

# Himachal Pradesh Land Code

2023

[Volume-I]



Department of Revenue Government of Himachal Pradesh

**Containing:**  
Acts and Rules of H.P Revenue Department with Notifications and Instructions  
(Amended up to 2023)

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2<sup>nd</sup> Edition

**Disclaimer:** The present edition of H.P Land Code has been compiled after taking the information from the Departmental sources and [www.indiacode.com](http://www.indiacode.com). All due care has been taken to ensure that the content is correct even then reference to a standard source is advised. Further the Code may also contain a few repealed instructions/documents which have been added for reference purpose. The user is advised to carefully check the applicability of such documents.

## संदेश

राजस्व विभाग से आम जन का सीधा जुड़ाव है। हर नागरिक का अपने जीवन में भूमि सम्बन्धी मामलों से सरोकार रहता है। सामाजिक एवं पारिवारिक सौहार्द में भी भूमि विवादों के सर्वसम्मत समाधान का एक बड़ा योगदान रहता है। जनता की समस्याओं के त्वरित समाधान के लिए हमारी राजस्व न्याय प्रणाली का चुस्त दुरुस्त होना अनिवार्य है एवं इसके लिए आवश्यक है कि नियम एवं कानून व् विभागीय दिशानिर्देश क्षेत्रीय अधिकारियों एवं लोगों को सरलता से उपलब्ध हों। इसके दृष्टिगत वर्तमान सरकार द्वारा सत्ता सँभालने के बाद पहले ही बजट भाषण में हमारा ये आश्वासन था की हम राजस्व विभाग में नए लैंड कोड को प्रकाशित करेंगे जिसमें भूमि सम्बन्धी नियमों, कानूनों एवं विभागीय निर्देशों का अद्यतन संकलन हो। मुझे खुशी है कि हमारे निर्देश पर विभाग द्वारा त्वरित कारवाई करते हुए नए लैंड कोड को प्रकाशित किया जा रहा है। इस कोड के उपयोग से राजस्व अधिकारियों का मार्गदर्शन होगा एवं वे लोगों के भूमि मामलों का शीघ्र व् सही निपटान कर पाएंगे। आम जन को भी राजस्व विभाग के कानून एवं नियम व् समय-समय पर जारी निर्देशों की जानकारी आसानी से उपलब्ध हो पायेगी। प्रथम लैंड कोड का प्रकाशन 1992 में किया गया था। मैं राजस्व विभाग द्वारा लगभग 31 वर्षों के बाद प्रकाशित किये जा रहे लैंड कोड के नवीन संस्करण के लिए सभी अधिकारियों को हार्दिक बधाई व शुभकामनायें देता हूँ।

**श्री सुखविंदर सिंह सुक्खू**  
**माननीय मुख्यमंत्री, हिमाचल प्रदेश**

## संदेश

यह हर्ष का विषय है कि राजस्व विभाग द्वारा 'लैंड कोड' का प्रकाशन किया जा रहा है। पूरे देश भर की भान्ति हिमाचल प्रदेश में भी भूमि-सुधार के प्रयास हुये हैं तथा पूर्ण राज्यत्व प्राप्ति के बाद राज्य द्वारा भू-सुधार अधिनियमों को बनाया गया। इन कानूनों का उद्देश्य गरीब एवं वंचित वर्गों को भूमि के मालिकाना हक देना व बड़े भू-स्वामियों के पास सम्पत्ति का केन्द्रीकरण रोकना रहा है। समय-समय पर कानूनों में बदलाव हुए हैं। इनका संकलन हिमाचल प्रदेश लैंड कोड के रूप में किया गया था।

वर्तमान सरकार का यह प्रयास है कि कानूनों में आवश्यक संशोधन किया जाए जिससे प्रक्रियाएं सरल हों तथा आम जनता के कार्यों का निपटान तीव्रता से हो। राजस्व विभाग में व्यवस्था परिवर्तन आम जन के हितों के लिए अति आवश्यक है इसी के दृष्टिगत राज्य सरकार ने "राजस्व लोक अदालत" जैसी पहल की है तथा कानूनों एवं नियमों के बदलाव का दौर शुरू किया है। लैंड कोड के नए संस्करण का प्रकाशन इसी पहल की एक कड़ी है ताकि अधिकारियों एवं जनता को सभी कानूनों, नियमों एवं दिशानिर्देशों का एक अद्यतन संकलन मिल सके।

मैं राजस्व विभाग के अधिकारियों को लैंड कोड के नए संस्करण के प्रकाशन पर हार्दिक बधाई एवं शुभकामनायें देता हूँ।

श्री जगत सिंह नेगी  
माननीय राजस्व मंत्री, हिमाचल प्रदेश

# Foreword

The Land laws and executive instructions of Department of Revenue were first codified in 1992 in the shape of H.P Land Code. This code is still used as a mother book of Revenue Department by the officers, advocates and general public. While there have been substantial changes in the land laws but the code remained unrevised for almost three decades. The Department has also released numerous guidelines, clarifications and executive instructions from time to time addressing legal matters and prescribing procedures to be observed by Revenue Officers. Notably, the instructions issued since 1992 have not been consolidated into a comprehensive code underscoring the imperative for an inclusive update of the code. Furthermore, the evolving socio-economic landscape has also necessitated transformative overhaul of departmental affairs to align with the progressive aspirations of the modern society. To achieve this goal measures such as digitization of records, e-governance, simplification of procedures and updating our laws and rules have been taken. Additionally, codification of laws, rules and all guidelines, is pivotal for this endeavor. Recognizing the necessity, we took the decision to embark on the task of revising the land code.

A Committee was constituted for the purpose and a team led by Sh. Priyatu Mandal (I.A.S) after a diligent work of almost six months successfully finalized the Code. As the famous quote says, “The hands that make mistakes belong to those who work” the team has definitely approached the task with precision and great deal of hard work and the code has been scrutinized minutely but the existence of errors in the book may not be ruled out. Surely, the benefits derived from the code will far surpass the mistakes observed.

I must appreciate all the hard work, commitment and dedication put in by the members of the committee and officers of the department for shaping this document into reliable reference for all. I hope that the current version of H.P Land Code which is being released in three volumes will prove beneficial to all the stakeholders and will contribute to the improvement of the public service delivery by empowering our officers.

**(Onkar Chand Sharma)**

Principal Secretary (Revenue) cum  
Financial Commissioner (Revenue)  
Government of Himachal Pradesh

# Preface

The boosters of the Space Shuttle could have been made bigger and more powerful, but the NASA engineers were constrained by logistical difficulties. Since the boosters had to be transported by US railways, where the standard gauge was 4 feet and 8.5 inches, the NASA engineers were in a fix. This gauge in the USA was of this measure because it was imported from their old colonial masters, the British. The British rail gauge was this broad because the older tram gauge, which carried wagons, were of this measure. Why were the wagon wheels of this width? Because this was the measure of horse wagons, which ran on some of the old, long-distance roads in England. Who built those roads? Imperial Rome. So, NASA boosters were effectively designed by imperial Rome.

This example shows how legacy decisions taken in the past affect the world far into the future. Legend has it that Todar Mal overhauled the revenue system of imperial Mughals under Akbar. Todar Mal, one of the Navaratnas of the court of Emperor Akbar, was his Finance Minister, and senior administrator. If the legends are true, then much of what we face as challenges of the present revenue system in Himachal stem from decisions taken by Todar Mal. The humble jareb (the measuring unit made from steel chains) and the triangular system of area measurement probably stem from that time - with procedural additions by the British. It is far easier to make new satellite land maps that would be accurate - but we are stuck with the legacy records made often-times a century back. This reminds me of a case I had disposed in Nahan - the appellant's land was decreased in Settlement, although his possession was intact. The whole fight was over the decrease in land that existed on paper only - on ground, he was in possession over as much land today as he had 50 years back. People fight, ruining their lives and finances over generations, over their rights as established in the record. It does not much matter if those records are accurate or not. Legacy decides the present. And future.

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The last edition of the Land Code was compiled by Mr. I.S. Chandel. Mr. Chandel was a stalwart of the revenue department, having written many of the books we still read today. The Land Records Manual which he drafted is also in daily use in the department. These books came out in 1992, a good three decades back. And much has changed in the years since their publication.

However, nothing is permanent but change. Any compilation of laws or processes becomes outdated even before they reach the bookshelves, fresh and warm out of the printer. Any attempt to compile something in a book shape that is desired to be printed on paper is a foolhardy attempt in today's day and age. It is far easier to update a compilation in a digital format, than it is to go through all the steps for printing. I earnestly hope that this is the last Land Code to ever come out in print - all future Codes, of this or any other department, should come out in digital-only format.

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They say that fools rush in where angels fear to tread. In early excitement, I rushed in with the desire to update the Land Code and the Manual, books heavily criticised in the field because of outdated provisions. The government quickly formalised a committee to update these books and various revenue processes, and was gracious in allowing me to chair it. However, we did not know the challenges of the undertaking. It took months and months of effort in finding the documents. Record-keeping was far from perfect - and attempts to find the latest and all intervening documents were painful, filled with frustration and anguish. However, patience and dedication are virtues in themselves, and yield rewards. Despite that, we are sure there will be documents missing. At best, this compilation is only an attempt at perfection, and far from it.

**Priyatu Mandal**  
(Head of Committee to draft the Land Code)

# Acknowledgements

Newton famously said that he has seen further as he stood on the shoulders of giants. All works are products of joint efforts - far more than we realise. This certainly is the case with government work, and certainly the case with these volumes.

The government notified a committee to compile the revenue documents, and gave a fine group of members to work with. These volumes are the results of countless hours of searching, compiling, drafting, redrafting and copy correction by not just the committee members, but also the supporting staff. I wish to thank Sh. Sandeep Sood, Technical Director (NIC), Sh. Sunil Verma (HAS), Sh. Balwan Chand (HAS), Sh. Manish Chaudhary, (HAS), Sh. Narayan Chauhan (HAS), Sh. Sees Ram (Tehsildar) and Sh. Vikram Jeet Singh (Tehsildar), who are all Committee members. My special thanks go to Sh. Yogesh Chauhan (HAS), and Sh. Chandan Kapoor (HAS), who were part of the sub-committee that did the yeoman's work for the drafts. The longest hours of hard work came from Sh. Anil Chauhan (HAS), who was instrumental in locating decades old documents from the dusty files of the Secretariat - a job easier said than done. I also wish to thank Sh. Sunil Kumar (Steno-Typist), who must have discarded a few keyboards in typing and compiling these thick volumes.

Last but not the least, I wish to thank Sh. Onkar Chand Sharma, IAS, Financial Commissioner (Revenue), Government of Himachal Pradesh, for his continued support and directions. Without his support, these volumes would not have seen the light of the day.

**Priyatu Mandal**  
(Head of Committee to draft the Land Code)

## TABLE OF CONTENTS

<b>PART-I</b>				
<b>Acts and Rules of H.P Revenue Department with Notifications and Instructions</b>				
Sr. No.	Particulars	Reference of Act	Subject	Page No.
1.	<b>The Himachal Pradesh Land Revenue Act, 1954</b>	<b>Principal Act as updated upto 2023</b>	<b>Bare Act</b>	2-64
1.1	The Himachal Pradesh Land Revenue (Fees for inspection and copies of extracts from Patwari's Records) Rules, 2023	Rules u/s 168(1) (d) of the H.P.L.R Act, 1954	Rule	65-68
1.2	The Himachal Pradesh Land Revenue (General Assessment) Rules, 1984	Rules u/s 64 of H.P.L.R Act, 1954	Rule	69-79
1.3	The Himachal Pradesh Land Revenue (Special Assessment) Rules, 1986	Rules u/s 64 of H.P.L.R Act, 1954	Rule	80-99
1.4	The Punjab Land Revenue Rules (as applicable to H.P)	Rules applicable for the H.P.L.R. Act, 1954	Rule	100-116
1.5	The Himachal Pradesh Cancellation of Remission or Assignment of Land Revenue Rules, 1966	Rules under H.P.L.R Act, 1954	Rule	117-119
1.6	Chronological List of Various Notifications and Instructions/Clarifications issued under the H.P Land Revenue Act, 1954	Instructions/Clarifications	Instructions/Clarifications	120-228
2.	<b>The Himachal Pradesh Tenancy and Land Reforms Act, 1972</b>	<b>Principal Act as updated upto 2023</b>	<b>Bare Act</b>	230-278
2.1	Himachal Pradesh Tenancy and Land Reforms Rules, 1975	Rules under the Act	Rule	279-307
2.2	Notifications, Instructions and Clarifications issued under the H.P Tenancy and Land Reforms Act, 1972	Instructions/Clarifications	Instructions/Clarifications	308-321
2.3	Instructions and Clarifications related to Agriculturist Status under H.P Tenancy and Land Reforms Act, 1972	Instructions/Clarifications	Instructions/Clarifications	322-361
2.4	Instructions and Clarifications related to section 118 under H.P Tenancy and Land Reforms Act, 1972	Instructions/Clarifications	Instructions/Clarifications	362-445
3.	<b>The Himachal Pradesh Ceiling on Land Holding Act, 1972</b>	<b>Principal Act as updated upto 2023</b>	<b>Bare Act</b>	447-462
3.1	The Himachal Pradesh Ceiling on Land Holding Rules, 1973	Rules under the Act	Rule	463-482
3.2	Instructions/Clarifications issued under the H.P Ceiling on Land Holding Act, 1972	Instructions/Clarifications	Instructions/Clarifications	483-496
4.	<b>The Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974</b>	<b>Principal Act as updated upto 2023</b>	<b>Bare Act</b>	498-507
4.1	The Himachal Pradesh Village Common Lands Vesting and Utilization Rules, 1975	Rules under the Act	Rule	508-512
4.2	Chronological List of Various Notifications and Instructions/Clarifications issued under the H.P Village Common Lands Vesting and Utilization Act, 1974	Instructions/Clarifications	Instructions/Clarifications	513-527



5.	<b>The Himachal Pradesh Abadi Deh (Record of Rights) Act, 2021</b>	<b>Principal Act</b>	<b>Bare Act</b>	529-537
5.1	Himachal Pradesh Abadi Deh (Record of Rights) Rules, 2022	Rules under the Act	Rule	538-544
6.	<b>The Himachal Pradesh Lease Rules, 2013</b>	<b>Rule</b>	<b>Rule</b>	546-560
6.1	Chronological List of Various Notifications and Instructions/Clarification issued under the H.P Lease Rules, 2013	Instructions/ Clarifications	Instructions/ Clarifications	561-573
6.2	The Tibetan Rehabilitation Policy 2014 of Government of India. (For Lease)	Policy	Policy for lease.	574-581
6.3	Tibetan Rehabilitation Policy, Himachal Pradesh, 2015. (For Lease)	Policy	Policy for lease.	582-587
7.	<b>The Himachal Pradesh Land Revenue Surcharge Act, 1974</b>	<b>Principal Act</b>	<b>Bare Act</b>	589-591
7.1	The Himachal Pradesh Land Revenue Surcharge Rules, 1974	Rules under the Act	Rule	592-593
8.	<b>The Himachal Pradesh Abolition of Land Revenue On Un-Economic Holdings Act, 1978</b>	<b>Principal Act</b>	<b>Bare Act</b>	595-596
9.	<b>The Himachal Pradesh Kissan Pass Book Act, 1996</b>	<b>Principal Act</b>	<b>Bare Act</b>	598-603
9.1	The Himachal Pradesh Kissan Pass Book Rules, 2000	Rules under the Act	Rule	604-607
10.	<b>Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971</b>	<b>Principal Act</b>	<b>Bare Act</b>	609-626
10.1	Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973	Rules under the Act	Rule	627-638
11.	<b>The Redemption of Mortgage (Himachal Pradesh) Act, 1971</b>	<b>Principal Act</b>	<b>Bare Act</b>	640-644
11.1	The Redemption of Mortgage (Himachal Pradesh) Rules, 1972	Rules under the Act	Rule	645-647
12.	<b>The Himachal Pradesh Restitution of Mortgaged Lands Act, 1976</b>	<b>Principal Act</b>	<b>Bare Act</b>	649-652
12.1	The Himachal Pradesh Restitution of Mortgaged Lands Rules, 1977	Rules under the Act	Rule	653-657
13.	<b>The Himachal Pradesh Utilization of Lands Act, 1973</b>	<b>Principal Act</b>	<b>Bare Act</b>	659-663
13.1	The Himachal Pradesh Utilization of Lands Rules 1973	Rules under the Act	Rule	664-665
14.	<b>The Himachal Pradesh Registration of Money Landers Act, 1976</b>	<b>Principal Act as updated upto 2023</b>	<b>Bare Act</b>	667-672
14.1	The Himachal Pradesh Registration of Money Landers Rules, 1976	Rules under the Act	Rule	673-682

15.	<b>The Himachal Pradesh Debt Reduction Act, 1976</b>	<b>Principal Act</b>	<b>Bare Act</b>	684-694
15.1	The Himachal Pradesh Debt Reduction Rules, 1982	Rules under the Act	Rule	695-698
16.	<b>The Himachal Pradesh Distressed Persons (Facilities for Loans) Act, 1976</b>	<b>Principal Act</b>	<b>Bare Act</b>	699-700
16.1	The Himachal Pradesh Distressed Persons (Facilities for Loans) Rules, 1984	Rules under the Act	Rule	701-707
17.	<b>The Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976</b>	<b>Principal Act</b>	<b>Bare Act</b>	708-716
17.1	The Himachal Pradesh Relief of Agricultural Indebtedness Rules, 1978	Rules under the Act	Rule	717-722
18.	<b>The Himachal Pradesh (Restriction to Contest Alienation or Adoption under Custom) Act, 1976</b>	<b>Principal Act</b>	<b>Bare Act</b>	723-724
19.	<b>The Himachal Pradesh New Mandi Townships (Development and Regulation) Act, 1973</b>	<b>Principal Act</b>	<b>Bare Act</b>	726-734
19.1	Himachal Pradesh New Mandi Townships (Development and Regulation) Rules, 1980	Rules under the Act	Rule	735-749
<b>PART-II</b> <b>Financial Commissioners Standing Orders</b>				
20.	Himachal Pradesh Financial Commissioner's Standing Order No. 1	Order	Proceedings and suits between land owners and tenants	751-755
21.	Himachal Pradesh Financial Commissioner's Standing Order No. 2	Order	Procedure for Revenue Officers and Revenue Courts	756-783
22.	Himachal Pradesh Financial Commissioner's Standing Order No. 5 & Standing order No. 14	Order	Inspections	784-798
23.	Himachal Pradesh Financial Commissioner's Standing Order No. 8	Order	Coercive processes	799-811
24.	Himachal Pradesh Financial Commissioner's Standing Order No. 12	Order	Business Returns	812-823
25.	Himachal Pradesh Financial Commissioner's Standing Order No. 13	Order	Calendar of Settlements	824-826
<b>PART-III</b> <b>Land allotment Rules &amp; Schemes of the Department of Revenue</b>				
26.	<b>The Himachal Pradesh Nautor Land Rules, 1968</b>	<b>Rule</b>	<b>Rule</b>	828-847
27.	The Himachal Pradesh Grant of Nautor Land to Landless and Other Eligible Persons Scheme, 1975	Scheme	Scheme	848-851

28.	The Himachal Pradesh Utilization of Surplus Area Scheme, 1974.	Scheme	Scheme	852-856
29.	The Himachal Pradesh Village Common Lands Vesting and Utilization Scheme, 1975	Scheme	Scheme	857-861
30.	The Himachal Pradesh Conferment of Proprietary Rights on Chakotadars Scheme, 2015	Scheme	Scheme	862-864
31.	Rules of Allotment of Plots in the New Bilaspur Township.	Rules	Rules	865-871
32.	The Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme, 1971	Scheme	Scheme	872-880
33.	Rules governing the Grant of Nautor in the un-demarcated waste of the Rupi Jagir in the Kullu Sub-Division.	Rule	Rule	881-883
34.	The Sirmour Water-Mills (Gharats) Regulations, 2002	Regulations	Regulation	884-889
35.	Chronological List of Various Notifications and Instructions/Clarifications issued under the Land Allotment Rules and Schemes.	Instructions/ Clarifications	Instructions/ Clarifications	890-955
36.	Chronological List of Various Notifications and Instructions/Clarifications issued under the Schemes 3/2 Biswas Allotment of Land.	Instructions/ Clarifications	Instructions/ Clarifications	956-967

- **THE HIMACHAL PRADESH LAND REVENUE ACT, 1954**
- **THE HIMACHAL PRADESH LAND REVENUE (FEES FOR INSPECTION AND COPIES OF EXTRACTS FROM PATWARIS RECORDS) RULES, 2023**
- **THE HIMACHAL PRADESH LAND REVENUE (GENERAL) ASSESSMENT RULES, 1984**
- **THE HIMACHAL PRADESH LAND REVENUE (SPECIAL) ASSESSMENT RULES, 1986**
- **THE PUNJAB LAND REVENUE RULES (AS APPLICABLE TO H.P.)**
- **NOTIFICATION ISSUED UNDER THE H.P. LAND REVENUE ACT, 1954**
- **INSTRUCTIONS AND CLARIFICATIONS ISSUED UNDER THE H.P. LAND REVENUE ACT, 1954**

**THE HIMACHAL PRADESH LAND REVENUE ACT, 1954**  
**ARRANGEMENT OF SECTIONS**

Sections:

**CHAPTER I.-Preliminary**

1. Title, extent and commencement.
2. Repeal.
3. Savings.
4. Definitions.
5. Exclusion of certain land from operation of Act.
6. Power to vary limits and alter number of tehsils, sub-tehsils, districts and divisions.

**CHAPTER II - Revenue Officers**

**Class and Powers**

7. Classes of Revenue Officers.
8. Financial Commissioner.
9. Appointment of Commissioner etc.
10. Appointment of Tehsildars and Naib Tehsildars.
11. Powers of Revenue Officers.

**Administrative Control**

12. Superintendence and control of Revenue Officers.
13. Powers to distribute business, withdraw and transfer cases.

**Appeal, Review and Revision**

14. Appeals.
15. Limitation for Appeals.
16. Review by Revenue Officers.
17. Power to call for, examine and revise proceedings of Revenue Officers.
- 17-A Time limit for deciding the appeal, review and revision.

**Procedure**

18. Power to make rules as to procedure.
19. Persons by whom appearances and applications may be made before and to Revenue Officers.
20. Power of Revenue Officer to summon persons.
21. Mode of service of summons.
22. Mode of service of notice, order or proclamation, or copy thereof.
23. Mode of making proclamation.

**Supplemental Provisions**

24. Place of sitting.
25. Holidays.
26. Discharge of duties of Collector dying or being disabled.
27. Retention of powers by Revenue Officers on transfer.
28. Conferment of powers to Revenue Officer.

**CHAPTER III - Kanungos and Village Officers**

29. Rules respecting kanungos and village officers.

30. Village Officer's Cess.
31. Restriction on attachment or assignment of remuneration of Kanungos and Village officers.

#### **CHAPTER IV - Records**

##### **Record-of-rights and Annual Records**

32. Record-of-rights and documents included therein.
33. Making of special revision of record-of-rights.
- 33-A Units of measure to be based on metric system.
34. Periodical record.
- 34-A Sub-division of an estate etc.

##### **Procedure for making records**

35. Making of that part of the periodical record which relates to land owners, assignees of revenue and occupancy tenants.
36. Making of that part of the periodical record which relates to other persons.
37. Determination of dispute.
38. Restrictions on variations of entries in records.
- 38-A Correction of clerical errors.
39. Mutation fees.
40. Penalty for neglect to report acquisition of any right referred to in section 35.
41. Obligation to furnish information necessary for the preparation of records.

##### **Rights of the Government and presumptions with respect thereto and to other matters**

42. Right of the Government in mines and minerals.
43. Presumption as to owner-ship of forests, quarries and waste lands.
44. Compensation for infringement of rights of third parties in exercise of right of the Government.
45. Presumption in favour of entries in record-of-rights and periodical records.
46. Suit for declaratory decree by persons aggrieved by an entry in a record

##### **Supplemental Provisions**

47. Powers to make rules respecting records and other matters connected therewith.
- 47-A Power of the Collector to issue instructions.
48. Record-of-rights and periodical records for groups of estates.

#### **CHAPTER-V – Assessment**

49. Assessment of land revenue.
50. Basis of assessment.
51. Limit of assessment.

##### **General Assessments**

52. Notification of intended re-assessment and instructions as to principles of assessment.
53. Mode of determining assessment.
54. Announcement of assessment.
55. Application for reconsideration of assessment.
56. Confirmation and duration of assessment.
57. Duration of assessment.
58. Assessment to remain till new assessment takes effect.

- 59. Refusal to be liable for assessment of an estate and consequences thereof.
- 60. Distribution of the assessment of an estate over the holdings comprised therein.
- 61. Application for amendment of the distribution of an assessment.
- 62. Appeals from orders under section 55 and 61.
- 62-A Exemption from the process of assessment.

#### **Special Assessments**

- 63. Special assessment.
- 64. Power to make rules.
- 65. Procedure to be followed in making rules.
- 66. Rules and executive instructions issued before commencement of this Act, to be followed for the purpose of assessment operations begun before issue of rules made under the provisions of section 65.
- 67. Power to issue instructions.

#### **CHAPTER VI - Collection of Land Revenue**

- 68. Security for payment of land revenue.
- 69. Further security for payment of land revenue.
- 70. Orders to regulate payment of land revenue.
- 71. Rules to regulate collection, remission and suspension of land revenue.
- 72. Costs recoverable as part of arrear.
- 73. Certified account to be evidence as to arrear.
- 74. Process for recovery of arrears.
- 75. Writ of demand.
- 76. Distress and sale of movable property and crops.
- 77. Transfer of holding.
- 78. Attachment of estate or holding.
- 79. Annulment of assessment of estate or holding.
- 80. Proclamation of attachment or annulment of assessment and consequence of the proclamation.
- 81. Sale of estate or holding.
- 82. Effects of sale on encumbrances.
- 83. Proceedings against other immovable property of defaulter.
- 84. Remedies open to person denying his liability for an arrear.

#### **Procedure in sales**

- 85. Proclamation of sale.
- 86. Indemnity to Revenue Officer with respect to contents of proclamation.
- 87. Publication of proclamation.
- 88. Time and conduct of sale.
- 89. Power to postpone sale.
- 90. Stay of sale.
- 91. Payment of deposit by highest bidder.
- 92. Consequences of failure to pay deposit.
- 93. Time for payment in full.
- 94. Procedure in default of payment.
- 95. Report of sale to Commissioner or Financial Commissioner.

96. Application to set aside sale.
97. Order confirming or setting aside sale.
98. Refund of purchase money on setting aside of sale.
99. Proclamation after postponement or on resale.
100. On confirmation of sale, possession and certificate to be granted to purchaser.
101. Proceeds of sale.

#### **CHAPTER VII -Recovery of other demands by Revenue Officers**

102. Recovery of certain arrears through Revenue Officer instead of by suit.
103. Other sums recoverable as arrears of land revenue.
104. Recovery of arrears due from co-sharers paid by Nambardar.
105. Application of Chapter VI to sums recoverable under this Chapter.

#### **CHAPTER VIII -Surveys and Boundaries**

106. Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey marks.
107. Power of Revenue Officers to define boundaries.
108. Power to fix boundary between riverine estates.
109. Effect of fixing boundary between riverine estates.
110. Application for immediate transfer of rights reserved under the proviso to sub-section (1) of section 109 upon payment of compensation and procedure thereupon. Award of compensation and extinguishment of rights thereby.
111. Order under the proviso to sub-section (1) of section 109 to cease to apply to rights voluntarily transferred to a land-owner of the estate to which the land is transferred by fixing boundary.
112. Rights transferred to be liable to all the incident of tenure of the estate to which the transfer is made.
113. Meaning of the expression "Collector" in section 108 to 110.
114. Cost of erection and repair of survey-mark.
115. Recovery cost incurred by the Government.
116. Power of Revenue officers to enter on land for purpose of survey and demarcation.
117. Surveys for the purpose of preparation of records.
118. Provision of flag-holders and chain-men for those surveys.
119. Professional surveys.
120. Penalty for destruction, injury or removal of survey-marks.
121. Report of destruction or removal of or injury to survey-marks.

#### **CHAPTER IX – Partition**

122. Effect of partitions of estates and tenancies on joint liability for revenue and rent.
123. Application for partition.
124. Restrictions and limitations on partition.
125. Notice of application for partition.
126. Addition of parties to application.
127. Absolute disallowance of partition.
128. Procedure on admission of application.



- 129. Disposal of questions as to title in property to be divided.
- 130. Disposal of other questions.
- 131. Administration of property excluded from partition.
- 132. Distribution of revenue and rent after partition.
- 133. Instrument of partition.
- 134. Delivery of possession of property allotted on partition.
- 135. Affirmation of partition privately affected.
- 136. Estimates and levy of costs.
- 137. Re-distribution of land according to customs.
- 138. Officers who may be empowered to Act under this Chapter.
- 138-A Time limit for decision of partition cases.

#### **CHAPTER-X –Arbitration**

- 139. Power to refer to arbitration.
- 140. Order of reference and contents thereof.
- 141. Nomination of arbitrators.
- 142. Substitution of arbitrators by parties.
- 143. Nomination and substitution of arbitrators by Revenue Officers.
- 144. Process for appearance before arbitrators.
- 145. Award of arbitrators and presentation thereof.
- 146. Procedure on presentation of award.
- 147. Effect of award.

#### **CHAPTER XI -Special jurisdiction with respect to land**

- 148. Power to invest officers' making record-of-rights or general reassessment with powers of Civil Courts.
- 149. Control over such officers and appeals from and revision of their decree and orders.

#### **CHAPTER XII.-Supplemental Provisions Revenue Deposits**

- 150. Power to deposit certain sums other than rent.
- 151. Procedure in case of deposit on account of a payment due to Government.
- 152. Procedure in case of other deposits.

#### **Execution of order of Civil and Criminal Courts by Revenue-Officers**

- 153. Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to Revenue Officer.
- 154. Attachment of assigned land-revenue.

#### **Preservation of attached Produce**

- 155. Preservation of attached produce.

#### **Division of produce**

- 156. Division of produce.

#### **Miscellaneous**

- 157. Village cesses.

158. Superior land owners' dues.
159. Substitution of service for payment of land revenue.
160. Recovery of cost of assessing assigned land revenue.
161. Power to cancel the remission or assignment of land revenue.
162. Penalty for failure to attend within limits of estate in obedience to order of Revenue-Officers.
163. Prevention of encroachment on common lands.
- 163-A. Regularisation of encroachment in certain cases.
164. Papers kept by village officers to be deemed public documents.
165. Costs.
166. Computation of periods limited for appeals and application for review.
167. Restriction on Revenue Officer's bidding at auction or trading.
168. Power to make rules.
169. Rules to be made after previous publication.
170. Powers exercisable by the Financial Commissioner from time to time.

#### **Exclusion of Jurisdiction of Civil Courts**

171. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue Officers.

#### **THE SCHEDULE**

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**THE HIMACHAL PRADESH LAND REVENUE ACT, 1954**  
**(ACT NO. 6 OF 1954)**

(Received the assent of the President on the 9<sup>th</sup> April, 1954, and was published in Hindi in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 6<sup>th</sup> August, 1954, pp. 29-87 and in English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 3<sup>rd</sup> June, 1955, pp. 121-180.

An Act to amend and declare the Land Revenue Law of the Himachal Pradesh.

Amended, repealed or otherwise affected by,-

- (i) H.P. Act No. 11 of 1955<sup>1</sup>, assented to by the President on 26<sup>th</sup> October, 1955, published in Hindi in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 9<sup>th</sup> December, 1955, pp. 321-323 and in English in the Rajpatra, Himachal Pradesh dated 24<sup>th</sup> March, 1956, pp. 185-186.
- (ii) H.P. Act No. 12 of 1956<sup>2</sup>, assented to by the President on 28<sup>th</sup> June, 1956, published in Hindi in the Rajpatra, Himachal Pradesh dated the 11<sup>th</sup> August, 1956, pp. 467-468 and in English in the Rajpatra, Himachal Pradesh dated 8<sup>th</sup> December, 1956, pp. 687-689.
- (iii) The Adaptation of Laws (No. 5) Order, 1957, published with the Ministry of Law, Notification No. 3514, dated 31<sup>st</sup> October, 1957, Gazette of India, Extraordinary, 1957, Part II, section 3, p. 2707-2712.
- (iv) H.P. Act No. 5 of 1965<sup>3</sup>, assented to by the President on 21<sup>st</sup> October, 1965, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 22<sup>nd</sup> November, 1965, pp 395-396.
- (v) H.P. Act No. 19 of 1971<sup>4</sup>, assented to by the Governor on 5<sup>th</sup> November, 1971, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 19<sup>th</sup> November, 1971, pp. 1428-1430.
- (vi) The Himachal Pradesh Adaptation of Laws (State and Concurrent Subjects) Order, 1973, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 20<sup>th</sup> January, 1973, pp. 91-112. Effective from 25<sup>th</sup> January, 1971.
- (vii) H.P. Act No. 21 of 1976<sup>5</sup>, assented to by the Governor on 30<sup>th</sup> April, 1976, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 8<sup>th</sup> May, 1976, pp. 1221-1228.
- (viii) H.P. Act No.15 of 1989<sup>6</sup>, assented to by the Governor on the 23<sup>rd</sup> June, 1989, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 27<sup>th</sup> June, 1989, pp. 1499-1504.

<sup>1</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 2<sup>nd</sup> September, 1955, p. 275.

<sup>2</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 29<sup>th</sup> March, 1956, p. 70-71.

<sup>3</sup>For Statement of Objects and Reasons see the the Rajpatra, Himachal Pradesh, dated 6<sup>th</sup> September, 1965, p. 355.

<sup>4</sup>For Statement of Objects and Reasons see the the Rajpatra, Himachal Pradesh, dated 14<sup>th</sup> September, 1971, p. 1193.

<sup>5</sup>For Statement of Objects and Reasons see the the Rajpatra, Himachal Pradesh, dated 8<sup>th</sup> March, 1976, p.850.

<sup>6</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 3<sup>rd</sup> June, 1989, pp. 1277 and 1280.

- (ix) H.P. Act No. 3 of 1996<sup>1</sup>, assented to by the Governor on the 7<sup>th</sup> March, 1996, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 12<sup>th</sup> March, 1996 pp. 999-1008, effective with immediate effect except sections 2(b), 5, 6 and 10 which shall be deemed to have come into force on 23<sup>rd</sup> September, 1976.
- (x) H.P. Act No. 15 of 2000<sup>2</sup>, assented to by the Governor on the 27<sup>th</sup> May, 2000, published in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 29<sup>th</sup> May, 2000, pp. 1429-1447.
- (xi) H.P. Act No. 3 of 2001<sup>3</sup>, assented to by the Governor on the 9<sup>th</sup> February, 2001, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 17<sup>th</sup> February, 2001, pp. 5529-5534.
- (xii) H.P. Act No. 1 of 2004<sup>4</sup>, assented to by the Governor on the 8<sup>th</sup> January, 2004, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 9<sup>th</sup> January, 2004, pp. 2891-2904.
- (xiii) H.P. Act No. 25 of 2009<sup>5</sup> assented to by the Governor on the 25<sup>th</sup> September, 2009, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 5<sup>th</sup> October, 2009, pp. 4297-4299.
- (xiv) H.P. Act No. 41 of 2011<sup>6</sup> assented to by the Governor on the 24<sup>th</sup> September, 2011, published both in Hindi and English in the Rajpatra, Himachal Pradesh on 29<sup>th</sup> September, 2011, pp. 3346-3348.
- (xv) H.P. Act No. 47 of 2013<sup>7</sup> assented to by the Governor on the 20<sup>th</sup> September, 2013, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 26<sup>th</sup> September, 2013, pp. 3862-3864.
- (xvi) H.P. Act No. 11 of 2022<sup>8</sup> assented to by the Governor on the 14<sup>th</sup> June, 2022 and published in Rajpatra, Himachal Pradesh, dated 22.06.2022, Pages : 1989-1990.

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<sup>1</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 15<sup>th</sup> January, 1996, pp. 241 and 246.

<sup>2</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 11<sup>th</sup> April, 2000, pp. 826-827 and 837-838.

<sup>3</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 27<sup>th</sup> December, 2000, pp. 4769 and 4773.

<sup>4</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 19<sup>th</sup> December, 2003, pp. 2739-2740 and 2747.

<sup>5</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh dated 26<sup>th</sup> August, 2009, pp. 2951 and 2954-2955.

<sup>6</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh dated 26<sup>th</sup> August, 2011, pp. 2504- 2506.

<sup>7</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh dated 24<sup>th</sup> August, 2013, pp. 2924 and 2926.

<sup>8</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of objects and Reasons, see R.H.P. dated 15<sup>th</sup> March , 2022, Pages 8965-8966.

(xvii) H.P. Act No. 16 of 2023<sup>1</sup> assented to by the Governor on the 11<sup>th</sup> December, 2023 and published in Rajpatra, Himachal Pradesh, dated 15<sup>th</sup> December, 2023, Pages : 10747-10758.

It is hereby enacted as follows:-

## **CHAPTER I. –Preliminary**

**1. Title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Land Revenue Act, <sup>2</sup>[1954].

(2) It extends to <sup>3</sup>[the areas comprised in Himachal Pradesh immediately before 1<sup>st</sup> November, 1966.]

(3) It shall come into force on such day<sup>4</sup> as the State Government may, by notification, appoint in this behalf.

**2. Repeal.-** (1) The enactments mentioned in the Schedule are repealed to the extent specified in the third column thereof.

(2) Notwithstanding anything contained in the Himachal Pradesh (Application of Laws) Order, 1948, Acts, Regulations, Rules and Robkars hitherto in force in Himachal Pradesh with respect to the making and the maintenance of record of rights of land, the assessment and collection of land revenue and cesses thereon and other matters relating to land and liabilities incidental thereto are repealed only to the extent to which they are inconsistent with the provisions of this Act.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

**3. Savings.-** All rules, appointments, assessments, partitions and transfers made, notifications, proclamations, and orders issued, authorities and powers conferred, record of rights and other records framed, rights acquired and liabilities incurred, times and places appointed and other things done under the Acts, Regulations, Rules and Robkars hereby repealed shall be deemed to have been respectively made, issued, conferred, framed, acquired, incurred, appointed and done under this Act.

**4. Definitions.-** In this Act, unless there is something repugnant in the subject or context-

- (1) “agricultural year” means the year commencing on the sixteenth day of June, or on such other date as the State Government may by notification appoint for any local area;
- (2) “assessment circle” means a group of estates which in the opinion of the Financial Commissioner, to be recorded in an order in writing are sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the land revenue to be assessed upon them;

<sup>1</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of objects and Reasons, see R.H.P. dated 15<sup>th</sup> December, 2023, Pages 10747-10758.

<sup>2</sup>Substituted for the figure ‘1953’ vide H. P. Act No. 12 of 1956.

<sup>3</sup>Substituted for the words “the whole of Himachal Pradesh” vide A.O., 1973.

<sup>4</sup>The Act came into force from. 1<sup>st</sup> March, 1955 vide Notification No. R.1-1/53, dated 17<sup>th</sup> February, 1955, published in the Rajpatra, Himachal Pradesh dated 26<sup>th</sup> February, 1955, pp. 69.

- (3) “arrear of land revenue” means land revenue which remains unpaid after the date on which it becomes payable;
- <sup>1</sup>[(4) “defaulter” means a person liable for an arrear of land revenue or any tax in lieu thereof and also includes-
- (i) a person who is responsible as surety for the payment of the arrear; and
  - (ii) a Numbardar or any other person who has collected the land revenue or any tax in lieu thereof but has not deposited the same into the Government treasury;]
- (5) “estate” means any area:-
- (a) for which a separate record-of-rights has been made, or
  - (b) which has been separately assessed to land revenue, <sup>2</sup>[XX] or
  - (c) which the State Government <sup>3</sup>[or the Collector making or specially revising the record-of rights under section 33] may, by general rule or special order, declare to be an estate;
- (6) “gazette” means <sup>4</sup>the Rajpatra (e-Gazette), Himachal Pradesh;
- (7) “holding” means a share or portion of an estate held by one land-owner or jointly by two or more land owners;
- (8) “encumbrance” means a charge upon or claim against land arising out of private grant or a contract;
- (9) “land-owner” does not include a tenant or an assignee of land revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate;
- (10) “land-revenue” includes assigned land revenue and any sum payable in respect of land, by way of quit-rent or commutation for service, to the State or to a person to whom the State has assigned the right to receive the payment;
- (11) “legal practitioner” means any legal practitioner within the meaning of the Legal Practitioners Act, 1879 (18 of 1879), <sup>5</sup>[and the Advocates Act, 1961];
- <sup>6</sup>[(12) “net assets” of an estate or group of estates means the estimated average annual surplus produce of such estate or group of estates remaining after deduction of the ordinary expenses of cultivation as ascertained or estimated;

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<sup>1</sup>Clause (4) substituted vide H.P. Act No. 3 of 1996.

<sup>2</sup>The words and signs “or would have been so assessed if the land revenue has not been released, compounded for or redeemed” deleted vide Act No. 15 of 2000.

<sup>3</sup>Added vide H.P. Act No. 3 of 1996, effective from 23<sup>rd</sup> September, 1976.

<sup>4</sup> Subs. the words and sign “the Rajpatra (e-Gazette), Himachal Pradesh” vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>5</sup>Added vide H.P. Act No. 21 of 1976. 5. Clause (12) deleted vide H.P. Act No. 15 of 2000 again inserted vide H.P. Act No. 1 of 2004.

<sup>6</sup> Clause (12) deleted vide H.P. Act No. 15 of 2000 again inserted vide H.P. Act No. 1 of 2004.

*Explanation.*- Ordinary expenses of cultivation include payments, if any, which the land-owner customarily bears whether in kind or in cash either in whole or in part in respect of,-

- (i) water rates;
- (ii) maintenance of means of irrigation;
- (iii) maintenance of embankments;
- (iv) supply of seed;
- (v) supply of manure;
- (vi) improved implements of husbandry;
- (vii) concessions with regard to fodder;
- (viii) special abatements made for fallows or bad harvests;
- (ix) cost of collection of rent;
- (x) allowance for shortage in collection of rent;
- (xi) interest charges payable in respect of advances made in cash, free of interest, to tenants for the purpose of cultivation; and
- (xii) wages or customary dues paid to artisans or menials whose products or labour are utilised for the purposes of cultivation and harvesting, and the share that would be retainable by a tenant if the land were let to a non-occupancy tenant paying rent, whether in cash or in kind, at the normal rate actually prevalent in the estate or group of estates.]

<sup>1</sup>[(12-A) “net letting value” of a site put to non-agricultural use means the estimated annual rent of the site remaining after deduction of –

- (i) fair remuneration for the capital invested on building or machinery or both after deducting the depreciation on their value;
- (ii) house-tax, property-tax; and
- (iii) maintenance charges, not exceeding one month’s gross rent, as ascertained or estimated in the manner prescribed.

*Explanation:*-Where no reliable data regarding the cost of buildings and machinery on a site is forthcoming or is otherwise not available, valuation and depreciation shall be based on the standards of the Public Works Department of Himachal Pradesh];

(13) “notification” means a notification published by authority of the State Government in the official gazette;

(14) “pay” with its grammatical variations and cognate expressions, includes when used with reference to rent, “deliver” and “render” with their grammatical variation and cognate expressions;

<sup>2</sup>[(14A) “prescribed” means prescribed by rules made under this Act;]

(15) “rates and cesses” means rates and cesses which are primarily payable by land-owners, and includes:-

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<sup>1</sup>Section 12-A inserted vide H.P. Act No. 21 of 1976.

<sup>2</sup>Clause 14-A inserted vide H.P. Act No. 15 of 2000.

- (a) The local rate, if any, payable under the law in force in the State and any fee payable to local bodies including the Panchayats formed under <sup>1</sup>[the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970)] for the use of, or all benefits derived from the following works:-
- (i) The construction and repair of embankments and the supply storage and control of water for agricultural purposes;
  - (ii) The preservation and reclamation of soil and the drainage and reclamation of swamps;
- (b) Village officers cesses; and
- (c) Sums payable on account of village expenses;
- (16) “rent”, “tenant”, “landlord” and “tenancy” have the meanings, respectively, assigned to those words in <sup>2</sup>[the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974)];
- <sup>3</sup>[(17) “Revenue Officer” in any provision of this Act, means a Revenue Officer having authority under this Act to discharge the functions of a Revenue Officer under that provision;]
- <sup>4</sup>[(18) “sub-estate” means a sub-division of an estate by whatever name called like a taraf, patti, up-mohal, pana, thok, thula and shall form the part of that estate;]
- (19) “survey-mark” includes boundary-mark;
- (20) “village-cess” includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force;
- (21) “village-officer” means a Numbardar, Patwari and any other officer so appointed by the State Government.

**5. Exclusion of certain land from operation of Act.-** (1) Except so far as may be necessary <sup>5</sup>[for the record, recovery, administration of village cesses and for taking action against the encroachers under section 163], nothing in this Act applies to land which is occupied as the site of a <sup>6</sup>[XXXXXX] village and is not assessed to land revenue.

(2) A Revenue Officer may define, for the purposes of this Act, the limits of the site of a village.

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<sup>1</sup>Substituted for the words “The Himachal Pradesh Panchayati Raj Act,” vide H.P. Act No. 21 of 1976.

<sup>2</sup>The words sign and figure “the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953” was substituted for the words sign and figure “the Punjab Tenancy Act, 1887 as applied to Himachal Pradesh” vide section 147(c) of H.P. Act No. 15 of 1954 and again the words, sign and figures “the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974) substituted for the words, sign and figure “the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953” vide Section 126(c) of H.P. Act No. 8 of 1974.

<sup>3</sup>Clause 17 substituted vide H.P. Act No. 15 of 2000 again substituted vide H.P. Act No. 1 of 2004.

<sup>4</sup>Clause (18) definition of “State Government” was omitted vide A.O. 1973 and again new clause (18) added vide H.P. Act No. 3 of 1996.

<sup>5</sup>Substituted for the words “for the record, recovery and administration of village cesses” vide H.P. Act No. 19 of 1971.

<sup>6</sup>The words “town or” omitted vide H.P. Act No. 5 of 1965.



<sup>1</sup>[*Explanation.*- For the purpose of this section, a site within the limits of a Municipal Corporation, Municipal Council, Nagar Panchayat or Cantonment Board, shall not be deemed to be the site of a village.]

**6. Power to vary limits and alter number of tehsils,<sup>2</sup>[sub-tehsils,] districts and divisions.-** The State Government may, by notification vary the limits and alter the number of tehsils, <sup>3</sup>[sub-tehsils,] districts and divisions into which the State is divided.

## **CHAPTER II -Revenue Officers Class and Powers**

**7. Classes of Revenue Officers.-<sup>4</sup>**[(1) There shall be the following classes of Revenue Officers, namely-

- (a) the Financial Commissioner;
- (b) the Commissioner;
- (c) the Collector;
- (d) the Assistant Collector of the first grade; and
- (e) the Assistant Collector of the second grade.]

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The State Government may appoint any Assistant Commissioner, <sup>5</sup>[XXXXXXXX] or Tehsildar to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-Tehsildar to be an Assistant Collector of the second grade.

(4) Appointment under sub-section (3) shall be by notification and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(5) Subject to the provisions of this Act, the jurisdiction of the Financial Commissioner extends to the whole of the Himachal Pradesh and of the Commissioners and of the Collectors and Assistant Collectors to the divisions and districts respectively, in which they are for the time being employed.

**8. Financial Commissioner.-** (1) There shall be one or more Financial Commissioners, who shall be appointed by the State Government.

(2) Where more Financial Commissioners than one have been appointed, the State Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(3) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider, and dispose of collectively, the following rules shall apply namely:-

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<sup>1</sup> Subs. vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup> Inserted vide H.P. Act No. 21 of 1976.

<sup>3</sup> Inserted vide H.P. Act No. 21 of 1976.

<sup>4</sup>Sub-section (1) substituted vide H.P. Act No. 12 of 1956, amended vide H.P. Act No. 21 of 1976, H.P. Act No. 3 of 2001 and again substituted vide H.P. Act No. 1 of 2004.

<sup>5</sup>The words "Extra-Assistant Commissioner" deleted vide H.P. Act No. 1 of 2004.

- (d) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed; and
- (e) where the case is not an appeal or a case on review or revision, matter respecting which there is the difference of opinion shall be referred to the State Government for decision, and the decision of that Government with respect thereto shall be final.

(4) The expression “Financial Commissioner” in this or any other Act shall when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (2) may require.

<sup>1</sup>**[9. Appointment of Commissioner etc.-** Commissioners, Additional Commissioner, Deputy Commissioner, Assistant Commissioner, Settlement Officer, Additional Deputy Commissioner, Sub-Divisional Officer(Civil), Assistant Settlement Officer and Assistant Commissioner shall be appointed by the State Government.]

**10. Appointment of Tehsildars and Naib-Tehsildars.-** The State Government shall fix the number of Tehsildars and Naib-Tehsildars to be appointed.

**11. Powers of Revenue Officers.-** Except where the class of Revenue Officers by whom any function is to be discharged is specified in this Act, the State Government may, by notification determine the functions to be discharged under this Act by any class of Revenue Officers.

#### **Administrative Control**

**12. Superintendence and control of Revenue Officers.-** (1) The Financial Commissioner shall be subject to the control of the State Government.

(2) The general superintendence and control over all other Revenue Officers shall be vested in, and all such officers shall be subordinate to the Financial Commissioner.

(3) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue Officers in his division.

(4) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers in his district.

**13. Power to distribute business and withdraw and transfer cases.-**

(1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue Officer under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue Officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue Officer under his control.

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<sup>1</sup>Section 9 substituted vide H.P. Act No. 15 of 2000.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

### **Appeal, Review and Revision**

**14. Appeals.-** Save as otherwise provided by this Act, an appeal shall lie from original or appellate order of a Revenue Officer as follows, namely:-

- (a) to the Collector when the order is made by an Assistant Collector of either grade;
- (b) to the Commissioner <sup>1</sup>[XXXXXX] when the order is made by a Collector;
- (c) to the Financial Commissioner when the order is made by the Commissioner:

Provided that –

- (i) when an original order is confirmed on first appeal, a further appeal shall not lie;
- (ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final:

<sup>2</sup>[Provided further that any appeal relating to encroachment on Government land including forest land shall be disposed of within a period of three months from the date of filing thereof.]

**15. Limitation for Appeals.-** Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say:-

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| (a) when the appeal lies to the Collector              | thirty days; |
| (b) when the appeal lies to the Commissioner           | sixty days;  |
| (c) when the appeal lies to the Financial Commissioner | ninety days. |

<sup>3</sup>Provided that any appeal may be admitted after the specified period if the appellant satisfies the Collector, Commissioner or the Financial Commissioner as the case may be that he had sufficient cause for not preferring the appeal within such period.

**16. Review by Revenue Officers.-** (1) <sup>4</sup>[Where there is a mistake or error apparent on the face of record or where some new and important fact or evidence is discovered, a Revenue Officer] may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Provided as follows:-

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue Officer of class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue Officer to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the

<sup>1</sup>The words “or the Financial Commissioner, if there is no Commissioner” inserted vide H.P. Act No. 12 of 1956 and deleted vide H.P. Act No. 21 of 1976.

<sup>2</sup>Second Proviso to section 14 inserted vide H.P. Act No. 25 of 2009.

<sup>3</sup>Inserted vide Act No. 18 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>4</sup>Substituted for article and words “A Revenue Officer” vide H.P. Act No. 3 of 1996.

Revenue Officer that he had sufficient cause for not making the application within that period;

- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;
- (d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

<sup>1</sup>[(4) Save in the cases of clerical or arithmetical mistakes arising from any accidental slip or omission, no application for review shall lie under this section against an order passed by the Financial Commissioner under section 17 of this Act.]

<sup>2</sup>**[17. Power to call for, examine and revise proceedings of Revenue Officers.—**The Financial Commissioner may at any time call for the record of any case pending before or disposed of by any Revenue Officer subordinate to him or instituted before him and may pass such order as he thinks fit:

Provided that he shall not, under this section, pass an order reversing or modifying any proceeding or order of a subordinate Revenue Officer and effecting any question of right between private persons without giving those persons an opportunity of being heard.]

<sup>3</sup>**[17-A. Time limit for deciding the appeal, review and revision.-** (1) save as provided in section 14 of this Act, the Collector, Commissioner and the Financial Commissioner shall decide every case of appeal, review or revision, as the case may be, within a period of four months from the date of filing thereof:

Provided that for the reasons to be recorded in writing the time period may be extended by two months.

(2) If the Revenue Officer fails to decide the case within the extended period, the proceedings shall not become invalid for final adjudication merely on the ground of lapse of the stipulated period. However in the case of Collector and Commissioner he shall submit a report in the manner as may be prescribed citing reasons for such delay to the officer under whose control he is subjected to and after considering the report and examining the record, if the Controlling Officer is satisfied that there were valid and genuine reasons for delay in deciding the case, he may accept the report with no further action. In case the Controlling Officer is not satisfied with the report, he shall submit his observations to the Government for such action and in such manner, as may be prescribed against the erring officer.

(3) If the Revenue Officer fails to submit a report required under sub-section (2) he shall be liable for an action under relevant service rules applicable to such officer after following due procedure.]

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<sup>1</sup>Sub-section (4) inserted vide H.P. Act No. 3 of 1996.

<sup>2</sup>Substituted vide H.P. Act No. 11 of 2022.

<sup>3</sup>Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

## **Procedure**

**18. Power to make rules as to procedure.-** (1) The State Government may make rules consistent with this Act for regulating the procedure of Revenue Officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery, or possession of, such property.

<sup>1</sup>[(3) Subject to the rules made under this Act, a Revenue Officer may refer any case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report. The investigating officer after hearing the parties concerned shall furnish a report within two months. The Revenue Officer shall consider the report so submitted and decide the case on merits within the stipulated period after hearing the interested parties.]

**19. Persons by whom appearances and applications may be made before and to Revenue Officers.-** (1) Appearances before a Revenue Officer, and applications to and acts to be done before him, under this Act may be made or done-

- (a) by the parties themselves, or
- (b) by their recognised agents or a legal practitioner:

Provided that the employment of a recognised agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the State Government may, by notification, declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Act unless that officer considers for reasons to be recorded by him in writing, that the fees should be allowed.

**20. Power of Revenue Officer to summon persons.-** (1) A Revenue Officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue Officer.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue Officer may require.

**21. Mode of service of summons.-** (1) A summons issued by a Revenue Officer shall if practicable, be served

- (a) personally, on the person to whom it is addressed or failing him

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<sup>1</sup> Substituted vide Act No. 16 of the H.P. Land Revenue (Amendment) Act, 2023.

- (b) his recognised agent <sup>1</sup>[or  
(c) on any adult member of the family residing with him.

Provided that any such adult member should not be a party to the proceedings of the case to which the summon pertains.

*Explanation.*- For the purposes of this sub-section, the family shall mean the spouse, sons and unmarried daughter.]

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by <sup>2</sup>[affixing] a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or if that person does not reside in the district in which the Revenue Officer is employed and the case to which the summons relates has reference to land in that district, then by <sup>1</sup>[affixing] a copy of the summons on some conspicuous place in or near the estate wherein the land is situated.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue Officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue Officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue Officer so directs, be served on the persons named therein either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1898 (6 of 1898).

(5) When a summons is forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the Revenue Officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

<sup>3</sup>[XXXXXXXXXX]

<sup>4</sup>[(6) The summons may, if the Revenue Officer so directs, be served on the persons named therein either in addition to or in substitution for any other mode of service of summons through Short Message Service (SMS) or whatsapp, Electronic Mail (e-mail) or through other electronic mode at the phone number or Electronic Mail address, which shall be available or otherwise known, or made known, to the Revenue Officer:

Provided that if service is effected through any of the modes specified in this sub-section, the applicant or the appellant as the case may be, shall provide proof to the satisfaction of the Revenue Officer of the genuineness of the phone number or Electronic Mail address being that of the recipient and the confirmed delivery report on the Electronic Mail address or mobile number of the party concerned, as the case may be, shall be considered as evidence of proper service and a printout of communication shall be placed on the record:

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<sup>1</sup> Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup> Substituted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>3</sup> Proviso deleted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>4</sup> Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

Provided further that an affidavit filed by the applicant or appellant shall be sufficient proof regarding the genuineness of the phone number or Electronic Mail address to which the communication is sent as being that of the recipient.]

**22. Mode of service of notice, order or proclamation, or copy thereof.-** A notice, order or proclamation or copy of any such document, issued by a Revenue Officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

**23. Mode of making proclamation.-** When a proclamation relating to any land is issued by a Revenue Officer it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method and by the <sup>1</sup>[affixing] of a copy thereof on a conspicuous place in or near the land to which it relates <sup>2</sup>[or by publication in the daily newspaper having wide circulation in the area or in the Rajpatra (e-Gazette), Himachal Pradesh.]

<sup>3</sup>[XX]

### **Supplemental Provisions**

**24. Place of sitting.-** (1) An Assistant Collector may exercise his powers under this Act, at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer may only exercise, his powers under this Act within the local limits of his jurisdiction.

**25. Holidays -**<sup>4</sup>(1) Revenue Officers <sup>5</sup>[XXXXXX] shall observe holidays as are notified by the State Government for its employees.]

(2) A proceeding had before a Revenue Officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

**26. Discharge of duties of Collector dying or being disabled.-** When a Collector dies or is disabled from performing his duties, the Officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the State Government in this behalf shall be deemed to be a Collector under this Act.

**27. Retention of powers by Revenue Officers on transfer.-** When a Revenue Officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the State Government otherwise directs or has otherwise directed.

**28. Conferment of powers to Revenue Officer.-** (1) The State Government may by notification confer on any person:-

- (a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

<sup>1</sup> Subs. vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup> Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>3</sup> Sections 23-A and 23-B inserted vide H.P. Act No. 15 of 2000 and deleted vide H.P. Act No. 1 of 2004.

<sup>4</sup> Sub-section (1) substituted vide H.P. Act No. 15 of 2000.

<sup>5</sup> The words "and Revenue Courts" deleted vide H.P. Act No. 1 of 2004.

(b) all or any of the powers with which an Assistant Collector may be invested thereunder, and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the State Government may direct, and except as otherwise directed by the State Government shall for all purposes connected with the exercise thereof, be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the State Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

<sup>1</sup>[(4) XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]

### CHAPTER-III.-Kanungos and Village Officers

**29. Rules respecting Kanungos and Village officers.-** The State Government may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kanungos and village officers.

**30. Village Officer's Cess.-** (1) The State Government may, by notification, impose on all or any estates in the territories for the time being administered by it a cess, to be called the village officers' cess, at such rate or rates not exceeding <sup>2</sup>[five paise] per rupee of the annual value as it may think fit for remunerating Nambardars in those territories and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(2) 'Annual value' in sub-section (1) means:-

- (a) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or
- (b) where the land-revenue has been permanently assessed or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable; or
- (c) where no land-revenue has been assessed, double the amount which would have been assessed, if the average village rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land owing to kulh or other artificial irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(3) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(4) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed and shall, until the village officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

<sup>1</sup>Sub-section (4) inserted vide H.P. Act No. 15 of 2000 and deleted vide H.P. Act No. 1 of 2004.

<sup>2</sup>Substituted for the words "half an anna" vide H.P. Act No. 21 of 1976.



**31. Restriction on attachment or assignment of remuneration of Kanungos and Village Officers.-** (1) The emoluments of a Village Officer shall not be liable to attachment in execution of a decree or order of any civil or revenue court.

(2) An assignment of, or charge on, or agreement to assign or charge, any such emoluments shall be void unless it is authorised by rules made by the Financial Commissioner in this behalf.

#### **CHAPTER IV –Records**

##### **Record-of-rights and <sup>1</sup>[Periodical] Records**

**32. Record-of-rights and documents included therein.-** (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall include the following documents, namely:-

(a) Statements showing, so far as may be practicable:-

- (i) the persons who are land-owners, tenants or assignees of land revenue <sup>2</sup>[in the estate or who] receive any of the rents, profits in the estate, or who are entitled to the produce of the estate, or to occupy land therein;
- (ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and
- (iii) the rent, land revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate; and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the State Government prescribe.

<sup>3</sup>[(2A) The record-of-rights for sub-estate shall include the documents mentioned in clauses (a), (c) and (d) of sub-section (2) of this section.]

**33. Making of special revision of record-of-rights.-** (1) When it appears to the State Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, it may by notification direct that record-of-rights be made or that the record-of-right be specially revised, as the case may be.

(2) The notification may direct that record-of-rights shall be made or specially revised for all or any estates in any local area.

