Government,

(ii) a local authority,

(iii) any person,

(iv) any company incorporated under the Companies Act, 1956, or

(v) any railway company as defined in the Indian Railways Act, 1890 (9 of 1890), in whose favour an order has been made under section 7, or on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by rules and orders made under this Act, as to the construction, maintenance and use of an aerial ropeway, have devolved;

(l) "rate" includes any fare, charge or other payment for the carriage of passengers, animals or goods;

(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; and

(n) "State Government" or "Government" means the Government of Himachal Pradesh.

1. Clause (dd) added vide Act No. 13 of 1995.

CHAPTER 2 PROCEDURE AND PRELIMINARY INVESTIGATIONS

3. Application for concession :-

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.

4. Contents of application :-

Every such application 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;

(d) a statement of the estimate 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.

5. Preliminary investigations :-

Subject to the provisions of this Act and of section 4 of the Land Acquisition Act, 1894 (1 of 1894), 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 stresses shall be in conformity with those as laid down by the Bureau of Indian Standards 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."]

CHAPTER3 ORDERS AUTHORISING THE CONSTRUCTION OF AERIAL ROPEWAYS

6. xxx xxx xxx :-

xxx xxx xxx

7. Final order :-

(1) If, after considering objections or suggestions which may have been made in respect to the draft 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 authorising the construction of an aerial ropeway shall be published in the Official Gazette, and such publication shall be conclusive proof that the order has been made as required by this section.

8. Cessation of powers given by an order :-

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

(a) succeed in raising the full amount of capital required for the completion of the aerial ropeway;

(b) make, in the opinion of the 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 prolongs the time so specified, cease to be exercised.

9. Further order :-

(1) The State Government may, on the application of the promoter, revoke, amend, or extend the order by a further order.

(2) An application for a further order shall be made in the same manner, and subject to the same conditions, as an application for an order.

(3) If the State 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 of the promoter.

10. Inspection of aerial ropeways before opening :-

(1) No aerial rope- way shall be opened for any kind of traffic until the State Government has, by 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,-

(a) 4[that he as well as the Expert Committee has made a careful inspections] of the aerial ropeway and appurtenances;

(b) That the moving and fixed dimensions and other conditions prescribed under the order have been complied with;

(c) that the aerial ropeway is sufficiently equipped for the traffic for

which it is intended;

(d) that the bye-laws and working rules prescribed by sections 27 and 32 have been duly made, approved, and promulgated in the manner prescribed in those sections; and

(e) that in his opinion 5[as well as in the opinion of 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 alternation 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.

11. Appointment of Inspectors :-

(1) The State Government may appoint Inspectors of aerial ropeways 6[out of Graduate (Mechanical) Engineers, not below the rank of an Executive Engineer] and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.

7[(2) The Inspector shall exercise such powers and perform such functions and duties as may be provided by or under the provisions of this Act. It shall also be the duty of such Inspector, from time to time, to inspect such ropeways and to determine whether they are constructed and maintained in a fit condition and working properly to the entire convenience and safety of the persons using them and of the general public and consistent with the provision of this Act:

Provided that the Inspector shall inspect the ropeway and its appurtenances,-

(i) where human beings are carried, atleast once in a three months; and

(ii) 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.]

12. Powers of Inspectors :-

An Inspector shall, for the purpose of any of the duties which he is authorised 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 (a) of sub-section (2) of section 32.

12A. Expert Committee :-

(1) The State Government may, by notification in the official gazette, constitute one or more Expert Committees consisting of such number of persons, having such knowledge and experience in design, setting up and operating aerial ropeways, and no such terms and conditions as may be prescribed.

(2) It shall be the duty of the Expert Committee,-

(i) 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-

(a) design, erection or position of any aerial ropeway or of any work appertaining thereto;

(b) the addition to, or the alteration or closure of an aerial ropeways;

(c) the variation of the character of any ropeway or of the mode of use thereof;

(ii) to conduct inspection of aerial ropeways and appurtenances-

(a) at the initial stage, before the sanction is granted for its operation under sub-section (1) of section 10 of this Act;

(b) Subsequently at least once in a year; and

(c) on such other occasions as may be directed by the State Government;

to ensure that the ropeway is fit for public traffic, and no danger is involved in its use.]

13. Facilities to be afforded to Inspectors and Expert Committee :-

The promoter and his servants and agents shall afford to the Inspector 10[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.

