

# The Bihar and Orissa Aerial Ropeways Act, 1924

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### Act 3 of 1924

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The Bihar and Orissa Aerial Ropeways Act, 1924 Bihar Act No. 3 of 1924 [Dated 22nd October, 1924] For 'Statement of Objects and Reasons' and the Report of the Select Committee, see the Bihar and Orissa Gazette, 1924, Part 5, page 12, 32. An Act to authorise, facilitate and regulate the construction and working of aerial ropeways in Bihar [and Orissa]. Whereas it is expedient to authorize, facilitate and regulate the construction and working of aerial ropeways in Bihar [and Orissa]. And whereas the previous sanction of the Governor-General has been obtained under sub-section (3) of Section 80-A of the Government of India Act to the passing of this Act. It is hereby enacted as follows:-

### 1. Short title, extent and commencement.

(1) This Act may be called the Bihar and Orissa Aerial Ropeways Act, 1924. (2) It extends by its own operation to the districts of Hazaribagh and Manbhum and may be extended by the [State] [Substituted by Adaptaion of Laws Order.] Government by notification to any other district or portion thereof. (3) It shall come into [operation] [The Act was enforced on the 1st January, 1925, by notification no. 3437-Com., dated the 25th November, 1924.] on such date and subject to such exceptions and modifications, if any, as the [State] [Substituted by Adaptaion of Laws Order.] Government may by notification direct.

### 2. Definitions.

- In this Act, unless there is something repugnant in the subject or context,-(1) "aerial ropeway" means an aerial ropeway (or any portion thereof) for the 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; (2) "inspector" means an inspector of aerial ropeways appointed under this Act; (3) "post" includes any trestle, standard, strut or other contrivance for carrying, suspending or supporting a rope; (4) "promoter" means any person in whose favour an order has been made under Section 6;

and(5)"rope" includes any cable, wire, rail or way, whether flexible or rigid, for suspending, carrying, or hauling a truck, carrier or other vehicle, if any part of such cable, wire, rail or way is carried overhead and is suspended or supported on posts.

### **3. Sanction for opening of aerial ropeway.**

- No person shall construct or work an aerial ropeway except with the sanction of the [State] [Substituted by Adaptation of Laws Order.] Government.

### **4. Application for sanction for aerial ropeway.**

(1)An application by an intending promoter for sanction to construct or work an aerial ropeway shall be made to the [State] [Substituted by Adaptation of Laws Order.] Government and shall be accompanied by such particulars, estimates, plans and drawings as the [State] [Substituted by Adaptation of Laws Order.] Government may require.(2)The [State] [Substituted by Adaptation of Laws Order.] Government may accord sanction to an intending promoter to enter on any immovable property and to make such surveys as may be necessary to enable him to furnish the information required by the [State] [Substituted by Adaptation of Laws Order.] Government under sub-section (1):Provided that-(a)the intending promoter shall not be entitled to enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously given such occupier at least seven days' notice in writing of his intention to do so; and(b)the intending promoters shall before he enters any immovable property pay or tender payment for all necessary damage to be done and in case of dispute as to the sufficiency of the amount so paid or tendered he shall at once refer the dispute to the Collector whose decision shall be final.

### **5. Procedure where application is in respect of aerial ropeway on land not belonging to promoter.**

(1)When the application is for sanction to construct or work an aerial ropeway in land not belonging to the intending promoter, the [State] [Substituted by Adaptation of Laws Order.] Government shall cause notice of such application together with a draft of the proposed order under Section 6 to be published in the [Official Gazette] [Substituted by AO for 'Gazette'.] and at convenient places on or near the route alongwith the aerial ropeway is intended to be constructed or worked, and to be served on the occupiers (if any) of land, and on all persons known or believed to be interested in land, on such route in the manner prescribed by Section 9 of the Land Acquisition Act, 1894 and shall in such notice fix a date, which shall not be less than sixty days from the date of the publication in the [Official Gazette] [Substituted by AO for 'Gazette'.] of the aforesaid notice and draft of the proposed order after which the application and any objection or suggestion with respect thereto which may be received from any person on or before such date, will be considered.(2)The draft of the proposed order may specify-(i)a time within which the construction shall be commenced;(ii)a time within which the construction shall be completed;(iii)the conditions relating to the structural design, quality of materials, factors of safety, method of computing stresses and other such technical