<sup>4</sup>[(2-a). The Financial Commissioner may specify the time period, as he may deem fit, for making of or revising the record-of-rights.]

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the State, which has already arisen from any previous record-of-rights.

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<sup>1</sup>Substituted for the word “annual” vide H.P. Act No. 21 of 1976

<sup>2</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>3</sup>Sub-section (2-A) added vide H.P. Act No. 3 of 1996.

<sup>4</sup> Sub-section (2-a) added vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>1</sup>[(4) The record-of-rights to be made or specially revised shall be done in the manner prescribed.

(5) When a District or a part thereof, for making of special revision or record-of-rights and assessment of land revenue, is in process, the duty of preparing and maintaining of record-of-rights shall be transferred to the Settlement Collector who shall exercise all the powers of the Collector under this Act.

(6) When the record-of-rights are made or specially revised, the same shall be published within the estate in the manner prescribed.

(7) If any party interested files objections, against any entry in the records within a period of 30 days, the same shall be decided by the Revenue Officer within a period of one month and after giving effect to the orders of the Revenue Officer, if any, in the record-of-rights of the estate, the record shall be finally published within the estate in the manner prescribed.

(8) After the final publication of the record-of-rights under sub-section (7), the settlement patwari shall supply to every persons a copy of measurement Jamabandi and Tatima of newly measured Khasra numbers of his holding free of cost.

(9) As soon as the work of making or special revision of record-of rights and assessment of land revenue of an estate is over, a notification shall be issued declaring the making or revision of record-of-rights, as the case may be, to be closed.]

<sup>2</sup>**[33-A. Units of measure to be based on metric system.-** In case the measurements of any land in the record-of-rights are recorded in non-metric system, there shall, during making record-of-rights or special revision of record-of-rights under section 33 of this Act, be a complete remeasurement of the estate or sub-estate based on the units of metric system in accordance with the provisions of the Standards of Weights and Measures Act, 1976.]

**34. <sup>3</sup>[periodical] record.-** (1) The Collector shall cause to be prepared <sup>4</sup>[by the Patwari of each estate] yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall <sup>5</sup>[XXXXXXX] comprise the statements mentioned in sub-section (2) clause (a), of section 32 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the State Government, prescribe.

(3) For the purposes of the preparation of the <sup>6</sup>[periodical] record <sup>7</sup>[under this section], the Collector shall cause to be kept up by the patwari of each estate <sup>8</sup>[XXXXXXX] a register of mutations and such other registers as the Financial Commissioner may prescribe.

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<sup>1</sup>Sub-sections (4) to (9) inserted vide H.P. Act No. 15 of 2000, amended vide H.P. Act No. 3 of 2001 and again substituted vide H.P. Act No. 1 of 2004.

<sup>2</sup>Section 33-A inserted vide H.P. Act No. 3 of 1996 effective from 23rd September, 1976.

<sup>3</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>4</sup>The words "by the Revenue Officer concerned for each estate" substituted for the words "by the Patwari of each estate" vide H.P. Act No. 41 of 2011 again substituted for the words "by the Revenue Officer concerned for each estate" vide H.P. Act No. 47 of 2013.

<sup>5</sup>The words "be called the annual record for the estate, and shall" deleted vide H.P. Act No. 21 of 1976.

<sup>6</sup>Substituted for the word "annual" vide H.P. Act No. 41 of 2011.

<sup>7</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>8</sup>The words "and the Revenue Officer" inserted vide H.P. Act No. 41 of 2011 and omitted vide H.P. Act No. 47 of 2013.

<sup>1</sup>**[34-A. Sub-division of an estate etc.-** Wherever it is expedient to do so in the public interest and smooth implementation of the provisions of this Act, the State Government or the Collector, with the approval of the Financial Commissioner, may, after inviting the public objections, divide an estate into two or more sub-estates or merge two or more estates or sub-estates into one estate, for making record-of-rights or special revision of record-of-rights under section 33, assessment of land revenue under chapter-V and collection of land revenue under chapter VI of this Act:

Provided that a sub-estate shall form the part of the original estate out of which it has been formed and the creation of such estate or sub-estate shall not extinguish or modify the rights of right-holders of that estate.]

#### **Procedure for making records**

**35. Making of that part of the <sup>2</sup>[periodical] record which relates to land owners <sup>3</sup>[etc.] assignees of revenue and occupancy tenants.-** (1) Any person acquiring by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a land-owner <sup>4</sup>[etc.] assignee of land revenue, or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate <sup>5</sup>[XXXXXXXXXXXXXXXXXX]

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari <sup>6</sup>[XXXXXXXXXXXXXXXXXX]

(3) The patwari <sup>7</sup>[XXXXXXXXXXXXXXXXXX] shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2) and shall also make an entry therein respecting the acquisition of any such rights as aforesaid which he has reasons to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) No Revenue Court shall entertain a suit or application by the person so succeeding or otherwise obtaining possession until such person has made the report required by this section.

(5) A Revenue Officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which under the foregoing sub-sections, report should have been made to the patwari <sup>8</sup>[XXXXXXXXXXXXXXXXXX] and entry made in that register and shall in each case make such order as he thinks fit with respect to the entry in the <sup>9</sup>[periodical] record of the right acquired.

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<sup>1</sup>Section 34-A. inserted vide H.P. Act No. 3 of 1996, effective from 23rd September, 1996.

<sup>2</sup>Substituted for the word "annual" Act No. 21 of 1976.

<sup>3</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>4</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>5</sup>The words "or the Revenue Officer concerned" inserted vide H.P. Act No. 41 of 2011 and omitted vide H.P. Act No. 47 of 2013.

<sup>6</sup>The words "or the Revenue Officer concerned" inserted vide H.P. Act No. 41 of 2011 and omitted vide H.P. Act No. 47 of 2013.

<sup>7</sup>The words "or the Revenue Officer, as the case may be," inserted vide H.P. Act No. 41 of 2011 and omitted vide H.P. Act No. 47 of 2013.

<sup>8</sup>The words "or the Revenue Officer" ins. vide H.P. Act No. 41 of 2011 and omitted vide H.P. Act No. 47 of 2013

<sup>9</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

(6) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

<sup>1</sup>[(7) The Revenue Officer through a public notice to be issued in the manner and for such time as may be specified by the Financial Commissioner shall invite objections for the finalization of mutation of acquisition of rights as reported under sub-section (1) or (2) and if objections are received shall pass the final order after hearing the interested parties and deciding the objections. In case no objections are received within the specified time period the Revenue Officer shall pass order as he may deem fit.]

<sup>2</sup>[(8) The Revenue Officer shall pass the order under sub-section (5) within a period of one month from the date of report under sub-section (1) or (2) and if the Revenue Officer fails to pass order within the stipulated period the proceedings shall not become invalid for final adjudication merely on the ground of lapse of the stipulated period. However he shall submit a report in the manner as may be prescribed citing reasons for such delay to the officer under whose control he is subjected to and after considering the report and examining the record, if the Controlling Officer is satisfied that there were valid and genuine reasons for delay in passing the order he may accept the report with no further action. In case the Controlling Officer is not satisfied with the report, he shall submit his observations to the Government for such action and in such manner as may be prescribed against the erring officer.

(9) If the Revenue Officer fails to submit a report required under sub-section (8), he shall be liable for an action under relevant service rules applicable to such officer after following due procedure.]

**36. Making of that part of the <sup>3&4</sup>[periodical] record which relates to other persons.-** The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall:-

- (a) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may by rule in this behalf prescribe; and
- (b) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (5) and (6) of the last foregoing section:

<sup>5</sup>[Provided that no entry in respect of the Government land shall be recorded under clause (a) by the Patwari except under the orders of the State Government or of a Revenue Officer not below the rank of the Collector.]

**<sup>6</sup>[37. Determination of dispute.-** (1) If during the making, revision or preparation of any record or in the course of any enquiry under this Chapter, a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue Officer may of his own motion or on the application of any party interested, but subject to the provisions of the next

<sup>1</sup> Subs. vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup> Sub-sections (8) and (9) added vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>3</sup>Substituted vide H.P. Act No. 15 of 2000.

<sup>4</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>5</sup>Proviso added vide H.P. Act No. 3 of 1996.

<sup>6</sup>Section 37 amended vide H.P. Act No. 21 of 1976, substituted vide H.P. Act No. 15 of 2000 amended vide H.P. Act No. 3 of 2001 and again substituted vide H.P. Act No. 1 of 2004.

following section and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue Officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain through the Gram Panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1994 (Act No. 4 of 1994) or any other agency so prescribed by the Financial Commissioner or by summary inquiry who is the person best entitled to the property and shall by order direct that, that person be put in possession thereof, and that an entry in accordance with that order, be made in the record or register.

(3) A direction of a Revenue Officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.]

<sup>1</sup>[(4) The Revenue Officer other than the Assistant Collector shall decide the proceedings under sub-section (1) or (2) of this section within a period of six months from the date of filing application by any interested party:

Provided that for the reasons to be recorded in writing the time period may be extended by three months.

(5) The Assistant Collector of either grade shall decide such proceedings within a period of two months which may, for the reasons to be recorded in writing, be extended by one month.

(6) If the revenue Officer fails to decide the case within the extended period under this section, the proceedings shall not become invalid for final adjudication merely on the ground of lapse of the stipulated period. However the Revenue Officer shall submit a report in the manner as may be prescribed citing reasons for such delay to the officer under whose control he is subjected to and after considering the report and examining the record, if the Controlling officer is satisfied that there were valid and genuine reasons for delay in deciding the case he may accept the report with no further action. In case the Controlling officer is not satisfied with the report, he shall submit his observations to the Government for such action and in such manner as may be prescribed against the erring officer.

(7) If the Revenue Officer fails to submit a report required under sub-section (6), he shall be liable for an action under relevant service rules applicable to such officer after following due procedure.]

**38. Restrictions on variations of entries in records.-** Entries in records-of-rights or in <sup>2</sup>[periodical] records, except entries made in <sup>3</sup>[periodical] records by Patwaris under clause (a) of section 36 with respect to undisputed acquisitions of interest referred to in that section, shall not be varied in subsequent records otherwise than by

(a) making entries in accordance with facts proved or admitted to have occurred;

<sup>4</sup>[(aa) making entries in respect of Government land in accordance with the order made by the State Government or by a Revenue Officer not below the rank of the Collector;]

<sup>1</sup> Sub-sections (4), (5), (6) and (7) added vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup>Substituted for the words "annual" vide H.P. Act No. 21 of 1976.

<sup>3</sup>Substituted for the words "annual" vide H.P. Act No. 21 of 1976.

<sup>4</sup>New Clause (aa) added vide H.P. Act No. 3 of 1996.

- (b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties; and
- (c) making new maps where it is necessary to make them.

<sup>1</sup>**[38-A. Correction of clerical errors.-**Clerical or arithmetic mistake of an error apparent on the face of the record, arising from any accidental slip or omission, found in the record-of rights of an estate or sub-estate during the making of, or special revision of, any record-of rights or documents mentioned in sub-section (2) of section 32 of this Act, may, either of his own motion or on the application of any of the parties, be corrected by the Collector, making, or specially revising, the record -of rights.

**39. Mutation fees.-** (1) The State Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(2) A fee in respect of any entry shall be payable by the person in whose favour the entry is made.

**40. Penalty for neglect to report acquisition of any right referred to in section 35.-** Any person neglecting to make the report required by section 35 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector to a fine not exceeding five times the amount of the fees which, would, have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

**41. Obligation to furnish information necessary for the preparation of records.-** Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue Officer or village officer, engaged in compiling the record, all information necessary for the correct compilation thereof.

#### **Rights of the Government and presumptions with respect thereto and to other matters**

**42. Right of the Government in mines and minerals.-** All mines of metal and coal and all earth oil and gold washing shall be deemed to be the property of the Government <sup>2</sup>[for the purposes of the State and the State Government shall have all powers necessary, for the proper enjoyment of the Government's rights thereto].

**43. Presumption as to ownership of forests, quarries and waste lands.-** (1) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste-land, spontaneous produce or other accessory interest in land belongs to the land-owners, it shall be presumed to belong to the Government.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the land owners.

(3) The presumption created by sub-section (1) may be rebutted by showing-

- (a) from the records or report made by the assessing officer at the time of assessment; or

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<sup>1</sup>Section 38-A inserted vide H.P. Act No. 3 of 1996.

<sup>2</sup>Added vide H.P. Act No. 21 of 1976.

(b) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest; that the forest, quarry, land or interest was taken into account in the assessment of the land revenue.

(4) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

**44. Compensation for infringement of rights of third parties in exercise of right of the Government.-** (1) Whenever, in the exercise of any right of the State referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the State Government shall pay, or cause to be paid to that person compensation for the infringement.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1894 (1 of 1894).

**45. Presumption in favour of entries in record-of-rights and <sup>1</sup>[periodical] records.-** An entry made in a record of rights in accordance with the law for the time being in force, or a<sup>2</sup>[periodical] record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted thereof:

Provided that notwithstanding anything contained in this section any entry made <sup>3</sup>[in the areas comprised in Himachal Pradesh immediately before 1<sup>st</sup> November, 1966] <sup>4</sup>[during the period between the first day of April, 1948 and the first day of April, 1956] in record of rights or in <sup>5</sup>[a periodical] record whereby the land is shown as under self cultivation shall not be presumed to be true:

<sup>6</sup>[Provided further that the record-of-rights and periodical record, prepared by means of computerization in the prescribed manner shall be presumed to be true and shall be deemed to have been prepared under this chapter.]

<sup>7</sup>[**46 Suit for declaratory decree by persons aggrieved by an entry in a record.-** If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in a periodical record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Act No. 47 of 1963).]

### **Supplemental Provisions**

**47. Powers to make rules respecting records and other matters connected therewith.-**  
The Financial Commissioner may make rules-

<sup>1</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>2</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>3</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>4</sup>Substituted for the words and figures "after April, 1948" vide H.P. Act No. 11 of 1955.

<sup>5</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>6</sup>Proviso added vide H.P. Act No. 15 of 2000.

<sup>7</sup>Section 46 Amended vide H.P. Act No. 21 of 1976, substituted vide H.P. Act No. 15 of 2000 amended vide H.P. Act No. 3 of 2001 and again substituted vide H.P. Act No. 1 of 2004.

- (a) prescribing the language in which records and registers under this Chapter are to be made;
  - (b) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;
  - (c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;
  - (d) for the conduct of inquiries by Revenue Officers under this Chapter; and
  - (e) generally for the guidance of Revenue Officers and village officers in matters pertaining to records and registers mentioned or referred to in this Chapter;
- <sup>1</sup>[(f) for computerization of record-of-rights and periodical records.]

<sup>2</sup>**[47-A. Power of the Collector to issue instructions.-** The Collector making record-of-rights or making special revision of record-of-rights, with the approval of the Financial Commissioner, may, for the guidance of the Revenue Officers/Officials, give directions or issue instructions relating to all matters to which the provisions of the Chapter IV and V apply; provided that such a direction or instruction shall be consistent with the provisions of this Act and the rules made thereunder.]

**48. Record-of-rights and <sup>3</sup>[a periodical] records for groups of estates.-** (1) The Financial Commissioner, may direct that a record of rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to record-of-rights and <sup>4</sup>[periodical] record for an estate shall then, so far as they can be made applicable, apply to a record of rights and <sup>5</sup>[periodical] record for a group of estates.

## CHAPTER V.- Assessment

**49. Assessment of land revenue.-** (1) All land to whatever purpose applied and wherever situate, is liable to the payment of land revenue to the State Government except such land as has been wholly exempted from that liability by special contract with the State Government or by the provision of any law for the time being in force and such land as is included in the village site.

<sup>6</sup>*[Explanation.-*For the purpose of this sub-section, the expression “village site” shall have the meaning as is assigned to the expression “Site of Village” in section 5.]

(2) Land revenue shall be assessed in cash.

(3) Land may be assessed to land revenue notwithstanding that revenue by reason of its having been assigned, compounded for or redeemed, as not payable to the State Government.

(4) Land revenue may be assessed-

- (a) as a fixed annual charge payable in a lumpsum or by installments;

<sup>1</sup>Clause (f) added vide H.P. Act No. 15 of 2000.

<sup>2</sup>Section 47-A inserted vide H.P. Act No. 3 of 1996, effective from 23rd September, 1976.

<sup>3</sup>Substituted for the word “an annual” vide H.P. Act No. 21 of 1976.

<sup>4</sup>Substituted for the word “annual” vide H.P. Act No. 21 of 1976.

<sup>5</sup>Substituted for the word “annual” vide H.P. Act No. 21 of 1976.

<sup>6</sup>Explanation added vide H.P. Act No. 21 of 1976.



(b) in the form of prescribed rates per acre or other unit of area applicable to the area recorded as sown, matured or cultivated during any harvest or during any year.

<sup>1</sup>**[50. Basis of assessment.-** The assessment of land revenue shall be based on an estimate of  
<sup>2</sup>[(a) the average money value of the net assets of the estate or group of estates in which the land concerned is situated; or]

(b) in the case of special assessment of land put to non-agricultural use in an assessment circle or part thereof,-

- (i) the average net letting value of a category and class of sites, or
- (ii) where for any reason it is not possible to ascertain the net letting value, on the average market value of sites as determined in the manner prescribed:

Provided that when a special assessment is made under section 63, notwithstanding the period fixed for the continuance of an assessment or the limit provided in section 51 or the area having been declared to be an urban assessment circle, the land revenue may be assessed as a fixed annual charge payable in a lump sum or by installments in accordance with the rules made under this Act.]

<sup>3</sup>**[51. Limit of assessment.-** If land revenue is assessed as a fixed annual charge the amount thereof, and, if it is assessed in the form of prescribed rate, the average amount which, according to an estimate in writing approved by the State Government will be leviable annually shall not, in the case of any assessment circle exceed one-fourth of the estimated money value of the net assets of such assessment circle or in the case of special assessment on a category and class of sites of land put to non-agricultural use in an assessment circle or part thereof-

- (a) exceed one-fourth of the estimated average net letting value; or
- (b) exceed two to four percent of average market value; or
- (c) in the case of sites lying vacant and out of use, exceed one percent of average market value:

Provided that nothing contained in this section shall affect any assessment in force at the time of the commencement of this Act.]

### **General Assessments**

**52. Notification of intended re-assessment and instructions as to principles of assessment.-** (1) Assessment of land revenue may be general or special.

(2) A general re-assessment of the land revenue of any area shall not be undertaken without the previous sanction of the State Government and notification of that sanction.

In granting such sanction the State Government may give such instructions consistent with the provisions of this Act and the rules made thereunder as it may deem fit.

**53. Mode of determining assessment.-** (1) A general assessment shall be made by a Revenue Officer.

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<sup>1</sup>Section 50 substituted vide H.P. Act No. 21 of 1976.

<sup>2</sup>Clause (a) substituted vide H.P. Act No. 15 of 2000 again substituted vide H.P. Act No. 1 of 2004.

<sup>3</sup>Section 51 substituted vide H.P. Act No. 21 of 1976, substituted vide H.P. Act No. 15 of 2000 amended vide H.P. Act No. 3 of 2001 and again substituted vide H.P. Act No. 1 of 2004.

(2) Before making such assessment the Revenue Officer shall report through the Financial Commissioner for the sanction of the State Government his proposals with regard thereto.

**54. Announcement of assessment.-** (1) After consideration of the proposals submitted by the Revenue Officer under the provisions of section 53 the State Government shall pass such order as it may deem fit, <sup>1</sup>[subject to the provisions of sub-sections (3) and (4)] and on the receipt of such order the Revenue Officer shall make an order determining the proper assessment for each estate concerned and shall announce it in such manner as the State Government may by rule prescribe.

(2) At the time of announcing the assessment the Revenue Officer shall also declare the date from which it is to take effect and, subject to the other provisions of this Act, it shall take effect accordingly.

<sup>2</sup>(3) Subject to the provisions of sub-section (4), the average rate of incidence on the cultivated area of the land-revenue imposed under the provisions of sub-section (1) on any assessment circle forming part of any area in respect of which a notification has been issued under sub-section (2) of section 52 shall not exceed the rate of incidence of the land revenue imposed at the last previous assessment by more than one-third:

Provided that the rate of incidence of the assessment imposed on any estate shall not exceed the rate of incidence of the last previous assessment on that estate by more than three-fourth.

- (4) the provisions of sub-section (3) shall not be applicable in the case of Land,-
- (a) which has not previously been assessed to land revenue; or
  - (b) which is under fruit bearing orchards; or
  - (c) which is under tea plantation; or
  - (d) in which kuhls or other artificial irrigation has been introduced after the date of the orders passed under the provisions of sub-section (1) at the last previous assessment; or
  - (e) whose last previous assessment was made under the provisions of clause (b) of sub-section (1) of section 63; or
  - (f) which has been declared by notification to be urban assessment circle:

Provided that for the purpose of calculating the increase in the incidence of the land revenue for the purpose of sub-section (3), all such land shall be excluded from calculation:

Provided further that all areas falling within the limits of a Municipal Corporation, Municipal Council, or Nagar Panchayat shall be declared as urban assessment circles and the State Government may by notification declare any other suitable area to be an urban assessment circle.]

**55. Application for reconsideration of assessment.-** (1) The landowner, may, within thirty-days from the date of the announcement of the assessment, present a petition to the Revenue Officer for reconsideration of the amount, form or conditions of the assessment.

<sup>3</sup>[(2)XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]

<sup>1</sup>The words and sign "subject to the provisions of sub-sections (3) and (4)," deleted vide H.P. Act No. 15 of 2000 again inserted vide H.P. Act No. 1 of 2004.

<sup>2</sup>Sub-sections (3) and (4) amended vide H.P. Act No. 21 of 1976, substituted vide H.P. Act No. 15 of 2000 again substituted vide H.P. Act No. 1 of 2004.

<sup>3</sup>Sub-section (2) deleted vide H.P. Act No. 15 of 2000.

(3) The order passed by the Revenue Officer on the petition shall set forth his reasons for granting or refusing it.

**56. Confirmation and duration of assessment.-** (1) An assessment the undertaking of which has been sanctioned under the provisions of section 52 shall not be considered final until it has been confirmed by the State Government.

(2) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may subject to the provisions of sub-section (3) modify the assessment of any estate.

(3) Before an enhancement is ordered under the provisions of sub-section (2) the Commissioner or the Financial Commissioner, as the case may be, shall cause reasonable notice to be given to the land owners by proclamation published in the manner described in section 23, to show cause in a petition addressed to the Revenue Officer why the proposed enhancement should not be ordered, and the Revenue Officer shall enquire into any objections raised by any land owner and submit such petition received with his report thereon to the Commissioner or the Financial Commissioner, who shall consider the petition and the report and shall also hear the petitioner if he so desires.

**57. Duration of assessment.-** (1) The State Government shall, when confirming an assessment under sub-section (1) of section 56, fix a period of time for which the assessment shall remain in force.

(2) The period fixed under sub-section (1) shall be <sup>1</sup>[forty years]:

Provided that-

- (i) in order to bring the duration of assessment on a uniform basis within a district the State Government may sanction shorter term for any local area;
- (ii) nothing in this sub-section shall affect any assessment in force at the time of the commencement of this Act or apply to an area which has been declared to be an urban assessment circle under the provisions of <sup>2</sup>[sub-section (4)] of section 54.

**58. Assessment to remain till new assessment takes effect.-** Notwithstanding the expiration of the period fixed for the continuance of an assessment under the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

**59. Refusal to be liable for assessment of an estate and consequences thereof.-** (1) At any time within ninety days from the date of the announcement of an assessment of the estate, the land-owner or where there are more land-owners than one, any of them who would be individually or collectively liable for more than half the sum assessed, may give notice to the Revenue Officer of refusal to be liable for the assessment.

(2) When the Revenue Officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it himself as nearly as may be, or refer it to the Gram Panchayat as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

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<sup>1</sup>The words "twenty years" substituted for the "forty years" vide H.P. Act No. 15 of 2000 again substituted for the words "twenty years" vide H.P. Act No. 1 of 2004.

<sup>2</sup>The words, figure and bracket "sub-section (3)" substituted for the words, figure and bracket "sub-section (4)" vide H.P. Act No. 15 of 2000 again substituted for the words, figure and bracket "sub-section (3)" vide H.P. Act No. 1 of 2004.

(3) While the estate is in the possession of the Collector the land-owner or land-owners shall be entitled to receive from the State Government an allowance to be fixed by the Financial Commissioner, which shall not be less than five and more than ten percent of the net income realized by the Government from the estate.

**60. Distribution of the assessment of an estate over the holdings comprised therein.-** (1) If the assessment announced under section 54 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue Officer shall, before the date on which the first installment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

(2) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 54 is in the form of rates chargeable according to the results of each year or harvest, a Revenue Officer shall from year to year or from harvest to harvest as the conditions of the assessment may require, make and publish not later than one month before the first installment of the land revenue falls due, a record of the amount payable in respect of each holding.

**61. Application for amendment of the distribution of an assessment.-** (1) Any person affected by a record made under sub-section (1) or sub-section (3) of the last foregoing section or by the revision of a record under sub-section (2) of that section, may, within thirty days from the date of publication of the record, present a petition to the Revenue Officer for a re-consideration of the record so far as it affects him.

(2) The order passed by the Revenue Officer on the petition shall set forth his reasons for granting or refusing it.

**62. Appeals from orders under section 55 and 61.-** An appeal from an order under the last foregoing section or section 55 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

<sup>1</sup>[XXXXXXXXXXXXXXXXXXXXXXX]

<sup>2</sup>[**62-A. Exemption from the process of Assessment.-** Notwithstanding anything contained in this chapter, the State Government may, by notification, exempt any assessment circle from the process of assessment of the land revenue during a revised settlement and on the recommendation of the Settlement Collector, fix lump sum land revenue not exceeding ten times of the land revenue assessed during the last settlement.]

### **Special Assessments**

**63. Special assessment.-** (1) Special assessments may be made by Revenue Officers in the following cases, namely:-

- (a) when land revenue which has been released or assigned is resumed;
- (b) when lands are sold, leased or granted by the State;

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<sup>1</sup>The proviso added vide H.P. Act No. 12 of 1956 and deleted vide H.P. Act No. 21 of 1976.

<sup>2</sup> Section 62A. added vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

- (c) when the assessment of any land has been annulled or the land-owner has refused to be liable therefore, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;
- (d) when assessments of land revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;
- (e) when revenue due to the State on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water or on account of other rights described in section 42 or section 43, has not been included in an assessment made under the foregoing provisions of this Chapter;
- <sup>1</sup>[(f) when assessment of land-revenue requires revision in consequence of the land being put to a use different from that for which an assessment is in force; and
- (g) when the land has been put to use for non-agricultural purposes such as brick-kilns, factories, cinemas, shops, hotels, houses, landing grounds and other similar purposes, whether or not already assessed to land revenue:

Provided that in case of clauses (f) and (g) any use of land for purposes of an orchard or for pasture or the use of houses on such land occupied for agricultural purposes or for purposes subservient to agriculture or small-scale cottage industries or for any public, charitable or religious purposes shall not be considered as a use different from that for which an assessment is in force or for non-agricultural purposes:

Provided further that in case of clauses (f) and (g) residential houses, in occupation of the owners, with an annual rental value not exceeding eight hundred rupees shall not be liable to special assessment.]

(2) The Financial Commissioner may confirm any assessment made under this section.

(3) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe by executive instructions issued under the provisions of section 67 regulate the procedure of Revenue Officers making special assessments.

**64. Power to make rules.-** The State Government shall, subject to the provisions of section 65 from time to time, make rules prescribing:-

- <sup>2</sup>[(a) the method by which the estimate of the money value of the net assets of an estate or group of estates shall be made;]
- (b) the method by which assessment to land revenue shall be made;
- (c) the principles on which exemption from assessments shall be allowed for improvements;
- (d) the manner in which assessment shall be announced;
- <sup>3</sup>[(e) the manner in which the rate of incidence of the land-revenue is to be calculated for the purpose of sub-section (3) of section 54.]

<sup>1</sup>Added vide H.P. Act No. 21 of 1976.

<sup>2</sup>Clause (a) substituted vide H.P. Act No. 15 of 2000 again substituted vide H.P. Act No. 1 of 2004.

<sup>3</sup>Clause (e) omitted vide H.P. Act No. 15 of 2000 again inserted vide H.P. Act No. 1 of 2004.

**65. Procedure to be followed in making rules.-** Before making any rules under the provisions of section 64, the State Government shall publish by notification, a draft of the proposed rules for the information of persons likely to be affected thereby <sup>1</sup>[XXXXXXXXXXXXXXXXXXXXX].

**66. Rules and executive instructions issued before commencement of this Act, to be followed for the purpose of assessment operations begun before issue of rules made under the provisions of section 65.-** Notwithstanding anything contained in section 65 for the purpose of all assessment operations begun before the date of publication of rules made after the commencement of this Act, the rules and executive instructions relating to the matters mentioned in clauses (a), (b), (c) and (d) of section 64 which were in force before such publication shall remain in force.

**67. Power to issue instructions.-** The State Government or the Financial Commissioner with the approval of the State Government may, for the guidance of Revenue Officers, from time to time, issue executive instructions relating to all matter to which the provisions of this Chapter apply, provided that such instructions shall be consistent with the provisions of this Act and the rules made thereunder.

#### **CHAPTER VI.- Collection of Land Revenue**

**68. Security for payment of land revenue.-** (1) In the case of every estate the entire estate and the land-owner or, if there are more than one, the land-owners jointly and severally, shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

- (a) the State Government may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding; and
- (b) when there are superior and inferior land-owners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior land-owners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(2) A notification under proviso (a) to sub-section (1) may have reference to any single estate or to any class of estate or estates generally in any local area.

**69. Further security for payment of land revenue.-** The land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents profits and produce thereof.

(2) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land revenue chargeable against the rents profits or produce, and any arrear of land revenue due in respect of the estate or holding, have been paid.

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<sup>1</sup>The words and sign “at least thirty days before a meeting of the Himachal Pradesh Legislative Assembly. The State Government shall defer consideration of such rules until after the meeting of the Himachal Pradesh Legislative Assembly next following the publication of the draft, in order to give any member of the Assembly an opportunity for introduce a motion for discussing the draft” omitted vide A.O., (5) 1957.

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**70. Orders to regulate payment of land revenue.-** (1) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the installments, and the times, places and manner, by, at and in which land revenue is to be paid.

(2) Until the Financial Commissioner otherwise directs, land revenue shall be payable by the installments at the times and place and in the manner, by, at and in which it is payable at the commencement of this Act.

**71. Rules to regulate collection, remission and suspension of land revenue.-** (1) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue and may by those rules determine the circumstances and terms in and on which land revenue may be collected by the assignee.

(2) Where land-revenue due to an assignee is collected by a Revenue Officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(3) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

**72. Costs recoverable as part of arrear.-** The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land revenue in respect of which the process was issued.

**73. Certified account to be evidence as to arrear.-** A statement of account certified by a Revenue Officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

**74. Process for recovery of arrears.-** Subject to other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely:-

- (a) by service of a writ of demand on the defaulter;
- <sup>1</sup>[(b) by arrest and detention of the person;]
- (c) by distress and sale of his movable property and uncut or ungathered crops;
- (d) by transfer of the holding in respect of which the arrear is due;
- (e) by attachment of estate or holding in respect of which the arrear is due;
- (f) by annulment of the assessment of that estate or holding;
- (g) by sale of that estate or holding;
- (h) by proceedings against other immovable property of the defaulter.

**75. Writ of demand.-** A writ of demand may be issued by a Revenue Officer on or after the day following that on which an arrear of land revenue accrues.

<sup>2</sup>[**75-A. Arrest and detention of defaulter.-** (1) At any time after an arrear of land revenue has accrued a Revenue officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(2) When the defaulter is brought before the Revenue-officer, the Revenue officer may cause him to be taken before the Collector, or may keep him under personal restraint or in the

<sup>1</sup>Clause (b) added and the existing Clauses (b) to ((g) re-lettered as (c) to (h) vide H.P. Act No. 21 of 1976.

<sup>2</sup>Section 75-A inserted vide H.P. Act No. 21 of 1976.

revenue lock up for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(3) When the defaulter is brought before the Collector, the Collector may issue an order to the officer-in-charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.]

**76. Distress and sale of movable property and crops.-** (1) At any time after an arrear of land-revenue has accrued, the movable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue Officer.

(2) The distress and sale shall be conducted as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of movable property under the decree of Revenue Court constituted under the <sup>1</sup>[law for the time being in force]:

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

**77. Transfer of holding.-** (1) At any time after an arrear of land revenue has accrued on a holding, the Collector may transfer the holding to any person being a land owner of the estate in which this holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(3) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof or pass such other order as he thinks fit.

(4) A transfer under this section shall not affect the joint and several liability of the land owners of the estate in which it is enforced.

(5) In respect of all rights and liabilities arising under this Act, the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(6) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the State Government or the transferee for any arrear of land revenue or rates and cesses due in respect thereof.

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<sup>1</sup>Substituted for the words "Himachal Pradesh Abolition of Big Landed, Estates and Land Reforms Act, 1953" vide H.P. Act No. 21 of 1976.



**78. Attachment of estate or holding.-** (1) At any time after an arrear of land revenue has accrued the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management <sup>1</sup>[or that of an agent appointed by him for that purpose] or that of a Gram Panchayat.

(2) The Collector <sup>2</sup>[or the agent] or Gram Panchayat shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land revenue and rates and cesses shall be applied in discharge of the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the land-owner.

**79. Annulment of assessment of estate or holding.-** (1) When an arrear of land revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(2) The provision of this section shall not be put in force for the recovery of an arrear of land revenue which has accrued on land:-

- (a) while under attachment under the last foregoing section; or
- (b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of annulment.

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tehsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the land owner.

(5) The land-owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(6) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of

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<sup>1</sup>Inserted vide H.P. Act No. 21 of 1976.

<sup>2</sup>Inserted vide H.P. Act No. 21 of 1976.

the term of the current assessment of the district or tehsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of other land-owners of the estate for the land revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

**80. Proclamation of attachment or annulment of assessment and consequence of the proclamation.-** (1) When any land is attached under section 78, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(2) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(3) No payment made after the making of the proclamation on account rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

**81. Sale of estate or holding.-** When an arrear or land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the <sup>1</sup>[Commissioner], may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of:-

- (a) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of wards might have exercised jurisdiction over it under the law in force;
- (b) any arrear which has accrued while the land was under attachment under section 78 of this Act; or
- (c) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 79, after either an annulment of assessment or a refusal to be liable thereof.

**82. Effects of sale on encumbrances.-** (1) Land sold under the last foregoing section shall be sold free of all encumbrances, and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect:-

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<sup>1</sup>Substituted for the words "Financial Commissioner" vide H.P. Act No. 21 of 1976.

- (a) a tenant's right of occupancy, unless the right was created by the defaulter himself;  
or
- (b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling house or manufactory, or for a mine, garden, tank, canal, place of worship, or burial ground, so long as the land continues to be used for the purposes specified in the lease; or
- (c) any encumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

**83. Proceedings against other immovable property of defaulter.-** (1) If the arrear cannot be recovered by any of the processes hereinbefore provided, <sup>1</sup>[or if the <sup>2</sup>{Commissioner}] considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding or any other immovable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no encumbrances created, grants made <sup>3</sup>[or contracts] entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Collector determines to proceed under this section against <sup>4</sup>[immovable property] other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

**84. Remedies open to person denying his liability for an arrear.-** (1) Notwithstanding anything in section 73 when proceedings are taken under this Act for the recovery of an arrear the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of a payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(2) A suit under sub-section (1) must be instituted in a court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

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<sup>1</sup>Substituted for the words "and if the Financial Commissioner" vide H.P. Act No. 11 of 1955.

<sup>2</sup>Substituted for the words "Financial Commissioner" vide H.P. Act No. 21 of 1976.

<sup>3</sup>Substituted for the words "and contracts" vide H.P. Act No.11 of 1955.

<sup>4</sup>Substituted for the word "property" vide H.P. Act No. 11 of 1955.

### **Procedure in sales**

**85. Proclamation of sale.-** (1) On the receipt of the sanction of the<sup>1</sup>[Commissioner] to the sale of any immovable property, the Collector shall issue a proclamation of the intended sale, specifying-

- (a) the date, time and place of the sale;
- (b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;
- (c) if the property is to be sold for the recovery of an arrear due in respect thereof, the encumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 82, sub-section (2), clause (c);
- (d) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof any encumbrance, grant or contract to which the property is known to be liable; and
- (e) the amount for the recovery of which the sale is ordered.

(2) The place of sale specified under clause (a) sub-section (1) must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

**86. Indemnity to Revenue Officer with respect to contents of the proclamation.-** A Revenue Officer shall not be answerable for any error, misstatement or omission in any proclamation under the last foregoing section unless the same has been committed or made dishonestly.

**87. Publication of proclamation.-** (1) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tehsildar of the tehsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tehsildar, a copy thereof shall be posted in the office of the Collector.

(3) The proclamation shall be further published in manner prescribed in section 23 and in such other manner as the Collector thinks expedient.

**88. Time and conduct of sale.-** (1) The sale shall not take place on Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(2) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue Officer specially appointed by him in this behalf.

**89. Power to postpone sale.-** The Collector may from time to time postpone the sale.

**90. Stay of sale.-** If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for the sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, <sup>2</sup>[or proves] to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 70 or into Government treasury, the sale shall be stayed.

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<sup>1</sup>Substituted for the word "Financial Commissioner" vide H.P. Act No. 21 of 1976.

<sup>2</sup>Substituted for the words "and proves" vide H.P. Act No. 11 of 1955.

**91. Payment of deposit by highest bidder.-** When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five percent on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

**92. Consequences of failure to pay deposit.-** If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, all expenses attending the first sale, and the deficiency of price, if any, which may happen on the resale, may be recovered from him by Collector as if the same were an arrear of land revenue.

**93. Time for payment in full.-** The full amount of the purchase money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared

**94. Procedure in default of payment.-** In default of payment of full amount of the purchase money within the period mentioned in the last foregoing section, the deposit referred to in section 91 shall, after defraying the expenses of the sale, be forfeited to the State Government and, may if the Collector, with the previous sanction of the Commissioner <sup>1</sup>[XXXXXXXXXX] so directs, be applied in reduction of the arrear and the property shall be resold, and the defaulting purchaser shall have no claim in the property or to any part of the sum for which it may subsequently be sold.

<sup>2</sup>**95. Report of sale to Commissioner or Financial Commissioner.-** Every sale of immovable property under this Chapter shall be reported by the Collector to the Commissioner <sup>3</sup>[XXXXXXXXXXXXXXXXXX].

**96. Application to set aside sale.-**<sup>4</sup>[(1) At any time within thirty days from the date of the sale, application may be made to the Commissioner <sup>5</sup>[XXXXXXXXXXXXXXXXXX] to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it].

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner <sup>6</sup>[XXXXXXXXXX] that he has sustained substantial injury by reason of the irregularity or mistake.

**97. Order confirming or setting aside sale.-** (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the <sup>7</sup>[Commissioner (XXXXXXXXXXXXXXXXXX)]

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<sup>1</sup>The words "or the Financial Commissioner, if there is no Commissioner" inserted vide H.P. Act No. 12 of 1956 and deleted vide H. P. Act No. 21 of 1976.

<sup>2</sup>Substituted vide H.P. Act No. 12 of 1956.

<sup>3</sup>The words "or the Financial Commissioner, if there is no Commissioner" deleted vide H.P. Act No. 21 of 1976.

<sup>4</sup>Substituted vide H. P. Act No 12 of 1956.

<sup>5</sup>The words "or the Financial Commissioner, if there is no Commissioner" deleted vide H.P. Act No. 21 of 1976.

<sup>6</sup>The words "or the Financial Commissioner, if there is no Commissioner" were inserted vide H.P. Act No. 12 of 1956 and deleted vide H.P. Act No. 21 of 1976.

<sup>7</sup>The words "Commissioner or the Financial Commissioner, if there is no Commissioner" substituted for the word "Commissioner" vide H.P. Act No. 12 of 1956 and the words "or the Financial Commissioner, if there is no Commissioner" deleted vide H.P. Act No. 21 of 1976.

shall make an order confirming the sale and, if such application has been made and allowed, the<sup>1</sup>[Commissioner (XXXXXX)] shall make an order setting aside the sale.

(2) An order made under this section shall be final.

**98. Refund of purchase money on setting aside of sale.-** Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money within three months of the date of rejection of the sale after which date the purchaser will be entitled to interest at such rate not exceeding three percent per annum as the Financial Commissioner thinks fit on the money deposited.

**99. Proclamation after postponement or on resale.-** A sale made after a postponement under section 89, and a resale consequent on a purchaser's default under section 94 or on the setting aside of a sale under section 97, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

**100. On confirmation of sale, possession and certificate to be granted to purchaser.-** (1) After a sale has been confirmed in manner aforesaid the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(2) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the encumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 82, sub-section (2), clause (c).

(3) The certificate shall be deemed to be valid transfer of the property but need not be registered as a conveyance.

(4) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(5) The certified purchaser of any immovable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all installments of land revenue and rates and cesses falling due in respect thereof after that date.

**101. Proceeds of sale.-** (1) When a sale of immovable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including cost incurred for the recovery thereof, due to the State from the defaulter at the date of the confirmation of the sale, whether the arrears are of land revenue, or of sum recoverable as arrears of land revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(2) The surplus shall not except under an order of a Court, be paid to any creditor or a person whose property has been sold.

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<sup>1</sup>The words "Commissioner or the Financial Commissioner, if there is no Commissioner" substituted for the word "Commissioner" vide H.P. Act No. 12 of 1956 and the words "or the Financial Commissioner, if there is no Commissioner" deleted vide H.P. Act No. 21 of 1976.

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (1), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorised by law.

## **CHAPTER VII.- Recovery of other demands by Revenue Officers**

**102. Recovery of certain arrears through Revenue Officer instead of by suit.-** When a village officer required by rules under section 29 to collect any land revenue <sup>1</sup>[or any sum recoverable as arrears of land revenue] satisfies the Revenue Officer that revenue or sum has fallen due and has not been paid by him, the Revenue Officer may subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land revenue.

**103. Other sums recoverable as arrears of land revenue.-** In addition to any sums recoverable as arrears of land revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:-

- (a) fees, fines, costs and other charges, including the village officers cess payable under this Act;
- (b) revenue due to the Government on account of pasture or other natural products of lands, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 42 or section 43 in cases in which the revenue so due has not been included in the assessment of an estate;
- (c) fees payable to local bodies including the Panchayats formed under <sup>2</sup>[the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970)] for the use of or benefits derived from the following works:-
  - (i) the constructions and repair of embankments and the supply, storage and control of water for agricultural purposes;
  - (ii) the preservation and reclamation of soil, and the drainage and reclamation of swamps;
- (d) sums leviable by or under the authority of the State Government as water-rates, or on account of the maintenance or management of embankments and other irrigation works, not being sums recoverable as arrears of land revenue under any enactment for the time being in force;
- (e) sums payable to the State Government on account of rent and other dues in respect of land; and
- (f) sums payable to the State Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land revenue.

**104. Recovery of arrears due from co-sharers paid by Nambardar.-** (1) Any Nambardar who has paid an arrear of revenue due on account of the share of any co-sharer whom he represents may, within six months from the date of such payment, apply in writing to the Revenue Officer to recover such arrear on his behalf as if it were an arrear of revenue payable to State Government.

(2) The Revenue Officer shall on receipt of such application satisfy himself that the amount claimed is due to the Nambardar and may then subject to rules made under this Act proceed to

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<sup>1</sup>Substituted for the words "any arrears of land revenue recoverable as land revenue" vide H.P. Act No. 11 of 1955.

<sup>2</sup>Substituted for the words "The Himachal Pradesh Panchayati Raj Act" vide H.P. Act No. 21 of 1976.

recover, as if it were an arrear of land revenue such amount with costs and interests from the said co-sharer or any person in possession of his share.

(3) The Revenue Officer shall not be made a defendant in any suit in respect of an amount for the recovery of which an order has been passed under this section. No appeal shall lie from an order of a Revenue Officer under this section.

**105. Application of Chapter VI to sums recoverable under this Chapter.**-(1) The provisions of Chapter VI, shall, with respect of any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land revenue due in respect of land charged therewith, the provisions of section 83 shall apply under sub-section (1) to the recovery thereof.

### **CHAPTER VIII.- Surveys and Boundaries**

**106. Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey marks.**-(1) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters form of survey-marks and the material to be used in their construction.

**107. Power of Revenue Officers to define boundaries.**- (1) A Revenue Officer may, for the purpose of framing any record or making any assessment under this Act or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1) the Revenue Officer may, cause survey-marks to be erected on any boundary already determined by, or by order of any Court, Revenue Officer or Forest Settlement Officer, or restore any survey-marks already set up by, or by order of any Court or any such Officer.

<sup>1</sup>[(3) The Revenue Officer shall define the limits of boundaries mentioned in sub-section (1) by conducting measurements on the basis of the method of surveys used during the last settlement that is by triangulation system or square system or electronic total station system of measurement etc. as the case may be.

(4) The Revenue Officer shall decide the proceeding of defining the boundaries within two months from the date of filing of application thereof:

Provided that for the reasons to be recorded in writing the time period may be extended by one month.

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<sup>1</sup> Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.



(5) If the Revenue officer fails to decide the case within the extended period, the proceedings shall not become invalid for final adjudication merely on the ground of lapse of the stipulated period. However the Revenue officer shall submit a report in the manner as may be prescribed citing reasons for such delay to the officer under whose control he is subjected to and after considering the report and examining the record, if the Controlling Officer is satisfied that there were valid and genuine reasons for delay in deciding the case he may accept the report with no further action. In case the Controlling officer is not satisfied with the report, he shall submit his observations to the Government for such action and in such manner as may be prescribed. Against the erring officer.

(6) If the Revenue Officer fails to submit a report required under sub-section (5), he shall be liable for an action under relevant service rules applicable to such officer after following due procedure.

(7) If all the interested parties have agreed to and accepted the limits defined by the Revenue officer under sub-section (1) and objections have not been raised by any of the interested party during the proceedings, no appeal shall lie against the order of the Revenue Officer in such proceedings.]

**108. Power to fix boundary between riverine estates.-** (1) When any two or more estates are subject to river action and the limits of any such estates are by any law, custom, decree or order applicable thereto, liable to vary according as variations may from time to time occur in the course or action of such river, the State Government may order a permanent boundary line to be fixed between any such estates or such portion thereof as are liable to river action.

(2) Upon an order being made under sub-section (1), the Collector shall fix a boundary line between such estates or portion of such estates accordingly, and shall demarcate the same, in accordance with the rules (if any) made under section 106 and the provisions of section 107.

(3) Every such boundary line shall be fixed with due regard to the history of the estates and the interests of the persons respectively owning them or possessing rights therein, in such manner as may be just and equitable in the circumstances of each case.

(4) No such boundary line shall be deemed to have been permanently fixed until it has been approved by the Financial Commissioner.

**109. Effect of fixing a boundary between riverain estates.-** (1) Every boundary line fixed in accordance with the provisions of section 108 shall, notwithstanding any law or custom, or any decree or order of any court of law, to the contrary, be fixed and constant boundary between the estates affected thereby, and the proprietary and all other rights in every holding, field or other portion of an estate situate on each side of the boundary line so fixed shall, subject to the following proviso, vest in the land-owners of the estate which lies on that side of the boundary line on which such holding, field or other portion of an estate is situate:

Provided that, if, by the operation of this section the proprietary or any other rights in any land which at the time a boundary line is fixed is under cultivation, or reasonably fit for cultivation or yields any produce of substantial value would be transferred from the land owners and other right holders of any one estate to the land-owners of any other estate, the Collector shall, by written order direct that the rights in such land shall, subject to the provisions of sections 110 and 111 not be so transferred unless and until the land, in respect of which any such order is made, ceases to be

reasonably fit for cultivation, or to yield any produce of substantial value, and upon any such order being made, the transfer of the rights in such land shall be suspended accordingly:

Provided further that when any portion of the land specified in any such order ceases to be reasonably fit for cultivation or to yield any produce of substantial value, the order shall when the Collector, in writing so directs, cease to operate as to that portion.

(2) The decision of the Collector as to whether for the purposes of the proviso to sub-section (1) of this section, any land is or is not reasonably fit for cultivation or does or does not yield any produce of substantial value shall be final.

**110. Application for immediate transfer of rights reserved under the proviso to sub-section (1) of section 109 upon payment of compensation and procedure thereupon. Award of compensation and extinguishment of rights thereby.-** (1) When any order has been made under the proviso to sub-section (1) of section 109, the land owners (or any of them) in whom, but for such order, the rights in the land specified therein, would vest, may apply in writing, to the Collector to forthwith transfer the rights, the transfer of which has been suspended by such order, upon payment of compensation for the same.

(2) When an application under sub-section (1) is made, the Collector shall-

- (a) fix a day for the hearing of the application;
- (b) cause notice of the application and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of, all persons recorded as having rights in the land specified in the order made under the proviso to sub-section (1) of section 109, and all other persons interested or claiming to be interested therein;
- (c) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquire into the rights in the land and award compensation in respect of all rights, found established therein, to the persons severally entitled thereto;
- (d) inform the applicant of the aggregate amount of compensation so awarded and require him to deposit the amount with the Collector on or before a day to be fixed by him in that behalf:

Provided that, notwithstanding anything in this sub-section contained, it shall be lawful for the Collector, in his discretion and at any time before an award of compensation thereon has been made, to reject any application made under sub-section (1).

(3) In awarding compensation under sub-section (2), the Collector shall be guided by the provisions of section 23 and section 24 of the Land Acquisition Act, 1894 (1 of 1894) so far as the same may be applicable to the circumstances of the case.

(4) Upon the fifteenth day of May next after the whole amount of compensation so awarded has been deposited with the Collector, the order made under the proviso to sub-section (1) of section 109 shall cease to operate, and the rights specified therein shall be transferred and vest in the manner prescribed in sub-section (1) of section 109, notwithstanding anything in the proviso thereof contained, and the Collector shall proceed to tender the compensation to the persons severally entitled to receive the same under his award. If any such person shall refuse to accept the sum so awarded and tendered to him, it shall be placed to his credit in the public treasury.

(5) When any order made under the proviso to sub-section (1) of section 109 shall, under the provisions of sub-section (4) of this section, cease to operate and determine all rights reserved to any person by such order shall be extinguished.

**111. Order under the proviso to sub-section (1) of section 109 to cease to apply to rights voluntarily transferred to land-owner of the estate to which the land is transferred by fixing boundary.-** When any person possessing any rights in any land, in regard to the rights in which an order has been made under the proviso to sub-section (1) of section 109, voluntarily transfers such rights to any landowners of the estate, in the land-owners of which, but for such order such rights would vest under the operation of sub-section (1) of section 109, the rights so transferred shall forthwith cease to be subject to such order.

**112. Rights transferred to be liable to all the incident of tenure of the estate to which the transfer is made.-** In every case in which, by the operation of section 109 or section 110 or section 111, proprietary or other rights in land are transferred from the land-owners and other right-holders of any one estate to the land-owners of any other estate, such rights shall be subject to all the incidents of tenure and liabilities which under any law or custom for the time being in force, apply to the rights of the land-owners of the estate to which such rights are so transferred.

**113. Meaning of the expression “Collector” in section 108 to 110.-** For the purpose of sections 108, 109 and 110, respectively, the expression “Collector” shall be deemed to include any Revenue Officer appointed by the State Government to perform all or any of the functions of a Collector under any of the provisions thereof.

<sup>1</sup>[**114. Cost of erection and repair of survey-marks.-** (1) Subject to any rules which the Financial Commissioner may make in this behalf, survey marks shall be erected or repaired at the cost of the State Government.

(2) During the making or special revision of record-of-rights, the Settlement Officer shall get the survey-mark erected, and thereafter it shall be the duty of the Collector of the District to maintain the survey-mark in good condition.]

<sup>2</sup>[**115. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX**].

**116. Power of Revenue-officers to enter on land for purpose of survey and demarcation.-** Any Revenue Officer, and any person acting under the orders of a Revenue Officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

**117. Survey for purpose of preparation of records.-** (1) When any land is being surveyed in pursuance of rules under section 47, clause (c), any Revenue Officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable <sup>1</sup>[to a fine, as may be prescribed].

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<sup>1</sup>Section 114 substituted vide H.P. Act No. 15 of 2000.

<sup>2</sup>Section 115 deleted vide H.P. Act No. 15 of 2000.

**118. Provision of flag-holders and chain-men for those surveys.-** (1) For the purposes of the survey of any land in pursuance of rules under section 47, clause (c), the land-owners shall be bound to provide fit persons to act as flag-holders and chain-men.

(2) If the land-owners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue Officer considers necessary may be employed and the cost of employing them recovered from the land-owners as if it were an arrear of land-revenue.

**119. Professional surveys.-** (1) If it is necessary to make a survey by other agency than that of Revenue Officers or village officers, the State Government may publish a notification stating-

- (a) the local area to be surveyed and the nature of the survey;
- (b) the name or official designations of the officers by whom the survey is to be made;
- and
- (c) the kind of survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue Officers by section 116.

**120. Penalty for destruction, injury or removal of survey-marks.-**<sup>2</sup>(1) If any person, willfully destroys or damages or removes the survey-mark lawfully erected, he may be ordered by a Revenue Officer to pay such fine not exceeding Rs. 2,000/- for each survey mark so destroyed, damaged or removed and in case of repetition of such an act, a fine not exceeding Rs. 5,000/- for each survey-mark, as may, in the opinion of Revenue Officer, be necessary to defray the expenses restoring the same and of rewarding the person, if any, who gave information of the destruction, damage or removal.

*Explanation.-* For the purpose of this Act, the expression “survey mark” shall include boundary mark and boundary pillars fixed, raised or erected while defining the limits of an estate or portion of estate or any holding and any field under section 107 of this Act.]

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code <sup>3</sup>[and under the provisions of the Prevention of Damage to Public Property Act, 1984.]

**121. Report of destruction or removal of or injury to survey marks.-** Every village officer of an estate shall be legally bound to furnish a Revenue Officer with information respecting the destruction or removal of, or any injury done to any survey-mark lawfully erected in the estate.

#### **CHAPTER IX.-Partition**

**122. Effect of partitions of estates and tenancies on joint liability for revenue and rent.-** (1) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the land-owners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

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<sup>1</sup> Subs. vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup>Substituted vide H.P. Act No. 15 of 2000.

<sup>3</sup> Inserted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

(2) A partition of a tenancy shall not, without the express consent of the land-lord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

**123. Application for partition.-** Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue Officer for partition of his share in the land or tenancy, as the case may be, if-

- (a) at the date of the application the share is recorded under Chapter IV as belonging to him, or
- (b) his right to the share has been established by a decree which is still subsisting at that date, or
- (c) a written acknowledgement of that right has been executed by all persons interested in the admission or denial thereof.

**124. Restrictions and limitations on partition.-** Notwithstanding anything in the last foregoing section-

(1) Places of worship and burial grounds held in common before partition shall continue to be so held after partition unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue Officer;

(2) Partition of any of the following properties, namely-

- (a) any embankment, water course, well or tank, and any land on which the supply of water to any such work may depend,
- (b) any grazing ground, and
- (c) any land which is occupied as the site of a town or village and is assessed to land revenue, may be refused if, in the opinion of the Revenue Officer, the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons; and

(3) The fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy.

**125. Notice of application for partition.-** The Revenue Officer, on receiving the application under section 123 shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and –

- (a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the land-lord also; and
- (b) issue a proclamation calling on any person who may have objections to the partition to appear before him either in person or by a duly authorised agent on a day fixed for the hearing of the application and to state them.

**126. Addition of parties to application.-** On the day fixed for the hearing, or on any day to which the hearing may be adjourned the Revenue Officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

**127. Absolute disallowance of partition.-** After examining such of the co-sharers and other persons as may be present on that day, the Revenue Officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

**128. Procedure on admission of application.-** If the Revenue Officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested distinguishing between-

- (a) questions as to title in the property of which partition is sought; and
- (b) questions as to the property to be divided, or the mode of making the partition.

**129. Disposal of questions as to title in property to be divided.-** (1) When there is a question as to title in any of the property of which partition is sought, the Revenue Officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(2) Where the Revenue Officer himself proceeds to determine the question, the following rule shall apply namely-

- (a) If the question is one over which a Revenue Court has jurisdiction, the Revenue Officer shall proceed as a Revenue Court under the provision of <sup>1</sup>[Law for the time being in force.]
- (b) if the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue Officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgement and decree containing the particulars required by the Code of Civil Procedure to be specified therein;
- (c) an appeal shall lie from the decree of the Revenue officer under clause (b) as though that decree were decree of a Subordinate Judge in an original suit;
- (d) upon such an appeal being made, the District Court or<sup>2</sup>[High Court] as the case may be, may issue an injunction to the Revenue Officer requiring him to stay proceedings pending the disposal of the appeal;
- (e) from the appellate decree of a District Court upon such an appeal a further appeal shall lie to the <sup>3</sup>[High Court] if such a further appeal is allowed by the law for the time being in force.

**130. Disposal of other questions.-** (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue Officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(2) An appeal may be preferred from an order under sub-section (1) within thirty days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue Officer by the authority to whom the appeal has been preferred the Revenue Officer shall stay proceedings pending the disposal of the appeal.

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<sup>1</sup>Substituted for "Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953" vide H.P. Act No. 21 of 1976.

<sup>2</sup>Substituted for the words "Judicial Commissioner's Court" vide H.P. Act No. 21 of 1976.

<sup>3</sup>Substituted for the words "Judicial Commissioner's Court" vide H.P. Act No. 21 of 1976.

(3) If an applicant for partition is dis-satisfied with an original or appellate order under this section and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue Officer thinks fit.

(4) When an applicant withdraws under the last foregoing sub-section, the Revenue Officer, may, where the other applicants, if any desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

**131. Administration of property excluded from partition.-** When any such property as is referred to in section 124, clause (2), is excluded from partition, the Revenue Officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

**132. Distribution of revenue and rent after partition.-** (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue Officer making the partition.

(2) The determination of the Revenue Officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 60, sub-section (1).

(3) Where new estates have been created at a partition and the land revenue has been fraudulently or erroneously distributed among them, the State Government may within twelve years from the time of discovery of the fraud or error, order a new distribution of the land -revenue among several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

**133. Instrument of partition.-** When a partition is completed, the Revenue Officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

**134. Delivery of possession of property allotted on partition.-**An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue Officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so as it concerns the applicant as if it were a <sup>1</sup>[decree of Civil Court for possession of immovable property].

**135. Affirmation of partition privately affected.-** (1) In any case in which a partition has been made without the intervention of a Revenue Officer, any party thereto may apply to a Revenue Officer for an order affirming the partition.

<sup>2</sup>(2) On receiving the application, if the Revenue Officer, after hearing the parties, finds that, the partition has taken place and acted upon, he may make an order affirming the partition and

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<sup>1</sup>Substituted for the words “decree for immovable property” vide H.P. Act No. 15 of 2000.

<sup>2</sup>Substituted for sub-section (2) vide H.P. Act No. 15 of 2000.

get his order implemented by getting the mutation of private partition attested within one month and he shall also distribute the land revenue and rents involved in the holding in accordance with the shares partitioned therein.

(3) Where all the co-sharers make a report in writing duly signed by all of them to the patwari, that, they have privately partitioned the land and separated the possession thereof amicably, the patwari shall make an entry of such report in his diary and enter the mutation which will be decided by the Revenue Officer after hearing the parties within three months.]

**136. Estimates and levy of costs.-** (1) When the mode of partition is determined, the Revenue Officer shall cause the cost of making the partition to be estimated, and shall direct that the cost be levied in the first instance from the applicant for partition or from all the co-sharers in such installments and at such times during the progress of the partition as may be prescribed by rules.

(2) If the amount first estimated is found insufficient supplementary estimates may be made from time to time, and the additional amount may be levied as above provided.

(3) The Financial Commissioner shall make rules for determining the cost of partitions under this Chapter and the mode in which such costs are to be apportioned.

**137 Re-distribution of land according to customs.-** When by established custom any land in an estate is subject to periodical re-distribution a Revenue Officer may, on the application of any of the land-owners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue Officer in proceeding for partition.

<sup>1</sup>**[138. Officer who may be empowered to act under this Chapter.-** (1) The Revenue Officer by whom proceedings may be taken under this Chapter shall be the Assistant Collector of either grade.

(2) Notwithstanding anything contained in section 129, when there is a question as to title in any of the property of which partition is sought, such question of title shall be determined by the Revenue Officer not below that of Assistant Collector of First Grade under this Chapter.]

<sup>2</sup>**[138-A. Time limit for decision of partition cases.-** (1) The Revenue Officer shall decide the partition proceedings within a period of six months from the date of application for partition:

Provided that for the reasons to be recorded in writing the time period may be extended by three months.