CHAPTER4 CONSTRUCTION AND MAINTENANCE OF AERIAL ROPEWAYS

14. Authority of promoter to execute works :-

(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 and 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) suspends and maintains 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.

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 authorised 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.

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 State 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 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 14, which award shall be subject to revision by the District Judge.

CHAPTER 5 WORKING OF AERIAL ROPEWAYS

18. Promoter may fix rates :-

The promoter shall, for the purpose of working an aerial ropeway, and subject to such maximum 14[XXX] 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.

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 disadvantage in any respect whatsoever.

20. Reporting of accidents :-

15["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 promoters 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 promoters 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".]

20A. Rescue operations :-

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".]

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 or any specified part thereof cannot be used without danger to the public or is no longer in a fit state for the carriage of any specified class of traffic, he shall state that opinion, together with the grounds therefore to the 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.

(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 6 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 State 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 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, 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 cased for the period determined in the order published under section 7 or, if the period has not been so determined, for a period of there months.

23. Powers of State Government to remove aerial ropeway on cessation of promoters powers :-

(1) When a declaration has been made by the State Government under section 22 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 cost of the sale, and shall pay over

the residue (if any) of such proceeds to the promoter.

CHAPTER 7 PURCHASE OF AERIAL ROPEWAYS

24. Power of State Government and local authorities to purchase aerial ropeways :-

(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) 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 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 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 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.

25. Power of promote to sell when option to purchase not exercised and order revoked by consent :-

Where, on the expiration of any of the periods referred to in section 24, 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 think fit.

CHAPTER 8 INABILITY OR INSOLVENCY OF PROMOTER

26. Proceedings in case of inability or insolvency or promoter :-

(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 23.

CHAPTER 9 BYE-LAWS

27. xxx xxx xxx :-

xxx xxx xx

CHAPTER 10 SUPPLEMENTARY PROVISIONS

28. Returns :-

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.

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 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 an aerial ropeway, acquire on his behalf such land under the provisions of Part VII of the Land Acquisition Act, 1894 (1 of 1894), whether the said promoter is or is not a company as defined in the Land Acquisition Act

31. Notification of claims to refund to 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.

CHAPTER 11 RULES BY THE STATE GOVERNMENT

32. Power of State Government to make rules :-

(1) The State Government may, after previous publication, make rules¹⁸ to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the fore- going power, such rules may prescribe-

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

(aa) the power, functions and duties of an Inspector appointed under section 11;

(aaa) the constitution of the Expert Committee under section 12-A and terms and conditions of the appointment, qualifications and experience of its members;]

(b) the accidents of which notice shall be given to the State Government and to the inspector;

(c) the duties of the promoters servants and of police officers, and magistrate, on the occurrence of an accident;

(d) the maximum 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, the 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 ropeways;

(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 and aerial ropeway or part thereof and the 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, inspections, 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 Official Gazette.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER 12 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 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 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 any of the provisions 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 20[five thousand] rupees and in the case of a continuing offence, to a further fine which may extend 21[five 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 promoters servant in discharge of his duty :-

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 which may extend to one hundred rupees.

35. Unlawfully interfering with aerial ropeways :-

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

(a) interferes with, removes or alters any part of an aerial ropeway or of the works connected therewith;

(b) does anything in such manner as to obstruct any carrier travelling on an aerial ropeway;

(c) Attempts to do or abets within the meaning of the Indian Penal Code, 1860 (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 which may extend to two hundred rupees.

36. Punishments for acts or attempts tending to endanger safety or persons travelling or being upon aerial ropeways :-

(1) 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 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 for a term which may extend to fourteen years.

22["(2) If the promoter does anything or omits to do anything, mentioned in section 33, in relation to an aerial ropeway with intent or with knowledge that such act or omission is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall be punishable with imprisonment for a term which shall not be less than one month but may extend to five years."]

37. Arrest for offence against certain sections and procedure thereupon :-

(1) If any person commits any offence under section 34 or section 35 which obstructs 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 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.

38. Repeal and savings :-

The Punjab Aerial ropeways Act, 1926 (5 of 1926), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), is hereby repealed:

Provided that anything done or any action taken or any proceedings commenced or continued under the said Act, shall be deemed to have been done, taken, commenced or continue under the corresponding provisions of this Act.