details as may be considered necessary;(iv)the conditions relating to the construction of the ropeway over mining properties in accordance with rules made under Section 22 and over public ways of communication;(v)the conditions under which the promoter may sell or transfer his rights to any person;(vi)the motive power to be used on the ropeway and the conditions (if any) on which such power may be used,(vii)the minimum headway to be maintained under different parts of the rope;(viii)the points under the rope at which bridges or guards shall be constructed and maintained;(ix)the amount of security (if any) to be deposited by the promoter in the event of his application being granted;(x)the traffic which may be carried on the ropeways; and(xi)such other matters as the [State] [Substituted by Adaptation of Laws Order.] Government may deem necessary.

## 6. Disposal of application.

(1)If after considering the application and, in the case of an application mentioned in Section 5, any objections or suggestions which may have been made in respect of the application or the draft of the proposed order on or before the specified date, [State] [Substituted by Adaptation of Laws Order.] Government is of opinion that the application should be granted with or without modifications, or subject or not any restrictions or conditions the [State] [Substituted by Adaptation of Laws Order.] Government shall make an order accordingly:[Provided that, where the aerial ropeway is to be constructed or worked in whole or in part over any railway or tramway which is a railway within the meaning of [the Constitution] [Substituted by AO for the original proviso.], the order granting the application shall specify the conditions, which shall previously have been approved by [\* \* \*] [Repealed by A.L.O.] the Central Government, of such construction or working].(2)Every order granting such an application shall be published in the [Official Gazette] [Substituted by AO for Gazette.].

## 7. Rights of user.

- When an application for sanction to construct or work an aerial ropeway in land not belonging to the promoter has been granted, the promoter shall have right so far as is necessary for the construction and working of the aerial ropeway, and in conformity with the order made under Section 6,-(a)to enter on any immovable property;(b)with the sanction of the Collector, to fix, maintain or remove any post;(c)with the sanction of the Collector, to suspend and maintain a rope over, along and across any property, and to carry vehicles on such rope; and(d)[ With the sanction of the Collector, and subject to such rules as may be made in this behalf by the State Government, to remove- [Substituted by Section 2 of Bihar Act 14 of 1951.](i)any tree, shrub, hedge, jungle-growth or other plant standing or lying near an aerial ropeway;(ii)any structure whether of masonry, brick, wood, mud, metal or any other material whatsoever which has been placed or has fallen near any such ropeway subsequent to the issue of an order under Section 6,which interrupts or interferes with, or is likely to interrupt or interfere with the construction or working of the aerial ropeway :]Provided that-(i)the promoter shall cause as little damage as possible in the exercise of the powers conferred by this section; and(ii)nothing in this section shall confer on the promoter any right other than that of user in any immoveable property.

## **8. Compensation or rent.**

(1)The promoter shall pay such compensation or annual rent or both in respect of the exercise of the powers conferred by Section 7 to such persons as the Collector may, on the application of the promoter or of any person claiming to be entitled to compensation or annual rent or both, determine.(2)No suit shall lie in respect of any matter referred to in sub-section (1) but every order of the Collector thereunder shall be subject to revision by the District Judge on the application of any person made within three months of the date of the Collector's order.

## **9. Acquisition of land.**

(1)Where the [State] [Substituted by Adaptation of Laws Order.] Government is satisfied that the construction or working of an aerial ropeway for private traffic is likely to prove useful to public by reason of its facilitating the transport of commodities in general use or is required for the conservation or service of undertakings supplying those commodities, and where the promoter of such aerial ropeway is desirous of obtaining any land for the purpose of such construction or working the [State] [Substituted by Adaptation of Laws Order.] Government may, on the application of such promoter, acquire on his behalf such land under the provisions of Part VII of the Land Acquisition Act, 1894.(2)For the purposes of such acquisition references in the aforesaid provisions to a company shall be deemed to be references to the promoter; and the words "the terms on which the public shall be entitled to use the work" in Section 41 and the words and brackets "(so far as regards the terms on which the public shall be entitled to use the work)" in Section 42 of the said Act shall be deemed to be omitted.