(2) If the Revenue Officer fails to decide the partition case within the extended period, the proceedings shall not become invalid for final adjudication merely on the ground of lapse of the stipulated period. However, the Revenue Officer shall submit a report in the manner as may be prescribed citing reasons for such delay to the officer to whose control he is subjected to and after considering the report and examining the record, if the Controlling Officer is satisfied that there were valid and genuine reasons for delay in deciding the case he may accept the report with no further action. In case the Controlling Officer is not satisfied with the report, he shall submit his observations to the Government for such action and in such manner as may be prescribed against the erring officer.

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<sup>1</sup>Section 138 substituted vide H.P. Act No. 25 of 2009.

<sup>2</sup> Section 138A added vide Act No. 16 of the H.P. Land Revenue (Amendment) Act, 2023.



(3) If the Revenue Officer fails to submit a report required under sub-section (2), he shall be liable for an action under relevant service rules applicable to such officer after following due procedure.]

### **CHAPTER X.- Arbitration**

**139. Power to refer to arbitration.-** (1) Any Revenue Officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(2) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to-

- (a) any matter of which an entry is to be made in any record or register under Chapter IV;
- (b) any matter relating to the distribution of an assessment under section 60;
- (c) the limits of any estate or of any holding, field or other portion of an estate;
- (d) the property to be divided at a partition or the mode of making a partition.

**140. Order of reference and contents thereof.-** (1) In referring a dispute to arbitration a Revenue Officer shall mark an order of reference, and specify therein the precise matter submitted to arbitration the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If from any cause arbitrators are not nominated, or an award is not delivered within the period fixed therefore in the order of reference, the Revenue Officer may from time to time enlarge that period or may cancel the order of reference.

**141. Nomination of arbitrators.-** (1) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order <sup>1</sup>[and the revenue officer shall nominate one other arbitrator on behalf of the State Government].

<sup>2</sup>[(2) The revenue officer may for reasons to be recorded by him make an order disallowing any nomination made by either party and require that party to make another nomination within a period to be specified in the order and if such other arbitrator is not nominated within the period so specified, the revenue officer, may, from time to time, enlarge that period or may cancel the order of reference].

(3) An order under the last foregoing sub-section shall be final.

**142. Substitution of arbitrators by parties.-** If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

**143. Nomination and substitution of arbitrators by Revenue Officers.-** In any of the following cases, namely:-

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<sup>1</sup>Added vide H. P. Act No. 11 of 1955.

<sup>2</sup>Sub-section (2) substituted vide H. P. Act No. 11 of 1955.

- (a) if either of the parties fails to nominate an arbitrator under sub-section (1) of section 141 within the period fixed in the order of reference, or
- (b) if the nomination of an arbitrator has been disallowed under sub-section (2) of section 141, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or
- (c) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 142 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or
- (d) if an arbitrator nominated by the Revenue Officer dies, desires to be discharged or refuses or becomes incapable to act, the Revenue Officer may nominate a person as arbitrator.

**144. Process for appearance before arbitrators.-** (1) The Revenue Officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(2) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1) either in person or by agent, as the arbitrators may require.

(3) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

**145. Award of arbitrators and presentation thereof.-** (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from award made by a majority of the arbitrators shall state the grounds of his dissent.

(2) The arbitrators shall present the award to the Revenue Officer in person unless that officer permits them to present it by agent.

**146. Procedure on presentation of award.-**When the award has been received, the Revenue Officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(2) Where a date has been fixed for the consideration of an award the Revenue Officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(3) The Revenue Officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

**147. Effect of award.-** (1) The Revenue Officer may accept modify or reject the award, recording his reasons for doing so in his decision, respecting the dispute which was referred to arbitration.

(2) An appeal shall lie from the decision as if arbitrators had not been appointed.

## CHAPTER XI.- Special jurisdiction with respect to land

**148. Power to invest officer making record-of-rights or general re-assessments with powers of Civil Courts.-** (1) The State Government may, by order published in the Official Gazette, invest any Revenue Officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 33 or making a general re-assessment of land revenue in any local area in pursuance of a notification under section 52 or any Revenue Officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Himachal Pradesh Courts Order for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

(2) The State Government may cancel an order under sub-section (1) wholly or in part.

(3) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officers invested therewith and not otherwise.

(4) Any cases pending before that officer under the order or a subsisting part of the order at the time of cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the State Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the courts by which they would have been disposed of if the order had not been published.

**149. Control over such officers and appeals from and revision of their decree and orders.-** (1) The State Government may by notification direct that the provisions of <sup>1</sup>[this Act] with respect to the superintendence and control over Revenue Officers shall, subject to any modification of those provisions which the State Government thinks fit, apply to any Revenue Officer, except the Financial Commissioner, who has been invested with powers of Civil Court of any of the classes specified in the Himachal Pradesh Courts Order and that appeal shall lie from his decrees and orders to, and his decrees and orders be subject to revision by a Revenue Officer invested under the last foregoing section with the powers of a Court which would be competent under the Himachal Pradesh Courts Order to hear appeals from or revise such decrees and orders if they had been made by a Court with the powers of which the Revenue Officer who made them has been invested.

(2) In the absence of any such notification, a Revenue Officer invested under <sup>2</sup>[sub-section (1) of section 148] with the powers of any such Civil Court as foresaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the Himachal Pradesh Courts Order.

## CHAPTER XII - Supplemental Provisions Revenue deposits

**150. Power to deposit certain sums other than rent.-** (1) In either of the following cases, namely:-

- (a) when a Nambardar of other landowner, or assignee of land revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from or to grant a receipt therefor to the person by whom it is payable,

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<sup>1</sup>Substituted for the words "this Chapter" vide H. P. Act No. 11 of 1955.

<sup>2</sup>Substituted for the words "the last foregoing sub-section" vide H.P. Act No. 11 of 1955.

(b) when the person by whom any such sum is payable is in doubt as to the Nambardar or other landowner or the assignee of land revenue, entitled to receive it, that person may apply to a Revenue Officer for leave to deposit the sum in his office, and the Revenue Officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the Nambardar or other landowner or the assignee of land revenue, for the amount thereof shall be discharged.

**151 Procedure in case of deposit on account of a payment due to Government-** If the deposit purports to be made on account of deposit on account of any payment due to the State, it may be credited accordingly.

**152. Procedure in case of other deposits.-** (1) A Revenue Officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the State or against any officer of the State, in respect of anything done by a Revenue Officer under this section but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from a person to whom it has been paid by a Revenue Officer.

#### **Execution of order of Civil and Criminal Courts by Revenue-Officers**

**153. Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to Revenue Officer.-** Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land, or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue Officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent, therewith made by the Financial Commissioner with the concurrence of the <sup>1</sup>[High Court] and the previous sanction of the State Government.

**154. Attachment of assigned land-revenue.-** (1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(2) A payment to the Collector under sub-section (1) shall be an effectual discharge to the person making it.

#### **Preservation of attached Produce**

**155. Preservation of attached produce.-** (1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the

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<sup>1</sup>Substituted for the words "Judicial Commissioner" vide H.P. Act No. 21 of 1976.

produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(3) When sale of -produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

<sup>1</sup>[156. XX]

### Miscellaneous

**157. Village cesses.-** At any of the following times, namely-

- (a) when a record-of rights is being made or specially revised for an estate;
- (b) when the local area in which an estate is situate is being generally reassessed and before the assessment has been confirmed;
- (c) at any other time on an order made with respect to any estate by the State Government;

a Revenue Officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the State Government or the title to which has, before the passing of this Act, been judicially established.

(2) The State Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishment connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(3) The State Government may declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

(4) A declaration of the State Government under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

<sup>2</sup>[158. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]

**159. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]**

**160. Recovery of cost of assessing assigned land revenue.-**(1) When land of which the land revenue has been assigned in whole or in part is reassessed the assignee shall be liable to pay such a share of the cost of making the reassessment as the Financial Commissioner may determine to be just.

(2) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

**161. Power to cancel the remission or assignment of land revenue.-** (1) Notwithstanding anything contained in any law or agreement, the State Government may in accordance with rules, cancel any remission or assignment of land revenue, sanctioned before the enforcement of this Act.

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<sup>1</sup>Section 156 deleted vide H.P. Act No. 15 of 2000.

<sup>2</sup>Sections 158 and 159 deleted vide H.P. Act No. 15 of 2000.

(2) The State Government may, for the purpose of sub-section (1), make rules after previous publication in the Official Gazette.

**162. Penalty for failure to attend within limits of estate in obedience to order of Revenue-officers.-** If a person required by a summons, notice, order or proclamation proceedings from a Revenue Officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fail to comply with the requisition, he shall be liable <sup>1</sup>[to a fine, as may be prescribed.]

<sup>2</sup>**163. Prevention of encroachment on lands.-**<sup>3</sup>[(1) Where Government land or land which has been reserved for the site of the village or for common purposes or uses of the estate right holders or of the co-sharers therein, has been encroached upon by any person or co-sharers for any purpose including the construction of a building or other structures or by planting trees therein, then-

- (a) the Revenue Officer may of his own motion or on the report of the patwari of the circle duly verified by the Kanungo of the Circle or on the application of any estate right holder or co-sharers, after giving reasonable opportunity of being heard, shall eject him from such land by order <sup>4</sup>[within six months from the date of taking of cognizance or from the date of receipt of such report or from the date of filing of such application, as the case may be, however, the period may further be extended upto three months for the reasons to be recorded in writing], in the manner prescribed;
- (b) if the encroacher has erected any building or other structure or has planted trees on the encroached land, the same shall, in the prescribed manner, vest in the State Government free from all encumbrances:

Provided that if the building or structure and attachments thereto are situated partly in the owned land of the encroacher and partly on the encroached land, the Revenue Officer shall be competent to demolish the portion of the building or structure on the encroached land if the encroacher fails to demolish it himself as ordered by the Revenue Officer; and

- (a) the Revenue Officer shall impose upon the encroacher a fine upto Rs. <sup>5</sup>[20,000/- or the prevalent market value of the land, whichever is higher] per bigha or part thereof, which shall be recoverable, as if it were an arrear of land revenue.

(2) If a person who has been evicted from any land under this section again occupies the land without authority for such occupation, he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to <sup>6</sup>[fifty thousand rupees or double the prevalent market value of the land, whichever is higher] or with both:

<sup>1</sup> Substituted vide Act No. 16 of The H.P. Land Revenue (Amendment) Act, 2023.

<sup>2</sup>Section 163 substituted vide H.P. Act No. 19 of 1971.

<sup>3</sup>Sub-sections (1) and (2) substituted vide H.P. Act No. 15 of 2000.

<sup>4</sup>Inserted vide H.P. Act No. 25 of 2009.

<sup>5</sup>The figure and sign “20,000/-“ substituted for the figure and signs “5,000/-“ vide H.P. Act No. 25 of 2009.

<sup>6</sup>The words “five thousand ” substituted for the words “ten thousand” vide H.P. Act No. 3 of 2001 and again substituted for the words “five thousand rupees” vide H.P. Act No. 29 of 2009.

Provided that no court shall take cognizance under this sub-section of an offence unless a report in writing is made by a Revenue Officer not below the rank of Assistant Collector First Grade.]

<sup>1</sup>[(3) When there is a question as to title or to the adverse possession, wherein the possession is claimed by an encroacher for a period beyond thirty years in relation to the land from which ejectment is made or is to be made under this section, the Revenue Officer, not below the rank of an Assistant Collector of the First Grade, <sup>2</sup>[may proceed] to determine the question, as if he were a civil court and shall exercise all such powers as are exercisable by a civil court.

(4) For the determination of the question under sub-section (3), the Revenue Officer shall follow the same procedure as is applicable to the trial of an original suit by a civil court, and he shall record a judgement and decree containing the particulars required by the Code of Civil Procedure, 1908 (5 of 1908) to be specified therein.

(5) An appeal from the decree of the Revenue Officer made under sub-section (4) shall lie to the District Judge as if that decree were a decree of a Subordinate Judge in an original suit.

(6) A further appeal from the appellate decree of a District Judge upon an appeal under sub-section (5), shall lie to the High Court only if the High Court is satisfied that a substantial question of law is involved.]

<sup>3</sup>[(7) No suit or other legal proceeding shall lie against the Revenue Officer or any person acting under this section in respect of anything in good faith done or purported to have been done under the provisions thereof or the rules made thereunder.

*Explanation.*- For the purposes of this section, any person who holds land under a lease granted by the Government for a fixed term and continues to be in possession of the land beyond the expiry of the period of lease shall be deemed to be an encroacher unless such person gets the lease extended or renewed.]

<sup>4</sup>[**163-A Regularisation of encroachment in certain cases.**- Notwithstanding anything contained in section 163 of this Act, or any other law for the time being in force, the State Government may make rules regarding the regularisation of the encroachment on Government land.]

**164. Papers kept by village officers to be deemed public documents.**- (1) Any record or paper which a village officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the State Government.

(2) A village officer shall, with respect to any such record or paper in his custody, be deemed for the purpose of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

**165. Costs.**- (1) A Revenue Officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

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<sup>1</sup>Sub-sections (3), (4), (5) and (6) added vide H.P. Act No. 15 of 1989.

<sup>2</sup>Substituted for the words "shall proceed" vide H.P. Act No. 15 of 2000.

<sup>3</sup>Existing sub-section (3) renumbered as (7) vide H.P. Act No. 15 of 1989.

<sup>4</sup>Section 163-A inserted vide H.P. Act No. 15 of 2000.

(2) But, if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

**166. Computation of periods limited for appeals and application for review.-** In the computation of the period for an appeal from, or application for the review of, an order under this Act the limitation therefor shall be governed by <sup>1</sup>[The Limitation Act, 1963].

**167. Restriction on Revenue Officer's bidding at auction or trading.-** (1) A Revenue Officer, or a person employed in a revenue office shall not

- (a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue Officer or Revenue Court in the district in which he is employed has ordered to be sold, or
- (b) in contravention of any rules made by the State government in this behalf, engage in trade in that district.

(2) Nothing in sub-section (1) shall be deemed to preclude any person from becoming a member of a company incorporated under the <sup>2</sup>[Indian Companies Act, 1956] or other law.

**168. Power to make rules.-** (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force-

- (a) fixing the number and amount of the installments, and the times and places and the manner, by, at and in which any sum other than rent or land revenue which is payable under this Act or of which a record has been made thereunder is to be paid;
- (b) fixing the dates on which profits are to be divisible by Nambardar or other persons by whom they are realised on behalf of co-sharers;
- (c) prescribing the fees to be charged for the service and execution of processes issued by Revenue Officers and Revenue courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;
- (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officers, or records or papers in the custody of village officers, or to obtain copies of the same and prescribing the fees payable for searches and copies;
- (e) prescribing forms for such books' entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue offices, or submitted to any authority;
- (f) declaring what shall be the language of any of those offices; and
- (g) generally for carrying out the purposes of this Act.

(2) Until rules are made under clauses (a) and (b) of sub-section (1) the sums therein referred to shall be payable by the Installments at the times and places, and in the manner by, at and in which they are now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act, shall not take effect until they have been sanctioned by the State Government

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<sup>1</sup>Substituted for the words "the Indian Limitation Act, 1908" vide H.P. Act No. 21 of 1976.

<sup>2</sup>Substituted for "Indian Companies Act, 1913", H.P. Act No. 21 of 1976.



**169. Rules to be made after previous publication.-** The power to make any rules under this Act is subject to the condition of the rules being made after previous publication.

**170. Powers exercisable by the Financial Commissioner from time to time.-** All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

### **Exclusion of Jurisdiction of Civil Courts**

**171. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue Officers.-** Except as otherwise provided by this Act-

(1) A Civil Court shall not have jurisdiction in any matter which the State Government or a Revenue Officer is empowered by this Act, to dispose of or take cognizance of the manner in which the State Government or any Revenue Officer exercises any powers vested in it or him by or under this Act; and in particular-

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely-

- (i) any question as to the limits of any land which has been defined by a Revenue Officer as land to which this Act does or does not apply;
- (ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue Officer as such;
- (iii) any claim to the office of kanungo, or village officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;
- (iv) any notification directing the making or revision of a record-of-rights;
- (v) the framing of a record-of-rights or <sup>1</sup>[periodical] record or the preparation, signing or attestation of any of the documents included in such a record;
- <sup>2</sup>[(v-a) order regarding complete re-measurement of an estate or sub-estate under section 33-A of this Act;]
- (vi) the correction of any entry in a record-of-rights, <sup>3</sup>[periodical] record or register of mutations;
- <sup>4</sup>[(vi-a) correction of clerical errors under section 38-A of this Act;]
- (vii) any notification of the undertaking of the general reassessment of a district or tehsil having been sanctioned by the State Government;
- (viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;
- (ix) the amount of land revenue to be assessed on any estate or to be paid in respect of any holding under this Act;
- (x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (xi) any claim relating to the allowance to be received by a land-owner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or

<sup>1</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>2</sup>Clause (v-a) inserted vide H.P. Act No. 3 of 1996.

<sup>3</sup>Substituted for the word "annual" vide H.P. Act No. 21 of 1976.

<sup>4</sup>Clause (vi-a) inserted vide H.P. Act No. 3 of 1996.

- arising out of, any proceeding taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (xii) the formation of an estate out of wasteland;
  - <sup>1</sup>[(xii-a) formation of sub-division of an estate or merger of sub-estates or estates etc. under section 34-A of this Act;]
  - (xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
  - (xiv) any claim connected with, or arising out of, the collection by the State Government, or the enforcement by the Government of any process for recovery of land revenue or any sum recoverable as an arrear of land revenue;
  - (xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land revenue or any sum recoverable as an arrear of land revenue;
  - (xvi) the amount of, or the liability of any person to pay any fees, fines, costs or other charges imposed under this Act;
  - (xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of proceedings for partition not being a question as to title in any of the property of which partition is sought;
  - (xviii) any question as to the allotment of land on the partition of an estate holding or tenancy, or as to the distribution of land subject by established custom to periodical redistribution or as to the distribution of land revenue on the partition of an estate or holding or on a periodical redistribution of land, or as to the distribution of rent on the partition of a tenancy;
  - (xix) any question connected with or arising out of or relating to any proceedings for the determination of boundaries of estates subject to river action under sections 108, 109, 110 and 111 respectively of Chapter VIII;
  - (xx) any claim to set aside or disturb a division or appraisal of produce confirmed or varied by a Revenue Officer under this Act;
  - (xxi) any question relating to the preparation of a list of village cesses or the imposition by the State Government of conditions on the collection of such cesses;
  - (xxii) any proceeding under this Act for the commutation of the dues of a superior land-owner;
  - (xxiii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue;
  - (xxiv) any claim arising out of the liability of an assignee of land revenue to pay a share of the cost of collecting or reassessing such revenue, or arising out of the liability of an assignee to pay out of assigned land revenue, or of a person who would be liable for land revenue, if it had not been released, compounded for, or redeemed, to pay on the land revenue for which he would, but for such release, composition or redemption, be liable, such a percentage for the remuneration of a village officer as may be prescribed by rules for the time being in force under this Act; or
  - <sup>2</sup>[(xxv) any question, as to any land or any right to, or title or interest in, the land which is an encroached land or in relation to which any person claims that it has vested or is

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<sup>1</sup>Clause (xii-a) inserted vide H.P. Act No. 3 of 1996.

<sup>2</sup>Clause (xxv) inserted vide H.P. Act No. 15 of 1989.

deemed to have vested in him and that he cannot be ejected therefrom under sub-section (1) of section 163; and]

<sup>1</sup>[(xxvi)the ejection of any person under section 163 or the recovery of damages or fine payable under sub-section (1) of that section.]

## THE SCHEDULE

(See Section 2)

### Enactments repealed

Number & year	Title or subject of enactment	Extent of repeal
(1) Act-XVII of 1887.	The Punjab Land Revenue Act, 1887 as applied to Himachal Pradesh vide Himachal Pradesh (Application of Law) Order, 1948 <sup>2</sup> [and as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966.]	The whole
(2) Act III of 1952.	The Punjab Land Revenue (Himachal Pradesh Amendment) Act, 1952.	The whole
<sup>3</sup> [(3) Act I of 1899.	The Punjab Riverine Boundaries Act, 1899, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966.]	

<sup>1</sup>Clause (xxv) inserted vide H.P. Act No. 19 of 1971, renumbered as clause (xxvi) vide H.P. Act No. 15 of 1989.

<sup>2</sup>Added vide H.P. Act No. 21 of 1976.

<sup>3</sup>The sign “,” substituted for the sign “.” and “and as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.” added vide H.P. Act No. 21 of 1976.

*(Authoritative English text of this Departmental Notification No. Rev-B-A(3)10/2023 dated 21-09-2023 as required under Article 348(3) of the Constitution of India)*

**Government of Himachal Pradesh  
Revenue Department**

No. Rev-B-A(3)10/2023

Dated Shimla-2, the

21.09.2023

NOTIFICATION<sup>1</sup>

In exercise of powers conferred under clause (d) of sub-section 1 of Section 168 of Himachal Pradesh Land Revenue Act, 1954 and all other powers enabling him in this behalf, the Governor, Himachal Pradesh makes the following rules prescribing the fee for inspection and copies of extracts from records maintained by the Patwari.

1. (1) These rules may be called the Himachal Pradesh Land Revenue (Fees for inspection and copies of extracts from Patwari's Records) Rules, 2023.

(2) These rules shall come into force from the date of publication in the Rajpatra (e-Gazette), Himachal Pradesh.

2. (1) The Patwari shall allow any person interested to inspect his records and to take notes there from in pencil in his presence. He shall give to applicants certified extracts and enter in his diary or in the prescribed software/module a note of the inspections allowed and extracts given. The following fee shall be charged in each case namely:-

**A-Copies or Extracts from.-**

1.	Jamabandi including extracts called for by courts or officers in connection with the preparation of abstracts of yields.	Rs. 5/- per Khatauni holdings subject to maximum of Rs. 500/-
2.	Inspection notes attached to Jamabandis	Rs. 20/- per page.
3.	Fard Badar	
4.	Copy of pending mutation	
5.	Interrogatories in pending mutations	
6.	Counterfoil of mutation sheets	
7.	List of Phats and Ghasnis (grazing plots) attached to the settlement records of rights of each estate in the Kullu District.	
8.	Misal Haqiat	Rs. 5/- per Khatauni holdings subject to maximum of Rs. 500/-
9.	Fard Haqiat consisting of names of proprietors (or occupancy/tenants), total number	Rs. 20/-

<sup>1</sup> The Rules shall be applicable from the date of final publication in the e-Gazette. These Rules are in the process of finalisation at the time of publication of this book.

	of fields, area, land , revenue and rates and cesses.	
10.	List of co-sharers of proprietary or occupancy holdings.	Rs. 20/- per application.
11.	Genealogical trees of land holding.	Rs. 20/- up to ten names, and Rs. 5/- for each additional name.
12.	Statement of wells and other Sources of irrigation.	
13.	List of pensions and assignments	
14.	Wajib-ul-arz: (a) Naqsaa haqua Jindra twa Panchaki (b) Fard Bachh or Dhal Bachh (Asamiwar) (c) Demand statement (Canal)	Rs. 20/- for each application; provided that each application shall be limited to not more than two harvests. No fees shall be charged if copies are required for recovery of arrears of land revenue.
15.	Tariqua bachh	Rs. 20/- per page
16.	Orders of Settlement Officers	Rs. 10/- per page.
17.	Khasra Girdawari including extracts from Khasra Girdawari called for by courts or officers in connection with the preparation of 5 yearly abstracts of yields.	Rs. 5/- per Khasra number subject to maximum of Rs. 500/-
18.	Diaries	Rs. 20/- for each entry make on one subject on any one date.
19.	Field Books	Rs. 20/- up to ten fields and Rs. 2/- for every additional field or part thereof.
20.	Statement of grazing dues.	Rs. 20/- per application No fees shall be charged if copies are required by Lambardars for recovery of arrears of grazing dues and chowkidara tax.
21.	Extracts from Chowkidar's assessment list	
22.	Statement contained in village note book	Rs. 20/- per statement irrespective of years.
23.	Abstract of quinquennial average of mutations	Rs. 20/- per statement.
24.	Parcha Books	Cost price of the book plus Rs. 10/-

		per khatauni holding.
<b>B-Inspections</b>		
25.	Inspection of papers relating to one quinquennial including relevant entries of the mutation registers.	Rs. 50/- per inspection
<b>C-Preparation of Plans and Tracings</b>		
26.	Tracing of field map	Rs. 20/- up-to five Khasra numbers and thereafter Rs. 5/- for each Khasra number
27.	Tracing of Tatima Shajra	
28.	Preparation of plans called for by courts or officers in connection with civil and revenue suits.	
29.	Tatima of the spot	

(2) for the purpose of fee for copies or extracts from Jamabandi in rent cases, the total numbers or Khatauni holdings shall be taken into account irrespective of the fact whether they are cultivated by the owner himself or by tenant or sub-tenant and in calculating the fee the number of khewats of which the extracts are given may be ignored.

Provided that a list of co-sharers shall not be prepared and supplied without the previous sanction of the Assistant Collector of either grade unless required in connection with a revenue, civil or criminal case.

(3) in the case of inspection of Patwari's record by the Sub-Inspectors or Inspectors of the Cooperative Societies under Sr. No. 25, the fee shall be Rs. 50.00 only.

(4) the fee realized shall be credited into Govt. treasury after every month under the Head 029-Land Revenue Misc. Copying and Inspection Fee of Patwari Records.

(5) patwaris shall not prepare and supply copies or extracts of papers not shown in the above table.

3. (1) No fee for doing work for the State Government, such as the preparation of an extract from the revenue records to show the property owned by an absconding criminal, shall be charged. Patwaris shall however, not be required to furnish such an extract without a special order of the Deputy Commissioner in each case, and such an order shall only be passed if the case is of real importance.

(2) Copies required for public purposes by Public Officer of the Central or State government as defined in section 2(17) of the Code of Civil Procedure, 1908 shall be supplied free of charge.

4. The Patwari shall give copies on the prescribed forms supplied to him or in shape of photo copies or hand drawn reports. The amount of fee charged shall be written on the top of each copy supplied along with the fee receipt number.

5. The applicable fee shall be paid through digital mode or in the absence of the same patwari may receive the fees in cash. In either case patwari shall generate the fee receipt on the

prescribed fee software/module and the receipt so generated shall be transmitted to the applicant on the registered mobile number/email or any mobile number specifically mentioned by the applicant.

6. The accounts of fee realized by Patwaris shall be kept in the register in Form-I, which will be supplied to them or will be digitally generated and maintained on the prescribed software/module. The Field Kanungo shall check the register every month when he visit the concerned patwar circle and shall sign it or digitally verify it. The Tehsildar or the Naib-Tehsildar shall also check the Patwar's work during inspection. The accountant of Tehsil shall carry out periodic audit of the fee register.

7. Patwari shall deposit the fee collected as cash weekly, fortnightly or at such other interval as may be specified by the Tehsildar concerned but not later than monthly interval, at the Tehsil office under proper acknowledgment and shall record the same in his diary. The fees shall be deposited in treasury by the Tehsil office in the appropriate head of account after receiving from the Patwari within two days.

8. Copies of the schedules of rates to be charged for extracts etc. shall be printed in hindi and distributed and broadcast in every village. The schedule shall also contain a note to the effect that the applicant will get a receipt in physical or digital form. A printed copy of the schedule shall also be exhibited at Patwar Khanas, Panchayat Office, Tehsil Office and at other prominent places in the locality.

9. In case of failure to supply the revenue records within the prescribed time period or in case of wilful violation of these rules, disciplinary proceedings shall be initiated against the concerned official.

**10. Repeal and savings.-** (1) The H.P. Land Revenue (Fees for Inspection and copies or extracts from Patwari's Records) Rules, 1980 notified vide Notification No. 10-9/69-Rev-A, dated 7<sup>th</sup> May, 1980 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken or any fee charged under the rule so repealed shall be deemed to have been validly done, taken or charged under these rules.

By order,

ONKAR CHAND SHARMA,  
*Principal Secretary (Revenue),*

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FORM-I  
(See rule 6)

Sr. No.	Revenue Village	Receipt No.	Receipt Date	Applicant Name	Mobile Number	Service Type	Amount	Remarks
1	2	3	4	5	6	7	8	9

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**THE HIMACHAL PRADESH LAND REVENUE (GENERAL)  
ASSESSMENT RULES, 1984<sup>1</sup>**

**CHAPTER I**

**1. Short title and commencement.-** (1) These rules may be called the Himachal Pradesh land Revenue (General) Assessment Rules, 1984.

(2) These shall come into force at once.

**2. Definition.-** In these rules, unless the context otherwise requires:-

- (a) "Act" means the Himachal Pradesh land Revenue Act, 1954 (Act NO.6 of 1954);
- (b) "to cultivate personally" has the meaning assigned to it in the Himachal Pradesh Tenancy and land Reforms Act, 1972 (Act No.8 of 1974);
- (c) "estate" or "estates concerned" means an "estate" or "group of estates" as defined in the Act, and proposed to be subjected to general assessment under the Act;
- (d) "Revenue Officer" for the purposes of these Rules means a Revenue Officer authorised by the State Government for making assessment under sub-section (1) of section 53;
- (e) "section" means a section of Act;
- (f) "tenant" means a tenant as defined in the Himachal Pradesh Tenancy and land Reforms Act, 1972 (8 of 1974) and includes a person having any temporary interest in the land of the landowner by way of a verbal or written lease or contract; and
- (g) all other words and expressions used in these rules but not defined herein, shall have the meanings respectively assigned to, them in the Act.

**CHAPTER II**

**UNIT OF ASSESSMENT AND MANNER OF PREPARATION OF ESTIMATES OF MONEY  
VALUE OF NET ASSETS.**

**3. Unit of assessment.-** The Revenue Officer shall, as soon as may be after a notification under sub-section (2) of section 52 is issued, divide the area for which new rates are proposed to be framed, into assessment circles, which shall be the unit of assessment for the purposes of these rules.

**4. Classification of land.-** ( 1) The Revenue Officer shall, for the purposes of assessment, divide the entire land under assessment in the following groups each containing the classes of land shown thereunder:-

(i) Cultivated land:

- (a) barani: dependent on rainfall;
- (b) sailab: flooded or kept permanently moist by water;
- (c) abi: watered by lift system or by flow from springs;
- (d) nehri: irrigated from canals;
- (e) chahi: watered from wells;
- (f) kuhli: irrigated by water channel;
- (g) ghasani: land reserved for growing grass; and

(ii) Uncultivated land:

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<sup>1</sup> Published in R.H.P. Extra ordinary dated 03.1.85 vide Rev. Deptt. notification No.Rev.IIA(3)-5/79 dated 16.4.1985



- (a) Banjar jadid: land which has remained unsown for four successive harvests;
- (b) banjar kadeem: land which has remained unsown for eight successive harvests;
- (c) gair mumkin: land which has for some reason(s) become unculturable, such as land under roads, buildings, streams, canals, tanks or the like or the land which is barren, sand or ravine;
- (d) khil: cultivable land which has not yet been broken up.

(2) Whenever the circumstances so warrant and it is expedient to do so in the public interest. the State Government after giving by notification, 15 days notice of its intention so to do may by notification alter the classification of the lands as given in sub-rule (1) in regard to a particular area.

**5. The basis of net assets.-** (1) The Revenue Officer shall prepare or cause to be prepared an estimate of net assets of annual gross produce of the estate or the estates concerned, as the case maybe, comprised in each assessment circle, on the following, basis:-

- (a) the average acreage of each crop on each class of land, for which it is proposed to frame separate rates; and
- (b) the average yield per acre of each crop grown thereon.

(2) The estimate of the net assets of the annual gross produce or the estate or estates concerned when the land-owner cultivates the land personally shall be the result obtained after deducting the dues of artisan and/or menials along with collection expenses from the produce, and in other cases, shall be the result obtained by deducting the tenants share also.

*Explanation* - For the purposes of this rule,

- (i) average acreage in relation to an estimate shall be the overage matured area i.e. overage yield from a particular area obtained after deducting the percentage of loss or damage caused due to natural calamities, of the selected years. These years shall be the cycle or period of year of which the harvest are a fair sample of the ordinary fluctuation characteristic of the agriculture of the tract;
- (ii) overage yield shall be assessed or the result of experimental cutting, accounts of the land-owners where obtainable, information gathered from the trustworthy persons by the revenue officer, his own observation, accounts maintained by agricultural farms, if any, and the yields assumed for similar tracts elsewhere;
- (iii) dues of artisans or menials shall be the portion of the produced paid to artisans or menials for help in village or for harvesting or for supply and repair of agricultural implements or for any other work subsidiary to agriculture; and
- (iv) tenant's share shall be the portion of produce retainable by the tenant under the terms of tenancy.

**6. Adjustment to be made.-** (1) In the absence of a contract to the contrary, land revenue shall be payable by a land-owner; and water rates by a tenant, if any, in case a tenant pays a certain proportion of Land Revenue or a land owner pays a certain portion of the water rates, a corresponding addition to or as the case may be deduction from the estimate shall be made. The deduction on the latter account shall also be made in case, the land-owner cultivates the land personally.

(2) The other deductions of the corresponding extent from the estimates shall be made in the following circumstances in case the land is cultivated through a tenant:-

- (a) when means of irrigation and embankments are maintained by land-owner;
- (b) where the cost of all or any part of the seeds or manure used on the land is borne by a land-owner, and it is not counter balanced by either the receipt by' him of a large share of the produce or by any other means;
- (c) where a land-owner provides at his own cost, improved agriculture implements for the use of his tenants and makes no charge for the use thereof, whether by way of large share or the produce or otherwise;
- (d) where a land-owner takes no share of fodder or receives nothing on account thereof and permits a tenant:-
  - (i) to devote a specified area per pair of bullocks or some similar unit of area to the raising of fodder crops;
  - (ii) to cut certain crops for green fodder; or
  - (iii) to use his land or a part thereof or growing fodder in any other manner;
- (e) where a land-owner employs paid agency at his own expenses to collect his share of produce;
- (f) where a land-owner advances money free of interest of his tenants for agricultural purposes:

Provided that the rate of interest to be allowed in making such deductions shall not be lower than that allowed by the nearest branch of the State Co-operative Bank on the deposits made with it or higher than the one charged on the loans advanced by it.

**7. Conversion of estimates from produce to money value and prices to be adopted in the process.-** (1) The estimates of produce shall then be converted into money value. The prices to be adopted for conversion shall be the average prices which are likely to be obtained for their crops by the agriculturists during the coming settlement, but shall be based on the average of a sufficiently long period in the past and it shall be assumed that the range of future prices shall not be dissimilar. The prices prevailing in years of famine or severe scarcity shall be excluded from the calculations.

(2) The prices adopted for each crop shall further be based on the current prices in the month in which the agriculturists of the tract ordinarily dispose of their produce. If in any estate or estates concerned, it is found that most of the agriculturists take their produce to market towns and dispose of there, an allowance shall be made for the cost of cartage to markets and for any fees paid at markets to agents, weighmen, etc., and for any other customary deductions, as may actually be prevailing.

*Note.* -In determining the prices to be adopted, the Revenue Officer shall scrutinize, among other data available the following:-

- (a) Shop-keepers books in selected villages;
- (b) harvest prices for each assessment circles reported by the Field Kanungo for entry in the circle note books;
- (c) harvest prices published in Gazette;
- (d) prices obtaining in the markets and;

(e) prices obtained by big land-owners for their produce.

**8. Estimates of net assets based on cash rents.-** A second estimate of net assets shall also be framed on the basis of cash rents payable by tenants, prevailing in the estates concerned on the assumption made in clause (12) of section 4 of the Act. This estimate shall only be framed where the following factors are present:-

- (a) the existence in any circle, of a system of cash rents on a sufficiently large scale to enable them to be used as a guide in estimating the value of the remainder of the land of the circle; and
- (b) the recognition in the revenue records of such distinctions of soil and class as are usually accompanied by marked difference of rented value.

**9. Abnormal rents.-** (1) All rents which are not true economic rents, and are not based on the prevailing rent rate or the average rate actually paid on any class of land, shall be excluded by the Revenue Officer from his calculations as abnormal. For that purpose the following rent shall be considered abnormal:-

- (a) rents consisting of the land revenue, with or without a small additional payment as proprietary fee, unless the land revenue is high and the land is poor;
- (b) privileged rent paid by relations, friends, dependents of persons discharging religious duties; and
- (c) rents unduly inflated by jealousy or special local or personal conditions of a transitory character i.e. rents so exorbitant as to be no index of the real letting value attend and rents in which other factors such as mortgage money enter.

(2) The Revenue Officer shall scrutinize cash rents if any, carefully in each village as it comes under inspection. He shall satisfy himself that they have been correctly recorded, and shall then decide what rent shall be eliminated as abnormal.

**10. Estimates of net assets.-** The Revenue Officer shall, from the rents remaining after elimination of abnormal rents, frame an estimate of land owner's net assets, on the following guidelines:-

- (i) the provisions of the rule 6 shall mutatis mutandis apply;
- (ii) deductions shall be made, if necessary for fellow or bad harvests;

Provided that the amount of the deduction to be made in each case shall be based on the result of the local enquiries made by the Revenue Officer;

- (iii) deduction shall be made for shortage in collection of rent where such shortage is not due to bad management.

**11. Miscellaneous income.-** If the land-owners, whether they take rents in cash or in kind, also enjoy as such any income or dues from lands which have not been taken into account in the estimates framed under this chapter the amount of such income or dues shall be added to the net assets.

**12. Estimates of true net assets.-** The final estimates of net assets calculated in accordance with this chapter shall be compared and the Revenue Officers shall then arrive at a definite estimate of what are the true net assets of each estate/estates concerned.

### CHAPTER III ASSESSMENT OF LAND REVENUE

**13. Forecast report.**-(1) Before the assessment of any area is undertaken a forecast report shall be submitted, of the expected financial results of the assessment, showing whether, for the fiscal reasons or otherwise, reassessment is desirable. In the report specific mention shall be made, inter alia, of the following matters:

- (a) the existing assessment the suitability of its form to local Circumstances and the fairness of its distribution over estates;
- (b) changes, in cultivation, population, means of irrigation and markets and communications;
- (c) rainfall;
- (d) prices; and
- (e) any other factor affecting the general property of the tract.

(2) Before the report is prepared, leading agriculturists and organizations of land-owners of the area concerned shall so far as practicable, be consulted, and a mention of it shall be made in the report indicating what opinions have been expressed by them and the reaction of the Revenue officer concerned thereupon.

**14. Publication of proposals.**- (1) The Revenue Officer shall frame his proposals with respect to assessment circles, classes of soil, selected year and prices to be adopted in accordance with the provisions of rules 3, 4, 5 and 7 as soon as possible after the commencement of settlement operations.

(2) The Revenue Officer shall have an abstract of his proposals prepared in Hindi in Devnagri script. This abstract shall be got published in the Himachal Pradesh Government Gazettes printed copies of this abstract shall be supplied by post to all legislators, Organizations of land-owners. Pradhan of Gram Panchayats, Nambardars, Non-official Members of the Panchayat Samitis and Zila Parishads representing the area concerned for inviting their objections or suggestions. A period of thirty days from the date of posting shall be allowed within which they may file objections or send suggestions on all or any of the matters referred to in sub-rule (1) with or to the Revenue Officer.

(3) The Revenue Officer shall take such objections etc., into consideration and forward them with his views thereon, together with his proposals, through the Financial Commissioner for the orders of the State Government.

**15. Inspection of estates.**- Before preparing the report prescribed under sub-section (1) of section 54, the Revenue Officer shall make a special inspection of each estate, and record on inspection note thereon.

**16. Draft assessment report.**- On receipt of the orders of the State Government the Revenue Officer shall, after taking into consideration the existing assessment, the true net assets arrived at under rule 12 and all other relevant factors, prepare a draft report, containing his proposals as to the future assessment of each assessment circle. This report shall contain, inter alia, proposals with regard to the following Points in respect of each assessment circle:-

- (a) the value of the true net assets calculated by him;

- (b) the reassessment which he proposes; and
- (c) the detailed rates by which he proposes to distribute it over different classes of land or crops

**17. Abstract of assessment report to be published.-** After the preparation of the draft report, the Revenue Officer shall publish a brief abstract prepared in Hindi in Devnagri script, containing-

- (a) the principal date on which the true net assets estimate has been based, viz, rates of yield assumed rates of rent in cash or kind, average total areas cultivated and matured, deductions allowed or expenses of cultivation menials dues etc., and the value of a land as disclosed by sales and mortgages;
- (b) the general considerations on which the pitch and amount of total actual assessment proposed to be taken are based i.e., the increase in resources through irrigation, extension of cultivation rise in prices miscellaneous income etc., and
- (c) the total assessment and the average revenue rates proposed for adoption in framing village assessments with such brief explanations as may be necessary, including the clear provision that there is no guarantee that any particular estate will be ultimately assessed at the exact rates proposed and get it published in the Government Gazette.

(2) Copies of this abstract shall also be supplied by post to all Legislators, Pradhans of Gram Panchayats, Lambardars, Organisations of Land-owners and non-official members of Panchayat Samitis and Zila Prishads representing the area concerned.

(3) A period of thirty days from the date of posting shall be allowed within which any revenue-payer or group of revenue-payers or tenants may make suggestions or objections to the proposed assessment to the Revenue Officer.

(4) All such suggestions or objections etc., shall be considered by the Revenue Officer before preparing a final report.

**18. Final report.-** The Revenue Officer shall then prepare a final report in the light of the suggestions or objections if any, received and forward it to the State Government, through the Financial Commissioner, for sanction as contemplated under-section (2) of Section 53, together with:-

- a) a gist of suggestions or objections, if any received, with his views thereupon, duly supported by reasons for agreement or dis-agreement, as the case may be, and
- b) a copy of the draft report prepared under rule 16, together with the abstract as published under rule 17

**19. Approval of the State Government.-** The report shall be considered by the State Government and after such consideration, it may approve the assessment proposals with deviations within a margin of 3 per cent either way, or without it.

**20. Assessment of particular estates.-** Subject to the provisions of sub-section (3) of section 54 assessment of the each estate shall be fixed according to circumstances.

**21. Progressive assessments.-** Large enhancements of land revenue on particular estates shall, if necessary, be mitigated by the imposition of a revised demand in a progressive from i.e., a portion of the increased demand shall be deferred for a period of 5 to 10 years.

**22. Distribution of assessment over holdings.-** (1) Before making or revising the distribution of a fixed assessment over the several holdings of an estate, the Revenue Officer shall enquire into the usage followed in the previous distribution and in deciding the method of the new distribution, he shall have regard to that usage and to the wishes of the land-owners, so far as may be practicable and equitable.

(2) (a) The Revenue Officer shall then make an order setting forth the method of the former distribution and the method by which the new distribution, is to be made, and shall direct that a record of the new distribution be prepared, showing;-

- 1) serial number of holding;
- 2) land-owner (with description) liable for the land revenue on holding;
- 3) area of holding, with such details as are necessary for the purpose of distribution;
- 4) rate of measure by which the new distribution is made;
- 5) amount charged to each holding by former distribution;
- 6) rates and cesses charged by a percentage on the land revenue payable by each holding by the former distribution;
- 7) amount charged to each holding by the new distribution; and
- 8) rates and cesses charged by a percentage on the land revenue payable by each holding by the new distribution.

(b) Where the rent of tenancy is the whole or a share of the land revenue thereof with or without an addition in money, kind or service, the tenancy and the result of proceedings, if any, taken under section 21 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974) shall be shown in this record under the land owners holding of which the tenancy is part by an additional entry showing the tenant's name being inserted between entries (2) and (3).

(3) The record thus made shall be given publicity delivering a copy thereof to the headman of the estate, and by posting another copy at a conspicuous place in or near the estate. A copy shall also be supplied to the Patwari.

(4) If the assessment is in the form of rates chargeable according to the result of each year or harvest, the Assistant Collector, to whom the Revenue Officer may assign this business by order under sub-section (1) of section 12, shall cause a record of the sum chargeable to each holding to be prepared for each year or harvest, as the case may be giving the particulars set out in sub-rule (2) entries (5) and (6) expected, and shall give publicity of it in the manner prescribed in sub rule (3)

## **CHAPTER IV**

### **PRINCIPLES FOR ALLOWING EXEMPTION FROM ASSESSMENT FOR IMPROVEMENTS**

**23. Exemption of land benefited by improvement from enhancement.-** (1) When a Masonry well is constructed at private expense or with the aid of loan from Government, for purposes of irrigation, after the coming into force of these rules, the land which benefits from the well shall be exempted from liability to any such enhanced or additional assessment of land revenue until the expiry of such period as may have been sanctioned at previous settlement, reckoned from the harvest in which the well is first brought into use. The minimum period of exemption for the purpose of this rule shall be 20 years, but in any case where it is shown that such period is insufficient to repay the land-owner twice the cost of the well out of the addition net assets due to the well, it may be extended to such longer period, not exceeding 40 years, as may be considered

sufficient for that purpose. In case where the Revenue Officer refuses to grant the exemption upto a period of 40 years, the aggrieved party shall have a right of appeal to the Financial Commissioner.

(2) When a well, whether in use or out of use through disrepair, is repaired for the purpose of irrigation, an exemption from liability similar to that in sub-rule (1) may be given for such period, if any, not exceeding half the period specified in that sub-rule, as the officer granting the exemption may consider equitable, with reference to the amount of expenditure incurred on repairing the well and the principles laid in sub-rule (1).

(3) When a tube-well is constructed at private expense or with the aid of loan from Government for purposes of irrigation the land which benefits from the well shall be exempted from liability to any enhanced or additional assessment of revenue as may be due to existence of the well until the expiry of such period as may be considered by the Financial Commissioner to be sufficient to repay the land-owner twice the cost of the well out of the additional net assets due to the existence of the well. The minimum period of exemption for the purpose of this rule shall be 30 years and the maximum 40 years.

(4) During the period of exemption specified in sub-rule (1) to (3) the land revenue assessment of the land irrigated by the well or tube-well shall not exceed the amount which could have been assessed, had no new well been constructed or no old well repaired, and in particular no fixed lump-sum assessment shall be imposed on the well during the period of exemption.

(5) In tracts where there is practically no assessment on land due in its un-irrigated aspect, the whole fixed assessment on well irrigated lands lying beyond the reach of river floods or canal water i.e., chahi-khalis shall be remitted during the period of exemption. In the case of chahi sailab, chahi-nahri lands, the rates of assessment imposed for the period of exemption shall be as follows:-

- a) where the land irrigated by the well is situated within reach of river floods, the sailab rate or rates, fixed or fluctuating, as the case may be, as sanctioned for the time being; and
- b) where it is within reach of canal water, the nahri-khalis rate or rates, fixed or fluctuating, as the case may be, as sanctioned for the time being.

Provided that where in the tracts mentioned above, there is no fixed assessment on well-irrigated lands, no rates other than sailab or nahri-khalis rates, as above, shall be charged.

(6) For irrigation works other than wells or tube-wells such as dams, reservoirs, water-cuts, minor canals or canal distributaries constructed or repaired at private expense or with the aid of a loan from Government, exemptions similar to those allowed for wells under sub-rules (1) and (2) shall be granted. The period of such exemptions shall be determined in each case by the Revenue Officer, but no exemption for a period exceeding 10 years shall be granted without the sanction of the Financial Commissioner, or exceeding 20 years without that of the State Government.

(7) The periods of exemption specified in the foregoing sub-rules may, for sufficient reason, be extended with the sanction of the State Government.

**24. Remission of revenue when wells fall out of use.-** A remission of so much of the assessment of the land irrigated from a masonry well or tube-well shall be granted as is based on the profits or irrigation from such well when,-

- a) the well ceases to be fit for use; or

- b) irrigation from it is superseded by canal irrigation and canal-advantage revenue or owner's rate has been imposed.

(2) A similar remission may be granted if the well, though still fit for use, has been out of use for four harvests:

Provided that no remission shall be given if the disuse of the well:-

- a) occurs in the ordinary course or husbandry, the well being intended for use merely in seasons of drought; and
- b) is due to the introduction of canal irrigation and canal advantage revenue or owner's rate has been imposed.

*Explanation.*—The revenue based on the profits of irrigation from the well shall ordinarily be assumed to:-

- I. where a lump sum has been imposed at the distribution of assessment on the well in addition to a non-well rate, such lump sum;
- II. where a lump sum, inclusive of non-well rate, has been imposed at the distribution of assessment such lump sum after deducting the equivalent of non-well rate; and
- III. where the distribution of the assessment has been by soil rates, the difference between the actual assessment of the area irrigated and the amount which would have been assessed on that area if it had not been irrigated.

**25. Period of exemption for wells to be fixed at settlement.**- When settlement operation are in progress, the Revenue Officer shall obtain, through the Financial Commissioner the sanction of State Government with respect to the period of exemption for wells, other than tube-well, for each assessment circle.

**26. Grant of exemption certificates at settlement.**- In every case in which the Revenue Officer grants exemption, he shall give the land-owner a certificate specifying the well or other work on account of which it is granted; the rate of its construction or repair; the term for which the exemption will last; the land which would otherwise have been assessed at irrigated rates and the additional demand to be imposed at the end of the period of exemption. If the land is under fluctuating assessment, the certificate shall further state what the exemptions will be under the system as sanctioned for the tract.

**27. Grant of certificate at other times.**- When a well, tube-well or other work is constructed or repaired during the currency of a settlement in such circumstances as to entitle the owner to an exemption from assessment at irrigated rates, the Revenue Officer shall make a special enquiry and grant a certificate of exemption in accordance with the provisions of rule 23. If the exemption is to take effect immediately, the certificate shall state, as nearly as may be, all the particulars mentioned in rule 26, and in addition shall show distinctly the amount of existing land revenue to be remitted. But, if the exemption is not to take effect till the next revision of assessment, no action need to be taken unless the owner of the work in question applies for a certificate. In such a case, no entry shall be made as to the area subject to the concession or the amount of the exemption.

**28. Exemption of reclaimed waste lands.**- (1) When a land-owner desires to secure an exemption from assessment on reclaimed waste land in order to compensate him for incurring



substantial expenditure on its reclamation, he shall apply, before the commences the work, to the State Government for such exemption, giving a description of the land to be reclaimed, the difficulties, attending its reclamation and the sum proposed to be expended on reclamation operations. The State Government, shall, after making such enquiries as it deems necessary, decide as to whether any exemption be given.

(2) If the exemption applied for is sanctioned, the maximum period of the exemption shall be fixed at the close of reclamation operations. The State Government after verification of the actual amount expended on reclamation and the area reclaimed, shall, by written order, exempt the area reclaimed from assessment of land revenue for a period sufficient to re-imburse the land-owners to the extent of twice the sum expended on the reclamation operations, subject to the maximum limit previously fixed.

## **CHAPTER V**

### **MANNER OF ANNOUCEMENT OF ASSESSMENT**

**29. Order of assessment for each estate.-** The Revenue Officer shall on receipt of the order of Government on his assessment proposals, draw up an order determining the assessment proper on each estate.

**30. Announcement of assessment.-** (1) For the purpose of announcing the assessment imposed on such estates, a notice shall be issued summoning the headmen and other persons interested to attend at a place and on a date specified. On such date and at such place the Revenue Officer shall announce the assessment.

(2) The headmen of each estate shall be given a memorandum showing the future assessment of the estate, and any additional particulars deemed necessary.

(3) The harvest from which the new demand shall take effect shall be announced to the headmen and other persons interested, and shall be noted in the memorandum furnished to the headmen.

## **CHAPTER VI**

### **THE MANNER OF CALCULATION OF THE RATE OF LAND REVENUE**

**31. Calculation of incidence.-** (1) In assessment circles in which fixed assessment was imposed at the last previous assessment, the rate of incidence of such assessment shall be the rate obtained by dividing the total assessment on cultivated land, as finally imposed by the Revenue Officer who made the assessment, by the cultivated area as ascertained by him for the purposes of assessment.

(2) In assessment circles in which fluctuating assessment was imposed at the last previous assessment, the average of crops forming the basis of the net assets at such assessment shall be multiplied by the final rates sanctioned. The figures thus arrived at shall be divided by the cultivated area as ascertained for the purposes of assessment, by the Revenue Officer, who imposed the assessment, and the result shall be the rate of the last previous assessment.

(3) In assessment circles in which the assessment imposed at the last previous assessment was partly fixed and partly fluctuating, the average acreage of crops forming either partly or wholly, the basis of the net assets, estimate of such assessment that are subject to assessment, shall be multiplied by the final rates sanctioned for fluctuating assessment. To the figures thus arrived at,

shall be added the final fixed demand imposed by the Revenue Officer, and the total shall be divided by the cultivated area as ascertained for the purpose of assessment by the Revenue Officer. The result shall be the rate of incidence of the last previous assessment.

(4) The rate of incidence on the cultivated area for the purpose of the revised assessment shall be determined mutatis mutandis by such of the methods in sub-rules (1), (2) and (3) of this rule as are applicable to the circumstances of the circles under assessment applied to the cultivated area determined by the Revenue Officer at re-assessment.

**32. Repeal and savings.-** (1) The Punjab Land Revenue Assessment Rules, 1929 as applicable and in force in the State of Himachal Pradesh are hereby repealed.

(2) Notwithstanding the repeal of the rules referred to in sub-rule (1) anything done, any action taken, notification proclamation, order or directions issued or notification schemes framed under the repealed rules shall be deemed to have been done or taken, issued, made or framed, as the case may be, under the corresponding provisions of these rules, if any and shall continue to be in force until directed otherwise or superseded, by anything done or any action taken by the competent authority.

# THE HIMACHAL PRADESH LAND REVENUE (SPECIAL ASSESSMENT) RULES, 1986<sup>1</sup>

## Part-A PRELIMINARY

**1. Short title.-** These rules may be called the Himachal Pradesh Land Revenue (Special Assessment) Rules, 1986.

**2. Definitions.-** In these rules, unless the context otherwise requires.-

- (i) 'Act' means the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954);
- (ii) 'Form' means a form appended to these rules;
- (iii) 'Site' means the piece of land, whether built upon or not, liable to special assessment under the Act;
- (iv) 'Block' means a sub-division of an assessment circle;
- (v) 'Potential building site' means a site lying vacant and out of use;
- (vi) All other words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Act.

**3. Unit of assessment.-** (1) The unit of special assessment shall be either assessment circle or a block.

(2) The Revenue Officer-in-charge of assessment may divide assessment circles into blocks having regard to the following factors:-

- (i) Importance of situations;
- (ii) Extent of development;
- (iii) Categories of land; and
- (iv) Density of population.

## Part-B

### METHOD OF SPECIAL ASSESSMENT

**4. Division of sites into categories [Section 4 (12-A)].-** For the purpose of assessment of land revenue sites in a block or assessment circle shall be divided into the following categories:-

(1) Land that has been put to use different from that for which an assessment is in force;

(2) Land that has been put to the following non-agricultural use, whether already assessed to land revenue or not:-

- a) cinemas;
- b) hotels or restaurants;
- c) petrol pumps;
- d) factories;
- e) shops;
- f) Shop-cum-residences;
- g) residential houses;
- h) residential bungalows;
- i) cart, tonga, motor or other stands or landing grounds;
- j) brick-kilns and land from which earth is taken for bricks;
- k) other non-agricultural uses;

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<sup>1</sup> Published in R.H.P. Extra ordinary dated 25.10.1986 Page 1885 to 1902 vide Rev. Deptt. Notification No. Rev. II A (3)-4/77 dated 24.7.1986

1) potential building sites.

**5. Categories of sites to be grouped into classes [Section 4(12-A)].-** (1) All sites under each category in a block of assessment circle may be classified as follows:-

- Class-I Sites situated in exceptionally good localities and fetching exceptionally high rent.
- Class-II Sites situated in good localities and fetching good rent.
- Class-III Sites situated in ordinary localities and fetching medium rent.
- Class-IV Sites situated in bad localities and fetching low rent.
- Class-V Sites situated in exceptionally backward localities and fetching exceptionally low rent.

(2) Sites of various categories, wholly under the possession of the owners of which the alleged rent is found to be collusive or otherwise not reliable, shall be classified under sub-rule:-

- (1) according to the localities and their own importance.
- (2) The Tehsildar or Naib-Tehsildar, incharge of the block or assessment circle, as the case may be will be responsible for the preliminary classification of sites. The Revenue Officer-in-charge of assessment will finalise this classification and, in doing so, will personally verify at least five per cent of each class.

**6. Net letting value to be calculated on the basis of selected representative sites [Section 4(12-A)].-** (1) Not more than six representative sites of each class of a category in the block or assessment circles, as the case may be selected by the Revenue Officer-in-charge of assessment and the net letting value of every such sites shall be calculated in the manner here-in-after described.

(1) The average net letting value of the representative site shall be applied to all the sites of that class of the category in the block or assessment circle, as the case may be.

**7. Factors to be considered in calculating net letting value [Section 4(12-A)].-** (1) In calculating the net letting value of representative site, regard shall be had to the following factors:-

- a) the present annual rent of the site;
- b) the nature of the use to which the site has been put;
- c) the capital investment on buildings, machinery or other structures on the site.

(2) The data required for the purpose referred to in sub-rule (1) may be collected in Forms I, III and VII.

**8. Furnishing of information [Section 4(12-A)].-** (1) Every owner and lessee of a selected representative site shall, when required by the Revenue Officer-in-charge of assessment or a Tehsildar or a Naib-Tehsildar, furnish information in Forms V and VI in order to enable such officer to determine the net letting value thereof.

(2) The Revenue Officer-in-charge of assessment shall, by himself or through the Tehsildar or Naib-Tehsildar, verify the information received in forms V and VI in such a manner as he deems fit and may also tally such information with the following documents:-

- a) land records;
- b) shopkeeper's books;
- c) rent accounts of owners, lessees and tenants;
- d) rents realised by the Court of wards, Official receiver, Local authorities and other large properties;

- e) figures accepted for similar localities in other blocks, assessment circle or towns;
- f) property tax and house tax registers.

(3) If after verification as required by sub-rule (2), the Revenue Officer-in-charge of assessment is satisfied that the information furnished in Forms V and VI is not unreliable, he shall cause such information or such part of it as has been verified by him to be incorporated in Form VII.

(4) If in respect of any selected representative site the information furnished in Forms V and VI is found to be not reliable by the Revenue Officer-in-charge of assessment or such information is not furnished at all he shall exclude such site from the list of representative sites.

**9. Calculation of net letting value [Section 4(12-A)].-** The net letting value of selected representative sites shall be the amount derived after making the following deductions from the present annual rent of such sites:-

- (i) Fair remuneration at six per cent for the capital invest on building or machinery or both after deducting the depreciation on their value;
- (ii) House tax;
- (iii) Property tax;
- (iv) Maintenance charges not exceeding one month's gross rent.

*Explanation.-* Where no reliable data regarding the cost of building and machinery of a site is forthcoming or is otherwise available, valuation and depreciation shall be based on the standards of Public Works Department of the Himachal Pradesh State.

**10. Determination of average market value of sites [Section 50(b) (ii)].-** For purposes of sub-clause (ii) of clause (b) of section 50 of the Act, the average market value of sites in each class of a category shall be:-

- a) where data regarding the sale price of sites is available in a class, the average per marla, biswa, biswansi or sarsahi according to the measure in force for the time being in the locality, of the sale price of such sites during the ten years immediately preceding the assessment.
- b) Where no data regarding the sale price of sites, is available in a class, the average per marla, biswa, biswansi or sarsahi according to the measure in force for the time being in the locality, of the sale price of sites in a similar class, category and locality in the nearest block or assessment circle during the ten years immediately preceding the assessment; and
- c) Where no data regarding the sale price of sites in a similar class, category and locality in the nearest block or assessment circle is available the average per marla, biswa, biswansi or sarsahi, according to the measure in force for the time being in the locality, of the sale price of sites in the same class in all the categories of the same block or assessment circle in which the sites are situated, during the ten years immediately preceding the assessment.

**11. Scale of special assessment (Section 50).-** The Revenue Officer-in-charge of special assessment or subsequent revision thereof will then work out the scale of levy of special assessment for each class in the block or assessment circle according to the scales laid down in section 50 of the Act.

**12. Area to be assessed.-** (1) Where a part of khasra number is liable to special assessment the area for special assessment shall be the area of that part during the harvest in which the special assessment is made.

(2) The total area to be specially assessed in a block or assessment circle, as the case may be, shall be the area that is liable to special assessment during the harvest in which the special assessment is made.

**13. Inspection of certain estates.-** Before making his proposals for special assessment the Revenue Officer in-charge of assessment shall make a special inspection of every estate in which more than 25 khasra numbers are liable to special assessment and record a note of such inspection.

**14. Preparation of special assessment reports Section 64(b).-** (1) A special assessment report shall be prepared and submitted to the Financial Commissioner through the Commission for preliminary approval separately for each assessment circle as soon as the necessary data has been collected.

(2) The report shall, amongst other matters, state in respect of each block or assessment circle:-

- (i) the average net letting value of sites for each class under various categories;
- (ii) in the case of sites, the net letting value of which cannot be determined, the average market value of such sites for each class under various categories;
- (iii) the scale of special assessment proposed for each block in the assessment circle for each class under various categories.

(3) The information referred to in sub-rule (2) shall also be given in Form IX.

**15. Abstract of assessment report to be published after its preliminary approval by Financial Commissioner.-** (1) On receipt of the preliminary approval of the Financial Commissioner to his proposal contained in the special assessment report, the Revenue Officer-in-charge of assessment shall prepare brief abstract, in Hindi, of the report, as approved or modified by the Financial Commissioner, incorporating:-

- (i) the basic data on which the net letting value of sites has been calculated, deductions allowed and the value of land under various categories and belonging to different classes, as disclosed by sales;
- (ii) the total assessment and the average revenue rates proposed for each class under various categories with such brief explanations as may be necessary including the clear proviso that the rates proposed for any particular estate are liable to be varied before the special assessment is finalised.
- (iii) the general consideration on which the pitch and amount of the total actual assessment proposed are based, namely rise in prices, new development and greater return from the land.

(2) Copies of this abstract shall be supplied by post to Pradhan of all Gram Panchayats, Lambardars, organizations of land-owners of the area concerned, Members of the Lok Sabha, Rajya Sabha, Vidhan Sabha and Local Bodies representing the said area, with the intimation that representations against, or objections to the proposed assessment should be sent to the Revenue Officer-in-charge of assessment within two months from the date of posting.

(3) All such representations and objections will be considered by the Revenue Officer-in-charge of assessment who shall forward them with his views and the final report to the Financial Commissioner.

**16. Deviation allowed.-** (1) The special assessment finally confirmed by the Financial Commissioner for each class and category in a block or assessment circle, as the case may be, shall be imposed by the Officer-in-charge (Revenue Officer) of assessment within a margin of 5 per cent either way

**17. Distribution of special assessment over holdings.-** (1) Before making the distribution of fixed special assessment as finally sanctioned by the Financial Commissioner over the several holdings of a class in particular category in a block or assessment circle, as the case may be, the Revenue Officer-in-charge of assessment shall, in deciding the method of new distribution, enquire into the usage and the wishes of the land-owners concerned and shall have regard to that usage and wishes of the land-owners so far as may be practicable and equitable. The Revenue Officer-in-charge of assessment shall, for each estate, draw up an order setting for the method of distribution holding-wise of the special assessment and shall direct that a record of the distribution of special assessment be prepared in Form VIII.

(2) The record thus prepared shall be published by delivering a copy thereof to the Nambardar of the estate and by posting another copy at a conspicuous place in the block or assessment circle as the case may be, and as close to the estate as is feasible. A copy shall also be supplied to the Patwari.

(3) Necessary notes regarding new distribution will also be recorded in the remarks column of the Patwari's copy of the current jamabandi in red ink against the relevant khewat and khasra numbers for incorporation in the next quadrennial jamabandi.

### **Part-C**

#### THE MANNER IN WHICH SPECIAL ASSESSMENT SHALL BE ANNOUNCED

**18. Formal announcement of special assessment.-** (1) After the action is taken under rule 17(2) a formal announcement of the special assessment imposed on each block or estate shall be made by the Revenue Officer-in-charge of assessment at an appointed place and on a date specified to which the Nambardar and other persons interested of the estate shall be summoned.

(2) The Nambardar of each estate shall also be given memorandum, showing the future special assessment of the block or estate and any additional particulars deemed necessary.

(3) The harvest from which the new special assessment shall take effect shall be announced to the Nambardar and other persons interested and this fact shall be noted in the memorandum delivered to the Nambardar.

### **Part-D**

#### MISCELLANEOUS

**19. Duration of special assessment.-** Unless otherwise directed by the Financial Commissioner in any specific case, the special assessment in a district shall ordinarily last for a period of ten years and shall remain in force till a new one is made.

**20. Power of Settlement Officer to incorporate additional necessary information in the prescribed forms.-** The information required for special assessment shall be collected in Forms I to IX but the Revenue Officer-in-charge of assessment will be entitled to incorporate in these Forms any additional information that he deems necessary.

**21. Area to be measured in case of doubt [Section 64(b)].-** In case of doubt, the area under special assessment in any Khasra number shall be properly measured and then recorded.

**22. Scales of special assessment to be applied to new land put to non-agricultural use during the currency of the special assessment [Section 64(b)].-** During the period for which the special assessment remains in force, the new sites of land or potential building sites put to non-agricultural uses mentioned in rule 4(2) (a) to (k) from harvest to harvest shall be classified by the Collector into the classes of each category in the block or assessment circle, as the case may be, and the scale of special assessment of the class in that category shall be enforced on those in lieu of the land revenue payable at that time.



FORM-I  
(See rule 20)

STATEMENT NO. 1 SHOWING DETAILS OF LAND TO SPECIALLY ASSESSED, WHICH HAS BEEN PUT TO NON AGRICULTURAL USE OR TO A USE DIFFERENT FROM THAT FOR WHICH A GENERAL ASSESSMENT IS IN FORCE

Town or Village.....Hadbast No.....Abadi.....  
Tehsil.....Assessment Circle.....District.....or the year  
.....

Khasra number in in seriatim, which has been put to non-agricultural use or use different from that for which a general assessment is in force	Number of house or building already given at the spot for house or property tax	Number of present Khatauni in the latest Jamabandi	Number of present Khewat in the latest Jamabandi	Area			Owner with description
				Total	That part which is liable to special assessment with kind of non-agricultural use	Remainin g-g area with kind of soil	
1	2	3	4	5	6	7	8

FORM-I Contd.							
Cultivator, tenant or person in possession with description. In case or more than one tenant, etc., kind and extent of area under possession of each	Annual rent or ground rent	Amount of annual taxes already being paid			Amount of ordinary land revenue already assessed	Opinion of circle revenue with regard to reliability of recorded figures and the class in which the site should be put with signature	Remarks
		House Tax Rs.	Property Tax Rs.	Total Rs.			
9	10	11	12	13	14	15	16

FORM-II  
(See rule 20)

STATEMENT NO. II SHOWING DETAILS OF THE TRANSACTIONS OF SALE/LEASE OF LAND TO BE SPECIALLY ASSESSED WHICH HAS BEEN PUT TO NON-AGRICULTURAL USE OR TO A USE DIFFERENT FROM THAT FOR WHICH GENERAL ASSESSMENT IS IN FORCE

Town or village.....Hadbast No.....Tehsil.....Assessment Circle.....District.....for the year .....to .....

Sr. No.	Mutation number	Alienor and alienee written short.	Khasra No. and kind of soil or use to which it has been put	Consideration money		
				For land	For building	Total
1	2	3	4	5	6	7
				Rs.	Rs.	Rs.

	Consideration money			Date of transaction	Remarks
	For Leases				
For land	For building	Total	Per annum		
8	9	10	11	12	13
Rs.	Rs.	Rs.			

Note. –All the transactions of sale should be entered first and then of leases. Internally the transactions pertaining to assessable area should be entered first.

FORM-III  
(See rule 20)

TOTAL OF AREA AND ANNUAL RENT FOR SPECIAL ASSESSMENT IN THE YEAR .....

Block ..... Town ..... Assessment Circle.....  
Tehsil ..... District .....

Kind of non-agricultural use	Cinemas	Hotels Restaurants	Petrol pump	Factories	Shops	Shop-cum-houses	Houses
1	2	3	4	5	6	7	8

Part A-total assessable and other area.

Assessable area other area (Total in areas bighas) Held by Government Departments Areas owned by Government	Held by local bodies	For charitable and public purposes	For other purposes	Held by others for assessable purposes
---	----------------------	------------------------------------	--------------------	--

Bungalows	Cart, tonga, or motor-stands and landing grounds	Brick-kilns	Other non-agricultural use	Potential building sites	Religious places	Other public place
9	10	11	12	13	14	15

PART A-TOTAL

Assessable area Other area (Total in acres/bighas) held by Government Departments Area owned by Government	Held by local bodies	For charitable and public purposes. For other purposes.
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Held by others for assessable purposes.

Hospitals and recognized educational institutions	Government buildings including Cantonment	Public roads, irrigation and drainage channels	Small scale cottage industries	Ancient village sites which have always been revenue free	Cremation ground and graveyard	Total
16	17	18	19	20	21	22

Assessable area other area(Total in acres/bighas) held by Government Departments.							
Area owned by Government			Hold by local bodies	For charitable and public purposes for other purposes			
1	2	3	4	5	6	7	8

PART A-TOTAL ASSESSABLE AND OTHER AREA-contd.

Area owned by local bodies.			Reserved for charitable and public purposes. Used for other purposes.				
Area owned by private persons or bodies.			Reserved for charitable purposes. Used for non-agricultural or assessable purposes.				
9	10	11	12	13	14	15	

PART-A TOTAL ASSESSABLE AND OTHER AREA-Contd.

Are owned by local bodies.			Reserved for charitable and public purposes. Used for other purposes.				
Area owned by private persons or bodies.			Reserved for charitable purposes. Used for non-agricultural or assessable purposes.				
16	17	18	19	20	21	22	
Area owned by local bodies.			Reserved for charitable and public purposes. Used for other purposes.				
Area owned by private persons or bodies.			Reserved for charitable purposes. Used for non-agricultural or assessable purposes.				
1	2	3	4	5	6	7	8

PART B-CLASS-WISE ASSESSABLE AREA

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

PART-C GROUND RENT

Area Carrying  
 Ground rent

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

Total annual ground rent

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

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1	9	10	11	12	13	14	15
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PART B-CLASS-WISE ASSESSABLE AREA

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

PART C-GROUND RENT'

Area carrying  
 ground rent

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

Total  
 annual  
 ground rent

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

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1	16	17	18	19	20	21	22
---	----	----	----	----	----	----	----

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PART B -CLASS-WISE ASSESSABLE AREA

Class I  
 Class II  
 Class III  
 Class IV  
 Class V

PART C-GROUND RENT.

Area carrying ground rent	Class I Class II Class III Class IV Class V
Total annual ground rent	Class I Class II Class III Class IV Class V

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1	2	3	4	5	6	7	8
---	---	---	---	---	---	---	---

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PART C-GROUND RENT-Concl'd.

Average ground rent per biswa	Class I Class II Class III Class IV Class V
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PART D-COMPOSITE RENT

Area carrying composite rent of both site and building etc.	Class I Class II Class III Class IV Class V
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1	2	3	4	5	6	7	8
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Total annual composite rent	Class I Class II Class III Class IV Class V
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Average annual	Class I Class II
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composite	Class III
rent per	Class IV
biswa	Class V

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1	9	10	11	12	13	14	15
---	---	----	----	----	----	----	----

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## PART C-GROUND RENT-Concl'd.

Average	Class I
ground rent	Class II
per biswa	Class III
	Class IV
	Class V

## PART D-COMPOSITE RENT

Area	Class I
carrying	Class II
composite	Class III
rent of both	Class IV
site and	Class V
building,	
etc.	

Total	Class I
annual	Class II
composite	Class III
rent	Class IV
	Class V

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1	9	10	11	12	13	14	15
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## PART D-COMPOSITE RENT-Contd.

Average	Class I
annual	Class II
composite rent	Class III
per biswa	Class IV
	Class V

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1	16	17	18	19	20	21	22
---	----	----	----	----	----	----	----

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## PART C- GROUND RENT-Contd.

Average	Class I
ground	Class II
rent per biswa	Class III
	Class IV
	Class V

## PART D- COMPOSITE RENT

Area carrying  
composite rent of  
both site and  
building, etc.

Class I  
Class II  
Class III  
Class IV  
Class V

Total annual  
composite rent

Class I  
Class II  
Class III  
Class IV  
Class V

Average annual  
composite rent  
per biswa

Class I  
Class II  
Class III  
Class IV  
Class V

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## FORM-IV

(See rule 20)

STATEMENT NO. IV-SHOWING AVERAGE SALE OR LEASE MONEY FOR THE YEAR  
..... to .....

Class.....Block.....Town.....Assessment

Circle.....Tehsil.....District.....

Kind of use	Total area under transaction	Total Consideration		Total	Average of land only		Remarks
		For land	For building		per acre	per acre	
1	2	3	4	5	6	7	8

## SALES

Cinemas

Hotel and Restaurant

Petrol-pump

Factories

Shop

Shop-cum-residence

Residence house

Residential bungalow

Cart, tonga, motor or other

Stand or landing grounds

Brick-kiln and land from which

Earth is taken for bricks

Other non-agricultural uses

Potential buildings sites

## LEASES:

Cinemas

Hotel and Restaurant

Petrol-pump

Factories

Shop

Shop-cum-residence

Residence houses

Residential bungalows

Cart, tonga, motor or other

stands or landing grounds

Brick-kiln and land from which

Earth is taken for bricks

Other non-agricultural uses

Potential buildings sites

Note:- The average consideration money in the case of leases will be annual.

**Form—V**  
(See Rule 20)

QUESTIONNAIRE TO BE ANSWERED BY THE OWNER OF THE LAND

1. Name and address of Owner  
Name and address of lessee, if any  
Name and address of tenants, if any
2. Area of the site to be assessed, with khasra number
3. Present assessment
4. When was this site put to its present use?
5. If any buildings, structures and machinery have been constructed or installed on the site, when were they constructed or installed by whom and at what cost also give details of such buildings, machinery etc., on the site. Do you have any documentary proof of the amount spent on buildings, etc., and if so, give details?  
If you have no documentary proof, what other evidence you have?
6. What taxes are you paying in respect of this property to:-
  - (a) Government
  - (b) Municipal Committee
  - (c) Zila Parishad
  - (d) Cantonment Board
  - (e) Gram Panchayat
  - (f) Any other authority

Have you, in respect of any of these taxes, made a declaration of the value of this property?  
If so, give details.
7. What was the value of this site before it was put to the present use?
8. What do you consider the present market value of:-
  - (a) the site alone.
  - (b) the site and all buildings, etc., on it.
9. If you have leased this site to another party, give his name and address and the following particulars:-
  - (1) Whether an agreement has been executed between you and the lessee?
  - (2) The annual rent paid by the lessee.
  - (3) The period of lease.
  - (4) Whether the rent is for the site only or for the site with buildings, etc.
  - (5) Copy of the lease deed.
10. If you have not leased the site and buildings to another party, please give the information required below:-
  - (1) The gross annual rent from the property.
  - (2) The annual expenses incurred by you on maintenance of buildings.
  - (3) The net annual return from this property.
11. If there are buildings or machinery, or you consider a fair annual rent for the site buildings and machinery on the site, what do alone.

**Form-VI**  
(See Rule 20)

QUESTIONNAIRE TO BE ANSWERED BY THE LESSEE OR TENANT OF THE SITE OR  
STRUCTURE ON THE SITE

1. Name and address of lessee or tenant.
2. Name and address of owner.
3. Total area of khasra number, comprising the site.
4. Area of the site taken on lease with khasra numbers.
5. Have you taken on lease both the land and structures on it, or the land only or the structures only. Give details of the site and structures taken on lease or rent by you.
6. If you have executed a lease deed, attach a copy of it.
7. What annual rent are you paying and do you have receipts of payment.
8. If you have only leased the site and put up your buildings and machinery, what was the cost of these buildings and machinery?
9. Are you, in respect of the property taken on lease paying any taxes, in addition to the lease money to:-
  - (a) Government.
  - (b) Any local authority.

If so, give full particulars.

**FORM-VII**  
(See Rule 20)

Block.....State.....Town.....Tehsil.....  
Assessment Circle.....District.....

Sr. No.	Kind of use with class	Khasra No. with area under special assessment	Amount of land revenue paid at present	Total amount of annual rent or ground rent (if available)	Year in which building constructed or machinery installed
1	2	3	4	5	6
7	8	9	10	11	12

House Tax	Property Tax	Net annual letting value i.e. column No. 5 minus Col. Nos. 11, 12, 13 and 14	Net annual letting value per marla or biswa	Average annual ground rent or lease money of land in the block or estate according to statement No. IV
13	14	15	16	17
Average sale value of land under the particular class of use in the block or estate for the last ten years according to statement No. IV per marla or biswa	In case figures in column 18 are not available average sale value of land under the particular class of use in the similar locality in the nearest assessment circle (with names) per marla or biswa	In case figures in both column Nos. 10 and 19 are not available average sale value of land of all other kinds of uses in the blocks or assessment circle, as the case may be, for the last ten years according to statement No. IV marla or biswa	Average market value of land assumed according to the average value in either of the preceding three column as the case may be, per marla or biswa	One-fourth share of the net letting value
18	19	20	21	22
Four per cent of the assumed value of the site	Assessment proposed	Percentage of assessed demand over the netting value as shown in column No. 15	Percentage of assessed demand over average assessed market value as shown in the column No. 21	Remarks
23	24	25	26	27

FORM-VIII  
(See Rule 20)

Name and Hadbast No. of estate, town/abadi.....  
 Name and number of block.....Assessment Circle.....  
 Tehsil.....District.....

Number in serial order of holding affected by special assessment	Name and description of landowner	Khasra number or parts of liable to special assessment	
1	2	3	
Area of the khasra No. or part of khasra No. brought under special assessment with brief description of the use	Rate of measure by which the special assessment has been made	Amount of land revenue charged by the new distribution formed	Amount charged by the new distribution
4	5	6	7
	Rs.	Rs.	Rs.

## FORM-IX

ABSTRACT STATEMENT SHOWING SCALES OF SPECIAL ASSESSMENT FOR BLCOK  
NO.....

Assessment Circle.....Tehsil.....District.....

Sr. No.	Category of use	Class	Range of gross rent per marla or biswa for each class of sites			Gross rent per marla or biswa of representative sites selected for calculating the net letting value
			More than Rs.	Not than Rs.	more	
1	2	3	4	5	6	
Average net letting value per marla or biswa according to experiments			Average market value per marla or biswa according to Statement No. IV			
Full	One-fourth	For the class in the category			For the class in all the categories of the block or assessment circle	
		In the same block or assessment circle	In the nearest block or assessment circle			
7	8	9	10	11		
Scale of Special assessment proposed		Area	Total special assessment proposed		Remarks	
12		13	14		15	

By Order,  
ATTAR SINGH,  
Secretary.

## THE PUNJAB LAND REVENUE RULES

### [as applicable to H.P.] Zaildars and Inamdars

**1.** Omitted by Punjab Government Notification No. G.S.R. 12/PA- 17/87/S. 28/Amd. (6)/65 dated the 30<sup>th</sup> January 1965.

**2.** Deleted by Punjab Government Notification No. G.S.R.-32/PA-17/87/S-) 55/Amd.(2)/64 dated the 23<sup>rd</sup> January, 1964.

**3-13.** Omitted by Punjab Government Notification No. G.S.R 12/PA-I 7/87/Section 28/Amd.(6)/65 dated the 30<sup>th</sup> January, 1965.

#### *Village Headmen*

**14. (i)** A sufficient number of headmen shall be appointed to every estate, and this number when once fixed shall not be increased except by the order of the Commissioner, nor be reduced except by the order of the Financial Commissioner.

*(ii)* If an estate or a considerable portion thereof is owned by Government, the headman may be appointed from among the tenants. In other estates he shall be appointed from among the land-owners:

Provided that where the office of headman has become vacant by the migration of the headman to the Dominion of Pakistan, the appointment may be from among the allottees and the oustees from the capital site at Chandigarh in accordance with rule 19-A having regard to the other considerations in rule 15(b), (c), (d) and (e)

*(iii)* The lessee of the revenue or produce of an uncultivated or forest estate owned by Government shall be during the currency of his lease the headman thereof.

*(iv)* In the Kangra Kulu and Lahaul and Spiti districts, for the purposes of this rule the estate shall mean the mauza, tappa, kothi, or other officially recognized revenue unit as the Collector, subject to the orders of the Commissioner, shall determine.

**15.** In the first appointment of headmen, regard shall be had among other matters to -

- (a)* his hereditary claims;
- (b)* extent of property in the estate possessed by the candidate;
- (c)* service rendered to the state by himself or by his family;
- (d)* his personal influence, character, ability and freedom from indebtedness,
- (e)* the strength and importance of the community from which selection of a headman is to be made;
- (f)* service rendered by himself or by his family in the national movements to secure freedom of India.

In the case of ex-headman of an estate or sub-division thereof in the territory now comprising the State of Punjab who had resigned or was dismissed on account of his participation in a national movement before partition and another headman was appointed in his place, the present incumbent of the post shall be removed irrespective of the provisions of rule 16 and the ex-headman would be appointed in his place, if he has not rendered himself unfit for appointment for any of the

reasons given in rule 16 except imprisonment for a political offence before 15<sup>th</sup> August, 1947. In case, the ex-headman is no longer alive, a person of his family who would under the rules have been entitled to be headman if the resignation or dismissal had not intervened, would be appointed a headman. But where no such person exists there would be no need to remove the existing lambardar.

**16. (i)** A headman shall be dismissed when –

- (a) he is sentenced to imprisonment for one year or upwards or to any heavier sentence; or
- (b) in an estate owned altogether or chiefly by Government he ceases to possess the interest which led to his appointment; or
- (c) in any other estate he ceases to be a land-owner in the estate or sub-division of the estate in respect of which he holds office; or
- (d) he has mortgaged his holding and has delivered possession to the mortgagee; but in special cases the Collector may, with the Commissioner's sanction, retain him in his office under such circumstances, if he can furnish adequate security for the payment of the revenue he has to collect and for the due discharge of his duties; or
- (e) his holding has been transferred under section 71 of the Land Revenue Act, or the assessment thereof has been annulled under section 73 of the same Act.

(ii) A headman may be dismissed when: -

- (a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or
- (b) he is seriously embarrassed by debt, or if his unencumbered holding is so small so as to disqualify him in the Collector's opinion for the responsibilities attached to the office of headman; or
- (c) owing to age or physical or mental incapacity, or absence from the estate, he is unable to discharge the duties of his office; or
- (d) there is reason to believe that he has taken part in or concealed illicit distillation, or the smuggling of cocaine, opium or charas; or
- (e) he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order; or
- (f) he neglects to discharge his duties, or is otherwise shown to be incompetent; or
- (g) the estate or sub-division thereof, in respect of which he holds office, or his own holding is attached either for an of land-revenue or by order of any Court.

**17. (i)** In an estate, or sub-division thereof, owned chiefly or altogether by Government, a successor to the office of headman shall be selected with due regard to all the considerations, other than hereditary claims, stated in rule 15:

Provided that in such an estate, or sub-division thereof notified for the purpose by the Financial Commissioner the selection shall, as far as possible, be made in the manner prescribed by sub-rule (ii) if a suitable heir is forthcoming.

(ii) In other estates the nearest eligible heir according to the rules of primogeniture shall be appointed unless some special custom of succession to the office be distinctly proved, but subject in every case to the following provisions: -



(a) the claim of a collateral relation of the last incumbent to succeed shall not be admitted solely on the ground of inheritance, unless the claimant is a descendant in the male line of the paternal great-grandfather of the last incumbent:

(b) Where headman has been dismissed in accordance with the provisions of rule 16, the Collector may refuse to appoint any of his heirs:

(1) if the circumstances of the offence, dereliction of duty, or disqualification, for which the headman was dismissed make it probable that he would be unsuitable as a headman;

(2) if there is reason to believe that he has connived at the offence or dereliction of duty for which the headman has been dismissed;

(3) if any disqualification for which the headman has been dismissed attaches to him;

(4) if he may reasonably be supposed to be under the influence of the dismissed headman or his family to an undesirable extent.

Note: - If a dismissed headman's heir is considered fit to succeed, regard shall be had to the property which he will inherit, in like manner as if he had already inherited it.

(c) The Collector may also refuse to appoint person claiming as an heir on any ground which would necessitate or justify the dismissal of person from the office of the headman.

(d) A female is not ordinarily eligible for the office, but may be appointed when she is the sole owner of the estate for which the appointment has to be made, or, for special reasons, in other cases.

(iii) Failing the appointment of an heir/a successor to the office shall be appointed in the manner and with regard to the considerations, described in rule 15.

(iv) Election shall not in any case be resorted to as an aid in making appointments under this rule and rule 14.

**18.** Omitted by Punjab Government Notification G.S.R. 167/PA-17/1887/S. 28/Amd(6)/65 dated the 23rd July 1965.

**19.** (i) Where an office becomes vacant in consequence of any proceedings taken for the recovery of an arrear of land-revenue under sections 71, 72 or 73 of the Land Revenue Act, the transferee, agent or farmer who under those proceedings obtains possession of the land on which the arrears were due may, in the discretion of the Collector, be appointed to the vacant office.

(ii) Where a headman, who as land-owner is individually responsible for more than half the land-revenue of an estate, or of the sub-division thereof in respect of which he holds office, has mortgaged his holding and has delivered possession thereof to the mortgagee, and this office of headman has become vacant in consequence thereof, the mortgagee may, at the discretion of the Collector, be appointed to the vacant office.

(iii) On the termination of any such transfer, farm or attachment as is referred to in sub-section (1), or on the release of any such mortgage as is referred to in sub-section (ii), a headman appointed under this rule shall cease to hold office, and a new headman shall be appointed with reference to the considerations stated in rule 15.

**19A.** Notwithstanding anything contained in these rules where the office of headman has become vacant in consequence of the migration of the headman to the Dominion of Pakistan any refugee from West Punjab who has been allotted land in the village or an outsee who has been ousted from the Capital site at Chandigarh, and has been settled in the village may at the discretion of the Collector be appointed headman temporarily; provided the appointee furnishes sufficient security for the payment of Government dues, with due regard to the considerations stated in rule (15 (b), (c), (d) and (e)).

**19B.** Notwithstanding anything to the contrary contained in these rules, where the population of Harijans or members of the Scheduled Castes including Christians ascertained at the last preceding census is 100 or more in an estate, there shall be appointed one additional headman from amongst the Harijans or members of the Scheduled Castes, including Christians, subject to the following conditions: -

- (i) In appointing the headman, regard shall be had among other matters, to -
  - (a) services rendered to the State by himself or by his family;
  - (b) his personal influence, character, ability and freedom from indebtedness;
- (ii) He shall be dismissed when he is sentenced to imprisonment for one year or upwards or to any heavier sentence.
- (iii) He may be dismissed when -
  - (a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or
  - (b) he is seriously embarrassed by debt; or
  - (c) owing to age or physical or mental incapacity or absence from the estate, he is unable to discharge the duties of his office; or
  - (d) there is reason to believe that he has taken part in or concealed illicit distillation or the smuggling of cocaine, opium or charas; or
  - (e) he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order; or
  - (f) he neglects to discharge his duties, or is otherwise shown to be incompetent.
- (iv) He shall perform all duties prescribed in rule 20 of these Rule except those prescribed in clauses (i) to (iv) thereof.
- (v) He shall not be entitled to any remuneration in the form of pachotra etc.

**20.** In addition to the duties imposed upon headman by law for any purpose, a headman shall-

- (i) Collect by due date all land-revenue and all sums recoverable as land revenue from the estate, or sub-Division of an estate in which he holds office, and pay the same personally or by revenue money order or by remittance of currency notes through the post at the place and time appointed in that behalf to the Revenue Officer or assignee empowered by Government to receive it.

Selected Nambardars, approved by the Collector, may pay land-revenue and all sums recoverable as land-revenue from the estate or sub-division of an estate in which they hold office,

by cheques on the Imperial Bank of India, provided that there is a branch of the Imperial Bank at the headquarters of the district in which the said estate is included;

(ii) Collect the rents and other income of the common land and account for them to the persons entitled thereto;

(iii) Acknowledge every payment received by him in the books of the land-owners and tenants;

(iv) Defray joint expenses of the estate and render account thereof as may be duly required of him;

(v) Report to the tehsildar the death of any assignee of land-revenue or Government pensioner residing in the estate, or the marriage or re-marriage of a female drawing a family pension and residing in the estate, or the absence of any such person for more than a year;

(vi) Report to the tehsildar all encroachments on roads including village roads or on Government waste lands and injuries to, or appropriations of, nazul property situated within the boundaries of the estate;

(vii) Report any injury to Government buildings made over to his charge;

(viii) Carry out, to the best of his ability, any orders that he may receive from the Collector requiring him to furnish information, or to assist in providing on payment supplies or means of transport for troops or for officers of Government on duty;

(ix) Assist in such manner as the Collector may from time to time direct at all crop inspections, recording of mutations, surveys preparation of record-of-rights, or other revenue business carried on within the limits of the estate;

(x) Attend the summons of all authorities having jurisdiction in the estate, assist all officers of the Government in the execution of their public duties; supply, to the best of his ability, any local information which those officers may require, and generally act for the land-owners, tenants and residents of the estate or sub-division of the estate in which he holds office in their relations with the Government;

(xi) Report to the patwari any outbreak of disease among animals;

(xii) Report to the patwari the deaths of any right-holders in their estates;

(xiii) Report any breach or Cut in a Government irrigation canal or channel to the nearest canal officer, zaildar or canal patwari;

(xiv) Under the generator special directions of the collector, to assist by the use of his personal influence and Otherwise all officers of Government and other persons, duly authorised by the Collector in the collection and enrolment of recruits for military service whether combatant or non-combatant;

(xv) Render all possible assistance to the village postman while passing the night in the village, in safeguarding the cash and other valuables that he carries.

**21.** (i) The remuneration of a headman in an estate or sub-division of an estate, owned chiefly or altogether by Government shall be such a portion of the village officer's cess or of the

income accruing to Government from the estate as may be sanctioned by the Financial Commissioner.

(ii) In other estates the remuneration of a headman shall be the remuneration appointed when the land-revenue of the estate was last assessed.

(iii) In any case not provided for by sub-section (i) and (ii), a headman shall receive a portion of the village cess equal to five percent of the land-revenue for the time being assessed on the estate or portion of the estate in which he holds office whether the assessment is leviable or not.

(iv) The collector may at any time revise and alter the existing arrangements in an estate regarding the collection of the land-revenue by the different headmen and the division of the remuneration between them.

### *Chief Headman*

**22.** In an estate in which the appointment of a chief headman has been sanctioned by Government the office shall be vacated as nearly as may be in the manner provided in the rules relating to headmen.

**23.** (i) In estate in which a chief headman has been appointed, an order may, at the option of the officer by whom it is issued, be addressed either to the chief headman or to any headman who is by his office responsible for the execution thereof. And if the order is addressed to the chief headman, he may either execute it himself or refer to the responsible headman.

(ii) In addition to his own duties as a headman the chief headman shall be responsible for the due execution of their duties by other headmen in the same estate.

(iii) Nothing in sub-sections (i) and (ii) shall be deemed to apply to the matter defined in clauses (i) to (iv) of rule 20.

**24.** The remuneration of the chief headman of an estate shall be.

(i) The remuneration appointed in respect of his office when the land-revenue of the estate was last assessed;

(ii) Or failing any such special provision, a portion of the village officer's cess equal to one per cent of the land-revenue collected from the estate;

(iii) This remuneration shall be collected by the village headmen and be paid by them to the chief headman;

**25.** (i) Where a headman or chief headman commits breach of or neglects the duties imposed on him by these rules or by any other law for the time being in force, the Collector may by order direct-

(a) that the emoluments of his office be withheld and forfeited to Government for a term not exceeding one year; or

(b) that he be suspended from office for a term not exceeding one year.

(ii) In a case of suspension, a substitute shall or shall not be appointed, as in the circumstances of the case, the Collector shall deem necessary.

**26. (i)** Where an estate is owned by a non-resident land-owner, he may nominate, for the Collector's approval, a substitute to discharge the duties of headman from among the residents in the estate. If the non-resident owner fails to nominate a fit person, the Collector may appoint a substitute from among the resident tenants.

*(ii)* Where, in an estate owned by more land-owners than one, non-resident headman is liable, either individually or as representative of other non-resident land-owners, for more than half the land-revenue of the estate, a substitute for such headman may be appointed from among either the resident land-owners or tenants. In making such appointment the Collector shall consult the wishes of the non-resident headman.

**27.** Where, by reason of old age, physical infirmity, or absence from his circle or village with the permission of the Collector, a chief headman or headman, or, by reason of minority, or other cause, a headman is unable to perform the duties of his office in person, a substitute may be appointed to discharge those duties. A substitute appointed under this or the preceding rule, shall be deemed to be, and shall be equally with the person in whose behalf he is appointed the village officer, appointed to the office and the Collector may in each such case direct, from time to time, whether the duties of the office shall be performed by the substitute or the substantive holder, or by both concurrently

**28. (i)** When the person on whose behalf the substitute was appointed vacates his office, the tenure of office by the substitute shall thereupon abate.

*(ii)* Saving as provided in sub-section (i), an order appointing a substitute shall remain in force until it is revoked, or until the substitute dies or is dismissed or resigns the appointment.

**29. (i)** In appointing a substitute for a minor headman, the Collector shall select any land-owner resident in the village, or any resident tenant if the case falls under rule 14 (ii).

*(ii)* In making other substitute appointments under rule 27, the Collector shall consult the substantive holder of the office when he is capable of expressing his wishes in the matter. Any resident land-owner in the estate or circle, as the case may be, or any resident tenant in cases falling under rule 14 (ii), shall be eligible for appointment as a substitute under this sub-section.

*(iii)* In judging the fitness of a person for appointment as a substitute under this rule, regard shall be had to the property which he will inherit from the person he is intended to represent, in like manner as if he had already inherited it.

*(iv)* A substitute may be removed at any time by the Collector either on his own motion or, except in the case of a substitute for a minor headman, at the request of the person for whom the substitute is acting, for any reason which would justify the removal of the substantive holder of the office or for any other reason which the Collector thinks sufficient.

**30. (i)** For special reason to be recorded in the order appointing a substitute, the person in whose stead a substitute is appointed may be permitted to enjoy a portion not exceeding a moiety of the remuneration of the office.

*(ii)* In the absence of any such order a substitute is entitled to the whole remuneration of the office.

**30A.** In the case of lambardars of "Phatis" in Kulu District the foregoing rules shall be read subject to the modification that in their appointment the considerations shall be those prescribed in clauses (b), (c) and (d) of rules 15. Rule 17 shall not apply to them.

(ii) In the phatis in waziri "Rupi" the Commendation of jagirdars shall be considered, in appointment of lambardar, who may be dismissed when he is obnoxious to the jagirdar.

**30B.** The remuneration of gatpo chenmos in the kothis of Waziri Spiti of the Lahaul and Spiti District is fixed at Rs 20 in cash assigned from the land-revenue of their respective kothis.

**30C.** In the case of the inams in the Jhelum district, the foregoing rules shall be read subject to the following modifications:

1. The Jhelum inams are of three descriptions-

- (a) the inams sanctioned at the 1st regular settlement (Mr. Brandreth's) Register A;
- (b) new inams sanctioned at the 3rd regular settlement (1895-1901) for ilaquadars: Register B;
- (c) new inams sanctioned at the 3rd regular settlement for non-ilaquadars: Register C.

#### ***Register A Inams***

2. Register A inams are hereditary grants from Government, conditional on the performance of all the duties of an inamdar under rule 10.

3. When a register A inam has been vacated, the appointment thereto shall, as far as possible, be made in the manner prescribed for lambardars by rule 17 (ii). If no suitable heir is thus forthcoming the appointment shall be made in the manner prescribed for zaildars under rules 4 and 5.

4. A register A inam may be confiscated or suspended under the provisions of rule 25, but if is not allowable to confiscate or suspend one inam to give its holder another of less value. No inam exceeding Rs. 100 in amount shall be confiscated without previous sanction of the Commissioner.

5. When an inamdar dies, the Collector has discretion to reduce the inam, but this should not be done, except for special reasons to be recorded in writing, when the eldest son succeeds, nor except in special cases when owing to the unfitness of the eldest son a younger son or grandson of the last holder succeeds. The power of reduction may be exercised more freely when the inam is given to a person who is not in the direct line of descent.

6. Savings from lapsed and forfeited inams are to be utilized for additions to register A inams anywhere in the district with a view to the ultimate introduction of a graded system. When inams are increased or reduced, the amount of the inam so altered should, as far as possible, amount to either Rs. 150, Rs. 125, Rs. 100 or Rs. 75. Such reductions and increases of inams are subject to confirmation by the Commissioner.

#### ***Register B Inamdar***

7. These correspond to zaildari allowances and have been sanctioned for ilaquadars who do not enjoy register a inams, and are graded at Rs. 150, Rs. 100 and Rs. 75. The numbers given at settlement in each grade may be increased from savings from register Cinams, but not from register A inams. The amount sanctioned for register 8 at settlement was Rs. 3,275 of which Rs. 675 was for the Tallangang tehsil since transferred to the Attock district

8. Register B inams are governed by the ordinary rules under the Land-Revenue Act including (as they are graded) rules 12 and 13 and have been sanctioned for the term of settlement, but increases given from register C are for life only if this term is shorter (see rule 9 infra).

### *Register C Inams*

9. These correspond to sufedposhi inams, they have been sanctioned for non-ilaqadars not enjoying A inams, for life or for the period of settlement, whichever is shorter, to a deserving ilaqadar, whose inam appears to be too small, or to any other person of influence who is not an ilaqadar. The sanction of the Commissioner is not necessary when the proposed successor is son of the deceased inamdar or a village headman in the same ilaqa.

10. These sufedposhi inams aggregated Rs. 815 which included Rs. 80 of the Tallagang tehsil, since transferred to the Attock district, and are graded Rs. 50, Rs. 40 and Rs. 30. Except for the special conditions given in rule 9 above, the Land-Revenue Rules apply to them.

**30D.** At last settlement Government sanctioned in the Tallagang tehsil nine hereditary posts of zaildars and seven hereditary posts of inamdars. To these hereditary posts the foregoing general rules apply subject to the following modifications:-

(i) These hereditary inams are grants from Government conditional on the performance of all the duties of zaildar or inamdar, under rule 9 or 10 respectively.

(ii) The inams being hereditary, rule 12 about promotion and reduction of zaildar shall apply subject to the limitations that no hereditary inam shall be paid less than the amount shown in the special register maintained by the Collector Attock, in which the names of the special inamdars and the amounts of their fixed inams are shown.

(iii) When any such inam becomes vacant due to death, resignation or dismissal, a successor to that vacant inam shall be appointed as far as possible, in the manner prescribed for lambardars by rule 17(ii).

(iv) If none of the heirs of the last incumbent who succeeded to his property is considered fit for succession to the hereditary inamdari the Collector shall apply to the commissioner for sanction to strike off the inam from the register of special inam. If the Commissioner accords this sanction, the Collector shall make an appointment in accordance with Rules 4, 5, 7 and 8. If the Commissioner does not agree to the proposal, the Collector shall proceed to appoint the senior-most incumbent according to the rule of primogeniture, whom he considers fit to be appointed

### *Estates and Survey Marks*

**31.** All demarcated areas of uncultivated and forest land owned by government are declared to be estates within the meaning of the Punjab Land Revenue Act, 1887.

**32.** At every angle on the boundary between two estates and at such other places on the boundary lines as may be necessary for the convenient determination of the boundary pillars of mud or stone shall be erected, not less than 3 feet in height.

**33.** At every point where the boundaries of more than two estates meet a trijunction pillar of the following specification shall be erected.

**Material.** - A single block of stone or masonry of stone or burnt brick with lime mortar; if masonry, upper surface to be plastered with Pakka lime plaster.

**Shape.** - If a stone block, in length and breadth not less than 18 inches and in depth not less than 3 feet. If masonry cubic, each edge of the cube not less than three feet long.

**Position.** - The lowest side of the pillar to be accurately bedded upon a levelled surface, and only half the pillar to be above ground.

#### Procedure of Revenue Officers

**34.** (i) The statements and pleadings made by or on behalf of parties to revenue proceedings, whether oral or written, shall be as brief as the nature of the case admits; and shall be confined as much as possible to a simple and concise narrative of the facts which the party by whom or on whose behalf the statement or pleading is made believes to be material to the case and which he either admits or believes that he will be able to prove.

(ii) Every written application or statement filed by a party to a revenue proceeding shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

**35.** The death of one of the parties to a revenue proceeding, or in a proceeding to which a female is a party, her marriage, shall not cause the proceeding to abate. And the Revenue Officer before whom the proceeding is held shall have power to make the successor in interest of the deceased or of the married female a party thereto.

**36.** In fixing date for the hearing of parties and their witnesses, in adjourning proceedings and in dismissing applications on default or for other sufficient reasons, a Revenue Officer will, so far as the nature of the case may require or permit, be guided generally by the principles of the procedure for the time being in force in Revenue Courts.

**37.** The provisions of sections 75, 78 of the Civil Procedure Code and of Schedule 1, Order XXVI, annexed to the said code in respect of commissions shall apply in the case of proceedings before a Revenue Officer.

**38.** (i) A Revenue Officer may at his discretion award to a witness attending on summons a sum on account of his expenses not exceeding the sum to which the witness would have been entitled for a like attendance in a Civil Court.

(ii) The sum so awarded shall be costs in the proceedings.

**39.** In proceedings under section 34, sub-section (4) of the Land Revenue Act, no detailed record of the statements of parties and witnesses shall be made; but the order of the Revenue Officer shall state briefly the persons examined by him, the facts to which they deposed and the grounds of the order.

**40.** In other proceedings under the Land Revenue Act, not being proceedings under section 117, and in proceedings before a Revenue Officer under the Punjab Tenancy act, the Revenue Officer shall make with his own hand a brief memorandum of the statements of parties and witnesses at the time when each statement is made.



**41.** In every proceeding in which an order is passed on the merits after enquiry, the Revenue Officer making the order shall also record a brief statement of the reasons on which it is founded.

**42. (i)** In proceeding in which costs have been incurred, the final order shall apportion the costs between the parties to the proceeding.

*(ii)* Costs thus apportioned shall be recoverable by the Revenue Officer by attachment and sale of the moveable property of the persons liable for the same in the manner prescribed in section 70 of the Land Revenue Act.

**43. (i)** Orders of ejectment from, and delivery of possession of immovable property shall be enforced in the manner provided in the Code of Civil procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejectment from, or delivery of possession of such property.

*(ii)* And in the enforcing of these orders a Revenue Officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-section (i).

#### *Language of Revenue Offices*

**44.** The language of revenue offices at or below district level shall be-

- (a) Hindi in Devnagari script in the Hindi Region and Punjabi in Gurmukhi script in the Punjabi Region; and
- (b) English and Urdu in Chandigarh Capital; provided that the order or judgment, against which an appeal or revision under the law for the time being in force, may be written by the Presiding Officer in English.

*Explanation.-* The expressions, 'Hindi Region' and 'Punjabi Region' shall have the meaning assigned to them in Punjabi Regional Committees Order, 1957.

**45.** x x

**46.** x x

#### Execution of certain orders of Civil and Criminal Courts through Revenue Officers

**47.** When the produce of any land has been attached in pursuance of an order for its attachment and sale addressed to the Collector by a Civil or Criminal Court, the Collector shall direct that an appraisalment of the attached produce be made by a Revenue Officer or by the kanungo of the circle in which the land is situated. The produce shall not be sold until the appraisalment has been approved by the Collector or by a Revenue Officer appointed in that behalf by the Collector.

**48.** Sale of the produce of land shall be made by a Revenue Officer or by the field kanungo of the circle in which the land is situated. When the sale is made by the kanungo it shall be carried out in presence of a village headman appointed in that behalf by a Revenue Officer.

The field kanungo shall be entitled to a commission of 5 percent on the sale proceeds.

**49.** When produce sold by a kanungo consists of movable property, the purchase money shall not be received nor shall the sale become absolute until the sale has been confirmed by the Collector, or by a Revenue Officer named by the Collector.

**50.** When an order of a Civil Court is sent to the Collector for the execution of a decree for the possession of land, the Collector shall give possession to the decree-holder on the date specified in the decree or in the directions issued by the Civil Court executing the decree. If no date is specified in the decree or by Civil Court and the land, of which possession is to be given, is in the cultivating possession of the judgment debtor, the Collector shall at once refer to the Civil Court for instructions as to whether or not he is to delay execution until any crop which may have been sown by the judgment-debtor and is standing on the 'land' has been removed.

#### Collection of Land Revenue.

**51.** When there are superior and inferior land-owners in the same estate or in the same holding, the inferior land-owner shall, in absence of any special order of the Financial Commissioner to the contrary be liable for the land-revenue.

**52. (i)** Land-revenue payable in cash shall be paid at the office of the tehsil to which the estate belongs except in the following cases:

- (a) Where the tehsil treasury at the district headquarters has been incorporated with the district treasury. In this case the payment shall be made into the district treasury, the statement of the manner in which the sum paid is to be appropriated being first checked and attested by the tehsildar.
- (b) Where a special arrangement has been made with the sanction of the Deputy Commissioner authorizing any person under engagement to pay land-revenue direct into the District treasury. In this case the payment shall be made as provided in clause (a).
- (c) Where the special permission of the Commissioner has been given authorizing any person to pay land revenue into the headquarters treasury of another district within his division or with the concurrence of the Commissioner concerned into the headquarters treasury of any district in another division of the Punjab.
- (d) Where the land-revenue is assigned, and the assignee has made arrangements satisfactory to the Collector for receiving such revenue at any place approved of by him or within fifteen days after the dates fixed for the payment of the installments of the Government demands. In this case the payments shall be made at the place so approved.

(ii) If only part of the land-revenue of an estate has been assigned, the assignee shall not be permitted to appoint under this rule a place for payment of the land revenue due to him other than a place in the estate.

**53. (i)** Where by the terms of the current assessment the land-revenue is payable in cash, but the amount to be paid at each harvest is determined by appraisalment of the produce, the appraisalment shall be made by the revenue Officer or other agent appointed by the collector in this

behalf at the place where the produce is grown, but the land-revenue determined to be due shall be paid at the place and in the manner provided under the last foregoing rule.

(ii) Where in a case under this rule the land-revenue is assigned, the Collector may at his discretion permit the assignee to make the appraisalment.

**54.** (i) Where land-revenue is payable in kind, the produce shall be divided at the place where it is grown, in the presence of a Revenue Officer or agent appointed by the Collector to superintend the division, and the produce thus ascertained to be due as land-revenue shall be paid to that Revenue Officer, or agent at the same place.

(ii) Where in a case under this rule the land-revenue is assigned, the Collector may at his discretion authorise the assignee to make the division and to receive the land-revenue in person or through an agent.

**55.** (i) No order under the foregoing rules, by which arrangements made by an assignee for the receipt of assigned land-revenue payable in cash are approved, shall authorise the assignee to receive payment otherwise than from village headman empowered under these rules to collect the same from the land-owners.

(ii) If the land-revenue is not paid to the assignee by the date fixed for payment, the Collector of his own motion or on the application of the assignee may order that it be paid to himself in the same manner and at the same place as is appointed for the payment of land-revenue due to government in the same tehsil.

**56.** The Collector may at any time cancel an order made in favour of an assignee of land-revenue under rules 52, 53 or 54 and the land-revenue due to the assignee shall thereafter be paid or the produce be appraised or divided (as the case may be) in the same manner and at the same place as is appointed in respect of estates in the same tehsil of which the land-revenue is due to Government.

**57.** (i) Land-revenue due to assignees, that is paid under the foregoing rules into a Government treasury, shall be held-in deposit at the credit of the assignee, and shall be paid to him on his demand.

(ii) A charge of 2 percent for expenses of collection, or such other charges, as may in any case have been prescribed, shall be deducted by the Collector from all such sums.

**58.** The continuance of such special arrangement as is referred to in the second exception to rule 52 for payment of land-revenue direct into the district treasury shall depend on the punctual payment of the revenue and on any arrear falling due the Collector shall make an order cancelling the arrangement.

#### *Collection of Rates and Cesses*

**59.** (i) Where the annual land-revenue of an estate is payable at one harvest the demand of each year from that estate on account of rates and cesses shall be paid at the same harvest.

(ii) In all other cases the demand of each year from that estate on account of rates and cesses shall be paid in two installments, namely, one at the kharif harvest and the other at the rabi harvest, and each installment shall bear the same proportion to the total demand of the year as the

installment or installments of land-revenue due on the same estate for the same harvest bear to the total land-revenue payable by the estate for the same year

**60.** Rates and cesses due at each harvest shall be payable on the date on which the first installment of land-revenue due from the same estate on account of the same harvest is payable, and except as by these rules is otherwise provided, at the revenue office appointed for the receipt of land-revenue due to Government in the same tehsil.

**61.** Where no land-revenue is payable by an estate, the rates and cesses due therefrom shall be payable by the same installments and at the same dates by and at which the rates and cesses of the adjacent estates are payable and the Collector shall by order determine the installments and dates which are applicable under this rule.

**62. (i)** A headman when paying an installment of rates and cesses as required by rule 60, shall be entitled to withhold –

- (a) any portion of the due demand which contains of produce in kind due to village officers' holding office in the estate;
- (b) the remuneration due to persons other than the patwari;
- (c) the proceeds of any cess leveled on account of village expenses.

**(ii)** It shall be the duty of the headman to pay sums thus withheld to the persons entitled to the same.

#### *Process fees*

**63.** For the service of every writ of demand, warrant of attachment and for warrant of arrest or other process for the collection of revenue under Chapters VI and VII of the Punjab Land Revenue Act, 1887, (XVII of 1887) a Charge shall be made at the following rates:

	Rs.
1) For writ of demand	1.00
2) For warrant of attachment	2.00
3) For warrant of arrest or other process	3.00

#### *Recovery of Arrears*

**64. (i)** An application under section 97 of the Land Revenue Act shall state: -

- (a) the name and description of the defaulter;
- (b) the arrear of which recovery is desired;
- (c) the circumstances which have made the application necessary.

**(ii)** Any number of defaulters residing in the same estate may, at the discretion of the Revenue Officer to whom the application is made, be included in the same application but the arrear due from each defaulter shall be separately specified.

**65. (i)** If the application is in due form and the arrear, of which recovery is desired has not been due for more than six months, the Revenue Officer shall fix a date for the hearing of the case, and serve a writ of demand on the defaulter together with a notice requiring him to appear on the date so fixed, if the demand has not in the meantime been paid.

(ii) If the arrear has been due for more than six months the application shall be rejected, unless the applicant satisfies the Revenue Officer that the delay in realizing the arrear is not due to his neglect. And, if so satisfied, the Revenue Officer shall proceed as in sub-section (i)

**66.** On and after the date fixed for the attendance of the defaulter, the Revenue Officer shall make an inquiry into existence of the arrear, and if it is proved, he shall record an order standing the amount of the arrear and the person who is the defaulter, and shall thereafter proceed to recover the same.

**67.** A defaulter who under section 69(2) of Punjab Land Revenue Act is being kept under personal restraint may be allowed to be at large upon bail being given that he shall not absent himself from a place to be specified by the Revenue Officer ordering the restraint during certain hours until ten entire days have elapsed from the commencement of his detention, unless the arrear be sooner paid.

**68.** No defaulter shall be detained under section 69(2) of the Act or confined under section 69(3) for an arrear unless it is due from himself or from a co-proprietor, of whom he is the representative village headman; nor shall any defaulter be imprisoned for an arrear due before he came into possession of office.

**69.** If in any case, an Assistant Collector or the 2nd Grade decides to keep a defaulter arrested by warrant under detention instead of causing him to be taken' before the Collector, he shall without delay report his action to the Collector, for information if the detention exceeds twenty four hours.

**70.** When it is proposed to sell an estate or holding or any other immovable property under section 75 or section 77 of the Act, such estate or holding or immovable property shall in the first place be attached in the manner prescribed in section 72.

**71 and 71A. Repealed.**

**72.** The statements prescribed by clause (a) of sub-section (2) of section 31 of the Punjab Land Revenue Act shall be recorded in the form set forth below to be known as Jamabandi with such additions as the. Financial Commissioners may prescribe from time to time for each district: -

1	2	3	4	5	6	7	8	9	10	11	12
Khewat or Jamabandi No.	Khatauni No.	Name of Patti or Taraf, with name of lambardar and revenue.	Owner with description.	Cultivator with description.	Well or other means of irrigation.	Field Nos.	Areas.	Rent paid by cultivators, rate and amount.	Share or measure of right and rule of bachh.	Demand with detail of revenue and cesses.	Remarks.

Note - (1) In column 4, the father's name, the grand-fathers name, and residence of the owner shall be entered.

(2) In column 5, the father's name, the grand-father's name, and residence and status (e.g., maurusi, ghair maurusi) of the cultivator shall be entered.

(1) The presumption of truth attaches to the entries so made only in respect of owners and of mortgagees with possession for a period of more than 20 years in estates outside the municipality or cantonment and in the District of Shimla except the Ilaqa of Kotgarh in Kot Khai Tehsil and it is only in regard to such persons that careful enquiry is necessary.

(2) The presumption of truth attaches to the entries so made only in respect of occupancy tenants; and of lessees for a period of more than 20 years in estates outside a municipality or cantonment and in the District of Shimla except the Ilaqa of Kotgarh in Kot Khai Tehsil and it is only in regard to such persons that careful enquiry is necessary.

**72A.** Where the proprietary rights in the land have accrued, since the 15th June, 1952 or the 18th August, 1953, to occupancy tenants and adna maliks, by virtue of section 3(a) of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952, or the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act 1954, as the case may be, and section 3(a) of the Punjab Abolition of Ala Malikiyat and Talukdari Rights Act, 1952, or the Pepsu Abolition of Ala Malikiyat Rights Act, 1954 as the case may be, necessary variations in proprietary rights, title and interest shall be given effect to in the records of rights or annual records by making such entries straight-way without resorting to mutation proceedings.

Similar procedure shall be observed in the case of proprietary rights accruing to occupancy tenants in Shamlat lands after the expiry of a period of six months from the 15th April, 1953, or the date of publication of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952, or from the date of their obtaining the occupancy rights, whichever is later, except in the cases where an occupancy tenant has exercised the option under the proviso to section 3(a) of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952, not to acquire a share in the Shamlat. However, in the case of proprietary rights accruing to occupancy tenants in Shamlat lands under the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954, necessary variation will be recorded with effect from 18th August, 1953, when the President's Act was enforced in that State or from the date of obtaining occupancy rights.

A reference to the relevant section of the Act under which these rights have been acquired shall be recorded in the remarks column of the records of rights or the annual records.

**72B.** (1) Where the proprietary right or other rights, title or interest on the evacuee property, as described in the Administration of Evacuee property Act, 1950 (XXXI of 1950), have been acquired by the Central Government under section 12 of the Displaced persons (Compensation and Rehabilitation) Act 1954 (44 of 1954 (hereinafter referred to as the said Act) and have been transferred by that Government under section 10 of the said Act, or where any such rights have been transferred in payment of compensation under section 20 of the said Act, such transfer shall be given effect to in the Records of Rights or Annual Records, as the case may be, by making necessary entries on the basis of the Sanads issued under section 10 and section 20 of the said Act by the Central Government, without resort to mutation proceedings.

(2) Similarly the name of Central Government shall be recorded in the relevant column of the Record of Rights or annual Record, as the case may be, without entering a mutation, in all those cases in which proprietary or other rights, title or interest have been acquired by the Central Government but not transferred as specified, in sub rule (1). The names of temporary allottees or lessees, as the case may be, shall be entered as such in the cultivator's column.

Note - A reference to the relevant sections of the Act and notifications issued thereunder, under which such rights, title or interest, have been acquired by the Central Government and necessary particulars of Sanads, conferring rights of ownership upon the allottees shall be recorded in the remarks column remarks of the Record of Rights or Annual Record, as the case may be.

(3) Rights of evacuee mortgages or mortgagors of the land owned by or in favour of non-evacuees shall continue to be recorded in the owner's or cultivators' column, as the case may be, in the name of the Custodian, till such rights are separated under the provisions of the Evacuee Interest (Separation) Act, 1951 After the rights have been separated by the Competent Officer between the Custodian of Evacuee Property and the non-evacuee right holders, the Custodian's separated share shall be recorded in the name of the Central Government as laid down in sub-rule (2).

(4) The names of Muslim properties held in trust for a public purpose or a religious Or a charitable nature, shall be recorded in the owner's or cultivator's column, as the case may be, of the Record of Rights or Annual Records and the words "under the Management of the Custodian" i.e., "Falan Mazabi Addra ba ehtmam Custodian" urdu shall be recorded alongwith the name of the institution without resort to mutation proceedings. In the cultivator's column the tenant's name shall be shown under the Custodian, i.e. "Kasht Falan ghair Mauroosizer taht Custodian."

(5) The preparation of "Fard Taqsim Anazi Matrooqa" shall hereafter be discontinued.

**73.**

**74.**

**75.** Cancelled

**76.**

**77.** In all cases in which processes are issued by post, the parties concerned shall be required to pay Talbana at the rate of thirty-one naye paise per head with a minimum of fifty naye paise.

**The Himachal Pradesh Cancellation of Remission or Assignment of Land Revenue Rules.  
1966**

1. **Title and commencement-** These rules may be called the Himachal Pradesh Cancellation of Remission or Assignment of land Revenue Rules, 1966.

2. They shall come into force at once.

3. **Definitions:-** In these rules, unless there is anything repugnant in the subject or context:-

- (a) "Act" means the Himachal Pradesh land Revenue Act, 1954 (Act No. 6 of 1954).
- (b) "Financial Commissioner" means the persons appointed as such by the State Government under Section 8 of the Act.
- (c) "Deputy Commissioner" means the person appointed as such by the State Government under section 8 of the Act.
- (d) "Section" means a Section of the Act.
- (e) "Muafi" means remission of land-revenue to the land-owner, that is to say, the term "Muafi" implies that the holder of the land is excused from paying the Government land revenue and usually he is a person who owns the land but is exempted from payment of land revenue of the grant of land has been made revenue free.
- (f) "Jagir" means as assignment of land revenue which is collected and paid to the Jagirdar. The Jagirdar may subsequently acquire the property and if he does, the grant technically becomes a muafi, though it always continues to be shown as Jagir.

4. **Categories of muafis and jagirs:** The following categories of muafis and jagirs exist in Himachal Pradesh;

- (i) (1) Perpetual (2) life time (3) For a number of generations (4) Title and currency of settlement (5) Religious grants in favour of Dietsies (6) Jagirs granted by the Ex-rulers to their family member from a common ancestor or to their relatives (7) muafis/jagirs granted to the military personnel for their services in the Army (8) Charitable grants for the maintenance of garden or "Sarai" (9) Muafis and Jagirs sanctioned in lieu of meritorious services (10) service items.
- (ii) Petty assignment of land-revenue conferred on wastage officials like 'Batwala'.

5. **Basic principles for the resumption of muafis and Jagiris:** Notwithstanding anything contained in any Patta or Sanad of grant or the terms and conditions of a grant made before the Act came into force, the State Government shall have the power to cancel such grant/grants in the light of the following guiding principles:-

- (a) in the case of grants for service, the primary test is whether the grantee is and will be in fact any longer rendering any service to the public or the State (As distinct from service to the ruler).
- (b) In respect of charitable grants, the criteria is whether the grant is and will be still in public interest.
- (c) Grants purporting to be in perpetuity are to be considered in the light, firstly, of the fact that as it will be known perpetuity had title or its true meaning in practice during the previous regime notwithstanding that sanads or other papers said, the tenure of every so-called



perpetual grant being tacitly subject renewal at the will of every new ruler and secondly, of the consideration that modern trends are not much in favour of perpetual grants of public revenue.

- (d) In deserving cases, some leniency may be shown as a matter of grace.
- (e) All such muafis and jagirs which are not in public interest and conditions whereof have become redundant in the changed circumstances of today may be resumed forthwith.
- (f) in most deserving cases, the jagirs/muafis may be allowed till life time of the present assignees, but it should be in very rare cases and the Deputy Commissioners should send their recommendations in this behalf.
- (g) muafis and jagirs assigned in favour of deities and temples should be allowed to continue on the following terms;
  - (i) the existence of the temple in good condition and its proper management;
  - (ii) the existence of adequate number of followers of the god and goddess;
  - (iii) the servants of the god or goddess should bear good moral character and should be loyal to the Government;
  - (iv) the muafi lands should not be alienated without prior approval of the Government;
- (h) Jagirs granted by the ex-rulers to their family members may be allowed to continue till life time of the present assignees. Muajis granted to those persons who volunteered then services for the Indian Army at the time of national crisis e.g., during external aggression or internal commotion should be allowed to continue till life time of the present assignees. Muafis will be resumed if:-
  - (1) the muafidar is declared deserter from the army, or
  - (2) the muafidar is punished by court martial, civil courts for anti-national activities.
- (i) muafis granted for the maintenance of garden or sarai and for good conduct, loyalty and obedience of the muafidar may be allowed to continue as the same are for the common good of the people.
- (j) muafis granted as inam lands may be allowed to continue on the conditions that the inamdar should bear good moral character and be loyal to the Government. The inamdar cannot alienate the inam without prior approval of the Government. Resumption or further continuance of the assignments will be revised by the Government after the death of the present Inamdar.
- (k) "where right, title and interest in the land under section 11, 14 and 27(4) have been acquired by a tenant or vested in the State Government under section 15 of 27(1)(3) of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, the muafi of the land-revenue attached to such land shall automatically stand resumed with effect from the date the right, title and interest of the land-owner is extinguished".