## **10. Notice to be given before working mines near post.**

(1)The owner or agent of a mine as defined in Section 3 of the Indian Mines Act, 1923 or the manager of a mine appointed under Section 15 of that Act, shall give to such authority as the [State] [Substituted by Adaptation of Laws Order.] Government may by general or special order direct sixty days' notice before commencing or extending any mining operations under his control at or to any point within such distance of any post appertaining to an aerial ropeway as the [State] [Substituted by Adaptation of Laws Order.] Government may prescribe by rule made under this Act.(2)For the purposes of the application of the provisions of the Land Acquisition (Mines) Act, 1885, to land acquired under Section 9, a notice under this section shall have the same effect as a notice under Section 4 of that Act.

## **11. Inspection of aerial ropeway before opening.**

(1)Notwithstanding anything contained in Section 6 or 7, no aerial ropeway shall be opened for any kind of traffic until the [State] [Substituted by Adaptation of Laws Order.] Government has by an order sanctioned the opening thereof for that purpose. Such sanction shall not be given until an Inspector has, after inspection of the aerial ropeway, reported in writing to the [State] [Substituted by Adaptation of Laws Order.] Government-(a)that he has made a careful inspection of the aerial

ropeway and its appurtenances;(b)that the terms of the order made under Section 6 have been complied with;(c)that the aerial ropeway is fit, and sufficiently equipped, for the traffic for which it is intended; and(d)that the aerial ropeway can, in his opinion, be used without danger to the persons carried or employed thereon and to the general public.(2)The provisions of sub-section (1) shall extend to the opening of additional sections of the aerial ropeway and 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.

## **12. Appointment and duties of Inspectors.**

(1)The [State] [Substituted by Adaptation of Laws Order.] Government may appoint such persons as it deems fit, to be Inspectors of aerial ropeways and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.(2)It shall be the duty of an Inspector 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 safety of the persons carried or employed thereon and of the general public and consistently with the provisions of this Act and of the rules made thereunder and with the terms of the order made under Section 6.

## **13. Powers 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 within the meaning of the Indian Penal Code, and shall, for that purpose, have such powers as may be prescribed by rules made under this Act.

## **14. Facilities to be afforded to Inspectors.**

- The promoter and his servants and agents shall afford to an Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act, and by rules made thereunder.

## **15. Protection of road, 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.

## **16. Reporting of accidents.**

- When in the course of working an aerial ropeway any accident occurs which causes loss of life or serious bodily injury or serious injury to property or is of any other description which the [State] [Substituted by Adaptation of Laws Order.] Government may specify in this behalf in rules made

under this Act, the promoter shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed by rules made under this Act.

### **17. Penalty for constructing ropeway or working ropeway without sanction.**

- Any person who contravenes the provisions of Section 3 shall be punishable with fine which may extend to two hundred and fifty 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 first during which the offence continues to be committed.

### **18. Failure of promoter to comply with Act.**

- If a promoter of an aerial ropeway-(a)opens an aerial ropeway without the sanction of the [State] [Substituted by Adaptation of Laws Order.] Government; or(b)constructs or works an aerial ropeway otherwise than in accordance with the terms of an order made under Section 6; or(c)fails to pay within a reasonable time any compensation awarded by the Collector under Section 8; or(d)fails to comply with the provisions of Section 14; or(e)contravenes any of the provisions of Section 15; or(f)fails to send notice of any accident as required by Section 16; or(g)contravenes the provisions of any rule made under Section 22;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) punishable with fine which may extend to two hundred rupees and, in the case of a continuing offence, to a further fine which may extend in the case of an offence specified in sub-clause (c) or (f) to fifty rupees and in the case of an offence specified in sub-clauses (a), (b), (d), (e) or (g), to one hundred rupees for every day after the first during which the offence continues to be committed.