**6. Duties of collector in connection with assignments.-** The main duties of collector of the District in connection with revenue free grants are as under:-

- (1) As regards term-expired grants to see that lapses are enforced without delay or a recommendation made for a reconsideration of the original order should resumption appear undesirable;
- (2) as regards other assignments:-
  - (a) on the death of the existing holder to enquire promptly about the succession;

- (b) to satisfy himself that the conditions of the grant are substantially fulfilled by the assignee;
- (3) the proceedings preliminary to orders creating or resuming assignments of land-revenue, or continuing them to successors or transferees, should in all cases be submitted after the usual recital of the substance with the recommendation of the Collector along with the recommendation of the Commissioner if any to the Financial Commissioner for orders of the State Government.

7. **Procedure.-** On the death of muafidar or on the lapse of terms of a muafi, it is the duty of the Patwari of the area in which the muafidar has died or term of muafi expired to report the facts to his immediate superior, i.e. Tehsildar who will make necessary enquiries in the matter and submit his report to the Collector of the district. The Collector of the district after examination of the case shall refer the matter to the State Government with his recommendations for cancellation or for continuance of the muafi/jagir in question. The State Government will pass necessary orders with regard to resumption or continuance of the muafi. The entries as to cancellation of remissions or assignment of land-revenue will be affected in accordance with the procedure laid down in para 7.28 of the Himachal Pradesh Land Records Manual.

### Notifications issued under the Himachal Pradesh Land Revenue Act, 1954

(Includes notifications under other Acts related to matters of Revenue Department)

Sr. No.	Reference	Type	Subject	Page No.
1.	The H.P. Govt. Department Notification No. Ft. 29-241-BB/49 Dated Simla-4, the 25.02.1952.	Notification under section 29 of the Indian Forest Act, (XVI of 1927)	Regarding all Govt. waste lands as forest land in H.P	126
2.	The H.P. Govt. Department Notification No.LR.107-420/54. dated 25.01.1971.	Notification under Rules 1 and 2 of Order XXVII of the Code of Civil Procedure.	Regarding signing and verifying the Plaints and Written Statements in suits by or against the State of H.P.	127
3.	The H.P. Govt. Department Notification No.Rev.D-B(15)-2182, dated 27.03.1984.	Notification under rule 21(1) of Punjab Land Revenue Rules and Rule 7 of H.P Land Revenue Surcharge Rules	Remuneration of Nambardars	128
4.	The H.P. Govt. Department Notification No. Rev.D(A)2-91/82 dated 27.07.1985.	Notification u/s 11 of Land Revenue Act, 1954	Functions of Revenue Officers	129
5.	The H.P. Govt. Department Notification No.Rev.D(D)1-18/85-I, dated 26.12.1989.	Notification u/s 38 of Land Revenue Act, 1954 and Section 80 of Indian Forest Act, 1927.	Entry of Khudro Drakhtan Malkiyati Sarkar	131
6.	The H.P. Govt. Department Notification No. 10-9-69-II-Rev.B dated 23.09.1992.	Notification u/s 39(1)	Mutation Fees	133
7.	The H.P. Govt. Department Notification No.PER(AR)A(6)3/89-III. Dated 16.10.1996.	Notification	Delegation of powers to Divisional Commissioners.	135
8.	The H.P. Govt. Department Notification No.Rev.D(D)12-16/94 dated 11.03.1999.	Notification under sub-section (1) of Section 33 of the Land Revenue Act, 1954	Notification regarding deletion of the entry Khudrao Darkhtan Malkiat Sarkar.	138
9.	The H.P. Govt. Department Notification No. Rev.D(F) 4-3/94	Notification	Collection of Land Revenue &	139

	dated 06.05.2000		depositing it with the Panchayats.	
10.	The H.P. Govt. Department Notification No.Rev.C(F)10-1/2009 dated 14.02. 2011	Notification under Section 45 of the Land Revenue Act, 1954	Authorizing the Lok Mitra Kendras for issueing the jamabandi.	140
11.	The H.P. Govt. Department Notification No.FE-B-E(3)-31/2001-I dated 19.02.2011	Notification of Forest Department.	Regarding definition of Forest.	141
12.	The H.P. Govt. Department Notification No. Home-B(B)15-10/2006-HC dated 11.03.2011	Notification of Deptatment of Home under Cr.PC	Regarding Powers of Executive Magistrates upon the Naib Tehsildar/ Tehsildars in the State of H.P.	143
13.	The H.P. Govt. Department Notification No.Rev-A(A)2-4/2009 dated 19.06.2014	Notification under Section 7 of the Land Revenue Act, 1954	Regarding powers of Assistant Collector Gr.-I & Gr.-II upon the Tehsildar and Naib-Tehsildar by virtue of post for disposal of different type of Revenue cases.	144
14.	The H.P. Govt. Department Notification No. Home-B(B) 15-10/2006-HC dated 27.07.2015	Notification under sub-section (1) of the Section 20 of the Code of Criminal Procedure, 1973	Regarding Powers of Executive Magistrates upon the Naib Tehsildar/ Tehsildars in the State of H.P.	145
15.	The H.P. Govt. Department Notification No. Rev-A(A)2-4/2009 dated 28.02.2017	Notification under Section 7 of the Land Revenue Act, 1954	Regarding powers of Assistant Collector Gr.-I under this Act to all the Indian Administrative Service Probationers (under Training)	146
16.	The H.P. Govt. Department Notification No. Rev.B.A.(3)3/2021-L dated 08.08.2022	Notification under Section 28 of the Land Revenue Act, 1954	Regarding conferment of revisional powers upon the Divisional Commissioner under section 17 of the Act.	147

17.	The H.P. Govt. Department Notification No. Rev.B.A.-2/2018, dated 12.06.2023	Notification u/s 39(1) of the Land Revenue Act, 1954	Mutation Fees	148
<b>Instructions and Clarifications issued under the Himachal Pradesh Land Revenue Act, 1954</b>				
1.	The H.P. Govt. letter No.Rev.2A(4)-5/78 dated 15.01.1980	Instruction	Girdawari	150
2.	The H.P. Govt. letter No.Rev.2A(4)-5/78 dated 28.04.1980	Instruction	Girdawari	151
3.	The H.P. Govt. letter No.Rev.10-5/73-11 dated 04.09.1980.	Instruction	Girdawari	152
4.	The H.P. Govt. letter No. Rev. D(F)-6/86 dated 04.10.1986.	Instruction	Removal of Encroachments	153
5.	The H.P. Govt. letter No. Rev. 2F(8)-1/80-Vol.III dated 13.03.1990.	Instruction	Removal of Encroachments	157
6.	The H.P. Govt. letter No. रैव0डी0(जी0)6-24/91 dated 09.07.1991	Instruction	Transfer of Govt. Land from one department to another department.	160
7.	The H.P. Govt. letter No. Rev-2A(4)-1/93-II dated 31.05.1996	Instruction	Succession to the property of a member of Schedule Tribe acquired outside the Tribale areas.	163
8.	The H.P. Govt. Department letter No. संख्या: रैव.2एफ(9)4/91, dated Shimla-2, the 14.11.1996	Instruction	फर्द जमाबन्दी, ततीमा एवं हिमाचली/जातीय/ आय से सम्बन्धित प्रमाण पत्र जारी करने के लिए अवैध रूप से परितोषण का ग्रहण किए जाने बारे	164
9.	The H.P. Govt. Department letter No. Rev-D(A)2-1/97 Dated: Shimla-2, 24.04.1997.	Clarification	Demarcation of private lands touching Govt. lands or boundaries of another estate	170
10.	The H.P. Govt. Department letter No. Rev-D(A)2-1/97 Dated: Shimla-2, 30.07.1998.	Instruction	Partition of Private and Government land	172
11.	The H.P. Govt. Department letter No. FFE-B(F)-8-76/96-Loose-Dated: Shimla-2, 25.08.1998.	Instruction	Obtaining NOC from the Forest Department before diversion of Government land for road construction, construction of building, transfer for industrial use etc.	173
12.	The H.P. Govt. Department letter No. रैव0बी0एफ0(8)-6/97 Dated: Shimla-2, 22.04.2000.	Instruction	भू-व्यवस्था के समय तैयार किए गये/किये जाने वाले भू-अभिलेख में "वन" व "जंगल" से सम्बन्धित इन्द्राज को दर्ज करने बारे मार्ग-दर्शन	175
13.	The H.P. Govt. Department letter	Instruction	Entry of equitable mortgage in Revenue	176

	No. 5/73 -Revenue-A(Vol.II)-loose Dated: Shimla-2, 02.03.2004.		Record.	
14.	The H.P. Govt. Department letter No. Rev. D(F)12-15/2004 Dated: Shimla-2, 09.03.2006	Instruction	Pending land dispute cases-Disposal thereof	177
15.	The H.P. Govt. Department letter No. Rev.B.A.(4)8/2004-Loose Dated: Shimla-2, 21.04.2006.	Clarification	Implementation of notification issued by the Forest Deptt. in the year, 1952.	178
16.	The H.P. Govt. Department letter No. Rev. D(E)5-2/2006 Dated: Shimla-2, 2006	Instruction	Monitoring of revenue court cases on monthly basis.	180
17.	The H.P. Govt. Department letter No. Rev. B.A.(4)-8/2004-1 Dated: Shimla-2, 19.05.2007.	Clarification	Applicability of FCA 1980 on land classified as “Na-Kabil”.	181
18.	The H.P. Govt. Department letter No. Home-E (5)2-918/2006 Dated: Shimla-2, 04.06.2007.	Instruction	Demarcation of land in criminal cases.	183
19.	The H.P. Govt. letter No. Rev.B.A.(3)1/2004 dated 31.12.2007.	Instruction	Entry of Mutation in Computer	185
20.	The H.P. Govt. Department letter No. Rev.B.F.(5)-2/2008 Dated: Shimla-2, 25.06.2008.	Instruction	Prevention of encroachments on Government land.	186
21.	The H.P. Govt. Department letter No. Rev.B.F.(4)3/2001 dated Shimla-2, the 06.10.2008	Instruction	Mode of determination of assessment of Land Revenue during making or special revision of record of rights.	188
22.	The H.P. Settlement Department letter No. Rev.(S.O.)SML/A/2008- 527 dated: Shimla-9, 27.10.2008	Instruction	Mode of determination of assessment of Land Revenue during making or special revision of record of rights.	189
23.	The H.P. Govt. Department letter No. Rev.B.F.(4)-3/2001 Dated: Shimla-2, 06.01.2009.	Instruction	Assessment of land revenue.	191
24.	The H.P. Govt. Department letter No. Rev.B.A.(4)8/2004-II Dated: Shimla-2, 28.02.2009.	Clarification	Applicability of FCA on Private land.	193
25.	The H.P. Govt. Department letter No. FFE.B-F(2)-25/2009 Dated: Shimla-2, 18.03.2009.	Clarification	Applicability of FCA on land classified as “Jayaj Safed”.	195
26.	The H.P. Govt. Department letter No. रैव0(एस0टी0)एस0एम0एल0/पे0/1-40/ 08-1902-33 24.05.2010.	Instruction	Caste correction/ entry in revenue record during settlement.	196
27.	The H.P. Govt. letter No. Rev.D(F)11-1/2009(Caste	Instruction	Regarding Caste Correction in Revenue	197

	Correction) dated Shimla-2, the 09.07.2010.		Records.	
28.	The H.P. Govt. letter No. Rev.B.A.(3)-3/2003-III dated Shimla-2 the 19.08.2011.	Clarification	Service of Summons by publication in official Gazette.	198
29.	The H.P. Govt. letter No. Rev.B.A.(3)1/2004-II dated Shimla-2, the 28.01.2012.	Instruction	Attestation of mutation at Tehsil level.	199
30.	The H.P. Govt. letter No. Rev.B.A.(3)1/2004-II-Loose dated Shimla-2, the 04.02.2012.	Instruction	Attestation of mutation at Tehsil level.	200
31.	The H.P. Govt. letter No. Rev.B.A.(3)-3/2003-III dated Shimla-2, the 30.07.2012.	Instruction/ Clarification	Self attested Undertaking/ Declaration.	201
32.	The H.P. Govt. letter No. Rev.B.A.(3)1/2004-III-Loose dated Shimla-2, the 03.09.2012.	Instruction	Entry of information of ongoing Revenue/Civil Litigations in the Revenue Record.	202
33.	The H.P. Govt. Department letter No. Rev.B.A.(3)-8/2012 Dated: Shimla-2, 10.09.2012.	Instruction	Entries of building or Part thereof in Jamabandi.	204
34.	The H.P. Govt. Department letter No. Rev.B.A.(3)-3/2012 Dated: Shimla-2, 13.09.2012.	Instruction/ Clarification	Competency of a revenue officer including Assistant Collector to demarcate boundaries of any land.	207
35.	The H.P. Govt. Department letter No. Rev.B.A.(3)-1/2004-III-Loose Dated: Shimla-2, 20.09.2012.	Instruction/ Clarification	Withdrawal of all previous instructions regarding mandatory stay of Tehsildars/ Naib-Tehsildars in field.	209
36.	The H.P. Govt. Department letter No. Rev.B.A.(3)-10/2012 Dated: Shimla-2, 21.11.2012.	Instruction/ Clarification	Noting lien by Registering Authority under Equitable Mortgage in the Revenue Records.	210
37.	The H.P. Govt. Department letter No. Rev.B.A.(4)-8/2001-IV Dated: Shimla-2, 31.10.2013.	Clarification	Issue of cases under Public Premises Act.	211
38.	The H.P. Govt. Department letter No. FFE.B-G(6)/ 2008 Dated: Shimla-2, 23.02.2015.	Clarification	Applicability of FCA on land classified as "Jaya Sarkar.	212
39.	The H.P. Govt. Department letter No. Rev.Stamp(A)3/2011-SLBC dated Shimla-2, the 07.05.2015	Clarification	Entry of lien by Registering Authority under Equitable Mortgage in the Revenue Records.	213
40.	The H.P. Govt. letter No. Rev.D(G)6-14/2013 dt. 22.12.2015.	Instruction	Regarding the ban on land transfer.	214

41.	The H.P. Govt. letter No. Rev.D(G)8-14/2015 dated Shimla-2, the 09.02.2016.	Instruction	Regarding transfer of Govt. Land from one Department to another Department.	215
42.	The H.P. Govt. letter No. Rev.C(c)6-1/2011-loose dated 21.04.2016.	Instruction	Regarding legal sanctity to digitized copy of Cadastral Maps.	216
43.	The H.P. Govt. Department Letter No. Rev.B.A(5)-1/2016 dated Shimla-2, the 20.09.2016.	Instruction	Regarding authorizing the Patwaris to carryout demarcation and partition.	217
44.	The H.P. Govt. Department letter No. Rev-D(G)8-14/2015 dated Shimla-2, the 16.04.2019	Instruction	Vestment of non-utilized Govt. land transferred in the name of other departments for specific purpose within a period of 2(Two) years to the Revenue Department.	218
45.	The H.P. Govt. Department Letter No. Rev.(LR)EODB/2017-16554-65 dated 05.11.2020.	Instruction	Module under e-Governance to help in Demarcation.	219
46.	The H.P. Govt. Department letter No. Rev-D(F)11-7/2019 Dated: Shimla-2, 23.12.2021.	Instruction	H.P Integrated Drug Prevention Policy.	220
47.	The H.P. Govt. letter No. Rev.D(G)8-6/2019-Part-1 dated Shimla-2, the 07.01.2022.	Clarification	Regarding entry of diverted forest land.	221
48.	The H.P. Govt. letter No. Rev.A (B) 15-7/2020 dated Shimla-2, the 31.05.2022.	Instruction	Regarding increasing of Honorarium to the Numberdar.	223
49.	The H.P. Govt. letter No. Rev. D(G)7-4/2018 dated Shimla-2, the 17.08.2022.	Instruction	Use of RMS (Revenue Management System) Software in all Revenue Courts.	224
50.	The H.P. Govt. letter No. Rev. D(G)8-14/2015 dated 15.07.2023.	Instruction	Regarding transfer of Govt. land from one Department to another Department in the State.	226
51.	The H.P. Govt. letter No. रैव-डी(एफ)11.1 / 2009-जाति दरुस्ती dated 28.07.2023.	Instruction	Regarding direction for correction of caste in Revenue Record thereof.	227



**HIMACHAL PRADESH GOVERNMENT  
(FOREST DEPARTMENT)**

NOTIFICATION

No. Ft. 29-241-BB/49

Dated Simla-4, the

25<sup>th</sup> February, 1952

In exercise of the powers conferred by section 29 of the Indian Forest Act, (XVI of 1927) as applied to Himachal Pradesh, read with the Government of India, Ministry of States Notification No. 146-J dated the 6<sup>th</sup> December, 1950, the Chief Commissioner, Himachal Pradesh is pleased to declare the provisions of Chapter IV of the Act \*which are the property of Govt. or over which the Government had proprietary rights or to the whole or any part of the produce of which the Government is entitled as recorded in the Forest Settlements or land revenue settlements or land revenue records of the integrated states, or otherwise, except to the following areas:-

\*Applicable to all forest lands or waste lands in Himachal Pradesh.

1. Rantu Saliana, Chambi Kupar, Kalala and Temru of Kotkhai ilaqa and Nagkelu of Kotgarh ilaqa declared as reserved forests in the Pubjab Govt. Notification No. 175 dated 15<sup>th</sup> April, 1885;
2. Chamba State forests declared reserved forests vide Chamba Darbar's Notification No. W-76-43, dated the 10<sup>th</sup> Nov., 1945.

Sirmur State Forests declared reserved forests Sirmur Darbar's Notification:-

- |  |         |
|--|---------|
| 1. No. 1 dated the 17 <sup>th</sup> Jaith, 1968  | Bikrami |
| 2. No. 2 dated the 23 <sup>rd</sup> Chait, 1991  | -do-    |
| 3. No. 14 dated the 17 <sup>th</sup> Sawan, 1990 | -do-    |
| 4. No. 38 dated the 27.12.1992                   | -do-    |
| 5. No. nil dated 1 <sup>st</sup> Chait, 1937     | -do-    |
| 6. No. nil dated 1 <sup>st</sup> chair 1947      | -do-    |
| 7. No. II dated 2 <sup>nd</sup> Poh, 1949        | -do-    |
| 8. No. I dated 17 <sup>th</sup> Jaith, 1952      | -do-    |
| 9. No. nil dated 11 <sup>th</sup> Bhadon 1992    | -do-    |

3. This notification applies to all lands in old Mandi State containing the growth except such lands have been excluded in the forest settlement as cultivated or as in the Malguzari of a private person.

By order

Sd/-

C.C.F. and Secretary (Forest Department)  
to the Commissioner, H.P., Administration.

Dated Simla-4, the February, 1952.

No. Ft. 29-241-BB/49

Copy forwarded to:-

1. All Deputy Commissioners in Himachal Pradesh.
2. All Conservator of Forest in Himachal Pradesh.
3. All Divisional Forest Officers in Himachal Pradesh.
4. The Manager, Government of India Press, Simla for favour of publication in part III section 3 of Govt. of India Gazette.

Sd/-

C.C.F. and Secretary (Forest Department)  
to the Commissioner, H.P., Administration.

**GOVERNMENT OF HIMACHAL PRADESH**

**Law Department**

No. LR.107-420/54.

Dated Shimla-2, the 25<sup>th</sup> January, 1971

NOTIFICATION

In exercise of the powers vested in him under Rules 1 and 2 of Order XXVII of the Code of Civil Procedure and all other powers enabling him in this behalf, the Governor of Himachal Pradesh, is pleased to authorise all the Collectors of Districts in Himachal Pradesh, all Secretaries, Joint Secretaries, Deputy Secretaries, Under Secretaries, Heads of Departments of Himachal Pradesh Government and also the Conservators of Forests and Superintending Engineers in Himachal Pradesh to act for the State of Himachal Pradesh, to sign and verify plaints and written statements in suits by or against the State of Himachal Pradesh and also to act for the State of Himachal Pradesh in respect of any judicial proceedings. This notification shall not effect any act already done on the basis of the previous notifications and all such acts done under previous notifications shall be deemed to have been done under this notification.

-sd-

(Joseph Dina Nath)

Under Secretary (Judicial).

No. LR.107-420/54.

Dated Shimla-2, the 25<sup>th</sup> January, 1971

Copy forwarded to :-

1. The Manager, Himachal Pradesh Government Press, Simla, for favour of publication in the Rajpatra.
2. All the Collectors of Districts in Himachal Pradesh.
3. All the Secretaries, Deputy Secretaries, Under Secretaries and Head of Departments of the Himachal Pradesh Government.
4. The Chief Conservator of Forests, Himachal Pradesh.
5. All Conservators of Forests in Himachal Pradesh.
6. All the Government Advocates in Himachal Pradesh.
7. The Registrar, Delhi High Court, Delhi.
8. The Clerk of Court to the Financial Commissioner, Himachal Pradesh, Simla.
9. All Superintending Engineers in Himachal Pradesh.

-sd-

(Joseph Dina Nath)

Under Secretary (Judicial).

**GOVERNMENT OF HIMACHAL PRADESH**  
**REVENUE DEPARTMENT**

Dated Shimla-171002, the 27<sup>th</sup> March, 1984

Notification

No. Rev.D-B(15)-2/82, in supersession of all previous Orders in this aspect, I, Attar Singh, Financial Commissioner (Revenue) Government of Himachal Pradesh, in exercise of the powers vested in me under rule 21(1) of the Punjab Land Revenue Rules made under the Punjab Land Revenue Act, 1887, as applicable to Himachal Pradesh and Rule 7 of the H.P. Land Revenue (Surcharge) rules, 1974, hereby fix the remuneration of Lambardars in Himachal Pradesh at 20% (Twenty percent) for the Collection of land Revenue as well as surcharge thereon with effect from Rabi Crop 1983-84, on the amount collected. The remuneration of the Lambardars shall be paid by the Land owners as usual, over and above the Land Revenue and Surcharge thereon.

By Order

ATTAR SINGH

Financial Commissioner-cum-Secretary (Revenue)  
to the Government of Himachal Pradesh

Endst. No. Rev.D-B(15)-2/82, dated the 27<sup>th</sup> March, 1984

Copy forwarded to :-

1. All the Secretaries/Joint Secretaries/Deputy Secretaries/Under Secretaries to the Government of H.P.
2. Divisional Commissioner, Dharamshala/ Shimla.
3. All the Deputy Commissioners in H.P.
4. Deputy Secretaries (Revenue)/ Under Secretary (Revenue).
5. Director of Land Records H.P.
6. Settlement Officer, Shimla/ Dharamshala
7. All SDO(C)/ Tehsildars in H.P.
8. The Controller, Printing & Stationer, Govt. of Himachal Pradesh Shimla-171005 for publication in the Rajpatra.

-sd-

Under Secretary (Revenue)  
Govt. of H.P.

**GOVERNMENT OF HIMACHAL PRADESH**  
**REVENUE DEPARTMENT**

-----  
No. Rev. D(A) 2-91/82 Dated Shimla-2, the 27/7/85

**NOTIFICATION**

The Governor, Himachal Pradesh, while determining the functions to be discharged by the Revenue officers of various classes, is pleased, in exercise of the powers conferred upon him under section 11 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), (hereinafter called the said Act) to order that except where the class of Revenue Officers by whom only function is to be discharged, is specified in the Act itself or in a general or special order of the Government, the following functions shall be discharged by the Revenue Officers of the respective classes specified as under:-

(1) that the functions arising under the chapters and sections of the said Act other than section 73 which are specified in Schedule 'A' hereto annexed shall be discharged only by Collectors or officers of a higher class and that the functions arising under section 73 shall either be discharged by the aforesaid officers or by Assistant Collectors of the first or second grade;

(2) that the functions arising under the sections and chapters of the said Act which are specified in Schedule 'B' hereto annexed shall be discharged only by Assistant Collectors, 1<sup>st</sup> Grade, and officers of a higher class;

(3) that the functions arising under the sections and chapters of the said Act which are specified in Schedule 'C' hereto annexed shall be discharged only by such Assistant Collectors-II Grade, as have also been notified as Tehsildars and Naib Tehsildars and by Officers of a higher class;

(4) that in any case in which a rule made or hereafter to be made under the said Act specifies the class or Revenue officer by whom function is to be discharged, that function shall be discharged by an officer of that class only;

(5) that all functions arising under the said Act in respect of which the class of Revenue Officer by whom the function is to be discharged is not specified in the Act, nor in any rule made under the said Act, nor in this notification may be discharged by any class of Revenue Officer.

Section or Chapter	Subject
	Schedule A
Chapter III	The appointment, punishment, suspension or removal of Kanungos or village officers except the appointment of the nearest eligible heir according to the rule of primogeniture of deceased headman when undisputed.
Chapter V	Assessment except that made under the alluvion and diluvion rules sanctioned for the district.
Section 73	Certificate of statement of account of arrears of land revenue.
Section 157	Preparation of list of village cesses.

	Schedule B
Chapter III	(i) the appointment of the nearest eligible heir according to the rules of primogeniture of a deceased headman when undisputed. (ii) The appointment of Substitute headman when undisputed.
Section 37 (2)	Placing persons in possession of disputed property.
Chapter V	Alluvion and diluvion assessments made under the alluvion and diluvion rules sanctioned for the district when the alternation in the demand exceeds Rs. 100/- for the year in the village concerned.
Section 76 (1)	Distrain and sale of movable property and crops for arrears of land revenue.
Section 85, 76 (1)	Ditto - On application of a village officer.
	Schedule C
Section 107 & 115	Defining the limits of an estate or of any holding, field or any portion of an estate when they coincide with the limits of an estate, and requiring or causing the erection of survey marks.
Section 163	Prevention of encroachments.

2. This notification supersedes the Punjab Government notification No. 81 dated 1.3.1888 as applicable in H.P. and notwithstanding such supersession, this will not affect any function discharged or commenced by a Revenue Officer of any class, in exercise of the powers conferred under the above notification, now superseded, and it shall be deemed to have been discharged and commenced under this notification.

By order

Attar Singh  
Financial Commissioner-cum-Secretary (Revenue)  
to the Government of Himachal Pradesh.

**H.P. Govt. Notification regarding entry of “Khudro Drakhtan Malkiat Sarkar”**

**Government of Himachal Pradesh**

**“Revenue Department”**

\*\*\*\*\*

No. Rev..D(D)1-18/85-1,

Dated Shimla-171002,

the 26<sup>th</sup> Dec. 1989

**NOTIFICATION**

Whereas the Government of Himachal Pradesh had appointed a Committee headed by Shri Dharam Singh, Hon’ble Revenue Minister (also known as Dharam Singh Committee) to go into the matter of Ban Sarkar vide Notification No. Rev. D(D)1-18/85, dated 22-1-1986.

2. Whereas according to the survey conducted at the instance of this Dharam Singh Committee:

- (a) an area measuring 802 hectares of land was identified Ban Sarkar in Kangra and Hamirpur Districts, and Bangana Tehsil of Una District, in which there was no tree growth; and
- (b) land measuring about 2873 hectares was identified as Ban Sarkar in the above areas which was under cultivation; and
- (c) land measuring about 1434 hectares was identified as Ban Sarkar which could be brought under cultivation in the same areas.

3. Whereas the recommendations of the State Committee have been considered by the Govt. and certain decisions have been taken.

4. Now, therefore, in exercise of the powers vested in him under section 80 of the Indian Forest Act, 1927 (Central Act No. XVI of 1929) and section 38 of the H.P. Land Revenue Act, 1953 (H.P. Act No. 6 of 1954) and all other powers enabling him in this behalf, the Governor of Himachal Pradesh is pleased to prescribe the following procedure in order to give effect to the above referred decisions:-

- (i) In regard to the areas specified in clause (a) of para 2 above, the entry “Khudro Drakhtan Malkiat Sarkar” in the remarks column of the jamabandi in respect of the relevant khasra number will be deleted;
- (ii) In regard to the areas specified in clause (b) of para 2 above, the entry of “Khudro Drakhtan Bakisam Chil Malkiat Sarkar” will be substituted for the entry of “Khudro Drakhtan Malkiat Sarkar” in the remarks column of the Jamabandi in respect of the Khasra number concerned;
- (iii) In regard to the lands mentioned in clause (c) of para 2 above, the entry of “Khudro Drakhtan Bakism Chil Malkiat Sarkar” shall be substituted for the existing entry ‘Khudro Drakhtan Maliat Sarkar’ in the remarks column of the jamabandi in respect of the Khasra numbers concerned in respect of the land which can be brought under cultivation;

- (iv) These decisions will be implemented through mutations in the revenue records which will be entered by the patwari concerned after a spot inspection and checking of entry by the Kanungo also after a spot inspection and attestation thereof by the Assistant Collector (Tehsildar)/Settlement Tehsildar/Consolidation Officer concerned within their respective jurisdictions after inspecting the spot;
- (v) The decision from (i) to (iii) above will be subject to the rights of the estate rightholders, if any, on such trees other than Chil and also keeping in view the considerations of the forest conservancy.

5. The “Khudro Drakhtan Malkiat Sarkar” under demarcated protected forests will not, however, be affected by the above decisions.

6. Felling of trees where the ownership has been transferred to the owners of the land will be governed under ten years felling programme framed under the H.P. Land Preservation Act of 1978.

7. The above order issues in consultation with the Govt. in the Forest Department vide their U.O. No. (A) 4-2/86, dated 26-12-1989.

By order  
-sd-

Secretary (Revenue) to the  
Govt. of Himachal Pradesh.

Endst. No. Rev. D(D)1-18/85-I, Dated Shimla-2, the 26<sup>th</sup> Dec.,89.

Copy forwarded for information and necessary action to:-

1. The Commissioner-cum-Secretary, Forest Deptt. to Govt. H.P. Shimla-2
2. The Principal Chief Conservator of Forests, Shimla-1
3. The Divisional Commissioner, Kangra at Dharamshala.
4. The Deputy Commissioners, Hamirpur, Kangra and Una.
5. The Settlement Officer, Kangra at Dharamshala.
6. The Director of Land Records, Shimla
7. The Controller of Printing Press, Shimla for immediate publication in Himachal Rajpatra if necessary, in as extraordinary issue.
8. The Deputy Secy. (GAD) to the govt. of H.P. Shimla-2
9. Guard file (with 50 spare copies).

They would ensure immediate implementation of the above order, keeping in view the context of the Dharam Singh Committee Report.
--

M.C. Chauhan,  
Under Secy. (Revenue) to the  
Govt. of Himachal Pradesh.

*[Authoritative English text of Government notification No. 10-9/69-II-Rev.-B, as required under clause (3) of Article 348 of the Constitution of India].*

## REVENUE DEPARTMENT

### NOTIFICATION

**Shimla-2, the 23<sup>rd</sup> September, 1992**

No. 10-9-69-II-Rev.B. –In supersession of the Himachal Pradesh Government notification No. 10-9/69.REV-A, dated the 7<sup>th</sup> May, 1980 and in exercise of the powers conferred by sub-section (1) of section 39 of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954), the Governor of Himachal Pradesh is pleased to fix the following scale of mutation fees for the purposes of said section with immediate effect, namely :-

Name of the Item/Section	Scale of Fees
1. When the entry relates to the acquisition of a right or interest by a registered deed or by a decree or order of a court or by an order of Revenue Officer making or affirming a partition under Chapter-IX of the Land Revenue Act, or directing the incorporating in the record of a private partition.	A fees of Rs. 2.00 (Two) shall be charged on each proprietary holding subject to Maximum of Rs. 10.00 (Ten).
2. When the entry relates to the acquisition of a right or interest by inheritance.	One rupee per holding subject to maximum of Rs. 5.00 (Five).
3. When the entry relates to the acquisition of a right or interest not otherwise provided for in paragraphs 1 and 2 above.	One rupee per holding subject to maximum of Rs. 8.00 (Eight).
4. The above fee shall be charged on all mutations whether accepted or rejected :	

Provided that the attesting officer may remit the fee on any rejected mutation when in his opinion it would not be proper to recover it from the person in whose favour the mutation was entered.

5. In any case in which the fee payable under the foregoing provisions is found to be excessive in amount with reference to the value of the right or interest/transferred or for any other reason, the Commissioner may either remit the fee or reduce it to such amount as he deems to be reasonable.

6. Notwithstanding anything contained in the preceding paragraphs, no fee shall be charged in respect of entries relating to the acquisition of a right or interest by the Bhudan Yogna Board or the Bhudan holder under the Himachal Pradesh Bhudan Yogna Act, 1954 (Act No. 2 of 1956) or by inheritance in the property of any person, in any of the naval, military or air forces of the Union of India :-



- (a) Who is killed on active service.
- (b) Who receives a wound or is involved in an accident or contracts a disease while on such service and dies within twelve months as a result of such wound, accident or disease.

By order,  
O.P. YADAV,  
Financial Commissioner-cum-Secretary,  
Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Department of Revenue**

**No. PER(AR)A(6)3/89-III.**

**Dated: Shimla-2**

**16<sup>th</sup> October, 1996**

**NOTIFICATION**

The Government has been considering the need to delegate more powers to Divisional Commissioners so that they can effectively perform the role of coordinators of development schemes. The Governor, Himachal Pradesh is pleased to devolve the following functions/powers on Divisional Commissioners in Himachal Pradesh in addition to the duties already conferred on them within the jurisdiction of their Division with immediate effect:

(a) **Public Grievances and Complaints:-** The Divisional Commissioner shall review the working of the District Grievance machinery set up vide Administrative Reforms Department letter No. Per(AR)F(2)-1/95 dated 24.01.1996. Monthly/quarterly reports of disposal of grievances should be sent to him. The Divisional Commissioner is authorized to entertain grievance petitions against actions of District level officers and may call for the records of any office in his jurisdiction for enquiring into the grievance and may authorize an officer as enquiry officer.

(b) The Divisional Commissioner shall inspect developmental works within his jurisdiction, executed under various programmes by Government Departments and Panchayati Raj institutions. These include drought relief and employment generation works, forestry works, drinking water, irrigation works, roads, buildings etc.

(c) The Divisional Commissioner shall be responsible for inspection, monitoring and coordination at the Divisional level in respect of the following important Government programmes of various departments:-

(i) **Education**

- Literacy mission quarterly review
- Coordinating setting up of Central Schools and Navodya Vidyalayas.
- Campaigns to check use of unfair means in exams.
- Midday meals scheme inspections.

(ii) **Labour and Employment:-**

- Inspection of Employment Exchanges.

(iii) **Health & Family Welfare:-**

- Review of implementation of UNFPA/NATIONAL FWP.
- Inspection of Hospitals/Health Centers.

(iv) **Home/Police:-**

- Inspection of Police Stations and monitoring of inspections by SP/DM/DIG.
- Quarterly review with DIG/DM and SPs of law & order and measures to deal with terrorist activities.
- Review of prosecution appeals in criminal cases and sanction of criminal appeals to Sessions/High Court.
- Inspection of Jails.

(v) **Revenue:-**

- Monthly monitoring of grievance redressal system.
  - Quarterly Review meeting District wise of work of Revenue officers.
  - Monthly/ quarterly review of removal of encroachments and acquisition of land in important cases.
  - Overall supervision of Drought/natural calamities relief as per Revenue Department Manuals.
- (vi) Finance & Planning:-
- Small Savings quarterly review.
  - Review of Local District Planning/Divisional Planning.
  - 20 point programme monthly/quarterly review.
- (vii) PWD and IPH:-
- Review of important and prestigious works.
  - Review of Drinking Water Technology Mission.
- (viii) Agriculture:-
- Oil seeds/ Pulses Technology Mission review.
  - National Watershed Development Programme for Rain fed Areas (NWDPPRA) coordinations/review.
- (ix) Tourism:-
- Review of tourism promotion and inter district coordination.
- (x) Forest:-
- Wasteland Development Project review.
- (xi) Rural Development:-
- Review of IRDP/JRY programmes.
- (xii) Food and Supplies:-
- Review of PDS.
  - Inspection PDS.
- (xiii) Industries:-
- Review of promotion of industries in Special locations (Industrial areas).
- (xiv) General:-
- Sanction for filling of appeals in Civil cases in the court of District Judge where State of H.P. is a party.

The Divisional Commissioners shall exercise overall control and supervision of the above programmes of various departments with existing office support.

By order  
R.K.Anand  
Chief Secretary to the  
Government of Himachal Pradesh.

No. PER(AR)A(6)3/89-III. Dated Shimla-2 the 16<sup>th</sup> October, 1996

Copy forwarded to:-

1. All Administrative Secretaries/ Special Secretaries/ Additional Secretaries/ Joint Secretaries/ Deputy Secretaries/ Under Secretaries to the Government of Himachal Pradesh, Shimla-171002.
2. The Divisional Commissioners, Kangra, Mandi and Shimla Divisions, Himachal Pradesh.
3. The Secretary to Governor, Himachal Pradesh, Shimla-171002.
4. All Heads of Departments, Himachal Pradesh.
5. All Deputy Commissioners, Himachal Pradesh.
6. All Superintendent of Police, Himachal Pradesh.
7. The Registrar, Himachal Pradesh High Court Shimla-171001.
8. The Private Secretary to Chief Minister/Ministers/State Ministers/CPS and Parliamentary Secretaries, Himachal Pradesh, Shimla-2.
9. The Private Secretary to Hon'ble Speaker/Deputy Speaker, Himachal Pradesh Vidhan Sabha, Shimla-171004.
10. The Accountant General, Himachal Pradesh and Chandigarh, H.P. Shimla-171003.
11. The Controller, Printing and Stationary, Himachal Pradesh, Shimla-171005 for publication in the Rajpatra.
12. Guard file.
13. Spare copies.

-sd-

FC-cum-Secretary(AR) to the  
Government of Himachal Pradesh.

(Authoritative English Text of this Department notification No. Rev.D (D) 12-16/94 dated 11/3/99 as required under clause (3) of Article 348 of the Constitution of India.

**Government of Himachal Pradesh  
Revenue Department.**

No. Rev. D(D) 12-16/94

Dated : 11/3/99

**NOTIFICATION**

Whereas it appears to the Governor of Himachal Pradesh that existing record-of-rights with respect to Private Lands in the State of Himachal Pradesh requires special revision by deleting the entry “Khudrao Drakhtan Malkiyat Sarkar” appearing in Khanna Kafiati (Remarks Column) of Jamabandi;

Now therefore, in supersession of all previous notifications, if any issued in this behalf, in exercise of the powers conferred by Sub Section (1) of Section 33 of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954), the Governor of Himachal Pradesh is pleased to direct the special revision of record of rights by deleting the entry “Khudrao Darkhtan Malkiyat Sarkar” appearing in Khanna Kafiati (Remarks Column) of Jamabandies with respect to Private Lands in the State of Himachal Pradesh.

Governor of Himachal Pradesh is further pleased to direct that notwithstanding the deletion of the entry “Khudrao Darkhtan Malkiyat Sarkar” forthwith, the felling of trees shall continue to be regulated under the prevailing Forest Laws.

By Orders  
Financial Commr. Cum-Secretary (Revenue)  
to the Government of Himachal Pradesh.

No. As above.

Dated:

Copy forwarded for information and necessary action to:-

1. The Commissioner-cum-Secretary, Forest Deptt. to Govt. of Himachal Pradesh Shimla-171002.
2. The Principal Chief Conservator of Forests Shimla-1.

Financial Commr. Cum-Secretary (Revenue)  
to the Government of Himachal Pradesh.

**Government of Himachal Pradesh**  
**Revenue Department**

Rev. D(F)4-3/94

Dated: 6.5.2000

**NOTIFICATION**

Whereas the Government has decided to equip Local Self Government, Gram Panchayats with financial resources as a result thereof in the beginning the proceeds of Land Revenue collected from landowners/right holders may be transferred to Panchayats.

And, therefore, the Governor Himachal Pradesh is pleased to order that now the proceeds of land revenue shall be assigned to Gram Panchayats concerned.

The Governor is further pleased to provide following procedure for the implementation of aforementioned decision.

The Lambardars will show the receipt issued by the concerned Gram Panchayat to the Wasil Baqui Navis (Tehsil Revenue Accountant) who will effect the entries in the register of land revenue incorporating therein the receipt number and date of issue.

Whenever the land revenue is remitted or suspended, the land revenue from the land owners shall not be collected in case of remission and if the and revenue is suspended. It will be collected by the Lambardar whenever ordered to do so, and accordingly be deposited with the Panchayats.

Where for whatsoever reason there is no Lambardar, the responsibility of collecting land revenue shall be of the concerned Panchayat who may collect the same through any functionary of the Gram Panchayat or any other educated unemployed youth of Gram Panchayat whosoever is entrusted for doing so by Gram Panchayat concerned shall also be entitled to the share of land revenue as payable to Lambardars till such time as Lambardar is appointed.

The Patwari will bifurcate the details of land revenue Gram-Panchayat-wise so that there is no confusion whatsoever.

The details of land revenue so receives by Gram Panchayats shall be furnished to Panchayat Inspector who will report it to District Panchayat Officer who will further convey it to Commissioner (Revenue) and Director Panchayati Raj.

The decision as to use of land revenue collected by Gram Panchayats shall be taken by Panchayat Department.

By Order

(Arvind Kaul)

F.C.-cum-Secretary (Rev.) to the  
Govt. of Himachal Pradesh.

**Government of Himachal Pradesh  
Department of Revenue**

**No. Rev.C(F)10-1/2009**

**Dated: Shimla-2**

**14<sup>th</sup> February, 2011**

**NOTIFICATION**

In supersession of this Department Notification of even number dated 28.01.2011, the Governor, Himachal Pradesh is pleased to authorize the issue of jamabandis i.e. copies of record of rights with proper certification alongwith unique number to the public, through the Lok Mitra Kendras which have been set up by the Service Centre Agencies with whom tripartite agreements has been signed by the Revenue and information Technology Departments. Such copies of jamabandis would be issued on A-4 size paper for which the concerned Lok Mitra Kendra will charge Rs. 5/- per page. Apart from this, the Lok Mitra Kendras will also receive, on behalf of the Government, the prescribed fees for issue of copies of jamabandis, which at present is Rs. 1/- per khatauni. The government fee will be deposited by concerned Lok Mitra kendras/Service Centre Agencies (SCA's) into the designated Treasury under head of account 0029-Land Revenue 800-Other Receipts 07-Copying Fee and Inspection Fee of Revenue Department.

The Governor, Himachal Pradesh is further please to order that the copies of the record of rights (jamabandis) provided through the Lok Mitra kendras shall be presumed to be true as per Section 45 of the Land Revenue Act, 1954 and the contrary is proved or a new entry is lawfully substituted.

By order

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev. C(F)10-1/2009

Dated : Shimla-2

14<sup>th</sup> February, 2011

Copy forwarded to the following for information and necessary action to:-

1. All the Additional Chief Secretaries to the Government of Himachal Pradesh, Shimla-2.
2. All the Pr. Secretaries/Secretaries to the Government of Himachal Pradesh, Shimla-2.
3. The GAD(CC) with reference to Item No. 23 dated 18-11-2010 for information.
4. The Divisional Commissioner, Shimla, Mandi and Kangra at Dharamshala, H.P.
5. The Pr. Accountant General, Himachal Pradesh, Shimla-3.
6. The Director, Land Records, H.P. Shimla-9.
7. The Settlement Officers, Shimla and Kangra at Dharamshala, H.P.
8. All the Deputy Commissioner in H.P.
9. The Director, Information Technology, Shimla.
10. All the Sub-Divisional Officer (Civil) in H.P.
11. All the Tehsildar in H.P.
12. The Controller, Printing & Stationery Department, H.P. Shimla for publication in the Rajpatra.
13. The Deputy Secretary (Fin-Reg.) to the Government of H.P. Shimla-2.
14. M/s GNG Trading Company, 596-97, Udyog Vihar, Phase-5, Gurgaon, Haryana-122016.
15. M/s Zoom Developers Pvt. Ltd. Sagar Tower, Distt. Centre, Janakpur, New Delhi-110058.
16. Guard file.

-sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

Government of Himachal Pradesh  
Forest Department

**NOTIFICATION**

No. FFE-B-E(3)-31/2001-I

Dated: Shimla-2, the

19<sup>th</sup> February, 2011.

Whereas, the Expert Committee constituted by the State Government in Compliance of interim order dated 12.12.1996 of the Hon'ble Apex Court in Writ Petition (C) 202 of 1995 titled – T.N. Godaverman Vs Union of India and others decided that the 'compact wooded block' above 5 hac. Which are not recorded as 'forest' in the revenue record shall be treated as 'forest'.

2. And Whereas, during the hearing of Civil Appeals No. 8133, 8134 and 8135 of 2003 on 01.02.2010 in the Central Empowered Committee constituted by the Hon'ble Supreme Court of India in Writ Petition (C) 202 of 1995 titled- T.N. Godaverman Vs Union of India and others, it was suggested by the Central Empowered Committee that the definition of 'Forests' as defined by the State of Himachal Pradesh needs further clarification by way of certain definable parameters.

3. And Whereas the Central empowered Committee vide its recommendations dated 7<sup>th</sup> September, 2010 communicated to the Hon'ble Apex Court that the CEC is in agreement with the definition of the 'compact wooded block' decided by the State and recommended that the Civil Appeals No. 8133, 8134 and 8135 of 2003 may be decided with the direction that the State of Himachal Pradesh will notify the definition of 'compact wooded block' decided by it immediately.

4. And Whereas on the recommendations/Report of the Central Empowered Committee, the Hon'ble Supreme Court of India on 22/11/2010 in the above matter has passed following order:-

“The CEC vide its report dated 7<sup>th</sup> September, 2005 inter alia observed that it will be appropriate that the State of Himachal Pradesh notifies the definition of Compact Wooded Block as decided by the Himachal Pradesh Forest Department.

Learned counsel for the State of H.P. submits that so far the State did not issue any such Notification. In such circumstances, we direct the State of H.P. to examine the issue and issue appropriate Notification accepting the said definition of Compact Wooded Block as has already been decided by the Forest Department. The appropriate Notification in this regard shall be issued within three months from today.”

5. Now therefore, in compliance of the above order of the Hon'ble Apex Court, the definition of 'forest'/'compact wooded block' is notified as under:-

1. **“If the private area is notified under Indian Forest Act, 1927 or other Act or is entered as van/ban/vani/jungle in the revenue record it will be treated as forest.”**
2. **For other type of areas not recorded as indicated in point 1.**

There are two components under this definition:-

**Compactness** of the area 5 Hac. and

**Woodiness** in this area above 5 Hac.



(a) **Compactness** of an area above 5 Hac. would be an area of private land with itself or in contiguity with other adjacent private khasras only.

(b) **Woodiness** in this area of above 5 Hac. would be as defined below:-

Accordingly, the definition in different agro-climatic zones would be as under:-

i) **Temperate areas:-** These areas consisting of conifer forests of deodar, fir, spruce, kail, and of oaks rhododendrons and other broad leaved species will be defined as under:-

“A compact wooded private area of more than five hectares constituted by itself or in contiguity with private khasras of one or more than one land owners and having more than 400 trees of natural origin and not of plantation origin per hectare of Class-III and above in this compact wooded block will constitute a forest.”

ii) **Sub-tropical areas:-** These areas consisting of chil, khair and other broad leaved forest species will be defined as under:-

**Chil forests:-** The above definition for temperate area will hold good in these forest.

**Khair and other broad leaved species:** A compact wooded private area of more than five hectares constituted by itself or in contiguity with private khasras of one or more than one land owners and having more than 800 trees of natural origin and not of plantation origin per hectares of less than class III or for a mixed crop (mature and young) the trees being worked out by taking one mature tree equal to two young trees and vice versa in this compact wooded block will constitute a forest.”

By Order

Principal Secretary (Forests) to the  
Government of Himachal Pradesh

(Authoritative English Text of this Department Notification No. Home-B(B) 15-10/2006-HC, dated 11.03.2011 as required under clause (3) of Article 348 of the Constitution).

Government of Himachal Pradesh  
Department of Home.

\*\*\*\*\*

No. Home-B(B)15-10/2006-HC

Dated Shimla-2 the,

11/03/2011

NOTIFICATION

In exercise of the powers vested in her under Sub-Section (1) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to confer the powers of Executive Magistrates upon such Tehsildars/Naib Tehsildars in the State of Himachal Pradesh, under the said Code, who have passed the Departmental Examination in Criminal Law and Procedure prescribed for them and possesses requisite educational qualification viz-a-viz graduate in case of direct recruits and Matriculation in case of promotes with at least 5 years of experience as per the instructions and conditions as contained in the Himachal Pradesh Government Letter No. Home-B(B)-12-5/84 dated 4-12-84 & 28-12-84.

The powers so vested under the code upon these Tehsildars/Naib Tehsildars shall be exercised by them within the local limits of their respective jurisdiction with immediate effect.

By Order,

Principal Secretary(Home) to the  
Government of Himachal Pradesh.

Endst. No. Home-B(B)15-10/2006-HC

Dated Shimla-2 the, 11-03-2011.

Copy for information & necessary action is forwarded to :-

1. The Registrar General, High Court of H.P., Shimla-1.
2. The Principal Secretary(Law) to the Govt. of H.P. Shimla-2.
3. The Divisional Commissioners, Shimla, Mandi, Kangra.
4. All the Settlement Officers in Himachal Pradesh.
5. All the District & Sessions Judges in Himachal Pradesh.
6. All the Deputy Commissioners in Himachal Pradesh.
7. A hard copy for information with regard to e-gazette uploaded for publication in Rajpatra.

-Sd-

Joint Secretary (Home) to the  
Government of Himachal Pradesh.  
Ph. No. 0177-2626450

Government of Himachal Pradesh  
Department of Revenue.

\*\*\*\*\*

No. Rev-A(A)2-4/2009

Dated Shimla-2 the,

19.06.2014

NOTIFICATION

In exercise of the powers vested in her under Section 7 of H.P. Land Revenue Act, 1954 & all other powers enabling her in this behalf, the Governor, Himachal Pradesh is pleased to confer the powers of Assistant Collector Grade I & II upon Tehsildar and Naib Tehsildar respectively by virtue of posting in the Tehsils and sub-Tehsils in the State for disposal of different type of Revenue cases in their respective jurisdiction, with immediate effect.

This is in supersession of all the previous orders.

By Order,  
(Tarun Shridhar)  
Pr. Secretary-cum-FC(Rev.) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla-2 the, 19.06.2014.

Copy forwarded to:-

1. The Private Secretary to the Chief Secretary, H.P. Shimla-2.
2. All the Administrative Secretaries to the Govt. of H.P., Shimla-2.
3. All the Divisional Commissioner, H.P.
4. The Settlement Officer, Kangra and Shimla.
5. All the Deputy Commissioner, H.P.
6. The Controller, Printing and Stationery, Ghorachowki, Shimla-3 for publication in the gazette.
7. The Ser. Technical Director-cum-SIO, NIC, 6<sup>th</sup> Floor Armsdale, H.P. Sectt. Shimla-2 for hosting this notification in the Website of Revenue Department.
8. All the Sub Divisional officer (Civil) H.P. Shimla.
9. All the Tehsildar/Naib Tehsildar in the State of H.P.
10. Guard File.

-Sd-  
(Roshan Lal)  
Under Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Ph. No. 0177-2628502

(Authoritative English Text of this Department Notification No. Home-B(B)15-10/2006, dated 27-7-2015 as required under clause (3) of Article 348 of the Constitution of India).

Government of Himachal Pradesh  
Department of Home  
\*\*\*\*\*

No. Home-B(B)15-10/2006-HC

Dated Shimla-2 the,

27.07.2015

NOTIFICATION

In exercise of the powers vested in him under Sub-Section (1) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to confer the powers of Executive Magistrates upon the Naib Tehsildar/Tehsildars in the State of Himachal Pradesh, under the said Code to be exercised within the local limits of their respective jurisdictions for performing the functions enlisted at Sr. No. 2 to 8 of this Department's letters No. Home-B (B)-12-5/84 dated 4-12-84 and 28-12-84.

The function enlisted at Sr. No. 1(cases under Criminal Procedure Code) of above letters shall be performed by the Sub Divisional Magistrates, who either belong to the IAS or HPAS. They will not transfer such cases to other Executive Magistrate except in rare and exceptional case and for pressing reasons. When the cases under Criminal Procedure Code are required to be transferred, the same will be transferred to such Executive Magistrates, who have passed the Departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be atleast graduate in case of direct recruits and Matriculation in case of promotes with atleast 5 years of experience by recording reasons for transfer on the case file as well as in the periodical returns submitted by the Executive Magistrates to the High Court.

**This is in supersession of this department notification of even number dated 11.03.2011.**

By Order,  
Parthasarathi Mitra  
Chief Secretary(Home) to the  
Government of Himachal Pradesh.

Endst. No. Home-B(B)15-10/2006

Dated Shimla-2 the,

27/07/2015.

Copy for information & necessary action is forwarded to :-

1. The Additional Chief Secretary (Revenue) to the Govt. of H.P.
2. The Registrar General, High Court of H.P., Shimla-1.
3. The Secretary(Law) to the Govt. of H.P. Shimla-2.
4. The Divisional Commissioners, Shimla, Mandi, Kangra.
5. All the Settlement Officers in Himachal Pradesh.
6. All the District & Sessions Judges in Himachal Pradesh.
7. All the Deputy Commissioners in Himachal Pradesh.
8. Controller, Printing and Stationery, H.P. Shimla-5 for publication in Rajpatra.

-Sd-  
(Devinder Saraswati)  
Joint Secretary (Home) to the  
Government of Himachal Pradesh.  
Ph. No. 0177-2626450

Government of Himachal Pradesh  
Department of Revenue.

\*\*\*\*\*

No. Rev-A(A)2-4/2009

Dated Shimla-2 the,

28<sup>th</sup> February, 2017

NOTIFICATION

In exercise of the powers vested in him under Section 7 of H.P. Land Revenue Act, 1954 & all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to confer the powers of Assistant Collector Grade-I under the said Act upon all the Indian Administrative Service Probationers (under training).

By Order,  
(Tarun Shridhar)  
ACS-cum-FC(Rev.) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla-2 the, 28<sup>th</sup> February, 2017  
Copy forwarded to:-

1. All the Divisional Commissioners, Shimla, Mandi and Kangra at Dharamshala.
2. The Director, HP Institute of Public Administration, Fairlawns, Shimla-12.
3. The Controller, Printing and Stationery, Himachal Pradesh, Shimla-4.
4. All the Deputy Commissioners, Himachal Pradesh.
5. The Sr. Technical Director-cum-SIO, NIC, 6<sup>th</sup> Floor Armsdale, H.P. Sectt. Shimla-2 for hosting this notification in the Website of Revenue Department.
6. Guard File.

-Sd-  
(Devi Ram)  
Under Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Ph. No. 0177-2628479

Government of Himachal Pradesh  
Department of Revenue.

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No. Rev.B.A(3)3/2021-L

Dated Shimla-2 the,

08-08-2022

NOTIFICATION

The Governor Himachal Pradesh is pleased to confer the powers of Financial Commissioner (Appeals) upon the Divisional Commissioners, Shimla, Kangra at Dharamshala and Mandi, under Section 28 of the Himachal Pradesh Land Revenue Act, 1954 to adjudicate upon all the revision petitions instituted before them under section 17 of the Act, ibid, before commencement of the Himachal Pradesh Land Revenue (Amendment) Act, 2022 i.e. 22-06-2022, in their respective jurisdiction.

By Order,  
(Onkar Sharma)  
Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev.B.A(3)3/2021-L Dated Shimla-171002, the 08-08-2022.  
Copy forwarded for information and necessary action to:-

1. All the Secretaries to the Government of Himachal Pradesh, Shimla-2.
2. The D.L.R.-cum-Deputy Secretary (Law) to the Government of Himachal Pradesh, Shimla-2.
3. All the Divisional Commissioners, in Himachal Pradesh.
4. All the Deputy Commissioners, in Himachal Pradesh.
5. The Settlement Officer, Shimla and Kangra at Dharamshala.
6. The Controller, Printing and Stationery, Himachal Pradesh, Shimla-5 for favour of publication in extra ordinary Rajpatra.
7. The Tehsildar, COC to the Financial Commissioner (Appeals) Himachal Pradesh, Shimla-2.
8. Guard File.

-Sd-  
(Anil Chauhan)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

(Authoritative English Text of this Department Notification No. Rev.B.A(3)-2/2018, dated 12.06.2023 as required under clause 3 of Article 348 of the Constitution of India.)

Government of Himachal Pradesh  
Department of Revenue  
(Section-B)

**No. Rev.B.A(3)-2/2018**

**Dated: Shimla-2, the**

**12-06-2023**

**NOTIFICATION**

In supersession of the Himachal Pradesh Government Notification No. 10-9-69-II-Rev.-B, dated 23<sup>rd</sup> September, 1992 and in exercise of the powers conferred by sub-section (1) of Section 39 of the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954), the Governor, Himachal Pradesh is pleased to fix the following scale of mutation fees for the purposes of said section with immediate effect, namely:-

<b>Sr. No.</b>	<b>Name of the Item/Section</b>	<b>Scale of Fees</b>
1.	When the entry relates to the acquisition of a right or interest by a registered deed (other than the deeds executed after permission of Government u/s 118 of the H.P. Tenancy & Land Reforms Act, 1972) or by a decree or order of a court or by an order of Revenue officer making or affirming a partition under Chapter-IX of the Land Revenue Act, or directing the incorporation in the record of a private partition.	A fees of Rs. 100 (One Hundred) shall be charged on each proprietary holding subject to maximum of Rs. 500 (Five Hundred).
2.	When the entry relates to the acquisition of a right or interest by inheritance.	Rs. 50 (Fifty) per holding subject to maximum of Rs. 200 (Two Hundred).
3.	When the entry relates to the acquisition of a right or interest not otherwise provided for in paragraphs 1 and 2 above and other than the deeds executed after permission of Government u/s 118 of the H.P. Tenancy & Land Reforms Act, 1972.	Rs. 50 (Fifty) per holding subject to maximum of Rs. 200 (Two Hundred).
4.	When the entry relates to the acquisition of a right or interest by a registered deed executed after permission of Government u/s 118 of the H.P. Tenancy & Land Reforms Act, 1972.	Rs. 5000 (Five Thousand) per holding subject to maximum of Rs. 10,000 (Ten Thousand).
5.	The above fee shall be charged on all mutations whether accepted or rejected.	

Provided that the attesting officer may remit the fee on any rejected mutation

when in his opinion it would not be proper to recover it from the person in whose favour the mutation was entered.

6. In any case in which the fee payable under the foregoing provisions is found to be excessive in amount with reference to the value of the right or interest/transferred or for any other reason, the Commissioner may either remit the fee or reduce it to such amount as he deems to be reasonable.
7. Notwithstaing anything contained in the preceding paragraphs, no fee shall be charged in respect of entries relating to the acquisition of a right or interest by inheritance in the property of any person, in any of the naval, military or air forces of the Union of India:-
  - (a) Who is killed on active service.
  - (b) Who receives a wound or is involved in an accident or contracts a disease while on such service and dies within twelve months as a result of such wound, accident or disease.

By order

Onkar Chand Sharma  
Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Endst. No. As above, Dated : Shimla-2 12-06-2023.**

Copy forwarded to the following for information and necessary action to:-

1. All the Secretaries to the Government of Himachal Pradesh, Shimla-2.
2. All the Divisional Commissioner, Himachal Pradesh.
3. The Director, Land Records, H.P. Shimla.
4. The Settlement Officer, District Shimla and Kangra at Dharamshala, H.P.
5. All the Deputy Commissioners in H.P.
6. The DLR-cum-Deputy Secretary (Law) to the Government of Himachal pradesh, Shimla-2.
7. The Controller, Printing & Stationery Department, H.P. Shimla-5 for favour of publication in the extra ordinary Rajpatra.
8. Guard file.

-sd-

(Anil Chauhan)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.



संख्या राज. 2-ए(4)-5/78  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

दिनांक शिमला-2, 15 जनवरी, 1980

सेवा में,

समस्त जिलाधीश,  
हिमाचल प्रदेश।

विषय: खसरा गिरदावरी में इन्द्राज के परिवर्तन।

महोदय,

उपरोक्त विषय में आपका ध्यान इस कार्यालय के पत्र संख्या 10-7-73/रैव-ए, तिथि 3-7-73 की ओर दिलाकर मुझे यह कहने का आदेश हुआ है कि सरकार के नोटिस में आया है कि उपरोक्त चिठी में हिदायत की तामील में पटवारियों ने कब्जा काशत के इन्द्राज विशेष रूप से मुजारियत के सम्बन्ध में भारी संख्या में पैसिल तबदील किए हैं और बहुत अर्सा बीतने पर भी यह इन्द्रजात पैन्सली ही खसरा गिरदावरी में है। और अभी तक रैवेन्यू अफसरों ने जॉच के उपरान्त इनके विषय में कोई आदेश नहीं दिए। इस से मालकान ब मुजारयान में तनाव हो रहा है। अतः यह आवश्यक है कि ऐसे पैन्सली इन्द्राज वाले इन्द्रजात के प्रकरणों का रैवेन्यू अफसर दौरा पर सम्बन्धि हाल में ही शीघ्र फैसला करें इस शीतकाल में ऐसे प्रकरणों को निपटाने का अभियान जारी किया जाए ताकि दो मास के भीतर सभी प्रकरणों के निर्णय हो जाएं।

2. भविष्य में पटवारी खसरा गिरदावरी में पैन्सली इन्द्राज नहीं करेंगे, बल्कि लैण्ड रिकॉर्ड मैन्वल में पैरा 9 - 9ए के अनुसार ही इन्द्राज खसरा गिरदावरी, बदलेंगे। जिसके अनुसार पटवारी गैर मुतनाजा काशत के ही इन्द्राज बदल सकते हैं। मुतनाजा इन्द्राजात के बारे में मिसल मरतव करके रैवेन्यू अफसरों के आदेश लेंगे।

उपरोक्त के अनुसार चिठी नम्बरी-10-7-73/तरमीम की जाती है।

भवदीय,  
-हस0-  
उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

सं.राज.2ए(4)-5/78  
हिमाचल प्रदेश सरकार  
राजस्व विभाग, शिमला-2

दिनांक 28-4-1980

सेवा में,

हिमाचल प्रदेश के सभी  
जिलाधीश।

विषय: खसरा गिरदावरी में इन्द्राज की तबदीली।

महोदय,

इस विभाग के उपरोक्त विषयक सम संख्यक पत्र दिनांक 15 जनवरी, 1980 के अनुक्रम में मुझे यह कहने का निर्देश हुआ है कि उस पत्र के अनुसार पटवारी जिन अविवादास्पद इन्द्राजात को लैंड रिकार्ड मेनुअल के पैरा 9.9 के अनुसार बदलेगा उन की पड़ताल गिरदावर शत प्रतिशत मामलों में मौका पर करेगा। फिर इन की 25 प्रतिशत पड़ताल रैवेन्यू अफसर भी करेंगे।

2. यदि ऐसे मामलों में पटवारी या कोई दूसरा कर्मचारी कोई गलत इन्द्राज बदलेगा तो उसके विरुद्ध कड़ी कार्यवाही की जाए।

3. भविष्य में मुजारों को मलकीयत केवल इंतकाल द्वारा ही दी जाएगी। ऐसे मौका पर दोनों पक्षों की उपस्थिति अनिवार्य होगी।

4. सम्बन्धित रूल्ज में इस आशय का संशोधन किया जा रहा है परन्तु उपरोक्त आदेशों का पालन तुरन्त किया जाए।

भवदीय,

-हस0-

अवर सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

सं.राज.2ए(4)-5/78 दिनांक 28-4-1980 शिमला-2

प्रतिलिपि उचित कार्यवाही एवं सूचनार्थ:-

1. निदेशक भू-अभिलेख, हिमाचल प्रदेश, शिमला-4
2. मंडलायुक्त कांगड़ा-धर्मशाला, / शिमला-2
3. बन्दोबस्त अधिकारी-कांगड़ा, धर्मशाला / शिमला-6
4. राजस्व "क" अनुभाग।

हस0-

अवर सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

संख्या 10-5/73-11  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

दिनांक 4-9-1980 शिमला-2

सेवा में,

1. हिमाचल प्रदेश के सभी जिलाधीश।
2. हिमाचल प्रदेश के सभी उप-मण्डलाधिकारी(ना0)
3. हिमाचल प्रदेश में स्थित सभी तहसीलदार।

विषय: खसरा गिरदावरी में इन्द्राज के तबदीली।

महोदय,

उपरोक्त विषयक इस विभाग के पत्र संख्या राज.2-ए(4)-5/78 दिनांक 15-1-80 तथा 24-4-80 का आंशिक संशोधन करते हुए मुझे यह कहने का आदेश हुआ है कि सरकार ने इस विषय पर गम्भीरता से विचार किया है और इस प्रकार विचार करने के पश्चात यह निर्णय लिया गया है कि इस विभाग के पत्र संख्या 10-7/73रैव.ए. दिनांक, दिनांक 3-7-73 के अर्न्तगत जारी किये गये आदेशों को पुनः लागू किया जाये। अतः मुझे यह कहने का निदेश हुआ है कि जहां गिरदावरी के समय पटवारी के नोटिस में जमीन सम्बन्धी कोई तबदीली आये, वहां पटवारी ऐसी तबदीली को पैसिल से ही दर्ज करेगा और इस की सूचना गिरदावरी के पश्चात तहसीलदार व नायब तहसीलदार (यथा स्थिति) को लिखित रूप में देगा। इस के पश्चात तहसीलदार व नायब तहसीलदार इसकी छानबीन करके सम्बन्ध व्यक्तियों को अपनी स्थिति स्पष्ट करने का पूरा-पूरा अवसर देकर ही करेगा। परन्तु इस सब में तीन माह से अधिक समय नहीं लगाया जायेगा। इसी अवधि में वह सारे मामलों को निर्णय कर डालेगा। निर्णय के अनुसार खसरा गिरदावरी में अमल किया जायेगा।

भवदीय,

-हस0-

अवर सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

No. Rev.D(F)6-6/86  
Government of Himachal Pradesh  
Department of Revenue

From

The Financial Commissioner (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners,  
Shimla, Kangra and Mandi Division, H.P.
2. All the Deputy Commissioners in H.P.
3. The Settlement Officer,  
Shimla & Kinnaur District at Shimla and  
Kangra District at Dharmashala, H.P.
4. The Director of Land Records,  
Himachal Pradesh, Shimla-2
5. All the Sub-Divisional Officers (Civil) in Himachal Pradesh.
6. All the Tehsildar in Himachal Pradesh.

Dated: Shimla-2, the 4<sup>th</sup> October, 1986.

Subject: Instructions dealing with encroachment or disputes as to boundaries.

Sir,

I am directed to forward herewith a copy of the instructions of the Financial Commissioner (Revenue) to the Government of Himachal Pradesh, for the guidance of Revenue Officers and Field Kanungos on the subject cited above. These should be followed strictly by all concerned.

Yours faithfully,

-sd-

Deputy Secretary(Revenue)

to the Govt. of Himachal Pradesh

**Instructions for the guidance of Revenue Officers and Field Kanungos dealing with encroachment or disputes as to boundaries.**

With a view to ensuring uniformity of practice and correctness, the Financial Commissioner Himachal Pradesh is pleased to issue the following instructions for the guidance of Revenue officers and Field kanungos for the purpose of delimitation of the boundaries cases under the provisions of Section 107 of the said Act:-

1. If a boundary is in dispute, the Revenue officers or the field kanungo should relay it from the Village map prepared at the last settlement. If there is a map which has been made on triangulation system (Musalas bandi) he should find three fixed recognizable points on different sides of the place in dispute as near to it as he can, which are shown in the map. These points should be such as admitted by the parties that have remained undisturbed since the last settlement.

2. If the parties cannot agree on any such fixed recognizable points, then the Revenue Officer/Field Kanungo will find such points themselves with the help of the field map and chaining on the spot which they find undisturbed since the last settlement.

3. They, then will chain from one to another of these points and compare the result with the distance given by the scale applied to the map. If the distance when thus compared agree in all cases, he can then draw lines joining these three points in pencil on the map and draw perpendiculars with the scale from these lines to each of the points which it is required to lay out on the ground. He will then lay them out with the cross staff as before and test the work by seeing whether the distance from one of his marks to another is the same as in the map. If there is only a small dispute as to the boundary between two fields, the greater part of which is undisturbed, then such perpendiculars as may be required to points on the boundaries of these fields as shown in the field map can be set out from their diagonals, as in the field book and in the map, and curves made as shown in the map.

4. (a) If three fixed points are not available and only two fixed recognizable points are available, a third point may be found cut with the help of these two points so as to form a triangle. It should be seen that the sides of such a triangle when checked on the spot tally with the distances given between these points in the map. Then the land be demarcated by this procedure as laid down in instruction 3 above.

(b) The two adjoining fields may have a common inter locking boundary line. If other dimensions (Karu Kan) of these fields also tally on measurements the 2 points of this line can be treated as two points referred to in instruction 4 above.

5. There can arise cases where even two fixed recognizable points are not available and only one point is admitted by the parties as fixed or found out by the Revenue Officer/Field Kanungo. Such points are generally the ones where corners of two or more fields meet. The reliability of such a points can be tested by measuring the sides of the fields adjoining or surrounding the point. If the measurements of such fields tally with the map then the accuracy of such a point itself gets established. Such a point may be fixed as a starting point for demarcation.

6. The main purpose in following procedure in the foregoing instructions is to test the accuracy of the points on the map of the last settlement for which the relevant instructions are

contained in appendix-XXI of the Punjab Settlement Manual as applicable in Himachal Pradesh. The relevant extract is reproduced as below:-

“A few fields too should be checked by their sides being measured. The correctness of a map is much more certainly determined by means of checking corners of fields and other fixed recognizable points than by merely seeing whether the cuttings of the diagonals are at the same distances as at settlement. While testing accuracy of existing map by lines (farzi water), discrepancies upto 2 percent may be neglected.”

7. In demarcation of Land comprising Khasra numbers that have undergone amendment due to changes due to causes such as by partitions, transfer of fractions of fields or new Khasra numbers that came into existence by acquisition of Land by Nautor it should be ensured that the field maps (Patwari copy and Maumi copy) have been amended and updated in accordance with the provisions of Para 4.30 & 4.31 of H.P. Land Records Manual. The demarcation should be given on the basis of such amended maps.

8. If there is a map which has been made on the square system the Revenue officer or the Field Kanungo should reconstruct the square in which the disputed land lies. He should mark on the ground on the lines of the squares the places where the map shows that the disputed boundary intersected those lines, and then to find the position of points which do not fall on the lines of the squares. He should with his scale read on the map the position and distance of those points from line of a square and then with a chain and cross staff mark out the position and distance of those points. Thus he can set out all the points and boundaries which are shown in the map.

9. In the report to be prepared/submitted by the Revenue officer/Field Kanungo, it must be explained in detail how he made his measurement. He should submit a copy of the relevant portion of the last settlement field map; (Musavi) or “Momi” (Tehsil copy of settlement map) of the village showing the fields with their dimensions (Karu-Kan) of which he took measurement as mentioned in instructions supra and the boundary in dispute. There should also be a mention in this report as to what method was adopted and the way he fixed the starting points and the fields he measured and the result of such measurement. All the fields and points measured should be shown in the site plan (Nakasha Mauka) within the frame of copy of musavi.

10. If a question is raised as to the position of the disputed boundary according to the field map of the settlement preceding the current settlement, that also should be demarcated on the ground so far as this may be possible and also shown in the copy of the current field map to be submitted under instruction No. 9.

11. On the same site plan (Naksha Mauka) should be shown also the limits of the existing possession.

12. The areas of the fields abutting on the boundary in dispute as recorded at the time of last settlement and those arrived at as a result of the measurement on the spot should be mentioned in the Revenue officer's or the Field Kanungo's report with an explanation of the cause of increase or decrease if any discovered.

13. When taking his measurement the Revenue Officer of Field kanungo should explain to the parties what he is doing and should enquire from them whether they wish anything further to be done to elucidate the matter in dispute. At the end he should record the statements of all the parties to the effect that they have seen and understood the measurements, they have no objection to make to this (or if they have any objection, he should record it together with his own opinion) and that they do not wish to have anything further done on the spot. It constantly happens that when the report comes before the Revenue Officer or the Civil Court, one or other parties impugns the correctness of the measurement and asserts that one thing or another was left undone. This raises difficulties which the above procedure is designed to prevent.

14. No local commissioner shall be appointed by the Revenue Officers in cases instituted with them under section 10 of the H.P. Land Revenue Act.

These instructions will also be followed by the Revenue Officers/Field Kanungos whenever they are appointed as Commissioners by a Civil Court in suits involving disputed boundaries.

No. Rev.2F(8)-1/80-Vol.III  
Government of Himachal Pradesh  
Department of Revenue

From

The F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated: Shimla-2, the 13<sup>th</sup> March, 1990.

Subject: Removal of Encroachment.

Sir,

I am directed to state that the matter regarding the removal of encroachments has been engaging the attention of the Government for some time.

As you are aware, right now, proceedings for the removal of encroachments on Government land can be initiated under more than one set of laws. Action to remove an encroachment on the acquired width of a scheduled road can be taken by a Collector under the Himachal Pradesh Road Side Land Control Act. Similarly, a Collector is empowered to hold proceedings for the eviction of an unauthorized occupant from public premises under the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act. Besides this, steps to remove an encroachment from Government land can also be taken under section 163 of the Himachal Pradesh Land Revenue Act.

This provision of the Himachal Pradesh Road Side land Control Act are designed to meet emergency situations where very prompt action is called for in order to remove an encroachment on the acquired width of a scheduled road so as to ensure free flow of traffic and a reasonable possibility of making use of the whole acquired width of the road whenever the need for that arises in future. The extent of the inconvenience that may result from an encroachment on a public road calls for urgent remedial measures. These are adequately provided for under the Himachal Pradesh Road Side Land Control Act and can be made use of with advantage.

Although the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act and section 163 of the Himachal Pradesh Land Revenue Act also apply to the land from which an encroachment can be removed under the Himachal Pradesh Road Side Land Control Act, the ambit of action under the Himachal Pradesh Road Side Land Control Act is very restricted and narrow and the other two acts operate in a much wider field. In regard to the land not covered by the Himachal Pradesh Road Side Land Control Act, action can be initiated under either of these legislative enactments. In the past, difficulties were experienced in regard to proceedings u/s 163 aforesaid. With a view to removing these difficulties, this provision was amended last year (1989) so as to empower a Revenue officer not lower than Assistant Collector of the First grade in rank to convert himself into a Civil Court for deciding a question as to title or to adverse possession.



However, an appeal against the order of an Assistant Collector functioning as a Civil Court in Terms of this law now lies to a District Judge. Till the dispute as to title or adverse possession is finally adjudicated upon, proceedings to eject an encroacher on government land cannot be carried to their logical conclusion. This would tend to make proceeding under this legal provision rather protracted. Besides, action under provision can be taken by an Assistant Collector with a provision for scrutiny of his order or proceedings on appeal or in revision by the Collector, the Commissioner, and the Financial Commissioner. These successive stages of scrutiny by higher Revenue officers ensure against arbitrary action but these also makes for dilatoriness. Thirdly section 163 aforesaid does not lay down a very satisfactory remedy against the repetition of an encroachment. Fourthly, the precise nature of the proceedings under this section is still in the realm of uncertainty and lacks in much desired clarity. On the other hand, proceedings under the Himachal Pradesh Public Premises and land (Eviction and Rent Recovery) Act can be held only by a Senior Officer called Collector. This itself guarantees against arbitrary action. Secondly, the later Act provides for only one remedy of appeal against the order of the Collector thereby minimizing delay. Thirdly, the rules of procedure embodied in this Act and the rules made under it are very detailed, elaborate and almost exhaustive. They normally leave no scope for abuse of authority or arbitrariness and ensure adequate opportunity to an unauthorized occupant before he is turned out of the public premises. Fourthly, the procedure prescribed in this Act gives reasonable time to the unauthorized occupant at very stage in the career of the proceedings against him to show cause against the action proposed or to vacate the public premises voluntarily or to remove his property of his own accord before recourse can be had to the use of force against him. Fifthly, section 15 of this Act bars the jurisdiction of Civil courts in matters which can be dealt with under the Act. Similarly, section 10 of this Act confers finality on orders passed by a Collector or Commissioner under this Act and further enjoins that their orders shall not be called in question in any suit or proceedings and no injunction shall be granted by a Court or any authority in respect of any action taken or to be taken in pursuance of any power conferred under this Act. These provisions clearly, pre-empt any interference by Civil Courts by ousting their jurisdiction. Of course, judicial review by the Supreme Court and the High Court has not been barred. It has been held by the Punjab and Haryana High Court in *Union of India vs Atul Kuthiala* (1984 PLJ 204) that the Estate officer under the Central Public Premises Act is competent to record a finding on the question as to title between the parties and that such finding can be called in question only in appeal under the Act. It was clarified that a suit is not competent. This authority is equally applicable to proceedings before a collector under the Himachal Pradesh Public Premises and lands (Eviction and Rent Recovery) Act, because the relevant provisions of these Acts are *pari material*. Therefore, the provisions of the Himachal Pradesh Public Premises and lands (Eviction and Rent Recovery) Act ensure a fair adjudication of a dispute, provide reasonable time and opportunity to an un-authorised occupant to vacant the public premises, to remove his property therefrom or to pay up the arrears of rent or damages for use and occupation of the public premises. This Act also lays down an efficacious and expeditious remedy thereby enabling removal of an encroachment from the public premises within a reasonable time-frame. Further, unlike section 163 of the Himachal Pradesh land Revenue Act, Section 11 of the Himachal Pradesh Public premises declares occupation of the public premises by a person, who had earlier been evicted therefrom, to be an offence punishable with imprisonment which may extend to one year or with fine or with both. This provision further lays down that a magistrate convicting a person on the charge of unauthorized occupation of public premises may make an order for evicting that person summarily. This provision would have a deterrent effect. Besides all this, Section 16 of

this Act protects the State Government, the Commissioner and the Collector against a suit, prosecution or other legal proceedings in respect of any act which is done in pursuance of this Act or any rules or order made thereunder.

Thus, it would appear on a detailed comparison of the schemes of section 163 of the Himachal Pradesh Land Revenue Act and the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act that the later provides for a better, more efficacious and expeditious and a more reasonable remedy in the matter of removal of encroachments on public premises. It is, therefore appropriate that, where action to remove an encroachment can be taken under either of these laws, recourse may preferably be had to the provisions contained in the Himachal Pradesh Public Premises and lands (Eviction and Rent Recovery) Act.

You are requested to bring this decision to the notice of all the Collectors and Assistant Collectors in your district for guidance and appropriate action in future.

Yours faithfully,

-sd-

F.C.-cum-Secretary(Revenue)  
to the Govt. of Himachal Pradesh

Endst. No. Rev.2F(8)-1/80-Vol.III,

Dated: Shimla-2, the 13<sup>th</sup> March, 1990.

A copy of this letter is forwarded to the Divisional Commissioners, Shimla/Mandi/Kangra at Dharamshala for information.

-sd-

Deputy Secretary(Revenue)  
to the Govt. of Himachal Pradesh

संख्या: राजस्व-डी(जी)6-24 / 91  
हिमाचल प्रदेश सरकार,  
राजस्व विभाग।

प्रेषिक

वित्तायुक्त एवं सचिव(राजस्व)  
हिमाचल प्रदेश सरकार, शिमला-2

प्रेषित

समस्त मण्डलायुक्त/उपायुक्त,  
हिमाचल प्रदेश।

दिनांक: शिमला-2

9 जुलाई, 1991

विषय:- सरकारी भूमि का एक विभाग से दूसरे विभाग को हस्तांतरण करने बारे।

महोदय,

उपरोक्त विषय पर इस विभाग के हाशिया में दिये गये पूर्व पत्रों का अधिक्रमण करते हुए मुझे यह कहने का निर्देश हुआ है कि सरकार ने मामले पर पुनर्विचार करके यह निर्णय लिया है कि सभी प्रकार की सरकारी भूमि जो राजस्व विभाग में निहित है तथा जो भूमि एक सरकारी विभाग से दूसरे सरकारी विभाग को हस्तांतरित की जानी हो के सम्बन्ध में विभिन्न अधिकारियों को स्वीकृति बारे शक्तियां निम्न प्रकार होगी। यह आदेश तत्काल लागू होंगे:-

1. उपायुक्त 2-10-0 बीघा (अढ़ाई बीघा तक)
2. मण्डलायुक्त 2-10-00 बीघा से ऊपर 5-0-0 बीघा तक  
(अढ़ाई बीघा से ऊपर पांच बीघा तक)
3. वित्तायुक्त(राजस्व) 5-0-0 से अधिक पूर्ण शक्तियां  
(पांच बीघा से अधिक)

उपायुक्तों तथा मण्डलायुक्तों द्वारा जारी भूमि हस्तांतरण स्वीकृति पत्रों की प्रतिलिपि प्रत्येक दशा में हिमाचल प्रदेश सरकार राजस्व विभाग को सूचनार्थ पृष्ठांकित की जावेगी।

उक्त भूमि एक सरकारी विभाग से दूसरे सरकारी विभाग को केवल जनहित कार्यों के लिए ही हस्तांतरित की जावेगी।

यह भी निर्णय लिया गया है कि सभी प्रकार की सरकारी भूमि जो राजस्व विभाग में निहित है तथा जो जनहित कार्यों के लिए एक सरकारी विभाग से दूसरे सरकारी विभाग को हस्तांतरित की जानी हो को इस शर्त पर दिया जाये कि यदि कोई भूमि विभाग की आवश्यकता से अधिक हो जाये अथवा हस्तांतरित भूमि को उसी प्रयोजन के लिए इस्तेमाल नहीं किया जा रहा हो जिसके लिए वह दी गई थी, तो अधिक/फालतू भूमि हिमाचल प्रदेश सरकार, राजस्व विभाग को वापिस चली जावेगी।

सरकार ने यह भी निर्णय लिया है कि यदि किसी सरकारी विभाग को, जिसके कब्जे में भूमि है, दूसरे सरकारी विभाग को यह भूमि हस्तांतरित करनी हो तो जनहित कार्यों के लिए ऐसी भूमि हस्तांतरित करने के मामले स्वीकृति हेतु सरकार को अग्रेषित किए जायेंगे।

सरकार साथ ही यह भी निर्णय दोहराती है कि किसी भी सूरत में सुरक्षित पूल की भूमि को हस्तांतरित न किया जाये। इस संदर्भ में समय-समय पर जारी आदेशों तथा अनुदेशों का सख्ती से पालन किया जाए।

भवदीय,  
—हस्त०—  
उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

हिमाचल प्रदेश सरकार  
राजस्व विभाग

सरकारी भूमि का [हस्तांतरण/विक्रय](#)

सरकारी भूमि को भारत सरकार के अधीन विभिन्न विभागों तथा संस्थाओं/बोर्डों, सार्वजनिक उपक्रमों आदि को [हस्तांतरण/विक्रय](#) किए जाने के मामलों में भूमि विक्रय का निम्नलिखित निर्धारण किया जाएगा।

- |                         |  |
|-------------------------|--|
| 1. वित्तायुक्त (राजस्व) | प्रचलित उच्चतम वाजारी कीमत के आधार पर 2 लाख रुपये मूल्य की सरकारी भूमि के बारे में मामले।                |
| 2. राजस्व मन्त्री       | प्रचलित उच्चतम वाजारी कीमत के आधार पर 2 लाख रुपये 3 लाख रुपये तक मूल्य की सरकारी भूमि के बारे में मामले। |
| 3. मुख्यमन्त्री         | प्रचलित उच्चतम वाजारी कीमत के आधार पर 3 लाख से अधिक मूल्य की सरकारी भूमि के बारे में सभी मामले।          |

अन्य सभी शर्तें यथावत रहेंगी।

—हस्त0—  
संयुक्त सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

No. Rev-2A.(4)-1/93-II  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Financial Commissioner (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated: Shimla-171002, the 31.05.1996

Subject:- Succession to the property of a member of Schedule Tribe acquired outside the  
 Tribble areas.

Sir,

I am directed to say that the matter regarding the application of “Hindu Code Bill, Succession Act” on the Scheduled Tribles particularly when they reside in the non-trible area was under consideration of the Government. The Law Department has been consulted in this regard and following clarification has been given by the Law Department “According to the provisions of sub-section (2) of Section 2 of the Hindu Succession Act, 1956, the provision of Hindu Succession Act shall not be applicable to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution of India such, in view of the mandatory provisions of sub-section (2) of Section 2 of the Hindu Succession Act, 1956, the right inheritance in respect of members of the Scheduled Tribble of the State of Himachal Pradesh in relation to their properties situated within the territory of state of Himachal Pradesh and to be determined in accordance with the local customs in wajeeb-ul-urz of that particular schedule area to which he belongs and not accordance with the provisions of Hindu Succession Act, 1956.

I am to request you to kindly issue necessary instruction to all under your kind control to take necessary action in such matters accordingly.

Yours faithfully,

-sd-

Joint Secretary(Revenue) to the  
 Government of Himachal Pradesh.

हिमाचल संख्या: रैव 2एफ(9)4/91  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

प्रेषक

वितायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रषित

1. समस्त जिलाधीश  
हिमाचल प्रदेश।
2. भू-व्यवस्था अधिकारी,  
शिमला व कांगड़ा स्थित धर्मशाला मण्डल,  
हिमाचल प्रदेश।

दिनांक शिमला-171002,

14 नवम्बर, 1996

विषय: फर्द जमाबन्दी, ततीमा एवं हिमाचली/जातीय/आय से सम्बन्धित प्रमाण पत्र जारी करने के लिए अवैध रूप से परितोषण का ग्रहण किए जाने बारे अनुदेश।

महोदय,

सरकार के ध्यान में यह बात सामने लाई गई है कि राजस्व विभाग के कुछ स्टाफ द्वारा फर्द, जमाबन्दी, ततीमा तथा हिमाचली/जातीय/आय से सम्बन्धित प्रमाण पत्र जारी करते समय प्रत्यक्ष अथवा अप्रत्यक्ष रूप से अवैध परितोषण प्राप्त किया जाता है। सरकार के नोटिस में यह बात भी लाई गई है कि कुछ राजस्व स्टाफ द्वारा उन लोगों की कठिनाईयों की ओर सही ध्यान नहीं दिया जाता जिन लोगों को भूमि से सम्बन्धित लेन देन के लिए भू अभिलेखों की अत्यन्त आवश्यकता होती है। कुछ स्टाफ के सम्बन्ध में यह भी शिकायत है कि वे पंचायत के कर्मचारियों से मिलकर केवल कुछ प्रभावशाली व्यक्तियों की ही सिफारिश करते हैं जो ग्रामीण विकास विभाग द्वारा चलाई जा रही कल्याणकारी योजनाओं से लाभान्वित होते हैं परन्तु इससे पात्र व्यक्तियों को लाभ नहीं पहुंच पाता।

1. लोगों में इस बात का भी रोष है कि उन्हें इन्तकाल एवं निशानदेही देने में बहुत विलम्ब होता है और राजस्व विभाग के कर्मचारियों द्वारा आवश्यक आदेशों की प्रतियां देने में भी देर की जाती है।

2. सरकार विभागीय कर्मचारियों द्वारा लोगों को पहुंचाई जाने वाली कठिनाईयों को दूर करने में चिन्तित है ताकी इस बात की इच्छुक है कि अवैध रूप से ग्रहण किए जाने वाले परितोषण को रोका जा सके। राजस्व विभाग के ऐसे दोषी कर्मचारियों के विरुद्ध अनुशासनात्मक कार्यवाही किए जाने बारे सरकार पूर्ण रूप से पक्ष में है तथा यह चाहती है कि अधोलिखित निर्देशों की शीघ्रता से अनुपालना की जाये।

- (1) पटवारी द्वारा समयवद्ध तरीके से फर्द जमाबन्दी, ततीमा तथा अन्य भू-अभिलेख से सम्बन्धित अभिलेखों की प्रतियां जारी की जाए तथा इन अभिलेखों से सम्बन्धित

वही फीस ली जाए जो इस विभाग द्वारा जारी अधिसूचना संख्या: 10. 9/69-।।(ख), दिनांक 9.12.1992 में निर्धारित की गई।

- (2) लोगों की सार्वजनिक सूचना एवं सुविधा हेतु पटवारी द्वारा जारी किए जाने वाले भू अभिलेखों की निर्धारित फीस की दरों सहित सूची पटवारखाने के सूचना पटल पर लगी होनी चाहिए। पटवारखाने के सूचना पटल पर लगाए जाने वाले भू अभिलेखों की हिन्दी में सूची संलग्न है। यद्यपि इस के अतिरिक्त भी यदि कोई अन्य भू अभिलेख लोगों को दिये जाते हो तो इन अभिलेखों सम्बन्धित सूची भी कथित सूची में जोड़ दी जाए।
- (3) पटवारी को यह भी अनुदेश दिए जाये कि वह लोगों का मार्ग दर्शन करे कि अन्य भू अभिलेख किस-किस स्तर(तहसील/उपमण्डल)पर उपलब्ध होंगे।
- (4) यदि लोगों द्वारा कोई शिकायत की जाती है तो उन्हें पूर्णतया ध्यान में रखा जाये तथा तदानुसार कार्य प्रणाली में सुधार लाया जाए। पटवारी को आश्वस्त करना होगा कि वह तहसीलदार द्वारा निशानदेही व इन्तकाल तसदीक किए जाने की निर्धारित तिथि से कम से कम दो दिन पूर्व लोगों को जानकारी देंगे।
- (5) इसके अतिरिक्त हिमाचल प्रदेश लैण्ड रिकार्ड मैनुअल के अध्याय 28 में निर्धारित प्रक्रिया के अनुसार सक्षम अधिकारियों द्वारा दिए जाने वाले प्रमाण पत्रों (जनजाति/अनुसूचित जाति, पिछड़े वर्ग, हिमाचली स्थाई निवासी तथा आय) से सम्बन्धित सत्यापन किया जाता है। यह आश्वस्त करना होगा कि इस प्रकार के आवेदनों पर सिफारिश करते हुए किसी भी मामले में भेदभाव न किया जाए। इस सम्बन्ध में किए गए भेदभाव से उन जरूरतमन्द व पात्र व्यक्ति उन लाभों से वंचित हो जायेंगे जो इन लोगों को सरकार द्वारा चलाई जा रही कल्याणकारी योजनाओं के अन्तर्गत उपलब्ध है।
- (6) पटवारी को निर्देश दिए जाये कि वह आवेदक को 7 दिनों के अन्दर-अन्दर सत्यापित प्रतियां उपलब्ध करवाए या उसे वास्तुस्थिति से अवगत करवाये।
- (7) भू स्वामियों की एक अन्य शिकायत है कि पटवारी कई-कई दिनों तक पटवारखाने में उपलब्ध नहीं हो पाता। इस सम्बन्ध में यह आश्वस्त करना होगा कि पटवारी सप्ताह के पहले तीन दिन पटवारखाने में उपस्थित रहें और जब उसे पटवारखाने से बाहर रहना हो तो उसे पटवारखाने के सूचना पटल पर यह नोटिस लगाए कि वह किस-किस दिन को कहां होगा तथा वह कौन सी तारिखों को अपने कार्यालय में उपलब्ध हो पाएगा। इस सम्बन्ध में सम्बन्धित पंचायत को भी सूचित करना होगा।

अतः आपसे अनुरोध है कि इस सम्बन्ध में आवश्यक अनुदेश शीघ्र जारी किए जाये तथा यह भी आश्वस्त किया जाए कि इन अनुदेशों का कड़ाई से अनुपालन होगा। संलग्न निर्देशों



की प्रयाप्त प्रतियां प्रिन्ट करवाई जाये और इन्हें हर पटवारखाने में तथा सार्वजनिक स्थान पर लगाया जाए। जब भी कोई निरीक्षण अधिकारी निरीक्षण हेतु पटवारखाने में आए तो इन दिशा-निर्देशों की पालना से सम्बन्धित टिप्पणी उसकी निरीक्षण रिपोर्ट में आनी चाहिए।

कृप्या इसकी पावती सूचना एवं अनुपालन रिपोर्ट भेजें।

भवदीय,

—हस०—

वित्तायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रष्ठांकन संख्या: यथोपरी

दिनांक शिमला-171002,

14 नवम्बर, 1996

1. प्रतिलिपि मण्डलायुक्त, शिमला हिमाचल प्रदेश को सूचनार्थ एवं आवश्यक कार्यवाही हेतू प्रेषित है।
2. प्रतिलिपि निदेशक, भू अभिलेख हिमाचल प्रदेश, शिमला-2 को सूचनार्थ एवं आवश्यक अनुरूप उचित कार्यवाही हेतू प्रेषित है।

—हस०—

वित्तायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

**पटवारी द्वारा उपलब्ध करवाये जाने वाले अभिलेखों की सूची**

1.	जमाबन्दी उद्धारण सहित जो अदालतों या अधिकारियों ने पैदावार का सार तैयार करने के लिए मंगवाए है।	(1) प्रति कृति खतौनी एक रुपया।
2.	जमाबन्दी के साथ संलग्न निरीक्षण नोट।	
3.	फर्द बदर	(क) प्रथम 286 शब्द या उससे कम के लिए
4.	लम्बित इन्तकाल की प्रतिलिपियां	2 रुपये।
5.	लम्बित इन्तकाल के परिप्रश्न	(ख) प्रत्येक अतिरिक्त 100 शब्दों या उससे
6.	इन्तकाल पन्ने के प्रतिपर्ण	भाग के लिए एक रुपया।
7.	कुल्लु जिला में प्रत्येक सम्पदा के अधिकारी के बन्दोबस्त अभिलेख से पैट और घासनी (चरागाह स्थल) की सूची और	
8.	मिसल हकीयत	एक रुपया।
9.	फर्द हकीयत जिसमें मालिकों के नाम या मौरूसियों, खेतों की कुल संख्या, क्षेत्र, भू-राजस्व और दरें तथा उपकर सम्मिलित हो।	खेवट नम्बर का ध्यान दिए बिना, नियम प्रभारण एक रुपया।
10.	हिस्सेदारान खाता मालिकान या मौरूसी	प्रत्येक आवेदन के लिए 2 रुपये।
11.	भू-प्रति के ज्योलोजिकल वृक्ष मौरूसी अथवा मुकर्रीदार	(क) प्रथम 200 शब्दों या उससे कम के लिए 2 रुपये।
12.	कुओ तथा सिंचाई के अन्य स्रोतों का विवरण।	(ख) प्रत्येक अतिरिक्त 100 शब्दों या उनके भाग के लिए एक रुपया।
13.	पैंशन मुआफी की सूची	
14.	वाजिब-उल-अरज (गांव के रिवाजों की सूची)  (क)नक्शा/हक्कूक/जिन्दरात व पनचक्की। (ख)फर्द बाछ या ढालबाछ (असामीबार) (ग)मांग सारणी (नहर)	प्रत्येक आवेदन के लिए 2 रुपये बशर्ते प्रत्येक आवेदन दो फसलों से अधिक तक सीमित हो। यदि प्रतिलिपि भू-राजस्व के बकाया की वसूली के लिए अपेक्षित हो तो कोई भी फीस प्रभावित नहीं की जाएगी।  प्रत्येक आवेदन के लिए 2 रुपये।
15.	तरीका बाछ	(क) प्रथम 200 शब्दों या उससे कम के लिए 2 रुपये।
16.	बन्दोबस्त अधिकारियों के आदेश	(ख) प्रत्येक अतिरिक्त 100 शब्दों या उसके भाग के लिए एक रुपया।
17.	खसरा गिरदावरी के उद्धारण सहित जो अदालतों या अधिकारियों द्वारा पांच साला पैदावार का सार तैयार करने के लिए मंगवाये गये हो।	एक जिला में सम्बन्धित प्रत्येक खसरा नम्बर की प्रविष्टी के लिए एक रुपया तथा तत्पश्चात प्रत्येक चार खसरा नम्बर या उसके भाग के लिए एक रुपया।

18.	श्रोजनामचे	किसी एक तारीख को एक विषय पर की गई प्रत्येक प्रविष्टी के लिए 1.00 रूपया।
19.	फील्ड बुक	प्रथम दस या उससे कम खेतों के लिए 1.00 रूपया और प्रत्येक अतिरिक्त चार खेतों या उसके भाग के लिए 1.00 रूपया।
20.	चराई मुल्य का विवरण	प्रत्येक आवेदन के लिए 2.00 रूपये और नम्बरदार द्वारा चराई फीस अथवा चौकीदारा
21.	चौकीदारों की निर्धारण सूची का उद्धरण।	कर की वसूली के लिए प्रतिलिपि अपेक्षित हो तो कोई फीस नहीं ली जायेगी।
22.	गांव की लाल किताब में निहित कथन	वर्षों का ध्यान किए बिना एक रूपया प्रति कथन
23.	पांच साला इन्तकालों के औसत का सार	3 रूपये प्रति कथन के लिए।
24.	पर्चा बुक	किताब की लागत कीमत एक रूपया प्रति खतौनी घृति।
25.	एक पांच साला से सम्बंधित कागजात का निरीक्षण इन्तकाल रजिस्ट्रों की प्रविष्टियों सहित।	प्रत्येक निरीक्षण के लिए 2 रूपये नियत प्रभार।
<b>ग- मानचित्र व अनुरेखण को तैयार करना।</b>		
26.	अनुरेखन (अक्स) शजरा किशतवार	एक रूपया दस खसरा नम्बरों तक तथा उसके उपरान्त हर खसरा नम्बर के लिए एक रूपया।
27.	अनुरेखन (अक्स) ततीमा शजरा	एक रूपया दस खसरा नम्बरों तक तथा उसके उपरान्त हर खसरा नम्बर के लिए एक रूपया।
28.	दीवानी या राजस्व मुकदमों के सिलसिले में अदालतों, अधिकारियों द्वारा तलब किए गये नक्शों को तैयार करना।	एक रूपया दस खसरा नम्बरों तक तथा उसके उपरान्त हर खसरा नम्बर के लिए एक रूपया।
29.	ततीमा मौका	5.00 रूपये प्रति ततीमा।

(ख) उप-नियम (3) में और शब्द 'पच्चास पैसे' के लिए 'एक रूपया' शब्द और अंक रखे जायेगे।

(ग) उप-नियम (4) का लोप किया जाएगा।

**नोट:** यदि किसी विशेष व्यक्ति के पास पटवारी की कार्य प्रणाली में सुधार लाने हेतु कोई सुझाव हो तो वह सम्बन्धित तहसीलदार अथवा जिलाधीश को लिखित रूप से अवगत करवा सकता है।

## राजस्व विभाग और आप

1. इस पटवारखाने में पधारने के लिए आपका हार्दिक स्वागत है—यहां इस क्षेत्र के भूमि से सम्बन्धित भू-अभिलेख उपलब्ध है।
2. यहां राजस्व विभाग का प्रतिनिधित्व पटवारी करता है जिसके पास यह अभिलेख उपलब्ध है। इन दस्तावेजों को सुरक्षित तथा पूरी तरह सम्भाल कर रखने का उसका पूर्ण उत्तरदायित्व है।
3. जो लोग राजस्व अभिलेख से सम्बन्धित प्रतियां प्राप्त करना चाहते हैं वे पटवारी को वांछित प्रतियाँ उपलब्ध करवाने हेतु आवेदन कर सकते हैं। पटवारी को कोपिंग फीस का भुगतान करने पर इनकी प्रतियाँ उपलब्ध करवाने के लिए आवश्यक अनुदेश दिए गए हैं।
4. भूमि की निशान देही व तकसीम के लिए आवेदन सम्बन्धित राजस्व अधिकारी को करने होते हैं। किसी भी भू-स्वामी को विक्रय, दान, रहन, विरासत आदि द्वारा अर्जित की जाने वाली भूमि के बारे में वास्तव में पटवारी को बताना होता है तथा अर्जित की जाने वाली भूमि को तस्दीक करने की प्रविष्टी करता है। भू-स्वामी को इन प्रविष्टियों को राजस्व अधिकारी द्वारा तस्दीक किए जाने बारे उसके प्रवास के सम्बन्ध में सूचना दी जाती है।
5. बोनाफाईड हिमाचली, जाति व आय से सम्बन्धित प्रमाण पत्र से सम्बन्धित आवेदन राजस्व अधिकारी प्राप्त करता है तथा इन आवेदनो पर पटवारी अपनी रिपोर्ट देता है जिसके लिए उसे अधिकृत किया गया है। इसके लिए वह उपयुक्त छानबीन करता है तथा इससे सम्बन्धित रिपोर्ट को वह निरीक्षण अधिकारी को प्रस्तुत करता है।
6. भूमि से सम्बन्धित रिकार्ड का रख-रखाव तथा राजस्व रिकार्ड में आवश्यक संशोधन का कार्य भू-राजस्व अधिनियमों तथा नियमों में विभिन्न प्रकार के उपलब्ध प्रावधानों के अनुसार किया जाता है। भूमि से सम्बन्धित अभिलेखों का सही ढंग से रखरखाव तथा उन में प्रविष्टियाँ सही ढंग से हो का उत्तरदायित्व राजस्व विभाग को सौंपा गया है। जहां भी आपको यह लगे कि रिकार्ड में कानून के अनुसार सही स्थिति नहीं दर्शाई गई है, आप इस सम्बन्ध में पटवारी का ध्यान इस और दिला सकते हैं। वह इस सन्दर्भ में आपका सही मार्ग दर्शन करेगा।
7. सरकारी भूमि पर अवैध कब्जे के बारे में सूचित करने के लिए पटवारी को अधिकृत किया गया है। ग्रामीण वासियों को जैसे ही अवैध कब्जा करने के बारे में पता चले उन्हें परामर्श दिया जाता है कि वे इस बारे में शीघ्र पटवारी को सूचित करे।
8. जो भूमि किसान के पास होती है उसके सम्बन्ध में प्रत्येक कृषक को किसान पास बुक जारी की जाएगी। इस किसान पास बुक में भूमि से सम्बन्धित पूर्ण विवरण दिया जाता है।
9. कोई भी इच्छुक व्यक्ति पटवारी के पास उपलब्ध रिकार्ड का निरीक्षण कर सकता है तथा वह पटवारी की उपस्थिति में उस रिकार्ड से पैन्सिल से उद्धरण ले सकता है।

आदेश द्वारा,  
वित्तायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

No. Rev-D(A)2-1/97  
 Government of Himachal Pradesh  
 Department of Revenue.

Dated: Shimla-2, 24<sup>th</sup> April, 1997

From

The Financial Commissioner-cum-Secretary (Revenue)  
 Government of Himachal Pradesh.

To

- 1) Divisional Commissioner,  
Kangra at Dharamshala/Mandi/Shimla.
- 2) All Deputy Commissioner in H.P.
- 3) Settlement Officer, Kangra at Dharamshala/Shimla.
- 4) Director, Land Records, Himachal Pradesh.
- 5) Director, Consolidation of holdings, H.P. Shimla.
- 6) All the Sub-Divisional officers (Civil) in H.P.
- 7) All the Tehsildars in Himachal Pradesh.
- 8) All the Naib-Tehsildars working in Sub-Tehsils in Himachal Pradesh.

Subject: Demarcation of private lands touching Govt. lands or boundaries of another estate.

Sir,

I am directed to say that prior to the instructions issued by the Government in Revenue Department vide letter No. Rev.-2F(9)-1/88, dated 9<sup>th</sup> November, 1989 on the above subject, the Naib Tehsildars as A.C.-II grade used to conduct demarcation of Private lands and also demarcations which involved defining boundaries between Private lands and the Government lands and boundaries between one estate and the other or overlapping boundaries of adjoining estates.

But consequent upon the amendment in the H.P. Land Revenue Act, in 1989 wherein the A.C.-I grade has been vested with the civil powers to deal with the encroachment cases under section 163 (3) in their respective jurisdiction, such demarcations of private lands touching government lands and where the lands to be demarcated touches or overlaps the boundaries of another village, have been directed vide the above referred letter dated 9.11.1989 to be done by a Revenue Officer not below the rank of Tehsildar exercising the powers of A.C.-I Grade.

As a result thereof, imbalance in the work load between the Tehsildars and Naib-Tehsildars has increased and the Tehsildars who exercise the powers of A.C.-I grade are not able to cope with the increased workload and the cases of demarcation of private lands touching the Government lands have piled up. The Deputy Commissioners in their annual conference have also requested to confer the powers of A.C.-I Grade upon Naib Tehsildars for conducting the demarcations in the cases of above referred nature in order to improve the over-all efficiency in the working of Tehsildars and in the interest of general public.

It has now been decided that this department letter No. Rev.2F(9)1/88 dated 09.11.1989 which provides for conducting demarcations of Private lands touching government lands by a Revenue Officer not below the rank of Tehsildar, exercising the powers of Asstt. Collector Ist Grade, be withdrawn, with immediate effect so that Naib-Tehsildars may also conduct the demarcations of Private lands touching Government Lands and where the lands to be

demarcated touches or overlaps the boundaries of another estate or boundaries between one estate and the other.

However, it is clarified that the Naib-Tehsildars exercising the powers of A.C.-II Grade and conducting the encroachment cases, under section 163 of the H.P. Land Revenue Act, shall refer such encroachment cases, where question of title or adverse possession are raised/involved, to the Tehsildars exercising the powers of A.C.-Ist grade to determine the questions under sub-section (3) of section 163 of Himachal Pradesh Land Revenue Act as if he were a Civil Court.

Yours faithfully,

-sd-

Financial Commissioner-cum-Secy. (Rev.)  
Government of Himachal Pradesh.

Endst. No. No. Rev.D(A) 2-1/97

Dated: 24/4/1997

Copy to:-

1. Revenue-B. Section, H.P. Secretariat.
2. C.O.C. to the F.C. (Appeals) Government of Himachal Pradesh.

-sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-D(A)2-1/97  
 Government of Himachal Pradesh  
 Department of Revenue.

Dated: Shimla-2, 30/7/1998

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All Deputy Commissioners  
 Himachal Pradesh.

Subject: Partition of private and Government land reg.

Sir,

I am directed to say that it has been brought to the notice of Government that irregularities occur in partition of land wherever there are joint ownership of private land owners with Govt. land and to prevent it, the provisions of section 123 of the Himachal Pradesh Land Revenue Act, 1954 and section 7 of the H.P. Private Forest Act 1954 may be strictly adhered to which are crystal clear and beyond doubt and they deal with two different situations. Individual who is in joint ownership of land with the Government, can apply for the partition of land to the Revenue Officer for partition of his share under section 123 of the H.P. Land Revenue Act, 1954 and such Revenue Officer has to deal with his application as per provision contained in Chapter IX of the Act *ibid*, irrespective of the kind of land. So far as cases under section 7 of the H.P. Private Forest Act 1954, are concerned, they are to be dealt with separately under the particular provision therein i.e., when a person who has right to reclaim any land in a notified forest shall not reclaim any land therein except with the previous permission of the Forest Officer obtained in writing and in accordance with such conditions as the Forest officer may impose. The land notified as forest shall remain subject to the provision of H.P. Private Forest Act even after the land partition takes place under the provision of Chapter IX of the H.P. Land Revenue Act, 1954 and as such the Forest Department shall have the control over such land even after partition and an individual reclaiming the land notified as forest for cultivation shall have to obtain a written permission of the Forest Officer as per provisions of section 7 (b) of the Act *ibid*.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. Rev. D.(A) 2-1/97

Dated : 30/7/98

Copy to:

- (1) F.C.-cum-Secretary (Forest) Govt. of H.P.
- (2) Pr. Conservator of Forests of H.P. Shimla.
- (3) All Divisional Commissioners in H.P.
- (4) Settlement Officer Shimla and Kangra, H.P.
- (5) Forest Settlement Officer Shimla/Nahan/ Hamirpur/Kullu and Palampur for necessary action.
- (6) Guard file.

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. FFE-B(F)-8-76/96-Loose-  
Government of Himachal Pradesh,  
Department of Forest.

From

The Chief Secretary  
Himachal Pradesh,  
Shimla.

To

- 1) All the Administrative Secretaries,  
Government of Himachal Pradesh, Shimla.
- 2) All the Heads of Departments.

Dated: Shimla-171002, the 25<sup>th</sup> August, 1998.

Subject: Obtaining NOC from the Forest Department before diversion of Government land for road construction, construction of building, transfer for industrial use etc.

Sir/Madam,

I am directed to state that general instructions have been issued from time to time that the views of the Forest Department will be obtained by the concerned departments before land recorded in the ownership or possession of the Government of Himachal Pradesh is transferred to specific Government departments for utilization for road construction, construction of office buildings, development of campuses for educational institutions, lease for industrial use etc. often the Forest Department staff, after inspecting the land in question merely give the comments that the area falls in the definition of forest land and as per the provision of the Forest (Conservation) Act, 1980 such area cannot be diverted to non forest use without the approval of the government of India. The departments considered views on the slope of land, vulnerability to erosion, effect on nearby afforested areas suitability for proposed use etc. are not recorded.

The Government is the owner of most of the land area of the state and must fulfill its obligation towards maintaining ecological balance and prevention of ecological degradation of these lands through erosion of vulnerable areas. It is therefore now directed to henceforth the comments of the Forest Department staff should be very specific reflecting the position regarding trees and woody growth standing on the land, slope, possibility of damage to the area due to erosion and whether utilization of the land as proposed will have any adverse effect on nearby afforested areas.

Even where areas specified as 'Gair Mumkin' and 'Charagah bila drakhtan' in the revenue record is proposed to be utilized for road construction, construction of buildings, industrial activity etc. the "No Objection Certificate" will have to be obtained from the Forest Department. Since, the nature of such land may have changed over time since the last survey and settlement operations were completed, the forest officials will be required to furnish a detailed report on the points mentioned in para 2 above and also whether any plantation has taken place in the area or natural woody growth has come up while confirming that the entry of "Charagah bila drakhtan" in the revenue record reflects the position on the ground. In case where it is found that the land is classified as "Charagah bila drakhtan" but in actual fact on the ground there is substantial growth of



trees, the forest department will not issued No Objection Certificate for utilization of the area for non forest purposes.

Receipt of this communication may kindly be acknowledged.

Yours faithfully,  
-sd-  
Chief Secretary  
Himachal Pradesh,  
Shimla-171002.

Endst. No. FFE-B-(F)-8-76/96-Loose-

Dated Shimla-2 the 25<sup>th</sup> Aug. 1998.

Copy forwarded for favour of information and necessary action to:-

1. All the Chief Conservator of Forests in H.P.
2. All the Conservator of Forests in H.P.
3. All the Deputy Conservator of Forests in H.P.
4. All the Divisional Forest Officers in H.P.
5. Guard File.

-sd-

Commissioner-cum-Secy.(Forests)  
to the Govt. of Himachal Pradesh.

संख्या रैव0बी0एफ0(8)-6/97  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

प्रेषक:

वितायुक्त एवं सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

प्रषित

1. भू-व्यवस्था अधिकारी,  
शिमला मण्डल, शिमला-9
2. भू-व्यवस्था अधिकारी,  
कांगड़ा मण्डल, कांगड़ा हि0प्र0।
3. निदेशक भू-अभिलेख,  
हिमाचल प्रदेश, शिमला-9

दिनांक शिमला-171002, 22 अप्रैल, 2000

विषय: भू-व्यवस्था के समय तैयार किए गये/किये जाने वाले भू-अभिलेख में "वन" व "जंगल" से सम्बन्धित इन्द्राज को दर्ज करने बारे मार्ग-निर्देश।

महोदय,

"जय हिन्द"

उपरोक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि वर्तमान राजस्व भू-अभिलेख में भूमि पर पेड़ होने की अवस्था में लोगों को निजी भूमि की किस्म को "वन", "वनो" या "जंगल" के इन्द्राजों से दर्शाया गया है। इसी प्रकार के इन्द्राज वर्तमान भू-व्यवस्था के दौरान भी किए जा रहे हैं। इस प्रकार के इन्द्राजों से लोगों की कठिनाईयां बढ़ रही हैं। इस सम्बन्ध में गहन विचार करने के पश्चात यह निर्णय लिया गया है कि भू-व्यवस्था के दौरान ऐसे इन्द्राज के बारे निम्न प्रकार के मार्ग-निर्देश का अनुसरण किया जाए:-

1. जहां पिछले भू-व्यवस्था के समय "वन" या "द्रखतान" का इन्द्राज नहीं है उसमें "वन" या "द्रखतान" का इन्द्राज न किया जाए।
2. भू-व्यवस्था के दौरान यदि इन्द्राजों में परिवर्तन लाया गया है उसे पहले के भू-व्यवस्था में हुए इन्द्राजों के अनुसार ही रखा जाए।
3. "चरागाह" को "चरागाह बिला द्रखतान" या "चरागाह द्रखतान" न लिखकर "चरागाह" ही लिखा जाए।
4. आरक्षित वन, "जंगल मैहफूजा मैहदूदा" "जंगल मैहफूजा गैर-मैहदूदा" का इन्द्राज यथावत अधिसूचना अनुसार रखा जाए।
5. जहां नए भू-व्यवस्था में पुराने भू-व्यवस्था के अनुसार उपर्युक्त किस्मों में परिवर्तन लाया गया है, उसका कार्यान्वयन जमाबन्दी मिसले हकीयत से लेकर प्रत्येक जमाबन्दी के खाना विवरण में नोट दर्ज करके दिया जाए।

अतः आपसे अनुरोध है कि सरकार के उपरोक्त दिशा-निर्देशों से अपने अधीनस्थ समस्त अधिकारियों/कर्मचारियों को अवगत करवाएं तथा इस सम्बन्ध में की गई कार्यवाही से इस विभाग को भी सूचित किया जाए।

भवदीय,

-हस्त0-

उप-सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

No.5/73-Revenue-A(Vol.II)-loose  
Government of Himachal Pradesh,  
Department of Revenue (Stamp-Regn.)

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The D.L.R.-cum-Inspector General of  
Registration, Himachal Pradesh, Shimla-9.
2. The Divisional Commissioners,  
Shimla/Mandi/Kangra Division,  
Himachal Pradesh.

Dated: Shimla-2, the 2<sup>nd</sup> March, 2004

Subject: Instruction regarding entry of Equitable Mortgage in the Revenue Records.

Sir,

I am directed to say on the above cited subject that in the State Level Bankers Committee an issue was raised that a note of lien be given in Revenue Records on the land under Equitable Mortgage so that such land is not further disposed/ alienated. The proposal is to make an entry in the records on the basis of the Memoranda of Equitable Mortgage submitted by the concerned Bank through Sub-Divisional Collector. Further, this department has specified all towns in the Himachal Pradesh as Municipalities and notified areas under sub section 2 of section 3 of the H.P. Municipal Act, 1994 for creation of security by deposit of title deeds vide Notification No. 5/73-Revenue A(Vol.II), dated 31-01-2001.

You are, therefore, requested to supply your comments on this issue at an earliest please.

Yours faithfully,

-sd-

Joint Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev. D(F)12-15/2004  
Government of Himachal Pradesh  
Department of Revenue.

From

The F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. Divisional Commissioners,  
Shimla, Mandi & Kangra at Dharamshala, H.P.
2. All Deputy Commissioners in Himachal Pradesh.
3. All Sub Divisional Officers (Civil) in Himachal Pradesh.
4. Director, Land Records, H.P. Shimla-9.
5. Director, Consolidation & Holdings, H.P. Shimla-9.
6. Settlement Officer, Shimla/Kangra at Dharamshala.
7. All the Tehsildars/Naib Tehsildars in H.P.

Dated Shimla-171002, the 9<sup>th</sup> March, 2006.

**Subject:- Instructions regarding pending land dispute cases-Disposal thereof.**

Sir,

I am directed to say that it has come to the notice of the Government that a number of court cases/Revenue cases i.e. demarcation, mutation and partition are lying pending with the Revenue Officers in the various Districts and the matter has been viewed very seriously by the Govt.

It has, therefore, been decided to clear the pendency of these cases in the time bound manner and a campaign to dispose off these cases will be launched with effect from 15-4-2006 to 15-9-2006.

The campaign shall be closely monitored by Divisional Commissioners/Deputy Commissioners/Sub Divisional Magistrates in their jurisdiction.

In addition to it, it was also decided that all Revenue Officers shall make calendar of inspection of their subordinate officers so that close watch is kept on the working of these officers. Also the Divisional Commissioners and Director, Land Records/Director, Consolidation/Settlement Officer will hold regular Circuit Court in the Sub-Divisions where the cases are pending. Monthly report in respect of Deputy Commissioners/Additional District Magistrates/Sub-Divisional Officers (Civil)/Tehsildars and Naib-Tehsildars may be sent by Deputy Commissioners in consolidated manner before 10<sup>th</sup> of every month to this Department.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Dated Shimla-2 09-3-2006.

Endst. No. As above.

Copy forwarded to Sh. Vijay Kapoor (ARO), Clerk, O/o Director, Land Records, HP Shimla-9 for information and necessary action.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh

No. Rev.B.A.(4)8/2004-Loose  
Government of Himachal Pradesh,  
Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners  
in Himachal Pradesh.
3. The Settlement officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All SDO(Civil)  
in Himachal Pradesh.
5. All Tehsildars/Naib-Tehsildars  
in Himachal Pradesh.

Dated: Shimla-2, the 21-4-2006

Subject: Clarification regarding implementation of notification issued by the Forest Department in the year of 1952.

Sir,

I am directed to say that issue regarding applicability of provisions of notification issued in the year 1952 by the Forest Department under Indian Forest Act, 1927, was under consideration of the Government and a Committee under the Chairmanship of Chaudhary Dhani Ram, IAS (Retd.) was constituted by the government to examine the implications arising out of notification issued by the Forest department on 25.2.1952 and subsequent notification and interim direction/order issued by the Hon'ble Supreme Court dated 12.12.1996 in WP(Civil) No. 202 of 1995-in case Shri T.N.Godavarman Thirumulkpad Vs. Union of India and Ors.

The recommendations of the said Committee were also examined by a Sub-Committee constituted under the Chairmanship of the Director, Land Record in which the representatives of the Forest Department and Revenue Department were associated as members.

Thereafter, the matter has been examined at length at Government level in consultation with the Law Department and it has been concluded/decided that notification issued in the year 1952 by the Forest Department under the provisions of Indian Forest Act, 1927 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village common Lands Vesting and Utilization Act, 1974 as the land vested under these statutes was belonging to the people before vestment and has to be utilized by the Government for the benefit of weaker section of the society as per schemes framed under these statutes to achieve the objective behind the enactment of aforesaid enactments. However, if any land which was vested in the State Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment then even after vestment such land shall continue to be treated as Forest land and the provisions of Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 are applicable on such land and such land can be utilized for non-forest purpose only with the prior approval of the Central Government. Further, the forest law shall also

apply to surplus area if any which has been demarcated by the Forest Department in consultation with the Revenue Department in terms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

In view of above decision, you are requested to direct the field agencies that despite the notification issued in the year 1952 by the Forest Department, the provisions of Indian Forest Act, 1927 and Forest Conservation Act, 1980 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 unless any land which vested in the State Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment or any land which has been demarcated by the Forest Department in consultation with the Revenue Department in terms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh

Endst. No. As above.

Copy forwarded for information and necessary action to:-

1. The Principal Secretary (Forest) to the Government of Himachal Pradesh, Shimla-2.
2. The Principal Chief Conservator of Forest, H.P.
3. The Director, Land Records, H.P. Shimla-9
4. The ALR-cum-Under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-2.
5. The COC to the Financial Commissioner (Appeals) to the Government of H.P. Shimla-2.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh

No. Rev. D(E)5-2/2006  
Government of Himachal Pradesh  
Department of Revenue.

From

The Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All Deputy Commissioners,  
in Himachal Pradesh.

Dated Shimla-171002, the                      2006.

**Subject:-      Monitoring of revenue court cases monthly by the Divisional Commissioners**

Sir,

I am directed to say that it has been decided by the Govt. that the disposal of revenue cases/pending cases on monthly basis will be monitored by the Divisional Commissioners at Divisional level and on quarterly basis at Govt. level. Therefore, you are requested to send monthly reports of pending revenue cases to concerned Divisional Commissioners and quarterly reports to this Department regularly.

The disposal of pending revenue cases of Mutation, Partition, Demarcation etc. may be ensured to be disposed off expeditiously at Tehsil level and Sub Divisional level.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Dated Shimla-2                      2006.

Copy forwarded to All Divisional Commissioners in HP to please ensure early disposal of pending revenue cases and monitoring of these cases on monthly at Divisional level and its consolidated report be sent to this Department before 10<sup>th</sup> of every month.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(4)-8/2004-1  
 Government of Himachal Pradesh,  
 Department of Revenue.

From

A.C.S.-cum-F.C.(Revenue) to the  
 Government of Himachal Pradesh.

To

The Principal Secretary (TCP) to the  
 Government of Himachal Pradesh.