### **19. Prosecution of promoter.**

- No prosecution shall be instituted against a promoter for any offence under this Act except at the instance of an Inspector or of the District Magistrate, and no court shall take cognizance of any such offence unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

### **20. Unlawfully obstructing promoter in exercise of his powers.**

- If any person without lawful excuse, the burden of proving which shall be upon him, willfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing, maintaining, altering, repairing or working an aerial ropeway, or injures or destroys any mark made for the purpose of setting out the line or route of such ropeway, he shall be punished with fine which may extend to two hundred rupees.

## **21. Unlawfully interfering with aerial ropeway.**

- If any person without lawful excuse, the burden of proving which shall be upon him, wilfully does any of following things, namely:-(a)interferes with, removes or alters any part of an aerial ropeway;(b)does anything in such a manner as to obstruct any vehicle travelling on an aerial ropeway;(c)attempts to do, or abets, within the meaning of the Indian Penal Code, 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 court of civil judicature) be punishable with fine which may extend to two hundred 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 first day during which the offence continues to be committed] [Added by Section 3 of Bihar Act 14 of 1954.].

## **22. Power of State Government to make rules.**

(1)The [State] [Substituted by ALO.] 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, the [State] [Substituted by ALO.] Government may make rules for all or any of the following purposes, namely:(a)for providing for the safety of persons carried on, and employed in the working of, aerial ropeways, and of the general public;(b)for prescribing and regulating the duties and powers of Inspectors;(c)for prescribing the conditions under which licences for the construction of aerial ropeways over mining properties shall be granted, including conditions as to the assessment and payment of compensation for loss caused by the interruption of the getting of minerals by reason of such construction and conditions as to the removal of any portion of the ropeway to another alignment, to be fixed by arbitration, if necessary, if at anytime in the opinion of the [State] [Substituted by ALO.] Government the ropeway interferes with the raising of minerals;(cc)[ for prescribing the conditions under which the Collector may remove under Cl. (d) of Section 7, any tree, shrub, hedge, jungle-growth or other plant or any structure near an aerial ropeway which interrupts or interferes with, or is likely to interrupt or interfere with the construction or working of an aerial ropeway] [Added by Section 4 of Bihar Act 14 of 1954.];(d)for prescribing the method of arbitration for the settlement of disputes;(e)for the protection from injury in respect of aerial ropeways of property vested in [Government] [Substituted by Adaptation of Laws Order for 'His Majesty'.] or any local authority or railway company as defined in the Indian Railways Act, 1890;(f)for prescribing the standard dimensions and specifications to which an aerial ropeway shall conform;(g)for prescribing the distance from a post appertaining to an aerial ropeway up to which the commencement or extension of mining operations by the owner, agent or manager of a mine requires notice to be given under Section 10;(h)for determining the fees to be charged to promoters and other persons in respect of inquiries, inspections, and services rendered under this Act;(i)for specifying the description of accidents of which notice shall be given under Section 16;(j)for prescribing the duties of the promoter's servants, police officers and magistrates on the occurrence of an accident; and(k)for prescribing the manner in which notices under this Act shall be served.(3)[ ] [Inserted by AO for original sub-section.] The Central Government may after previous publication make rules for the protection from injury in respect of aerial ropeways of property vested in [\* \* \*] ['His Majesty for the purposes of' replied by Adaptation of Laws Order.] the Central Government, and of property vested in any person for the purposes of any railway or tramway which

is a railway for the purposes of [the Constitution] [Substituted by Adaptation of Laws Order, for 'Government of India Act, 1935'.] [\* \* \*] [Words 'and, subject to any rules so made, the Federal Railway Authority may make rules for the protection from injury as aforesaid of property vested in any person for the purposes of any such railway or tramway', repealed by Adaptation of Laws Order, for 'Government of India Act, 1935'.]

### **23. Application of Act to aerial ropeways constructed before, or under construction at time of its commencement.**

- The provisions of this Act, except Sections 3, 4, 5, 6, 7, 8, 17 and Clauses (a), (b) and (c) of, and the reference thereto in, Section 18 shall so far as may be also apply to aerial ropeways constructed before, or under construction at the time of the commencement of this Act as if the owner of any such ropeway were the promoter, and all the provisions of this Act shall apply also to any extension of such aerial ropeways and any material alteration or re-construction thereof.