Dated: Shimla-2, the 19/5/2007

Subject: Request for relaxation of matter of "NAKABIL" land classified in the revenue record prior to the 1980 in Mauza Jarja, Tehsil Nahan, H.P.

Sir,

I am directed to refer to your letter No. TCP-F(10)-1/2007 dated 28<sup>th</sup> March, 2007 on the subject cited above and to say that the matter regarding applicability of provisions of forest Conservation Act, 1980 on the land classified as "NAKABIL" and "NAKABIL JANGAL JHADI" has been examined in consultation with the Law Department.

As per Law Department the expression "Forest Land" has not been defined either in the Indian Forest Act, 1927 or the Forest (Conservation) Act, 1980 but the controversy is no longer re-integra as the Hon'ble Supreme Court in its judgement reported in AIR 1997 SC 1228, in case T.N. Godaverman Thirumulkpad and other Vs. Union of India has held that the term "forest land" occurring in Section 2 will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in Government record ir-respective of ownership. In another case, titled as Samatha Vs. State of Andhara Pradesh and Others reported in AIR 1997 SC 3297 a view has been taken that "forest" bears extended meaning of tract of land covered with trees shrubs, vegetation and under-growth intermingled with trees with pastures, be it natural growth or man made forestation. Hence, from the perusal of the meaning assigned to the word "forest" by the Hon'ble Supreme court it is clear that the land classified as "Nakabil" and Nakabil Jangal Jhadi" can not be treated as forest land thus, planning permission can be given on such land.

However, if there are trees, shrubs, vegetation and under-growth intermingled with trees with pasture, be it natural growth or man made forestation then, it will attract the provisions of Forest Conservation Act, 1980 in terms of law established/laid down by the Hon'ble Supreme Court.

You are, therefore, requested to direct the concerned accordingly.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
 Government of Himachal Pradesh



Endst. No. As above. Dated: Shimla-2, the 19/5/2007

Copy forwarded to:

1. The Principal Secretary(Forests) to the Government of Himachal Pradesh, Shimla-2.
2. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
3. All the Deputy Commissioners in H.P.
4. The Director, Land Records, H.P. shimla-9.
5. The Director, Consolidation of Holdings, H.P. Shimla-9.
6. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.

They are requested to direct the field revenue agencies accordingly and also to acknowledge the receipt of this communication.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh

No. Home-E (5)2-918/2006.  
 Government of Himachal Pradesh,  
 Department of Home.

From

The Principal Secretary (Home) to the  
 Government of Himachal Pradesh.

To

All District Magistrates,  
 in Himachal Pradesh.

Dated: Shimla-171002, the 4-6-2007

Subject: Instructions regarding demarcation of land in criminal cases.

Sir,

During the scrutiny of certain criminal cases at Government level involving boundary dispute between the parties or in other matters wherein identification and demarcation of the plot is required to substantiate the prosecution case, it has been noticed that in majority of cases no proper demarcation is being carried out by the competent authority in accordance with the provisions of Himachal Pradesh Land Revenue Act and the Standing Instructions issued by the Financial Commissioner-cum-Secretary (Revenue) in the matter. As a result thereof, such cases fail in the Court of Law.

With a view to improve the success rate in such type of cases, it is necessary for the investigating agencies to ensure that the demarcation of land in question is carried out by the competent Revenue Officer on the basis of the revenue record i.e. Musavi prepared at the time of Settlement or Consolidation. It further needs to be emphasized that demarcation should essentially be given by the Revenue official not below the rank of Field Kanungo and before starting the demarcation (to locate the boundary) fixed points should be ascertained from the parties, recording their statements qua the fixing of the points so that at a later stage the parties do not take advantage that points were not properly fixed. The report of demarcation should also clearly reflect all such aspects and process of carrying it out demarcation in the presence of parties. The tatima of disputed portion if any be also prepared in accordance with above demarcation on the spot and verified by the field Kanungo concerned. The provisions of Chapter 10 of the Himachal Pradesh Land Records Manual qua "Demarcation of Boundaries" should be strictly adhered to by the Revenue officers, further keeping in view the Standing Instructions No. Rev.2F(9)-I/88 dated 9-11-1989 and No. Rev. D(A)2 1/97 dated 24-4-1997 issued by Financial Commissioner-cum-Secretary (Revenue) to the Government of Himachal Pradesh on the subject and other instructions which may be issued from time to time.

You are, therefore, requested to give needful direction to all the Revenue officers under your administrative control for strict compliance of the aforesaid legal provisions and the Standing Instructions in the matter so that the demarcation proceedings as well as the demarcation reports are given due weightage by the concerned Court of Law while appreciating the prosecution evidence.

Yours faithfully,

-sd-

Deputy Secretary (Home) to the  
 Government of Himachal Pradesh.

Endst. No. Home-E(5)2-918/2006

dated the 4.6.2007.

Copy forwarded for similar necessary action to:-

1. ACS-cum-Financial Commissioner (Revenue) to the Government of Himachal Pradesh, Shimla-171002.
2. Director General of Police, H.P. Shimla-171002.
3. The Add. Director General of Police(Vigilance) H.P. Shimla-171002.
4. The Additional Director General of Police (Enforcement) H.P. Shimla-2.
5. All Divisional Commissioners in Himachal Pradesh.
6. Settlement Officer, Shimla & Dharamshala, H.P.
7. Director Consolidation of Holdings, H.P. Shimla-171009.
8. Director, Prosecution, H.P. Shimla-171009.
9. All Superintendents of Police in Himachal Pradesh.
10. Guard File.

-sd-

Deputy Secretary (Home) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)1/2004  
Government of Himachal Pradesh  
Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi and Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners,  
in H.P.
3. All the S.D.O. (Civil) in H.P.
4. All the Naib Tehsildar/Tehsildars  
In Himachal Pradesh.

Dated: Shimla-171002, 31<sup>st</sup> December, 2007.

Subject:- Regarding entry of mutation in Computer- instructions thereof.  
Sir,

In supersession of this Department letter No. Rev. C(c)17-2/2002-Loose, dated 27<sup>th</sup> October, 2006, regarding above cited subject. I am directed to say that in order to expedite computerization of land records, following para namely 8.4(c) will be added after existing para 8.4(b) of the Himachal Pradesh Land Records Manual, 1992:-

“8(c) Revenue Officer after attestation of mutation shall immediately hand-over foil of Register of Mutation to the Office Kanungo for entering the same in the computerized database of land records. The Revenue Officer and Office Kanungo shall ensure that the mutations are incorporated in the computerized land records immediately but in any case not later than a period of 7 working days from the date of attestation of mutation. Notwithstanding anything else contained to the contrary in clauses (a) & (b) above or any other provision of this Manual, the mutation shall be deemed to be complete only after incorporation of mutation in the computerized Land Record.”

The provisions of aforesaid para may be adhered to strictly by concerned revenue officers/officials and Deputy Commissioners shall monitor progress in this regard, periodically. Kindly acknowledge the receipt of this letter.

Yours faithfully,  
-Sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated . Shimla-2, the December, 2007.

Copy forwarded for information and necessary action to the:

1. Secretary, (IT) to the Government of H.P.
2. Director, Land Records, H.P. Shimla, H.P.
3. Tehsildar O/o F.C. (Appeal) H.P. Sectt. Shimla-2

-Sd-  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.F.(5)-2/2008  
 Government of Himachal Pradesh,  
 Department of Revenue.

From

The Chief Secretary to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners,  
 in Himachal Pradesh.
3. The Settlement officer,  
 Shimla/Kangra at Dharamshala, H.P.

Dated: Shimla-2, the 25<sup>th</sup> June, 2008

Subject: Strict implementation of Provisions for prevention of encroachments on Government lands under Chapter 13 of the Himachal Pradesh Land Record Manual (Revised Edition 1992) and Section 30 of H.P. Prevention of Specific Corrupt Practice Act, 1983.

Sir,

It has been brought to the notice of the Hon'ble Chief Minister that despite clear-cut instructions issued by Revenue Department vide letter No. Rev.B.A.(3)-3/2003-Part, dated 21-5-2005 and No. Rev.B.A.(3)-4/2006, dated 26.6.2006 the tendency on the part of villagers and others to encroach upon the Government lands is on the increase and detection of such encroachments and consequent eviction or removal of encroachers from such lands is not done effectively. Provisions for prevention of encroachments on Government lands enshrined in Chapter 13 of the Himachal Pradesh Land Records Manual (Revised Edition 1992) are not being given effect to in right earnest.

It is the bounden duty of the all Revenue officers to ensure that provisions of aforesaid Chapter are implemented in letter and spirit. Defaulting Revenue Officers/officials who fail to detect encroachment will face action under provisions of Section 30 of H.P. Prevention of Specific Corrupt Practice Act, 1983.

The Central Civil Services (Conduct) Rules, 1964 have also been amended vide notification No. Per9AP-B)B(17)-1/2005, dated 14<sup>th</sup> September, 2005 and a new Rule 4-A has been inserted which stipulates that no Government servant shall encroach upon Government land himself or through/by his family members. The provisions of aforesaid rules be complied with in letter and spirit.

Hon'ble H.P. High Court has also taken a serious view on the laxity in taking action in such cases. In case of Dharam Chand V/s Dhani Ram, the court has ordered as follows:-

**“The intention of the legislature when it framed 1971 Act was to ensure that eviction proceedings, being summary in nature should be disposed of in the shortest possible time. It is common understanding that no more than a couple of months should be taken in disposing of the eviction proceedings under 1971 Act because if the person sought to be evicted in fact and indeed turns out to be an unauthorized occupant, lingering on the protracting the eviction proceedings for any period of time more than two or three months from the date of presentation is against the public interest as well as it is contrary to the spirit of 1971 Act. Whether the eviction proceedings were**

continued at a leisurely pace and adjournments of two months each were granted by the present incumbent or by her predecessor is immaterial, because the fact remains that the public interest gravely suffered on account of this inordinate delay in concluding the eviction proceedings.

Through this order I hereby direct the Government of Himachal Pradesh to ensure that strictest instructions are issued to all the Collectors in the State to the effect that in future eviction proceedings under 1971 Act are disposed of in the shortest possible time, say two-three months and that if adjournments are inevitable and unavoidable, there should not be a gap of more than one week or ten day between the two dates.”

All the Divisional commissioners, Deputy Commissioners and Settlement officers are requested to ensure strict compliance of these instructions besides personally monitoring the progress in this behalf and send progress report quarterly to the Revenue Department so that the Hon’ble Chief Minister could be apprised of the same.

Kindly acknowledge the receipt of this letter.

Yours faithfully,

-sd-

Chief Secretary to the  
Government of Himachal Pradesh.

Endst. No. As above, dated the 25<sup>th</sup> June, 2008.

Copy forwarded for similar necessary action to:-

1. All the SDO(C) in Himachal Pradesh.
2. All the Tehsildars/Naib-Tehsildars (in Sub Tehsils) in H.P.

-sd-

FC-cum-Pr. Secretary (Rev.) to the  
Government of Himachal Pradesh.

No.Rev.B.F.(4)3/2001  
Government of Himachal Pradesh  
Revenue Department

Form

FC-cum-Secretary-(Revenue) to the  
Government of Himachal Pradesh.

To

The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.

Dated Shimla-171002, the 6<sup>th</sup> October, 2008

Subject: - Mode of determination of assessment of Land Revenue during making or specially revision record of rights.

Sir,

I am directed to say that while Government notifies to make or specially revise the record-of-rights as per section 33(2) of H.P. Land Revenue Act, 1954(Act No.6 of 1954)the notification under section 52 (2) of the Act is simultaneously issued for re-assessment of land revenue to prepare the record-of-rights in consonance with the provisions of section 32 of the Act, ibid. It has been observed that the time gap between the preparation of record-of-rights and announcement of land revenue on an estate is unduly long as the process of assessment of land revenue is cumbersome and time consuming. As per section 54(3) the average rate of incidence on the cultivated area of the land revenue imposed can not exceed the rate of incidence of the land revenue imposed at the last previous assessment by more than one third. However, proviso to Sub-Section (3) of Section 54 restricts the rate of incidence of the assessment to three fourth on any revenue estate.

With a view to overcome inordinate delay involved in assessment during the course of making or specially revising the record-of-rights, it proposed increase land revenue by 20% on the last previous assessment on the particular assessment circle provided that the rate of incidence of assessment imposed on any estate shall not exceed more than 50% of previous assessment on that estate.

You are, therefore, requested send your detailed comments in the matter within one week positively.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev(S.O.)SML/A/2008-527  
 Government of Himachal Pradesh  
 Revenue Department

Form

Settlement Officer,  
 Shimla Division, Shimla-9

To

The Financial Commissioner (Revenue)  
 Government of Himachal Pradesh.

Dated Shimla-171002, the 27<sup>th</sup> October, 2008

Subject: - Mode of determination of assessment of Land Revenue during making or specially revision record of rights.

Sir,

I am directed to refer your letter No.Rev-B.F.(4)3/2001 dated 6-10-2008 on the subject cited above, and to submit that the present procedure prescribed under the H.P. Land Revenue Act for assessment and re-assessment is very time consuming and cumbersome. The Assessment circle considered for the purpose of assessment is a Tehsil and it takes number of years to completion of record of rights for assessment as assessment proceedings can be initiate only after the completion of settlement operations of an assessment circle. Thus a complete Tehsil remains unassessed for a long duration as long as the settlement operations are being carried on in the Tehsil. This results into a loss of revenue to the state exchequer also, as the entire Tehsil remain unassessed during whole period when settlement operations are undertaken and completed and later on during the period assessment exercise is taken up and completed. The maximum of increase in land revenue that can be assessed as prescribed under the Act 1/3<sup>rd</sup> of the existing rate. This implies that after undergoing the long cumbersome exercise for a considerable-period of time, an increase of 33% at the maximum can be effected. The rate of land revenue since is very small, the net increase in the land revenue is thus minimal. The revision takes place after a period of 40 years as prescribed under the Act, but in practice, since the settlement operations take place after a period of 80-100 years and thus land revenue continues to be charged at existing rate even after 40 years.

There is a dedicated branch specifically dealing with the assessment work headed by a Naib-Tehsildar in the department. The staff undertake visits to various parts of Tehsil for work relating to assessment and prepare an exhaustive record and data collection before determination of the rates of Land Revenue. Settlement Officer has also to verify various facts on the spot before arriving at various rates.-

The time, effort and expenditure incurred on the entire exercise is not commensurate with the rate of increase in the Land Revenue assessed after the settlement operations.

In view of these facts it appears appropriate that the procedure for re-assessment/assessment needs reconsideration at the government level and it is proposed that:-

- (1) Land Revenue be assessed or re-assessed with 30% increase on the existing land Revenue automatically without resorting to actual assessment/re-assessment.



- (2) The periodicity or duration of assessment may remain the same i.e. 40 years under section 57 of the Act and carried on in an assessment circle within 40 years. The increase be mad applicable even without settlement operations through the Distt. Collectors.
- (3) The automatic revision or re-assessment shall be undertaken by the Settlement Collector or the District Collector as the case may be whosoever is in custody or revenue record.

The aforesaid procedure shall save lot of time, money and effort incurred by the Settlement staff in the assessment work. You are accordingly requested to issue necessary notification amend the Act in this regard, if considered appropriate.

Yours faithfully,

-sd-  
Settlement Officer,  
Shimla Division, Shimla-9

No. Rev.B.F.(4)-3/2001  
Government of Himachal Pradesh,  
Department of Revenue.

From

FC-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Settlement officer,  
Shimla/Kangra at Dharamshala, H.P.
3. All the Deputy Commissioners,  
in Himachal Pradesh.

Dated: Shimla-2, the 6<sup>th</sup> January, 2009

Subject: Assessment of Land Revenue during making or special revision of record-of-rights-instructions regarding.

Sir,

I am directed to say that the Government has observed that the present procedure prescribed under the H.P. Land Revenue Act, 1954 for assessment and re-assessment of land revenue is very time consuming and cumbersome. The assessment circle considered for the purpose of assessment is a Tehsil. The assessment proceedings can be initiated only after the completion of settlement operations in an assessment circle. However, the time gap between the preparation of record-of-rights and announcement of land revenue for an estate is unduly long.

2. As per the provisions of Section 54(3) of the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954), the average rate of incidence of land revenue on the cultivated area in any assessment circle cannot exceed the rate of incidence of the land revenue imposed during the last assessment in the assessment circle by more than one third. However, proviso to Sub-Section (3) of Section 54 restricts the rate of incidence of assessment of land revenue to three fourth on any revenue estate. Further, the rate of incidence of land revenue imposed on any estate can exceed the rate of incidence of last previous assessment on that estate by more than three fourth in case of land described in Section 54(4).

3. In order to cut short the lengthy and cumbersome process of assessment of land revenue it has been decided that henceforth for the assessment of land revenue following procedure which has been prescribed in terms of Section 67 of the Himachal Pradesh Land Revenue Act, 1954, shall be adhered to in letter and spirit by all concerned:-

- (1) **In areas where settlement operations are underway**, the "Land Revenue" be assessed or re-assessed with 30% increase on the existing land revenue without resorting to the existing detailed and lengthy procedure for the purpose. The assessment so made will be subject to the provisions of section 54(4). The periodicity or duration of assessment will be the same as prescribed under section 57 of the Act i.e. 40 years.

- (2) **In areas where last settlement operations took place 40 years back and fresh settlement operations are not being taken up,** the District Collector concerned will give effect to reassessment of land Revenue with 30% increase on the existing land revenue with prior sanction of the State Government as required under Section 52 of the Act, *ibid.* the assessment so made will be subject to the provisions of section 54(4). The periodicity or duration of assessment will be the same as prescribed under section 57 of the Act i.e. 40 years.

4. The aforesaid instructions will come into force with immediate effect.

The receipt of this communication be acknowledged.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh,

Endst. No. as above. Dated: Shimla-2 the 6<sup>th</sup> January, 2009.

Copy forwarded for information and necessary action to:-

1. The Director, Land Records, Shimla-9, H.P.
2. The Director, Consolidation of Holdings, Shimla-9, H.P.
3. The COC to F.C. (Appeals) to the Government of Himachal Pradesh, Shimla-2.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh,

No. Rev.B.A.(4)8/2004-II  
 Government of Himachal Pradesh,  
 Department of Revenue.

From

FC-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners,  
 in Himachal Pradesh.
3. The Settlement officer,  
 Shimla/Kangra at Dharamshala, H.P.
4. All the Sub-Divisional officers (Civil),  
 in Himachal Pradesh.
5. All the Tehsildars/Naib-Tehsildars  
 in Himachal Pradesh.

Dated: Shimla-2, the 28-2-2009

Subject: Clarification Regarding Applicability of Provisions of The Forest (Conservation) Act, 1980 on private land.

Sir,

In continuation of this department letter No. Rev.B.A.(4)-8/2004-I dated 19<sup>th</sup> May, 2007 (copy enclosed), which is addressed to the Principal Secretary (TCP) to the Government of Himachal Pradesh with copies thereof endorsed to all the Deputy Commissioner in Himachal Pradesh, I am directed to say that the matter with regard to applicability of the provisions of Forest (Conservation) Act, 1980 on privately owned land classified as “van” “van bans” “Nakabil Jungle Jhari” “Jungle Jhari” etc. has been further examined in consultation with the law Department taking into consideration/going through various judgments delivered by the Hon’ble High Court of H.P. as well as the Hon’ble Supreme Court of India on the issue.

2. It is clarified that the provisions of The Forest (Conservation) Act, 1980 will be applicable to only those private lands which are a compact block of wooded area which is above 5 hectares, as per the orders of the Hon’ble Supreme Court dated 3.10.2008 accepting the recommendation of the Central Empowered Committee in IA Nos.2289-90 in relation to the State of Himachal Pradesh as further clarified by the Central Empowered Committee vide its letter dated 11.11.2008. However, if on the spot, the area of compact wooded block is less than 5 hectares then felling, if required, shall be strictly regulated as per provisions of the Himachal Pradesh Land Preservation Act, 1978.

3. In cases, where the classification of land has been changed from “Van” etc. to some other class in pursuance of the instructions issued by this Department vide letter No. Rev.B.F.(8)-6/97 dated 22<sup>nd</sup> April, 2000 it is clarified that in case the Settlement Collector has ordered changes on the basis of spot position, such changes are legally valid. Besides, in these cases also the provisions of the Forest (Conservation) Act, 1980 will apply only if it is a compact wooded area exceeding 5 hectares in extent, irrespective of its classification as “Van” etc. in revenue record.

This communication will also reply the questions raised in following references:-

<b>Sr. No.</b>	<b>References received from</b>	<b>Letter No.</b>	<b>Dated</b>
1.	Deputy Commissioner, Solan	Peshi/11-6037/07-Nalag	27.12.2007
2.	Divisional Commissioner, Kangra at Dharamshala.	Div.Commr./LR/5(16)/2003-6204	18.11.2006
3.	Deputy Commissioner, Chamba.	Chamba Sa.Ka.101/1/04-3701	19.10.2001
4.	Deputy Commissioner, Chamba.	No.CBA-S.K-101(1)/04-1374.	19.04.2007
5.	Deputy Commissioner, Chamba.	SDTP(C)P.P.Committee/Dal/06-563-64.	09.08.2007
6.	Deputy Commissioner, Chamba.	Do-894-98	4.10.2007
7.	Chairman, Town Planning Committee-cum-Deputy Commissioner, Kangra.	No.DTP(D)M.C/TPC/2008-835	4.6.2008
8.	Deputy Commissioner, Sirmaur at Nahan.	SIR-S.K.(1-A) 2007.	25-04-2008

The receipt of this communication be acknowledged.

Yours faithfully,  
-sd-  
Secretary (Revenue) to the  
Government of Himachal Pradesh.

FFE.B-F(2)-25/2009  
Government of Himachal Pradesh,  
Department of Forest.

From

The Additional Chief Secretary (Forests) to the  
Government of Himachal Pradesh.

To

The Principal Chief Conservator of Forests,  
Himachal Pradesh, Shimla-171001

Dated: Shimla-2, the 18/3/2009

Subject: Diversion of 0.1737 hac. of forest land for the construction of Hotel at Dalhousie (Moti Tibba) by sh. Rajinder Kumar and Sh. Virinder Kumar, under Dalhousie Forest Division, District Chamba, H.P.

Madam,

I am directed to refer to your letter No. Ft.48-1811/2009 (FCA) dated 10<sup>th</sup> March, 2009 on the subject cited above and to say that since the correction in the revenue record has been made by the Revenue Department and the land has been classified as "Jai Safed" and as such Forest (Conservation) Act, 1980 is not attracted as also proposed by you vide letter under reference. However, the tree standing on the land may not be allowed to be felled. The case folder is also returned herewith.

Yours faithfully,

-sd-

Deputy Secretary (Forest) to the  
Government of Himachal Pradesh

क्रमांक :रैव0(एस0टी0)एस0एम0एल0/पे0/1-40/08-1902-33  
कार्यालय भूव्यवस्था अधिकारी शिमला मण्डल शिमला-9

प्रेषित

1. समस्त सहायक भूव्यवस्था अधिकारी,  
शिमला मण्डल, शिमला-9
2. समस्त तहसीलदार भूव्यवस्था,  
शिमला मण्डल।
3. समस्त नायब-तहसीलदार भूव्यवस्था,  
शिमला मण्डल।

दिनांक शिमला-9 24 मई 2010

विषय: जाति की दरुस्ती किये जाने के सम्बन्ध में।

ज्ञापन,

अतिरिक्त मुख्य सचिव एवं वितायुक्त (राजस्व) सरकार हिमाचल प्रदेश की अध्यक्षता में भूव्यवस्था कार्य की प्रगति की समीक्षा बारे दिनांक 26-03-2010 को आयोजित बैठक के दौरान अन्य मामलों के साथ-साथ जाति सम्बन्धित दरुस्ती के सम्बन्ध में निर्णय लिया गया कि भूव्यवस्था के दौरान तथा उसके बाद जाति के इन्द्राज में कोई परिवर्तन न किया जाए बल्कि बन्दोबस्त से पूर्व जो जाति राजस्व अभिलेख में दर्ज है के अनुसार ही जाति का इन्द्राज दर्ज किया जाए।

अतः उक्त निर्णय/आदेश की अनुपालना में समस्त सहायक भूव्यवस्था अधिकारी, तहसीलदार व नायब-तहसीलदार भूव्यवस्था शिमला मण्डल को हिदायत दी जाती है कि भूव्यवस्था के दौरान व इसके बाद जाति के इन्द्राज में कोई तबदीली न की जाए। बन्दोबस्त से पूर्व जो जाति राजस्व अभिलेख में दर्ज है के अनुसार ही जाति का इन्द्राज दर्ज किया जाए। इस आदेश की पालना सख्ती से की जाए।

हस्त0

भूव्यवस्था अधिकारी,  
शिमला मण्डल, शिमला-9

पृष्ठांकन संख्या: यथोपरि 1902-33

24 मई 2010

प्रतिलिपि सेवा में,

1. अतिरिक्त मुख्य सचिव एवं वितायुक्त (राजस्व) सरकार हिमाचल प्रदेश शिमला-2 उनके कार्यालय के पृष्ठांकन संख्या रैव0बी0एफ0 (8) -1/2001-खण्ड-1 दिनांक 27-04-2010 के सन्दर्भ में सूचनार्थ।
2. मण्डलायुक्त शिमला मण्डल शिमला-2 सूचनार्थ

हस्त0

भूव्यवस्था अधिकारी,  
शिमला मण्डल, शिमला-9

Rev. D(F)11-1/2009(Caste Correction)  
Government of Himachal Pradesh  
Revenue Department.

Dated Shimla-2, 9<sup>th</sup> July, 2010

From

Pr. Secy. cum-F.C.-(Rev.) to the  
Government of Himachal Pradesh.

To

1. All Divisional Commissioners,  
in Himachal Pradesh.
2. All Deputy Commissioners  
in Himachal Pradesh.
3. Settlement Officer,  
Shimla and Kangra D/shala.
4. All Tehsildars/Naib Tehsildars,  
in Himachal Pradesh.

Subject: Caste correction in Revenue Records-Instructions thereof.

Sir,

I am directed to say that the matter regarding correction of caste in Revenue Record was under consideration of the Government and this issue was discussed in detail in the meeting held on dated 26<sup>th</sup> March, 2010 under the chairpersonship of the then Additional Chief Secretary-cum-F.C.(Rev.) to the Govt. of Himachal Pradesh with Settlement Officers. It was decided in the aforesaid meeting that pre-settlement caste be retained in the revenue records and there should not be any change in such caste entry during the settlement operation.

It is, therefore, requested that all pending cases of caste correction may kindly be disposed off in accordance with the above mentioned decision under intimation to this Department.

Yours faithfully,  
Deputy Secretary (Rev.) to the  
Government of Himachal Pradesh.



No. Rev. B.A.(3)-3/2003-III  
 Government of Himachal Pradesh.  
 Department of Revenue

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Director,  
 Land Records and Consolidation  
 of Holdings, Himachal Pradesh.
3. All the Deputy Commissioner  
 in Himachal Pradesh.
4. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
5. All Sub-Divisional Officer (Civil)  
 in Himachal Pradesh.
6. All the Tehsildar/ Naib Tehsildars  
 in Himachal Pradesh.

Dated: Shimla-171002, the 19<sup>th</sup> August, 2011

Subject: Clarification under the provisions of Section 21 of the H.P. Land Revenue Act, 1954 regarding publication of summons.

Madam/Sir,

I am directed to say that during the meeting with Revenue Officers, some of the Revenue Officers pointed out that the numerous revenue cases, more particularly cases relating to partition, demarcation and correction of revenue entries are pending due to non-service of summon of the interested parties. The provisions of Section 21 of the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954) was examined in consultation with the Law Department and the Law Department has pointed out that section 21 provides for proclamation and publication is a mode of proclamation.

It is, therefore, clarified that in order to expedite the disposal of revenue cases, service of the summons can also be ensured under section 21 of the Himachal Pradesh Land Revenue Act, 1954, by its publication in the Official Gazette and in two daily newspapers circulating in that locality of which at least one should be in the Hindi language.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2,

the 19<sup>th</sup> August, 2011

Copy forwarded to the Clerk of Court of F.C. (Appeals), Government of Himachal Pradesh, Shimla-2 for information.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh

No. Rev.B.A.(3)-1/2004-II  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated: Shimla-171002, the 28.01.2012.

Subject:- Instruction for attestation of mutation at Tehsil level.

Sir,

In continuation of this department letter of even number dated 13.12.2011 regarding above cited subject I am directed to say that as you are aware that amendments in the provisions of Section 34 and 35 of the HP Land Revenue Act, 1954 have been carried out in order to provide an option to the citizens to opt for attestation of mutation at Tehsil level. Subsequently, the provisions of chapter 8 of the Land Records manual have also been amended vide notification of even number dated 9.1.2012.

The matter has also been taken up with national Informatic Centre, H.P. State Centre to make necessary changes in the existing software. The National Informatic Centre vide letter No. NICH/Gr1/Project/HIMBhoomi(1)-2003/47, dated 18<sup>th</sup> January, 2012 has informed required changes have been carried out in the HimBhoomi and HIMRIS software. The updated software version have also been transferred to the District Informatic Officers of NIC on 14<sup>th</sup> January, 2012. Hence, the new software has become operational in the State.

You are, therefore, requested to kindly direct all the Tehsildars/Naib Tehsildars to attest the mutation at Tehsil/Sub-Tehsil level if individual desire so.

Yours faithfully,

-sd-

Deputy Secretary(Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(3)-1/2004-II-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated: Shimla-171002, the 04.02.2012.

Subject:- Instruction for attestation of mutation at Tehsil level.

Sir,

In continuation of this department letter of even numbers dated 13.12.2011 and 28.01.2012, regarding above cited subject I am directed to say that it has been observed that mutations are not being entered and attested at Tehsil level despite of provisions made in Section 34 and 35 of the HP Land Revenue Act, 1954 and chapter 8 of the Land Records Manual and subsequent changes in software.

You are, therefore, requested to kindly make publicity of this facility and encourage the general public to get benefit. A notice may be displayed on each Tehsil Office within two days mentioning therein that “**Mutations Can Now Be Entered and Attested at Tehsil Level**”.

This issue will be discussed in next video conference and the Deputy Commissioners will be asked to explain the Tehsil-wise progress of mutation entered and attested at Tehsil level.

Yours faithfully,

-sd-

Deputy Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/2003-III  
Government of Himachal Pradesh.  
Department of Revenue

From

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Director,  
Land Records, Himachal Pradesh.
3. All the Deputy Commissioner  
in Himachal Pradesh.
4. The Settlement Officer,  
Kangra and Shimla.
5. All the Sub-Divisional Officer (Civil)  
in Himachal Pradesh.
6. All Tehsildar/ Naib Tehsildars  
in Himachal Pradesh.

Dated: Shimla-171002, the 30<sup>th</sup> July, 2012

Sir,

Affidavits are required for various purposes in the Revenue department e.g. for seeking permission under section 118 of the H.P. Tenancy and Land Reforms Act, 1972, registration of sale deeds (for purpose of valuation), for procuring certificates, for attestation of mutations and other similar purposes. It has been decided that henceforth, the purpose of such affidavits will be served if a self attested undertaking/declaration of an applicant alongwith a copy of his photo identity (e.g. voter-i-card, pan card, Government/Institution card, aadhar card or any other valid photo-id, as notified vide this department notification No. Rev. Stamp (F)8-1/2004, dated 20<sup>th</sup> August, 2011 followed by addendum of same number dated 7<sup>th</sup> September, 2011) will be acceptable in place of affidavits for purposes mentioned above.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2004-III-Loose  
Government of Himachal Pradesh.  
Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Financial Commissioner (Appeal) to the Government of Himachal Pradesh.
2. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
3. All the Deputy Commissioner in Himachal Pradesh.
4. The Director, Land Records, H.P., Shimla-9.
5. The Director, Revenue Training Institute, Jogindernagar, District Mandi, H.P.
6. The Settlement Officer, Shimla/Kangra, Himachal Pradesh.
7. All SDO(C) in Himachal Pradesh.
8. The Section Officer Revenue-D, H.P. Secretariat, Shimla-2
9. The COC to the F.C. (Appeals), Govt. of H.P.
10. All the Tehsildars/ Naib Tehsildars in H.P.

Dated: Shimla-171002, 03/09/2012

Subject: Entering of information of ongoing revenue/civil litigations in revenue record.

Sir,

Government of India and perceptive observers have identified the failure to ensure conclusive title as one of the major causes for increased litigation in India. It has been pointed out that better titling can reduce unproductive work load at various levels and improve the climate for economic activity in the country. Various steps have been initiated in the direction of improving the accuracy of the land (property) records in the pursuit of this objective. Almost all lands records in the State have been computerized.

2. All this is expected to go a long way in reducing litigation arising out of incomplete knowledge of the status of land. An initial step which can further enhance this objective considerably is making an entry of litigation in various revenue courts right from the AC-II Grade to F.C. (Appeals) in the remarks column of jamabandi.

3. It has been decided that when any application/appeal/revision/review is filed before any Revenue Court right from Court of Assistant Collector 2<sup>nd</sup> Grade to the Court of Financial Commissioner (Appeals) or decided by the same a reference should be made to concerned Tehsildar/Naib Tehsildar to cause an entry to be made in remarks column of relevant jamabandi recording this fact.

4. (a) Any matter instituted before a revenue court will be entered in the remarks column of the jamabandi on the case being registered giving therein the date of institution. Case No. and nature of Case (demarcation, correction of revenue entries, mutation, encroachment, partition, violation of section 118 etc.)
- (b) Once the matter is decided information in this regard shall be sent to the Revenue officer under whose jurisdiction the relevant revenue estate falls and he shall cause the entry to be made accordingly in the remarks column of the Jamabandi giving the date of decision, case No. and reference, if relevant, to an earlier entry of institution of the case.
- (c) On subsequent information regarding any appeal/revision being filed in a matter in which an entry has been made earlier, a similar note will again be made in the remarks column of jamabandi.
- (d) Similarly, in civil litigation any party to a civil suit involving immovable, property shall have the right to approach the Revenue Officer concerned to get an entry made in revenue record (remarks column of relevant jamabandi) regarding litigation and nature thereof. The Revenue Officer shall ensure that the entries are made in revenue record, immediately.

All Revenue authorities will ensure that information regarding institution of a matter before them is compulsorily conveyed to the revenue officers in whose jurisdiction the relevant revenue estate falls immediately on such matter being instituted. Further, the concerned revenue officer i.e. the Tehsildar/naib Tehsildar will ensure the entries of the pending or decided matter being entered in the remarks column of the jamabandis. However, it is also clarified here that in cases the entries involved in such litigation are very large and since such entries are to be made in remarks column of jamabandis, the number pages of such jamabandi is required for the purpose, separate sub-sets of such jamabandi may be made and a reference to such extent may be made in the remarks column of main jamabandi.

These instructions will be operative with immediate effect.

You are, therefore, requested to adhere to them in letter and spirit.

Yours faithfully,

-sd-

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-8/2012  
Government of Himachal Pradesh,  
Department of Forest.

From

The Additional Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner, Shimla/Mandi/  
Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners in Himachal Pradesh.
3. The Director, Land Records, H.P., Shimla-9.
4. The Settlement Officer, Shimla/Kangra, H.P.
5. All the SDO (C) in H.P.
6. The Section Officer Revenue-D, H.P. Secretariat, Shimla-2.
7. The COC to the F.C. (Appeals), Govt. of H.P.
8. All the Tehsildars/Naib Tehsildars in H.P.

Dated: Shimla-2, the 10-09-2012

Subject: Entries of Buildings or part thereof in Jamabandi.

Madam/Sir,

I am directed to say that the matter regarding making entries of buildings or part thereof in Jamabandi was under consideration of the Government and it has been decided that in future all entries regarding ownership/lease/possession etc. of buildings or part thereof be made in concerned Jamabandi. This will not only show the clear title of individuals on buildings or part thereof, but will also reduce un-necessary litigation among the right holders. For this purpose procedure as given below shall be followed by the field revenue agencies:-

**Eventualities:-**

1. Lease of a building or part thereof.
2. Ownership of Entire Building alongwith land appurtenant thereto.
3. Ownership of Part of a building with proportionate land.
4. Ownership of building or part thereof without land appurtenant thereto.
5. Further Partition of Part of Building, Flat or Apartment.

**Duties of Registrar/ Sub-Registrars:-**

Whenever a conveyance deed of a building or part thereof, with or without land appurtenant thereto is presented before a Registrar/Sub-Registrar, he will ensure that a map of the structure (duly approved by the TCP/Local authority concerned where building regulations are applicable) clearly mentioning the area being conveyed, is attached with the conveyance deed.

In areas where no building regulations are applicable, the map/plan prepared by a competent person e.g. Civil Engineer/Draftsman/Architect/Architectural Assistant will be acceptable for registration of conveyance deeds and mutations.

**Duty of Revenue officer:-**

The mutation of such structure will be entered and attested by the Revenue Officer on production of a copy of the deed alongwith the plan/map. Where an entry with regard to building concerned does not already exist in the record, mutation shall be attested in the presence of all the co-sharers of buildings and land appurtenant thereto if so required, and in case one/some of the co-owners of buildings are not in a position to be present, no objection of such co-owner(s) in the form of an undertaking shall be taken on record.

**Note:-** In case there are more than five units (in one or more buildings) built on a particular Khasra number and it is difficult to make all such entries in one Jamabandi, in that case a sub-set of Jamabandi may be prepared for such entries as a supplementary to the original Jamabandi. In such cases a note may be given in remarks column of the original Jamabandi, that the details are contained in the supplementary Jamabandi No. \_\_\_\_\_ .

**The procedure to be followed in each of the eventualities mentioned above is further elucidated below for greater clarity.**

**1. Lease of a building or part thereof.-**

As is being done in case of land , entries of lease of building with date of lease and time period shall be made in remarks column of a Jamabandi after attestation of mutation. In the subsequent Jamabandi such entries shall be incorporated in the column of possession.

**2. Ownership of entire Building alongwith land appurtenant thereof.-**

In all such cases entries are being made in remarks column of Jamabandis, which subsequently comes in ownership and possession column of Jamabandi. The present system of making such entries is sufficient.

**3. Ownership of Part of building with proportionate land.-**

No such entries are presently being made in the State (except with in Municipal limits of Shimla where entries of certain details are made in remarks column of jamabandis). In future entries shall be made in remarks column of jamabandi on the basis of mutation. The specific entry shall record that a structure measuring \_\_\_\_\_ square meters and comprising \_\_\_\_\_ storey's is in the ownership of relevant owners to the extent of the square meters owned by each in the relevant storey and the land beneath the structure is owned proportionately by each party. The owner/part owner of appurtenant land shall be clearly recorded. The rights to the roof and any possible further construction thereon should also be specifically recorded. Whenever a transaction in relation to a part of a building is reported and a mutation is to be attested for the first time in relation to such a building, the Revenue officer shall inform all shareholders in the said building since details of the entire structure are to be entered before attesting the mutation. In subsequent transactions the normal



procedure of mutation will be sufficient. In subsequent Jamabandi such entries of ownership shall be shifted to the column of ownership. Details of rights over roof and land/part thereof shall continue to be reflected in the remarks column of Jamabandi.

**4. Ownership of building or part thereof without land appurtenant thereto:-**

In such cases procedure against item No. 3 shall be adopted except in relation to land appurtenant thereto.

**5. Further partition of part of Building, Flat or Apartment.-**

In case a part of building is further partitioned, names of all the co-sharers shall be indicated in column of ownership showing the share of each co-sharer. In case of such a partition of a part of building where entry is to be made for the first time, the procedure enumerated against item No. 3 above in this regard shall be followed.

You are requested to kindly ensure implementation of the aforesaid procedure in letter and spirit. Any doubt in the matter may be referred for clarification. It is proposed to monitor the number of such mutations being attested separately as a sub-set of total mutations being attested. Information may kindly be collected accordingly.

Yours faithfully,

-sd-

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh

No. Rev. B.A.(3)-3/2012  
 Government of Himachal Pradesh.  
 Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioner  
 in Himachal Pradesh.
3. The Director, Land Records, H.P., Shimla-9.
4. The Settlement Officer, Shimla/Kangra,  
 Himachal Pradesh.
5. All SDO(C) in Himachal Pradesh.
6. The Section Officer Revenue-D,  
 H.P. Secretariat, Shimla-2
7. The COC to the F.C. (Appeals),  
 Govt. of H.P.
8. All the Tehsildars/ Naib Tehsildars in H.P.

Dated: Shimla-171002, the 13<sup>th</sup> September, 2012

Subject: Instruction regarding demarcation of land.

Madam/Sir,

Section 107 of the H.P. Land Revenue Act, 1954 empowers the Revenue Officers to define boundaries/limits of any estate, or of any holding, field or other portion of an estate. Under the provisions of this section a revenue Officer, including an Assistant Collector of either grade are competent to demarcate boundaries of any land when an application complete in all respect is presented for the purpose.

On receipt of an application for demarcation, complete in all respects, the Revenue Officer concerned (Assistant Collector of either grade) can direct the Field Kanungo or a consultant to carryout demarcation of the concerned land in the presence of all the necessary parties as per procedure laid down in Chapter 10 of the H.P. Land Records Manual revised vide this department notification of even number dated 16<sup>th</sup> July, 2012. (Alternatively he may proceed to carry out demarcation himself). The Field Kanungo or consultant, as the case may be, submits its report to the concerned Revenue officers who passes the final order on the application after considering the report and objection(s) if any, raised by the interested party(ies).

In case the concerned Revenue Officer is not satisfied with the report and if he is of the view that any/some of the objections are required to be redressed in the field, he may himself visit the spot and get the demarcation done in the presence of interested parties. Hence, it is clear that the demarcation proceedings will be final only after final order is passed by the Revenue Officer (Assistant Collector of either grade) in quasi-judicial capacity.

In the light of the aforesaid legal position the notification of 16<sup>th</sup> July, 2012 supersedes the instruction issued by this department vide letter No. Rev.D(A)2-1/97 dated 24<sup>th</sup> April, 1997 whereby only a Revenue Officer of the level of AC-II Grade and above was empowered to go to the spot and demarcate private lands touching government lands, is no longer in operation. Henceforth, Revenue Officer receiving an application under section 107 may direct the Field Kanungo or a consultant, as the case may be, to demarcate the boundaries of Private lands touching government land as is being done in case of private lands abutting other private lands and pass proper order after considering their report and objection(s) if any.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-1/2004-III-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners  
in Himachal Pradesh.
3. The Director, Land Records,  
H.P. Shimla-9.
4. The Settlement Officer,  
Shimla/Kangra, Himachal Pradesh.
5. All the SDO(C) in H.P.
6. The Section Officer, Revenue-D  
H.P. Secretariat, Shimla-2.
7. The COC to the F.C. (Appeals),  
Govt. of H.P.
8. All the Tehsildar/Naib Tehsildars  
in H.P.

Dated: Shimla-171002, the 20<sup>th</sup> September, 2012.

Subject:- Withdrawal of all previous instructions regarding mandatory stay of Tehsildars/Naib Tehsildar in field.

Madam/Sir,

I am directed to say that with the passage of time and introduction of information technology in the Revenue Department, most of land record has been computerized. Mutations are now being mainly attested at Tehsil/Sub-Tehsil level. Partition proceedings are now to be heard at Tehsil/Sub-Tehsil levels. These facts alongwith the fact that most of the villages are now connected by road means that it is no longer appropriate to bind Tehsildars/Naib Tehsildars to stay in the field for a period of at least 12 days and eight nights in a month. They are now required to devote more time in office to provide better services to the general public.

Therefore, all previous instructions regarding mandatory touring of Revenue Officers issued by this department in this behalf from time to time are hereby withdrawn with immediate effect. Revenue Officers may undertake tours within their jurisdiction as per the actual requirement of their official duties with approval of the competent authority. All reports and statements connected with monitoring of the mandatory touring may also be discontinued with immediate effect.

Yours faithfully,

-sd-

Deputy Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-10/2012  
Government of Himachal Pradesh  
Department of Revenue.

From

The Additional Chief Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Deputy Commissioners  
in Himachal Pradesh.
2. All the Sub-Registrars  
in Himachal Pradesh.

Dated: Shimla-171002, the 21.11.2012.

Subject:- Noting lien by Registering Authority under Equitable Mortgage in the Revenue Records.

Madam/Sir,

I am directed to intimate that the Government hereby withdraw the instructions issued vide letters No. 5/78-Revenue-A (Vol-II)-Loose dated 28<sup>th</sup> June, 2004 and No. 5/73-Revenue-A(Vol. II)-Loose dated 27.06.2005 with effect from 01.01.2013.

Hence with effect from 01.01.2013 no entry shall be made in remarks column of Jamabandi on the basis of Memorandum of Equitable Mortgage submitted by the Bank. All entries of mortgage in jamabandi shall be based on registered mortgages followed by attestation of mutation.

Yours faithfully,

-sd-

Deputy Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(4)-8/2001-IV  
Government of Himachal Pradesh,  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Mandi, District Mandi, H.P.

Dated: Shimla-2, the 31<sup>st</sup> October, 2013

Subject: Issue of cases under P.P. Act.

Sir,

I am directed to refer to your letter No. MND/Peshi/2012-44787-88 dated 28<sup>th</sup> September, 2013, on the subject cited above and say that no doubt, the Government land classified as "Charagah Drakhatan" or "Charagah Bila Drakhatan" or "Khad" as referred to in your aforesaid letter, attracts the provisions of Forest Conservation Act, 1980 even if such land is not recorded in ownership and/or possession of the Forest Department. The Forest Department is responsible for removal of encroachments on lands which are owned and/or possessed by the Department.

So far as other Government lands are concerned, it is responsibility of the Revenue Department to proceed for eviction of encroachers from such lands (irrespective of its classification), under the provisions of Section 163 of the H.P. Land Revenue Act, 1954.

You are, therefore, requested to kindly direct the field revenue agencies to take further necessary action accordingly.

Yours faithfully,  
-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

FFE.B-G(6)/2008  
Government of Himachal Pradesh,  
Department of Forest.

From

The Additional Chief Secretary (Forests) to the  
Government of Himachal Pradesh.

To

The Special Secretary (UD) to the  
Government of Himachal Pradesh.

Dated: Shimla-2, the 23<sup>rd</sup> February, 2015

Subject: Regarding issuance of NOC for the construction of Parking-cum-Commercial Complex at Vikas Nagar.

Madam,

I am directed to refer to your letter No. UD-F(5)3/2008-IV dated 9-12-2014 on the subject cited above and to inform you that the above matter was taken up with the Revenue Department who has opined at hereunder:

“जाय सरकार” सरकारी मलकियत की ऐसी भूमि हैं जो खाली पड़ी हो और जिसमें वृक्ष आदि कोई इस्तादा न हो और न ही चरान्द आदि में प्रयोग में लाई जाती हो। इस प्रकार की भूमि पर वन संरक्षण अधिनियम 1980 के प्रावधान लागू नहीं होते हैं।

You are therefore, requested to take further necessary action in the matter accordingly.

Yours faithfully,

-sd-

(Prakasha Nand)

Deputy Secretary (Forest) to the  
Government of Himachal Pradesh,

Endst. No. as above. Dated: Shimla-2 the 23<sup>rd</sup> February, 2015.

Copy forwarded to:-

1. Pr. Chief Conservator of forests (HoFF) alongwith letter referred above for necessary action.
2. DFO, Shimla alongwith letter referred to above for information & necessary action.

-sd-

(Prakasha Nand)

Deputy Secretary (Forest) to the  
Government of Himachal Pradesh,

No. Rev.Stamp(A)3/2011-SLBC  
 Government of Himachal Pradesh  
 Revenue Department (Stamp-Regn.)

From :

Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Registrars (Deputy Commissioners),  
 in Himachal Pradesh.
2. All the Sub-Registrars (Tehsildars/Naib-Tehsildars),  
 in Himachal Pradesh.

Dated: Shimla-2, the 7/5/2015

Subject: Instructions regarding noting of lien by Registering Authority under Equitable Mortgage in the Revenue Records.

Sir,

In continuation of this Deptt. instruction/clarification No. Rev.B.A.(3)-10/2012 dated 16-07-2013 vide which this deptt. had already clarified that there is no bar to make an entry of equitable mortgage in the revenue record. It has come to notice of the Govt. that Registering Authorities are insisting on registration of mortgage even when it is an equitable mortgage. This is against the provisions of Section 58(F) of the Transfer of Property Act, 1882.

It is clarified that in case of an equitable mortgage an entry in the remarks column of the Jamabandi will be made on the basis of Memorandum of equitable mortgage submitted by the concerned bank. The memorandum will be marked by the concerned bank to the Revenue Officer concerned who will cause an entry of lien to be made against the mortgaged land in the remarks column of the jamabandi.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the 7/5/2015

Copy forwarded to the Principal Secy.(Finance) to the Govt. of H.P. for information.

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.



रैव0डी(जी)6-14 / 2013  
हिमाचल प्रदेश सरकार  
राजस्व-डी विभाग।

प्रेषक

अति0 मुख्य सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रेषित

1. समस्त अतिरिक्त मुख्य सचिव/प्रधान सचिव/सचिव  
हिमाचल प्रदेश सरकार।
2. समस्त विभागाध्यक्ष, हिमाचल प्रदेश।
3. समस्त मंडलायुक्त/उपायुक्त, हिमाचल प्रदेश।

दिनांक: षिमला-2                      22.12.2015

विषय:- भूमि तबादला पर प्रतिबन्ध बारे।

महोदय,

उपरोक्त विषय पर सरकार के ध्यान में लाया गया है कि सरकारी भूमि तबादला मामलों में प्रतिबन्ध होने के बावजूद कई विभागों द्वारा अपने स्तर पर निर्णय लिये जा रहे हैं जो कि राजस्व विभाग द्वारा जारी अधिसूचना संख्या: 9-13/71-राजस्व-ख दिनांक 24-8-1987 (हिमाचल प्रदेश नोटोड नियम, 1968, के नियम-27) की सरासर अवहेलना है जिसके अन्तर्गत सरकार द्वारा भूमि तबादला पर पूर्ण प्रतिबन्ध लगाया गया है।

अतः समस्त विभागों के ध्यानार्थ पुनः दोहराया जाता है कि यदि किन्हीं अपरिहार्य/विशिष्ट परिस्थितियों में भूमि तबादला जनहित में अनिवार्य हो तो ऐसे मामले में कोई भी विभाग अपने स्तर पर निर्णय न ले, बल्कि ऐसे मामले अन्तिम निर्णय हेतु राजस्व विभाग को ही विचारार्थ भेजे जाएं ताकि अनावश्यक कानूनी विवाद से बचा जा सके।

भवदीय,

(राकेश मैहता)

उप सचिव (राजस्व)

हिमाचल प्रदेश सरकार।

दूरभाष नम्बर-0177-2621895

रैव0डी(जी)8-14 / 2015  
हिमाचल प्रदेश सरकार  
राजस्व-डी विभाग।

प्रेषक

अतिरिक्त मुख्य सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रेषित

1. समस्त मण्डलायुक्त  
हिमाचल प्रदेश।
2. समस्त उपायुक्त  
हिमाचल प्रदेश।

दिनांक षिमला-171002

9 फरवरी, 2016

विषय:- सरकारी भूमि का एक विभाग से दूसरे विभाग को हस्तांतरण करने बारे।  
महोदय,

उपरोक्त विषय पर मुझे इस विभाग के पत्र संख्या रैव0 डी (जी)6-24/91 दिनांक 9. 7.1991 की निरन्तरता में यह कहने का निर्देश हुआ है कि सरकार द्वारा यह निर्णय लिया गया है कि सरकारी भूमि का एक विभाग से दूसरे विभाग को हस्तांतरण करने सम्बन्धी विभिन्न अधिकारियों को प्रदान शक्तियों में आंशिक संशोधन/बदलाव करते हुए भविष्य में ऐसे मामलों में भूमि हस्तांतरण बारे शक्तियां निम्न प्रकार होगी :-

- |                         |   |
|-------------------------|---|
| 1. उपायुक्त             | 1.00 हैक्टेयर   |
| 2. मण्डलायुक्त          | 1.00 हैक्टेयर से उपर 1.5 हैक्टेयर तक  |
| 3. वित्तायुक्त (राजस्व) | 1.5 हैक्टेयर से अधिक पूर्ण शक्तियों (माननीय राजस्व मंत्री की पूर्व अनुमति से) |

इसके अतिरिक्त अन्य सभी शर्तें यथावत रहेंगी। यह आदेश तत्काल प्रभाव से लागू होंगे।

भवदीय,

(प्रवीण कुमार टाक)  
उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।  
फोन नम्बर-2628504

No. Rev-C (c) 6-1/2011-loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Rev.) to the  
Government of Himachal Pradesh, Shimla-2.

To

The Director of Land Records,  
Himachal Pradesh, Shimla-9.

Dated: Shimla-171002, the 21<sup>st</sup> April, 2016.

**Subject:- Providing of legal sanctity to digitized copy of Cadastral Maps.**

Sir,

I am directed to refer to your letter No. Rev. (LR) Bhu-Naksha/2016-1806, dated 5.3.2016 on the subject cited above and to convey the approval of Government to provide legal sanctity to digitized and integrated data of cadastral maps. Further permission to provide the digitized data to general public through Lok Mitra Kendras is also accorded. Moreover, it is also hereby authorized to you for affixing digital signatures on the digitized data.

Yours faithfully,

-sd-

(Roshan Lal)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Phone No. 2880689

No. Rev. B.A(5)-1/2016  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioner  
 In Himachal Pradesh.
2. All the Deputy Commissioners,  
 In Himachal Pradesh.

Dated : Shimla-171002      the      20<sup>th</sup> September, 2016

**Subject:-      Regarding authorizing the Patwaris to carryout demarcation and Partition for disposal of cases before the Revenue Officers.**

Sir,

I am directed to say that the Government has taken note of the fact that due to vacancies of kanungos in the field & increasing pendency's of demarcation & partition cases the general public is being subject to great hardship on this account.

It has therefore been decided that Patwaris with an experience of eight years and more should be deputed for carrying out demarcation and execution of mode of partition as per orders of the Assistant Collector-I & II Grade. It is however clarified that since demarcation & partition are quasi-judicial functions of Revenue Officers under section 107 & 123 respectively of the Himachal Pradesh Land Revenue Act, 1954, the Revenue Officers will dispose of such cases as they presently do. The demarcation/partition cases may be taken up on campaign mode basis and cases more than six months old may be disposed on priority in the first instance. The progress made shall be reviewed by the Divisional Commissioners on the Monthly basis.

This may be brought to the notice of all Revenue Officers on priority.

Yours faithfully

Sd/-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh

Important instruction

No.Rev-D(G)8-14/2015  
 Government of Himachal Pradesh  
 Revenue Department

From:

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners,  
 Kangra, Mandi and Shimla.
2. All the Deputy Commissioners,  
 Himachal Pradesh.

Dated: Shimla-2 16 April, 2019

Sub: - Regarding vestment of non-utilized Govt. land transferred in the name of other departments for specific purpose within a period of 2(Two) years to the Revenue Department.

Sir,

I am directed to refer to the subject t cited above and to say that it has been observed that the Govt. lands which are transferred to the Govt departments for specific purpose/development activities are not properly utilized or partly utilized by the concerned Deptt. Within a period of two years as per provision of rules. The land remained unutilized/idle for long time and not even reverted back to Revenue Deptt., despite specific conditions imposed in the land transfer permission/approval orders and shortfall/obstruction in allotment of land due to which the land is not used for other development works of the Govt. It has also been found that the land transferred to a particular deptt. is partly used/utilized for by spending huge public money and after some time the same land is sought by the other department and NOC is frequently issued by the predecessor department without taking into account their investment/infrastructure created there upon. As such huge financial loss/wastage of public money is caused to the State Exchequer.

In order to prevent such instances, it has been decided that the land transferred in the name of other govt. departments for specific purpose in the past and not utilized would be inspected properly by Deputy Commissioners and necessary action/steps to vest or revert back the un-utilized or surplus land in the name of Revenue Department in their respective districts immediately and send quarterly reports in this regard to this department through Divisional Commissioners on the devised proforma:-

Land transferred and date	Name of department	Total surplus land	Present Status	Remarks

These instructions may be adhered/complied with strictly.

Yours faithfully,

-sd-

(Parveen Kumar Taak)

Dy. Secretary(Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. (LR)EODB/2017-16554-65  
 Government of Himachal Pradesh  
 Department of Revenue.

Dated: Shimla-9, 5/11/2020

To

All the Deputy Commissioners,  
 in Himachal Pradesh.

**Subject:- Module under e-Governance to Help in Demarcation (MEGH-Demarcation)-instructions thereof.**

Madam/Sir,

It is generally observed that lot of demarcation cases are lying pending in all the districts. In spite of clear instructions in manual, these cases are forwarded to Field Kanungo without proper institution in institution register. Hence, lot of cases remain untraced thereby causing unnecessary harassment to the general public and this practice also does not project a healthy picture of responsiveness of Revenue Department to the public concern.

To streamline this issue, an online module (<http://ehimbhoomi.nic.in>) has been developed for receiving demarcation requests, tracking of the status of the cases and regular monitoring of pendency of the cases for achieving better transparency in the working process.

The applicant can submit a request for demarcation in an online manner by selecting the relevant land details from the revenue data base available in this module. He will then receive an acknowledgement number to trace the status of his request. The Tehsildar/Naib-Tehsildar shall mark the application to the concerned Filed Kanungo, who will fix the demarcation date. Field Kanungo after demarcation on spot will submit a compliance report to the Tehsil/Sub-Tehsil. All this marking by Tehsildar/Naib-Tehsildar and submission of compliance report by the Field Kanungo will be in online manner on the Module. The date of final order passed by Tehsildar/Naib-Tehsildar shall be updated in this module at the Tehsil/Sub-Tehsil level.

Till further updations, the applicant shall be required to submit the hard copy of the required documents (as per Chapter 10.3 of the HP Land Record Manual 1992 in the concerned Tehsil office clearly mentioning the Acknowledgement Number.

All demarcation requests shall now be routed only through the online module for proper monitoring. Even if an applicant submits an application offline, the same shall be submitted through the online module.

Hence, you are directed to kindly make this module a success through your personal attention and adequate public awareness.

-Sd-

(R.D. Dhiman), IAS  
 Addl. Chief Secy.-cum-FC (Revenue), to the  
 Government of Himachal Pradesh.

Endst. No. 16566-69 Dated . Shimla-2, the 5/11/2020

Copy forwarded to:

1. The Divisional Commissioner, Kangra at Dharamshala, Mandi and Shimla for information.
2. The Director of Land Records, Shimla-171009, H.P. for information and necessary action.

-Sd-

(R.D. Dhiman), IAS  
 Addl. Chief Secy.-cum-FC (Revenue), to the  
 Government of Himachal Pradesh.

No. Rev-D (F) 11-7/2019  
Government of Himachal Pradesh,  
Department of Revenue-D.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
Himachal Pradesh.

Dated: Shimla-2, the 23<sup>rd</sup> December, 2021

Subject: Regarding H.P. Integrated Drug Prevention Policy.

Sir,

I am directed to refer to the subject cited above and to enclose herewith a copy of Draft Annual Action Plan for the year 2021 (March-December) on HP Integrated Drug Prevention Policy formulated by the Excise & Taxation Department for your information & further action.

Further, it is intimated that as per Section 18 7 20 of NDPS Act, illegal cultivation of opium poppy (papaver sominiferum and cannabis (cannabis stiva) are offences and as per Section 44 of the said Act, all officers of State and Central Governments empowered under Section 41, 42 or 43 shall have the power of entry, search, seizure and arrest in relation to offences of illegal cultivation of such crop. And Section 47 provides that ever officer of the government and every Panch, Sarpanch and other village officer of whatever description has an obligation to give immediate information of illegal cultivation to any officer of the police or of any of the departments as mentioned in Section 42 when it comes to his knowledge. Any of these Govt. personnel who neglect to give such information shall be liable to punishment regarding illegal cultivation.

You are therefore, requested to issue necessary directions to all the concerned field officers to ensure strict compliance & implementation of the provisions of NDPS Act./Drug Policy/annual Action Plan, 2021 and instructions issued from time to time in this regard by this Department.

**Encl: M/A**

Yours faithfully,

-sd-

**(Sunil Verma)**

Joint Secretary (Rev-D) to the  
Government of Himachal Pradesh  
**Phone-0177-2880625**

No. Rev-D(G)8-6/2019-Part-I  
Government of Himachal Pradesh  
Revenue Department

From

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All Divisional Commissioners,  
in Himachal Pradesh.
2. All Deputy Commissioners  
in Himachal Pradesh.
3. All Settlement Officers  
in Himachal Pradesh.

Dated: Shimla-2, the 07-01-2022

Subject: Clarification regarding entry of diverted forest land in favour of User Agency in the record of rights (Revenue Record) by the Revenue Department.

Sir,

I am directed to refer to the subject cited above and to say that the matter regarding entry of diverted forest land in the revenue record was under consideration at Government level. A clarification in this regard was also sought from MoEF&CC, GoI, which has issued the same vide their letter No. FC-11/76/2019-FC dated 5<sup>th</sup> Oct., 2021, which, inter alia, states as under:-

*“The prior approval of the Central Government is accorded for the use of a forest land for a specific non-forestry purpose on the recommendation of the concerned State Government/UT Administration and is subject to compliance of certain conditions as mentioned in such approvals. The State Governments are required to ensure that the use of diverted forest land remains in accordance with the conditions as specified in such approvals and subject to relevant court orders, if any. The non-forested use of forest land permitted under FCA does not transfer title in favour of the user and title/ownership of the land remains that of forest department. The user has only the right to use the land for the non-forest purpose and subjected to such conditions as have been prescribed in prior approval of Central Government. Revenue Record may reflect this position in the record. The land cannot be mortgaged to any bank”*

This clarification was then examined in this department and legal position of mutation was also considered. The Hon’ble Supreme Court in *Sankalchan Jaychandbhai Patel and others vs. Vithalbhai Jaychandbhai Patel and others (1996) 6 SCC 433* has held as under:-

*“It is settled law that mutation entries are only to enable the State to collect revenues from the persons in possession and enjoyment of the property and that the right, title and interest as to the property should be established the entries. Entries are only one of the modes of proof of the enjoyment of the property. Mutation entries do not create any title or interest therein”.*

In *Smt. Sawarni vs. Smt. Inder Kaur and others AIR 1996 SC 2823*, the Hon’ble Supreme Court has held as under :-

*“Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. The learned Additional*



*District Judge was wholly in error in coming to a conclusion that mutation in favour of Inder Kaur conveys title in her favour. This erroneous conclusion has vitiated the entire judgment.”*

Thus, in view of above and after detailed examination/consideration of the matter, the position is clarified as under :-

1. It is a settled legal position that *Mutation entries do not create an title*. Thus, there is no impediment in effecting the mutation of diverted forest land and to reflect the user agency/department in revenue record.
2. In case the land is being diverted in favour of Government Department, entry of Department may be reflected in the possession column of jamabandi by way of mutation. However, in cases where entry of Forest Department already exist in the possession column, that entry will continue along with entry of new department (**Forest Department as kabja dahinda & new department as Kabja Garinda**). Further, a note in remarks column (khana kaifiyat) may also be given that such land has been diverted under FCA.
3. In case the land is being diverted in favour of other user agencies (other than Government Department), entry of user agency may only be reflected in Khana Kaifiyat (remarks column) by way of mutation mentioning clearly the details of lease deed & also that land has been diverted under FCA.
4. As clarified by GoI, the ownership column is not to be altered, unless specifically directed by competent authority.
5. Further, in all such cases of diverted forest land, if user agency is Govt. Deptt., Land transfer order from competent authority be obtained & for other user agencies, a lease deed be duly executed by charging appropriate amount with permission/sanction of competent authority.

You are, therefore requested to ensure further necessary action accordingly.

Yours faithfully,

-sd-

(Sunil Verma)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh  
Phone No. 0177-2626450

Endst. No. As above

Dated: Shimla-2,

07-01-2022

Copy to:-

1. All Administrative Secretaries to the Govt. of HP for information and necessary action.
2. All HoDs in Himachal Pradesh for information and necessary action.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh

No. Rev-A (B) 15-7/2020  
Government of Himachal Pradesh  
Department of Revenue.

From

Principal Secretary-cum-FC- (Rev.) to the  
Government of H.P., Shimla-171002.

To

The Director, Land Records,  
Himachal Pradesh, Shimla-171009.

Dated: Shimla-2, the 31-05-2022

Subject:- Regarding increasing of Honorarium to the Numberdar working in the State of Himachal Pradesh.

Sir,

In continuation to this Department's letter of even number dated 05-04-2021, I am directed to refer to the subject cited above and to convey the approval of the Government for increasing of Honorarium of Numberdars from Rs. 2300/- to Rs. 3200/- Per Month w.e.f. 01-04-2022, after completion of all codal formalities.

This is issued with prior concurrence of the Finance Department obtained vide their UO/No. FIN(C)-B(15)-6/2021-L dated 28-04-2022.

You are, therefore, requested to take further appropriate/necessary action in the matter accordingly.

Yours faithfully,

(Milap Chand)  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Tel: 0177-2626359

Endst. No. As above. Dated: Shimla-2, the 31-05-2022

Copy forwarded to the following for information and necessary action to:-

1. The Principal Accountant General (Audit), H.P. Shimla-3.
2. The Accountant General (A&E), Himachal Pradesh, Shimla-3.
3. The Divisional Commissioners, Shimla, Mandi and Kangra, H.P.
4. All the Deputy Commissioners in H.P.
5. The Deputy Secretary (Finance) to the Government of Himachal Pradesh, Shimla-2 w.r.t. his office UO No. referred to above.
6. The Director, Consolidation of Holdings, H.P., Shimla-171009.
7. The Settlement Officer, Shimla and Kangra at Dharamshala, HP.
8. The Joint Secretary (Revenue-C) to the Government of Himachal Pradesh, Shimla-2.
9. The Deputy Secretary (GAD) to the Government of Himachal Pradesh w.r.t. item No. 08 as approved by the CMM in its meeting held on 26-05-2022.
10. Inspector Registration-cum-Stamp Auditor (Stamp Cell), HP Sectt. Shimla-2.

(Milap Chand)  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. D(G)7-4/2018  
 Government of Himachal Pradesh  
 Revenue Department.

From

The Pr. Secretary-cum-F.C. (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners,  
 in Himachal Pradesh.
2. All the Deputy Commissioners,  
 in Himachal Pradesh.
3. All Settlement Officers,  
 in Himachal Pradesh.

Dated Shimla-171002, the 17<sup>th</sup> August, 2022.

**Subject:- Regarding use of Revenue Management System Software in all Revenue Courts.**

Sir,

I have been directed to refer to the subject cited above and to say that Divisional Commissioner Shimla has submitted a proposal regarding RMS (Revenue Management System) software for use in various Revenue Courts across the State. Vide this proposal, Divisional Commissioner Shimla has sought approval on various points related to the management and monitoring of Revenue Court cases through the proposed software. The proposal has been examined in the Department and after considering the matter, approval is hereby accorded on following points:-

1. General approval for operationalising/using the newly developed RMS software for Revenue Court case monitoring & management in substitution of the existing RCMS (Revenue Court Monitoring System) software in all the Revenue Courts of the Department.
2. The Presiding officer can authorize the officer/official of his/her own Court to sign the summons on his behalf. However, the seal of the Court should be invariably affixed on the summons.
3. Online transmission of summons's service report through RMS software from the Tehsil offices (after service of summons) to the higher Revenue Courts/Presiding offices (which had issued the summons).
4. A system generated standard format of the summons may be used. However, the same should be in accordance with rule 15 of the FC Standing order No. 2 read with applicable provisions of CPC & H.P. High Court rules. Further, provision be made in the software so that Presiding officers of the issuing Courts may have the liberty to alter the draft of the summons as per their requirements.

The above, however, is subject to the following terms & conditions:-

1. Divisional Commissioner Shimla will be the Nodal Officer for implementation of RMS software in all Districts. He will ensure that security audit of proposed software is carried out

through the Department of IT and a certificate to this effect is submitted to this Deptt. before operationalising this software.

2. The login IDs of Presiding officers for accessing/operating the RMS will be issued by Nodal officer in consultation with Department of IT. The Nodal officer will also circulate detailed features/operational guidelines alongwith description of Roles & Responsibilities (at various levels) regarding this software, under intimation to this department.
3. The various procedures/operations regarding the management of Revenue Court cases through this software will be in addition to and not in substitution to the existing system/procedures of Court case proceedings, as prescribed in the applicable laws, Financial Commissioner's standing orders, CPC & H.P. High Court rules.
4. The data existing in the RCMS should be ported to the proposed RMS before terminating the old software.

The above has issued with the prior approval of the Principal Secretary-cum-Financial Commissioner (Revenue). You are thus requested to take further necessary action accordingly.

Yours faithfully,

-sd-

Sunil Verma (HPAS)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Phone No. 0177-2626450

Endst. No. As above.

Dated Shimla-2      17<sup>th</sup> August, 2022.

Copy forwarded to Divisional Commissioner, Shimla, HP w.r.t. his letter No. P.A/Div.Commr.(SML) Misc.-2022-59 dated 4<sup>th</sup> May, 2022 for information and further necessary action as detailed above.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. D(G)8-14/2015  
Government of Himachal Pradesh  
Revenue Department.

From

The Principal Secretary-cum-F.C.(Revenue) to the  
Government of Himachal Pradesh.

To

1. All Administrative Secretaries to the  
Government of Himachal Pradesh.
2. All Divisional Commissioners in Himachal Pradesh.
3. All Deputy Commissioners,  
in Himachal Pradesh.

Dated Shimla-2, the 15<sup>th</sup> July, 2023

**Subject:- Instruction regarding transfer of Govt. land from one Department to another Department in the State of Himachal Pradesh.**

Sir,

In continuation to this Department letter No. Rev-D(G) 6-24/91 dated 9<sup>th</sup> July, 1991, letter No. Rev-D(G) 8-14/2015 dated 9<sup>th</sup> February, 2016 and in supersession of this department letter of even number dated 24<sup>th</sup> June, 2023 on the subject cited above, it has been decided by the Government after careful consideration of the matter that the following procedure/formalities may invariably be completed/followed with regard to the transfer of possession of Govt. land from one Department to another Department in the State of HP as under:-

1. Where the land in the possession/use of one department, is proposed for transfer in the name of other department of the State Govt., the NOC of that particular department only shall be necessary.
2. Where the land belongs to and possessed by the Govt. of HP and possession is proposed to be transferred to other departments of the State Govt. for any developmental activities, the NOCs from PWD, Jal Shakti Vibhag, Electricity Board, Forest Departments shall be necessary/obtained.
3. The NOCs of Local Bodies, i.e. Gram Panchayat, Nagar Panchayat and Municipal Corporation shall also be obtained. In case, if the concerned local bodies will not respond/issue NOC within a period of one month from receipt of request/reference from concerned Department/user agency, the user department/agency shall report the matter to concerned Deputy Commissioner who shall issue a notice to the concerned Local Bodies for assigning the reasons for not issuing such NOC. The reason, report/objections of the Local Bodies will be examined by the concerned DC's and decided by a well reasoned and speaking order within 10 days. The decision of the concerned DC shall be final and treated as NOCs of concerned Local Bodies for the proposed purpose.

It is, therefore, requested and impressed upon all concerned authorities that these instructions/procedure may be adhered to and followed strictly in land transfer case in future accordingly. All such cases shall be routed through Div. Comm. And concerned AD respectively.

Yours faithfully,

-sd-

(Balwan Chand)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh

संख्या:रैब-डी (एफ)11-1/2009-जाति दरुस्ती  
हिमाचल प्रदेश सरकार  
राजस्व विभाग (डी-अनुभाग)

प्रेषक

प्रधान सचिव (राजस्व)  
हिमाचल प्रदेश सरकार, शिमला-2

प्रेषित

1. उपायुक्त, हमीरपुर  
जिला हमीरपुर, हि0प्र0।
2. उपायुक्त, बिलासपुर  
जिला बिलासपुर, हि0प्र0।

दिनांक शिमला-2, 28-07-2023

विषय:- राजस्व अभिलेख में दर्ज जाति फलेहड़े, फलैहड़ा, फलाड़ा, फलैहड़े व फरेड़े की शुद्धिकरण/दरुस्ती व छानवीन बारे निर्देश।

महोदय,

पिछले कुछ अरसे से सरकार के ध्यान में विभिन्न माध्यमों व माननीय विधान सभा सदस्यों द्वारा विधान सभा में उठाये गये प्रश्नों के माध्यम से लाया गया/आया है कि विशेषकर जिला हमीरपुर के उप-मण्डल (ना0) बड़सर तथा जिला बिलासपुर के उप-मण्डल (ना0) झण्डूता में हिमाचल प्रदेश सरकार, सामाजिक न्याय एवं अधिकारिता विभाग द्वारा जारी अधिसूचना संख्या:डब्ल्यूएलएफ-ए(3)-14/76 दिनांक 18/11/1977 के तहत प्रदेश में अधिकृत/मान्यता प्राप्त अनुसूचित जातियों की सूची के क्रम संख्या: 44 में निर्दिष्ट/उल्लेखित जाति “फेरा (Phrera) व फरेरा (Pherera)” के स्थान पर राजस्व अभिलेख शजरा नस्व में राजस्व/बन्दोबस्त विभाग के कर्मचारियों द्वारा इस जाति को “फलेहड़े, फलैहड़ा, फलाड़ा, फलैहड़े व फरेड़े” शब्दों में अंकित/दर्ज किया गया है जिससे राजस्व विभाग के सक्षम प्राधिकारियों जोकि विभिन्न प्रकार के प्रमाण पत्र जारी करने हेतु अधिकृत किये गये हैं, में विरोधाभास की स्थिति पैदा होगई है। पिछले 10-15 वर्ष पूर्व तक इन शब्दों से दर्ज परिवारों/व्यक्तियों को अनुसूचित जाति प्रमाण पत्र जारी किये जाते रहे हैं लेकिन विभाग में डिजिटल/आन-लाईन कार्य प्रणाली शुरू किये जाने उपरान्त इन जातियों के लोगों का अनुसूचित जाति के प्रमाण पत्र जारी नहीं किये जा रहे हैं जिससे ऐसे पात्र लोगों को अनुसूचित जाति वर्ग को सरकार की विभिन्न योजनाओं/सरकारी सेवाओं में मिलने वाले आरक्षण की सुविधाओं से वंचित होना पड़ा है जोकि राजस्व/बन्दोबस्त विभाग के कर्मचारियों की गैर-जिम्मेदाराना व लापरवाहीपूर्ण कार्यप्रणाली को इंगित करता है। अनुसूचित जाति तथा अनुसूचित जनजाति का चयन राज्य की समवर्ती सूची में केवल संविधान संशोधन की प्रक्रिया के माध्यम से केन्द्रीय सरकार द्वारा किया जाता है जोकि एक जटिल प्रक्रिया है।

अतः सरकार द्वारा इस मामले में गम्भीरतापूर्वक विचार करने उपरान्त यह निर्णय लिया गया है कि प्रदेश में सरकार द्वारा अधिसूचित अनुसूचित जाति तथा अनुसूचित जनजाति की सूची में अंकित जातियों के नाम के विपरीत कोई नई “जाति या शब्द” नवीनतम बन्दोबस्त प्रक्रिया पूर्ण करने उपरान्त जोड़ा या फेरबदल किया गया है उन्हें राजस्व विभाग के सम्बन्धित सक्षम अधिकारी स्वयं संज्ञान लेते हुए या सम्बन्धित प्रभावित पक्षों से प्राप्त निवेदन/प्रार्थना पत्र अनुसार तथ्यों/साक्ष्यों की पूर्ण छानवीन (पुराने से पुराने शजरा नस्व में दर्ज जाति इन्द्राज) करते हुए नियमानुसार जाति इन्द्राज

दरुस्त करने बारे शीघ्रातिशीघ्र आवश्यक कार्यवाही अमल में लाना सुनिश्चित करेंगे तथा बन्दोबस्त विभाग के अधिकारी/कर्मचारी भविष्य में बन्दोबस्त प्रक्रियाके दौरान कोई भी नई जाति/शब्द सरकार द्वारा अधिसूचित जातियों के सिवाये राजस्व अभिलेख में किन्हीं अपरिहार्य/अति-आवश्यक परिस्थितियों की सूरत में दर्ज जहीं करेंगे। यहां यह भी स्पष्ट किया जाता है कि सरकार द्वारा पहले भी सभी सम्बन्धित प्राधिकारियों को इस सम्बन्ध में राजस्व विभाग के समसंख्यक पत्र दिनांक 9 जुलाई, 2010 द्वारा आवश्यक निर्देश जारी किये गये हैं।

यह पुनः दोहराया जाता है कि सभी सम्बन्धित राजस्व प्राधिकारी भविष्य में इन अनुदेशों की अक्षरशः अनुपालना सुनिश्चित करेंगे।

भवदीय,

—हस्त०—

(बलवान चन्द)

संयुक्त सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

पृष्ठांकन सं०: यथोपरि—

दिनांक: 28-07-2023

प्रतिलिपि सूचनार्थ एवं समरूप कार्यवाही हेतु प्रेषित है:—

1. समस्त मण्डलायुक्त, हिमाचल प्रदेश।
2. समस्त उपायुक्त, हिमाचल प्रदेश (सिवाये हमीरपुर व बिलासपुर)
3. बन्दोबस्त अधिकारी, बन्दोबस्त मण्डल कांगड़ा तथा शिमला, हि०प्र०।
4. समस्त उपमण्डलाधिकारी (ना०), हिमाचल प्रदेश।
5. समस्त प्रधान, ग्राम पंचायत, उपमण्डल (ना०), बड़सर, जिला हमीरपुर तथा उपमण्डल (ना०), झण्डूता, जिला बिलासपुर, हि०प्र० को इस अनुरोध के साथ प्रेषित है कि वह अपनी पंचायत में उक्त जातियों से सम्बन्धित परिवारों/लोगों को इस सम्बन्ध में सूचित/अवगत करवाने हेतु।

संयुक्त सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

- **THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972.**
- **THE HIMACHAL PRADESH TENANCY AND LAND REFORMS RULES, 1975.**
- **NOTIFICATION/ INSTRUCTIONS/ CLARIFICATIONS ISSUED UNDER THE H.P. TENANCY AND LAND REFORMS ACT, 1972 (OTHER THAN SECTION 118)**
- **INSTRUCTIONS AND CLARIFICATIONS RELATED TO SECTION-118 AND AGRICULTURIST STATUS UNDER H.P. TENANCY AND LAND REFORMS ACT, 1972.**



**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972**

**ARRANGEMENT OF SECTIONS**

**CHAPTER I**

**PRELIMINARY**

Sections:

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II**

**RIGHT OF OCCUPANCY**

3. Tenants having right of occupancy.
4. Right of occupancy in land taken in exchange.
5. Establishment of right of occupancy on grounds other than those expressly stated in the Act.
6. Right of occupancy not to be acquired by joint owner in land held in joint ownership.
7. Continuance of existing rights of occupancy.
8. Right of occupancy not to be acquired by mere lapse of time.

**CHAPTER III**

**RENT GENERALLY**

9. Respective rights of landowner and tenant to produce.
10. Commutation of rent payable in kind.
11. Disposal of applications.
12. Repealed.
13. Collection of rents of undivided property.

**PRODUCE RENTS**

14. Resumption with respect to produce removed before division or appraisalment.
15. Appointment of referee for division or appraisalment.
16. Appointment of assessors and procedure of referee.
17. Procedure after division or appraisalment.

**GENERAL PROVISIONS RELATING TO  
SUITS FOR REDUCTION OF RENT**

18. Reduction of rents.
19. Time for reduction to take effect.

**MAXIMUM RENT**

20. Maximum limit for rent.

**ADJUSTMENTS OF RENTS**

21. Adjustment of rents expressed in terms of the land revenue.

**ALTERATION OF RENT ON ALTERATION OF AREA**

22. Alteration of rent an alteration of area.

**REMISSION**

23. Remission of rent by Court decreeing arrears.
24. Remission and suspension of rent consequent on like treatment of land revenue.
25. Duty of landowner to furnish receipt for rent received from tenant.

**DEPOSITS**

26. Power to deposit rent in certain cases with Revenue Officer.

27. Effect of depositing rent.

**RECOVERY OF RENT FROM ATTACHED PRODUCE**

28. Recovery of rent from attached produce.

**LEASES FOR PERIOD EXCEEDING TERMS OF  
ASSESSMENT OF LAND REVENUE**

29. Treatment of leases for period exceeding or equal to term of assessment of land revenue.

**CHAPTER IV**

**LEASE, RELINQUISHMENT AND EJECTMENT LEASE**

30. Leases.

**RELINQUISHMENT**

31. Relinquishment by tenant for a fixed term.  
32. Repealed.  
33. Repealed.

**EJECTMENT**

34. Grounds of ejectment of tenants.  
35. Certain mortgagees to be deemed as tenants under the Act.  
36. Tenant's rights to water.

**PROCEDURE ON EJECTMENT**

37. Restriction on ejectment.  
38. Application to Revenue Officer for ejectment.  
39. Ejectment for failure to satisfy decree for arrear of rent.

**GENERAL PROVISIONS RESPECTING EJECTMENT**

40. Time for ejectment.  
41. Relief against forfeiture.  
42. Rights of ejected tenants in respect of crops and land prepared for sowing.

**RELIEF FOR WRONGFUL DISPOSSESSION**

43. Relief for wrongful dispossession or ejectment.  
44. Penalty for wrongful dispossession.

**CHAPTER V**

**SUCCESSION**

45. Succession to right of tenancy.

**CHAPTER VI**

**IMPROVEMENTS AND COMPENSATION**

46. Right of tenants to make improvement on land.  
47. Improvements made before commencement of this Act.  
48. Improvements begun in anticipation of ejectment.  
49. Liability to pay compensation for improvements to tenant on ejectment or an enhancement of his rent.  
50. Compensation for disturbance of clearing tenants.

**PROCEDURE IN DETERMINING COMPENSATION**

51. Determination of compensation by Revenue Courts.  
52. Determination of compensation by Revenue Officer.  
53. Matters to be regarded in assessment of compensation for improvements.

54. Form of compensation.

**RELIEF IN CASE OF EJECTMENT BEFORE  
DETERMINATION OF COMPENSATION**

55. Relief in case of ejectment before determination of compensation.

**CHAPTER VII**

**JURISDICTION AND PROCEDURE JURISDICTION**

56. Revenue Officers.

57. Application and proceedings cognizable by Revenue Officers.

58. Revenue courts and suits cognizable by them.

**PROCEDURE WHERE REVENUE MATTER IS RAISED IN A  
CIVIL COURT ADMINISTRATIVE CONTROL**

59. Superintendence and control of Revenue Officers and Revenue Courts.

60. Power to distribute business and withdraw and transfer cases.

**APPEAL, REVIEW AND REVISION**

61. Appeals.

62. Limitation for appeals.

63. Review by Revenue Officers.

64. Computation of period limited for appeals and applications for review.

65. Power to call for, examine and revise proceedings of Revenue Officers and Revenue Courts.

**PROCEDURE**

66. Procedure of Revenue Officers.

67. Persons by whom appearances may be made before Revenue Officers as such and not as Revenue Courts.

68. Costs.

69. Procedure of Revenue Courts.

70. Power of Revenue Officer or Revenue Court to summon persons.

71. Mode of service of summons.

72. Mode of service of notice, order or proclamation or copy thereof.

73. Additional mode of publishing proclamation.

74. Joinder of tenants as parties to proceedings relating to rent.

75. Exception of suits under this Act from operation of certain enactments

76. Payment into Court of money admitted to be due to a third person.

77. Execution of decrees for arrears of rent.

78. Prohibition of imprisonment of tenants in execution of decree for arrears of rent.

79. Power to refer party to Civil Court.

80. Power to refer to High Court questions as to jurisdiction.

81. Power of High Court to validate proceedings held under mistake as to jurisdiction.

**MISCELLANEOUS**

82. Place of sitting.

83. Holidays.

84. Discharge of duties of Collector dying or being disabled.

85. Retention of power by Revenue Officers on transfer.

86. Conferment of powers of Revenue Officer or Revenue Court.

- 87. Powers exercisable by Financial Commissioner from time to time.
- 88. Bar to legal proceedings.
- 89. Powers of the Financial Commissioner and the State Government to make rules.

### **CHAPTER VIII**

#### **EFFECT OF THIS ACT ON RECORD-OF-RIGHTS AND AGREEMENTS**

- 90. Nullity of certain entries in record of rights.
- 91. Nullity of certain agreements contrary to the Act.

### **CHAPTER IX**

#### **ACQUISITION OF PROPRIETARY RIGHTS BY OCCUPANCY TENANTS**

- 92. Definitions.
- 93. Appointment of Land Reforms Officers.
- 94. Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landowners.
- 95. Amount payable to the landowner.
- 96. Determination of compensation payable to landowner.
- 97. Certain mortgages and charges not enforceable against land held by occupancy tenants.
- 98. Payment of amount.
- 99. Chapter not to apply to evacuee property.
- 100. Appeal and revisions.
- 101. Bar of jurisdiction.
- 102. Bar to legal proceedings.
- 103. Power to make rules.

### **CHAPTER X**

#### **ACQUISITION OF PROPRIETARY RIGHTS BY TENANTS OTHER THAN OCCUPANCY TENANTS**

- 104. Right of tenant other than occupancy tenant to acquire interests of landowner.
- 105. Total compensation payable by a tenant.
- 106. Claims for compensation and determination of such claims.
- 107. Reference to Civil Court.
- 108. Disposal of claims by Land Reforms Officer.
- 109. Payment of compensation.
- 110. Compensation to be deposited in case of minors.
- 111. Arrears of land revenue to be deducted.
- 112. Bar of jurisdiction.
- 113. Bar of transfer of ownership rights.
- 114. Appeal and revision.
- 115. Bar of jurisdiction.
- 116. Bar to legal proceedings.
- 117. Power to make rules.

### **CHAPTER XI**

#### **CONTROL ON TRANSFER OF LAND**

- 118. Transfer of land to non-agriculturists barred.
- 119. Transfer of land in favour of State Government.
- 120. Determination of reasonable price for purpose of transfer.

- 121. Distribution of land transferred in favour of the state Government.
- 121-A. Bar of jurisdiction
- 122. Power to make rules.

## **CHAPTER XII**

### **GENERAL**

- 123. Rules to be made after previous publication.
- 124. Laying of the rules before the Legislative Assembly.
- 125. Power to remove difficulties.
- 126. Repeals.
- 127. Savings.

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**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972**  
(Act No. 8 of 1974)<sup>1</sup>

(Received the assent of the President of India on the 2<sup>nd</sup> February, 1974, and was published in R.H.P. Extra., dated the 21<sup>st</sup> February, 1974 at p. 171-210).

**An Act to unify, amend and consolidate the law relating to tenancies of agricultural lands and to provide for certain measures of land reforms in Himachal Pradesh.**

Amended, repealed or otherwise affected by,-

- (i) H. P. Ord. No. 4 of 1974, published in R. H. P. Extra., dt. the 28<sup>th</sup> February, 1974, p. 217-223 (Lapsed).
- (ii) H. P. Ord. No. 2 of 1975, published in R. H. P. Extra., dt. the 26<sup>th</sup> August, 1975, p. 1013-1020 replaced by H.P. Act No. 15 of 1976<sup>2</sup>, published in R. H. P. Extra., dt. the 28<sup>th</sup> April, 1976 at p. 1160-1167.
- (iii) H. P. Act No. 6 of 1988<sup>3</sup>, assented to by the President on 25<sup>th</sup> March, 1988 and published in R. H. P. Extra., dt. the 14<sup>th</sup> April, 1988 at p. 554-556 (Effective w.e.f. the commencement of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 but sections 3 and 4, in as far as it amends clause (g) and the second proviso to clause (i) of sub-section (2), sub-section (3) and subsection (4) of section 118 of the said Act, shall come into force at once.
- (iv) H.P. Act No. 6 of 1995<sup>4</sup>, assented to by the President on 22<sup>nd</sup> March, 1995 and published both in Hindi and English in R. H. P. Extra., dt. the 4<sup>th</sup> April, 1995 at p. 1545-1552
- (v) H. P. Act No. 9 of 1997<sup>5</sup>, assented to by the President on 18<sup>th</sup> April, 1997 and published both in Hindi R. H. P. Extra., dt. 19<sup>th</sup> April, 1997 at p. 1381-1383 and in English at pages 1677-1679 effective w.e.f. 28.12.1996.
- (vi) H. P. Act No. 10 of 2007<sup>6</sup>, assented to by the President on 14<sup>th</sup> April, 2007 and published both in Hindi and English in R. H. P. Extra., dt. 5<sup>th</sup> May, 2007 at p. 1171 - 1172.
- (vii) H. P. Act No. 34 of 2012<sup>7</sup>, assented to by the President on 24<sup>th</sup> November, 2012 and published in Hindi and English in R. H. P. dated. 21<sup>st</sup> December, 2012 at pages 5600-5602.

<sup>1</sup>For Statement of Objects and Reasons see R.H.P. Extra., dated 12.12.1972.

<sup>2</sup>The Ord. and the Act replacing it shall be deemed to have come into force from the date of commencement of the principal Act [See Sec (3)].

<sup>3</sup>For Statement of Objects and Reasons see R.H.P. Extra., dated 28.3.1987, 542.

<sup>4</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 7.9.1994, p. 2424-2429.

<sup>5</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 25.3.1997, p. 1006 & 1010.

<sup>6</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 27.12.2006, p 9215 & 9218.

<sup>7</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha . For Statement of Objects and Reasons see R.H.P. dated 20.4.2010 P. 332 & 337.

- (viii) H. P. Act, No. 3 of 2023 assented to by the President on 1<sup>st</sup> March, 2023 and published in Hindi and English in R. H. P. dated. 27<sup>th</sup> March, 2023 at pages 11355-11357.

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India, as follows: -

## CHAPTER I PRELIMINARY

**1. Short title, extent and commencement.**-(1) This Act may be called the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

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

(3) It shall come into force at once.

**2. Definitions.**-In this Act, unless there is anything repugnant in the subject or context,-

(1) “agricultural labourer” means a person whose principal means of livelihood is manual labour on land;

(2) “agriculturist” means a <sup>1</sup>[landowner] who cultivates land personally in an estate situated in Himachal Pradesh;

(3) “arrear of rent” means rent which remains unpaid after the date on which it becomes payable;

<sup>2</sup>[(3-A) ‘bank’ has the same meaning as assigned to it in the Himachal Pradesh Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1972.]

(4) “to cultivate personally” with its grammatical variations and cognate expression means-

(i) by one’s own account ;

(ii) by one’s own labour;

(iii) by the labour of any member of one’s family ; or

(iv) under the personal supervision of one-self or any member of one’s family by hired labour or by servant on wages payable in cash.

<sup>3</sup>[\* \* \* \*]

*Explanation.*-In the case of a joint family the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family.

(5) “family” means husband, his wife and their children, including step or adopted children, and includes his parents, grand parents, brothers and unmarried, widowed, separated and divorced sisters ;

(6) “improvement” with reference to a tenancy means any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased and which, if not

<sup>1</sup>Subs. for the words “person” vide Act 9 of 1997.

<sup>2</sup>Added by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>Explanation I, and figure “II” assigned to Explanation II, del. by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

*Explanation I.*-It includes among other things-

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection of land from floods or from erosion;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy ; and
- (e) the renewal or construction of any of the foregoing works or such alteration therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

but it does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry.

*Explanation II.*-A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement.

*Explanation III.*-A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landowner's property;

- (7) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes-
  - (a) the sites of buildings and other structures on such land,
  - (b) orchards,
  - (c) Ghasnis,
  - (d) banjar land, and
  - (e) private forests ;
- (8) "landless person" means a person who, holding no land for agricultural purposes, whether as an owner, or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally ;
- (9) "kismi tenant" means a tenant who is recorded as a tenant of any kind, i.e., 'madd' or 'kisam' in the record-of-rights of the estate in which the tenancy is situate;
- (10) "landowner" means a person defined as such in the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) or the Punjab Land Revenue Act, 1887, (17 of 1887) as the case may be, and shall include the predecessor or successor in interest of the landowner ;



- (11) “land revenue” means land revenue assessed under any law for the time being in force or assessable under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be ;
- (12) “member of the Armed Forces” means a person in the service of the Armed Forces of the Union or in the service of an organisation raised by the Central Government or the State Government for the defence or security of the country and declared by a notification as Armed Forces for the purpose of this Act ;
- (13) “orchard” means a compact area of land, having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose;
- (14) “allied pursuits” means dairy farming, poultry farming, breeding of livestock, grazing (other than the pasturage of one’s own agricultural cattle) and such other pursuits as may be prescribed ;
- (15) “rent” means whatever is payable to landowner in money or kind by a tenant on account of the use or occupation of land held by him; but shall not include the rendering any personal service or labour ;
- (16) “Revenue Officer” or “Revenue Court” in any provision of this Act, means a Revenue Officer or Revenue Court having authority under this Act to discharge the functions of a Revenue Officer or Revenue Court, as the case may be, under that provision;
- (17) “tenant” means a person who holds land under a landowner, and is, or but for a contract to the contrary would be liable to pay rent for that land to that landowner, and includes-
- (i) a sub-tenant <sup>1</sup>[ \* \* \* \*]; and
  - (ii) the predecessors or successors in interest of a tenant or a subtenant, as the case may be; but it does not include-
    - (a) <sup>2</sup>[mere] mortgagee of the rights of landowner, or
    - (b) a person to whom a holding has been transferred or an estate or holding has been let in farm under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear; or
    - (c) <sup>3</sup>[ \* \* \* \*]
- (18) “tenancy” means a parcel of land held by a tenant of a land owner under one lease or one set of conditions;

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<sup>1</sup>The words “recorded as such in the revenue record” del. by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Added by *ibid*.

<sup>3</sup>Clause (c) reading “a person who takes from the State Government a lease of unoccupied land for the purpose of sub-letting it” del. by H.P. No. 15 of 1976.

<sup>1</sup>[(18-A). “village artisan” means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and articles or things used for agriculture purposes or purposes ancillary thereto and also a person who normally earns his livelihood by practicing a craft either by his own labour or by the help of the labour of the members of his family in the rural area and whose annual house hold income does not exceed the income limit fixed for the persons living below poverty line; and].

(19) “agricultural year”, “estate”, “holding”, “legal practitioner”, “pay”, “rates and cesses”, “village cess” and “village officer” have the meanings respectively assigned to these terms in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be.

## CHAPTER II RIGHT OF OCCUPANCY

### 3. Tenant having right of occupancy.-A tenant-

- (a) who at the commencement of this Act has for a period of not less than twelve years been occupying land paying no rent therefore beyond the amount of land revenue thereof and the rates and cesses for the time being chargeable thereon; or
- (b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land; or
- (c) who has broken upland for cultivation ;

has a right of occupancy in the land so occupied or in the land so broken up for cultivation.

**4. Right of occupancy in land taken in exchange.-** If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landowner, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

**5. Establishment of right of occupancy on grounds other than those expressly stated in the Act.-** Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

**6. Right of occupancy not to be acquired by joint owner in land held in joint ownership. -** In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

**7. Continuance of the existing occupancy rights.-** Notwithstanding anything contained in the foregoing sections of this Chapter, a tenant who, immediately before the commencement of this Act, has a right of occupancy in any land under any law relating to tenancy lands, applicable anywhere in Himachal Pradesh shall, when this Act comes into force, be held to have, for all intents and purposes of this Act, a right of occupancy in that land.

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<sup>1</sup>Clause (18-A) ins vide Act No. 34 of 2012.

**8. Right of occupancy not to be acquired by mere lapse of time.-** No tenant shall acquire a right of occupancy by mere lapse of time.

### CHAPTER III

#### RENTS

##### Rents Generally

**9. Respective rights of landowner and tenant to produce.-**(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landowner.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce-

- (a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;
- (b) the landowner shall be entitled to be present at, and take part in the division of the produce, which shall be made at the threshing floor; and
- (c) when the produce has been divided the landowner shall be entitled to the possession of his share thereof.

**10. Commutation of rent payable in kind.-**(1) Where a tenant pays for a tenancy rent in kind or on the estimated value of portion of the crop or at rates varying with or fixed with reference to the nature of the crops grown or partly in one of those ways and partly in another the tenant may apply to have the rent commuted to a money rent.

(2) The application shall be made to the Collector or to any other officer especially authorised in this behalf by the State Government.

**11. Disposal of application.-** (1) On the receipt of the application under section 10 the officer may determine the sum to be paid as money-rent and may order that the tenants shall in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined as rent :

Provided that the sum determined as money-rent shall in no case exceed the maximum limit for rent laid down in section 20.

(2) In determining the rent the Revenue Officer shall have regard to-

- (a) the average money-rent payable by tenants for lands of a similar description and with similar advantages in the vicinity;
- (b) the average value of the rent actually received by the landowner during the preceding ten years or during any shorter period for which evidence may be available; and
- (c) the charges, if any, incurred by the landowner in respect of irrigation under the system of rent in kind.

(3) The order shall be in writing, and shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

12.<sup>1</sup>[\* \* \* \*]

**13. Collection of rents of undivided property.-** When two or more persons are landowners of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

### **PRODUCE RENTS**

**14. Presumption with respect to produce removed before division or appraisalment.-** Where rent is taken by division or appraisalment of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisalment thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as the fullest crop of the same description on similar land in the neighborhood for that harvest.

**15. Appointment of referee for division or appraisalment.-**If either the landowner or the tenant neglects to attend, either personally, or by agent at the proper time for making the division or appraisalment of the produce, or if there is a dispute about the division or appraisalment, a Revenue Officer may on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

**16. Appointment of assessors and procedure of referee.-**(1) When a Revenue Officer appoints referee under the last foregoing section, he may give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisalment.

(2) The referee so appointed shall make the division or appraisalment in accordance with any instructions which he may have received from the Revenue Officer under the last foregoing subsection.

(3) Before making the division or appraisalment the referee shall give notice to the landowner and the tenant of the time and place at which the division or appraisalment will be made, but, if either the landowner or the tenant fails to attend either personally or by agent, the referee may proceed ex-parte.

(4) For the purpose of making the division or appraisalment, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

**17. Procedure after division or appraisalment.-**(1) The result of the division or appraisalment shall be recorded and signed by the referee, and the record shall be submitted to the Revenue Officer.

(2) The Revenue Officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisalment.

(3) The Revenue Officer shall also make such order as to the costs of the reference as he thinks fit.

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<sup>1</sup>Del. by H.P. Ord. No. 2 of 1975, sec. 3, replaced by H.P. Act No. 15 of 1976.

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be realised from the applicant before appointment of the referee subject to adjustment at the close of the proceedings.

**18. Reduction of rents.**-The rent payable by a tenant may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

**19. Time for reduction to take effect.**-(1) Unless the court decreeing a reduction of rent otherwise directs, the reduction shall take effect from the commencement of the agricultural year next following the date of the decree.

(2) A court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

### MAXIMUM RENTS

**20. Maximum limit for rent.**-(1) Notwithstanding anything contained in the Act or in any agreement or usage or any decree or order of a court the maximum rent payable by the tenant for any land held by him shall not exceed one-fourth of the crop of such land or of the value of such produce. The value of the crop or rent shall when necessary, be determined by the Collector in accordance with the rules, which may be framed by the Financial Commissioner:

Provided that ghas, bhusa shall not be included in the produce.

(2) No landowner shall have the right to enhance the rent payable merely on the grounds that it is less than the limit prescribed in sub-section (1).

<sup>1</sup>[(3) It shall be an offence for a landowner to collect rent more than the maximum rent prescribed under sub-section (1) and he shall, on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.]

### ADJUSTMENT OF RENTS

**21. Adjustment of rents expressed in terms of the land revenue.**- (1) Where the rent of a tenancy in the whole or a share of the land revenue thereof, with or without an addition in money or kind, and the land revenue of the holding in which the tenancy is situate, is altered, a Revenue Officer having authority under the Punjab Land Revenue Act, 1887, (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate, shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with the land revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue Officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.

(3) The sum or sums determined under the forgoing sub-sections, together with any addition previously payable other than the addition referred to in sub-section (2), shall be the rent payable in

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<sup>1</sup>Added by H.P. Ord. No. 2 of 1975, sec. 4, replaced by H.P. Act No. 15 of 1976.

respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates and cesses chargeable thereon under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

### **ALTERATION OF RENT ON ALTERATION OF AREA**

**22. Alteration of rent on alteration of area.**-(1) Every tenant shall-

- (a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy was lost by diluvion or otherwise without any reduction of the rent being made; and
- (b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following among other matters, namely:-

- (a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy ;
- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landowner ; and
- (c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

### **REMISSION**

**23. Remission of rent by Court decreeing arrears.**-Notwithstanding anything contained in the foregoing section of this Chapter, if it appears to a court making a decree for an arrear of rent that the area of tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may allow such remission from the rent payable by the tenant as may appear to it to be just.

**24. Remission and suspension of rent consequent on like treatment of land revenue.**-(1) Wherever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue Officer may, if the rent be payable in cash or be payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable

in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land.

When the payment of the rent of any land has been suspended under this sub-section it shall remain under suspension, until the Collector orders the revenue of that land to be realised.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

<sup>1</sup>[(5) It shall be an offence for a landowner to collect from a tenant any rent of which payment has been remitted or is under suspension, and he shall on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.]

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land revenue has been released, compounded for or redeemed, in any case in which, if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue Officer, be remitted, or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue.

<sup>2</sup>[\* \* \* \* \*]

**25. Duty of landowner to furnish receipt for rent received from tenant.**-(1) Every landowner shall give or cause to be given a valid receipt to the tenant, in the form prescribed, for the rent received by him or on his behalf.

(2) Any landowner who fails to give or cause to be given such receipt shall on conviction by any magistrate be punishable with fine which may extend to <sup>3</sup>[from rupees five hundred to rupees two thousand].

## DEPOSITS

**26. Power to deposit rent in certain cases with the Revenue Officer.**-In either of the following cases, namely: -

- (a) when a landowner refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant
- (b) when a tenant is in doubt as to the persons entitled to receive rent payable in money

the tenant may apply to a Revenue Officer for leave to deposit the rent in his office, and the Revenue Officer shall receive the deposit if, after examining the applicant, he is satisfied that there

<sup>1</sup>Subs. for the original sub-section, by H.P. Ord. No. 2 of 1975, sec. 5, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Del. by H.P. Ord. No. 2 of 1975, sec. 5, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>Subs. for the words "one hundred rupees" by Ord. No. 2 of 1975 sec. 6, replaced by H.P. Act No. 15 of 1976.

is sufficient ground for the applicant and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

**27. Effect of depositing rent.**-(1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landowner in respect of rent due.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the State Government or against any officer of the State Government in respect of anything done by a Revenue Officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

#### **RECOVERY OF RENT FROM ATTACHED PRODUCE**

**28. Recovery of rent from attached produce.**-(1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landowner may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of-

- (a) any rent which has fallen due to him in respect of the tenancy, within the year immediately preceding the application and
- (b) the rent which will be falling due after the harvesting of the produce and is chargeable against it .

(2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landowner should not be granted, and, if he finds the landowner's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in a suit between the landowner and the tenant.

#### **LEASES FOR PERIOD EXCEEDING TERMS OF ASSESSMENT OF LAND REVENUE**

**29. Treatment of leases for period exceeding or equal to term of assessment of land revenue.**-(1) Where a lease has been granted, or an agreement has been entered into by a landowner in respect of any land assessed to land revenue fixing for a period exceeding the terms for which the land revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable.-

- (a) at the option of the landowner if the land revenue of the land has been enhanced and the person, to whom the lease has been granted or with whom the agreement has been entered into, refuses to pay such rent or other sum as a Revenue Court, on the suit of the landowner, determines to be fair and equitable and where the relation of landowner and tenant exists between the grantor and grantee of the lease, or between the person who entered into the agreement; and



- (b) at the option of the tenant if the land revenue of the land has been reduced and the landowner refuses to accept such rent as a Revenue Court, on the suit of the tenant determines to be fair and equitable.

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of and assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

#### **CHAPTER IV LEASE, RELINQUISHMENT AND EJECTMENT**

**30. Leases.**-(1) A landowner who-

- (a) is a minor, or unmarried woman, if married, divorced or separated from husband or a widow; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity; or
- (c) is a serving member of the Armed Forces; or
- (d) is temporarily prevented by some sufficient cause beyond his control from cultivating land ;

may lease land owned by him for such period during which his inability or disability to cultivate it personally lasts :

<sup>1</sup>[Provided that in case of land-owner covered by clause (d) above, lease shall be allowed by the Revenue Officer for a term not exceeding five years through a registered lease deed, which may subsequently be renewed for a period equivalent to the term for which it was allowed initially, in case his inability or disability to cultivate it personally subsists:]

Provided further that where such inability or disability ceases, the landowner shall be entitled to apply to get back the possession of the land from the lessee within one year from such cessation in the manner provided hereafter:

Provided further that in case the landowners mentioned in this subsection, except those who are incapable of cultivating land by reason of any physical or mental infirmity, fail to make an application for the resumption of the land within one year of the cessation of such disability or inability their lessees shall be entitled to avail of the benefit accruing to them under the provisions of Chapter X of this Act.

(2) Any landowner referred to in sub-section (1) may by giving, in writing to his lessee or to his lessee's agent, a notice of his intention to resume the lease immediately after the harvest of the crop then current.

(3) The landowner may, instead of, or in addition to giving the notice in the manner mentioned in sub-section (2), apply to a Revenue Officer, to cause the notice to be served on the lessee and the Revenue Officer on receiving the cost of service from the landowner, shall cause notice to be served as soon as may be.

(4) If the lessee fails to vacate his possession as aforesaid in accordance with the notice, the Revenue Officer may, on application by the landowner, put the landowner in possession of the area

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<sup>1</sup>First Proviso subs. vide Act No. 34 of 2012.

under the lease immediately after the harvesting is over and the Revenue Officer may at the cost of the tenant, for this purpose, use such force as may be necessary.

<sup>1</sup>[\* \* \* \* \*]

<sup>2</sup>**[31. Relinquishment.**-No relinquishment of a tenancy shall be made by a tenant in favour of landowner. However, if a tenant wants to make a voluntary surrender of his tenancy land, the same shall be in favour of the State Government. The State Government shall have right to induct any suitable tenant or landless agricultural labourer to the relinquished land in the manner to be prescribed.]

**32 and 33** <sup>3</sup>[\* \* \* \* \*]

### EJECTMENT

**34. Grounds of ejectment of tenants.**-(1) A tenant other than occupancy tenant shall not be liable to ejectment from his tenancy except on anyone or more of the following grounds, namely,-

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he holds it ;
- (b) that he, where rent is payable in kind, has failed without sufficient cause to cultivate or arrange for cultivation of the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate;
- (c) that he sublets the holding or part thereof for profit without the consent of the landowner :

Provided that a member of the Armed Forces, an unmarried woman, or if married, divorced or separated from husband or a widow, a minor, a person suffering from physical or mental disability because of which he cannot cultivate the land himself, a person prosecuting studies in a recognised institution and a person under detention or imprisonment shall not be liable to ejectment because he sublets the holding or a part thereof without the consent of the landowner;

<sup>4</sup>[(d) that he holds his tenancy, from a person who created such tenancy within a period of six months before he became a member of the Armed Forces or while he was serving in the Armed Forces. and wants to cultivate it himself on his ceasing to be a member of the Armed Forces ;

(dd) that he holds his tenancy on the land comprising the share of a member of the Armed Forces covered by clause (d) of sub-section (8) of section 104 and who wants to cultivate it himself on his ceasing to be a member of the Armed Forces :

Provided that such person or member of Armed Forces referred to in clauses (d) and (dd) above, as the case may be, shall be entitled to eject a tenant from such land upto a maximum of five acres, in the prescribed manner:

Provided further that a tenant so ejected shall be restored to possession of the land if the landowner after ejecting him does not within one year cultivate it personally:

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<sup>1</sup>Del. by H.P. Ord. No. 2 of 1975, sec. 7, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Subs. for the original sec. by Ord. *ibid*, Sec. 8.

<sup>3</sup>Sections 32 and 33 del. by Ord. *ibid*, sec. 9.

<sup>4</sup>Subs. for the original cl. (d) by H.P. Ord. No. 2 of 1975, sec. 10, replaced by H.P. Act No. 15 of 1976.

Provided also that if a tenant holding land from persons mentioned in clauses (d) and (dd) of this sub-section is also a member of the Armed Forces, the provision of first proviso shall not apply and the tenancy shall remain and the ejection from tenancy shall only be on the grounds given in clauses (a) to (c) of this sub-section.]

(e) that the tenant has failed to pay rent within a period of six months after it falls due :

Provided that no tenant shall be ejected under this clause unless he has been afforded an opportunity to pay the arrears of rent within a further period of six months from the date of the decree, or order directing his ejection, and he had failed to pay such arrears during that period.

(2) Notwithstanding anything contained in sub-section (1) the Revenue Officer may, if the tenant gives notice to the landowner for payment at the threshing floor of the rent payable in kind and the landowner fails to make arrangements for its collection within a fortnight of the receipt of the notice, appoint an agent to collect the rent at the threshing floor on behalf of the landowner at his expense.

(3) On collection of the rent in kind under sub-section (2) the agent shall give a notice as prescribed to the landowner, and if the landowner fails to collect such rent within thirty days from the date of the notice, the Revenue Officer shall dispose of or cause to be disposed of such rent by auction in the prescribed manner and deposit the sale proceeds in the Government treasury as revenue deposits.

**35. Certain mortgagees to be deemed as tenants under the Act.**-(1) If land comprising the tenancy of a tenant is mortgaged to him with possession by the landowner, and such land is subsequently redeemed by the landowner, the tenant shall, notwithstanding such redemption or any other law for the time being in force, be deemed to be the tenant of the landowner in respect of such land on the same terms and conditions on which it was held by him immediately before the execution of the mortgage as if the mortgage had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the manner prescribed, on the same terms and conditions on which it was held by him immediately before the execution of the mortgage, on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of this Act.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in a prescribed manner.

**36. Tenant's right to water.**-Save in proportion to a reduction in the tenancy, if any, a landowner shall not be competent to curtail or terminate the supply of canal, kuhl or use of well water enjoyed by a tenant immediately before the commencement of this Act, and a breach of this provision shall constitute a cognizable offence punishable with fine which may extend to one hundred rupees and shall be triable by a Naya Panchayat competent to hear criminal cases.

### **PROCEDURE ON EJECTION**

**37. Restriction on ejection.**-A tenant shall not be ejected otherwise than in execution of decree for ejection, except, when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied:

Provided that in respect of any arrears of rent due prior to the commencement of this Act, the tenant shall not be liable to ejectment if he pays the arrears of rent within a period of one year from the commencement of this Act:

Provided further that a tenant in occupation of a dwelling house building on a site belonging to the landowner shall not be ejected from such dwelling house or the court-yard immediately appurtenant thereto and necessary for his enjoyment.

**38. Application to Revenue Officer for ejectment.**-In any such case as is mentioned in the last foregoing section the landowner may apply to a Revenue Officer for the ejectment of the tenant.

**39. Ejectment for failure to satisfy decree for arrear of rent.**-(1) On receiving the application in any such case as is mentioned in section 38, the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from the receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid, the Revenue Officer, shall subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

#### **GENERAL PROVISIONS RESPECTING EJECTMENT**

**40. Time for ejectment.**-A decree or order for the ejectment of a tenant shall ordinarily be executed immediately after the crop is harvested unless the Court making the decree, or, where the order is made under section 39 the officer making the order, otherwise directs.

**41. Relief against forfeiture.**-(1) If in a suit for the ejectment of a tenant on any of the grounds mentioned in section 34, it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landowner therefor, the Court may, instead of making decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The court may from time to time, for special reasons, extend a period fixed by it under sub-section. (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

**42. Rights of ejected tenants in respect of crops and land prepared for sowing.**- (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed reasonable time to harvest them.

(2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant may, on the application of the landowner, determine any dispute arising in consequence of the provisions of sub-section (1) between the landowner and the tenant or between the landowner and any person entitled to harvest the crops of the tenant, and may in its or his discretion-

- (a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable; or
- (b) determine the value of the tenant's uncut and un-gathered crops, and, on payment thereof by the landowner to the Court or Revenue Officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy but has not sown or planted crops on that land, he shall be entitled to receive from the landowner before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land and the Court or Revenue Officer before which or whom the proceedings are pending shall on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

### **RELIEF FOR WRONGFUL DISPOSSESSION**

**43. Relief for wrongful dispossession or ejectment.**-If a tenant has been dispossessed without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 39, he may, within one year from the date of his dispossession or ejectment, make an application for recovery of possession or for compensation, or for both.

**44. Penalty for wrongful dispossession.**-Whoever dispossesses a tenant without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 39 shall be punishable by a Revenue Officer not below the rank of Assistant Collector First Grade, with fine which may extend to Rs. 1,000.

### **CHAPTER V SUCCESSION**

- 45. Succession to right of tenancy.**-When a tenant in any land dies, the right shall devolve-
- (a) on his male linear descendants, if any, in the male line of descent; and
  - (b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
  - (c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
  - (d) failing such descendants and widow, or widowed mother or, if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives.

### **CHAPTER VI IMPROVEMENTS AND COMPENSATION**

**46. Right of tenants to make improvement on land.**-(1) A tenant may at any time apply in writing to the landowner for permission to make improvements at his own expense on the land leased to him.

(2) If, within one month of the receipt of such application, the landowner fails or refuses, without reasonable cause, to grant the required permission to the tenant, the tenant may make an

application within a period of two months to the Assistant Collector, Second Grade, for the grant of such permission.

(3) Where an application is made under sub-section (2), such officer after giving the parties an opportunity of being heard, may make such order thereon as he may deem fit.

(4) Where a tenant makes any improvement on the land leased to him, in accordance with an order made under sub-section (3), the tenant shall be deemed to have made such improvement with the permission of the landowner.

**47. Improvements made before the commencement of this Act.** - Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act.

**48. Improvements begun in anticipation of ejection.**-A tenant ejected in execution of a decree, or in pursuance of a notice of ejection, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejection.

**49. Liability to pay compensation for improvements to tenant on ejection or enhancement of his rent.**-Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

**50. Compensation for disturbance of clearing tenants.** - (1) A tenant who has cleared and brought under cultivation waste land shall, if ejected from that land, be entitled to receive from the landowner as compensation for disturbance, in addition to any compensation for improvements a sum to be determined by a Revenue Court or Revenue Officer in accordance with the merits of the case, but not exceeding five year's rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejection from the land or any part thereof.

(2) If rent has been paid for land by division or appraisement of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land revenue of the land and the rates and cesses chargeable thereon, has been paid therefore, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof:

Provided that in any estate of which the assessment has been confirmed on or after the last settlement the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.

#### **Procedure in determining compensation**

**51. Determination of compensation by Revenue Courts.**-(1) In every suit by a landowner to eject a tenant, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejection of the tenant it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the landowner

pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

**52. Determination of compensation by Revenue Officer.**-When a notice has been served on a tenant under section 39, a tenant may apply to the Revenue Officer having authority to order his ejection under section 39, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue Officer shall determine, the amount, if any, accordingly and stay the ejection of the tenant until the landowner pays to the Revenue Officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landowner from the tenant.

**53. Matter to be regarded in assessment for improvements.**-In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue Officer shall have regard to-

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effect;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landowner in consideration of the improvement; and
- (e) in the case of reclamation, or of the conversion of un-irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

**54. Form of compensation.**-(1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the transfer of land or in some other way.

(2) If the parties so agree, the Court or Revenue Officer shall make an order accordingly.

**55. Relief in case of ejection before determination of compensation.** -(1) If from any cause the amount of compensation payable to a tenant-

- (a) under this Chapter for improvement or disturbance; or
- (b) under section 42 for the value of uncut or ungathered crops or the preparation of land for sowing ;

has not been determined before the tenant is ejected, the ejection shall not be invalidated by reason of the omission, but the Court or Revenue Officer which decreed or who ordered the ejection may, on application made by the tenant within one year from the date of ejection, correct the omission by making in favour of the tenant an order for the payment to him by the landowner of such compensation as the Court or Revenue Officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by Revenue Court.

## CHAPTER VII JURISDICTION AND PROCEDURE

**56. Revenue Officers.**-(1) There shall be the same classes of Revenue Officers under this Act, as under the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be, and in the absence of any order of the State Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions “Collector”, “Commissioner” and “Financial Commissioner” have the same meanings in this Act as in the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be.

(3) There shall be one or more Commissioners who shall be appointed by the State Government. Subject to the provisions of this Act the jurisdiction of Commissioner shall extend to such areas as the State Government may notify in this behalf in the Official Gazette.

**57. Applications and proceedings cognizable by Revenue Officer.**- (1) The following applications and proceedings shall be disposed of by Revenue Officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:-

### First Group

- (a) proceedings under section 10 for commutation of rent payable in kind;
- (b) proceedings under section 21 for the adjustment of rents expressed in terms of the land revenue;
- (c) proceedings relating to the remission and suspension of rents under section 24;
- (d) applications under section 38 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;
- (e) applications under section 43 for recovery of possession or for compensation or for both;
- (f) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

### Second Group

- (g) applications under section 15 with respect to the division or appraisal of produce;
- (h) applications under section 30 for resumption of leased land;
- (i) applications for determination of dispute and compensation under sections 42 and 55 respectively;

### Third Group

- (j) applications under section 26 by tenants to deposit rent;
- (k) <sup>1</sup>[\*\*\*\*\*]

(2) Except as otherwise provided in this Act or by any rule made by the Financial Commissioner in this behalf,-

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<sup>1</sup>Del. by H.P. Ord. No. 2 of 1975, sec. 11, replaced by H.P. Act No. 15 of 1976.



- (a) a Collector or an Assistant Collector of the First Grade may dispose of any of the applications and proceedings mentioned in sub-section (1);
- (b) an Assistant Collector of the Second Grade, not being a Naib Tehsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section ; and
- (c) a Naib-Tehsildar, when invested with the powers of an Assistant Collector of the Second Grade, may dispose of any of the applications mentioned in the third group of that sub-section.

**58. Revenue Courts and suits cognizable by them.**-(1) When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3) or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and, in the absence of any order of the State Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under this Act shall be Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any suit might be instituted:-

**First Group**

- (a) suits between landowner and tenant for addition to or abatement of rent under section 22 or for commutation of rent;
- (b) suits under section 29 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue;

**Second Group**

- (c) suits by a tenant to establish a claim to a right of occupancy, or by landowner to prove that a tenant has not such a right;
- (d) suits for ejectment of tenants;
- (e) any other suit between landowner and tenant arising out of the condition on which a tenancy is held;
- (f) suits for sums payable on account of village expenses;
- (g) suits by a co-sharer in an estate or holding for a share of profits thereof or for a settlement of accounts;
- (h) suits for the recovery of over-payments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

**Third Group**

- (i) suits by a landowner for arrears of rent or for the money equivalent of rent <sup>1</sup>[\*\*]; and
- (j) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force.

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<sup>1</sup>The words "or for sums recoverable under Section 12" del. by H.P. Ord. No. 2 of 1975, sec. 12, replaced by H.P. Act No. 15 of 1976.

### **Procedure where revenue matter is raised in Civil Court**

(4) Except as otherwise provided in this Act or by any rule made by the State Government in this behalf-

- (a) a Collector may hear and determine any of the suits mentioned in sub-section (3);
- (b) an Assistant Collector of the First Grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the State Government any of the suits mentioned in the first group; and
- (c) an Assistant Collector of the Second Grade may hear and determine any of the suits mentioned in the third group.

(5) Notwithstanding anything contained in sub-section (3)-

- (i) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by order VII, rule 10, of the Code of Civil Procedure, 1908 and return the plaint for presentation to the Collector;
- (ii) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in first group of sub-section (3) of this section and in other cases may send the suit, to an Assistant Collector of the First Grade for decision.

### **Administrative Control**

**59. Superintendence and control of Revenue Officers and Revenue Courts.**-(1) The general superintendence and control over all other Revenue Officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control, all other Revenue Officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers and Revenue Courts in his district.

**60. Power to distribute business and withdraw and transfer cases.**- (1) The Financial Commissioner or a Commissioner or a Collector may by a written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue Officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or a Collector may withdraw any case pending before any Revenue Officer or Revenue Court under his control and either dispose of it himself, or by written order refer it for disposal to any other Revenue Officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue Officer or Revenue Court to exercise any power or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

### **Appeal, Review and Revision**

**61. Appeals.**-Subject to the provisions of this Act and the rules made thereunder an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue Officer or Revenue Court, as follows, namely-

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order or decree is made by a Collector;
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that-

- (i) an appeal from an order or decree made by an Assistant Collector of the First Grade specially empowered by name in that behalf by the State Government in a suit mentioned in the first group of sub-section (3) of section 58 shall lie to the Commissioner and not to the Collector;
- (ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;
- (iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

**62. Limitation for appeals.**-The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say-

- (a) when the appeal lies to the Collector-thirty days;
- (b) when the appeal lies to the Commissioner-sixty days;
- (c) when the appeal lies to the Financial Commissioner-ninety days.

**63. Review by Revenue Officers.**-(1) A Revenue Officer, as such, may either of his own motion or on the application of any party interested, review and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:-

- (a) when a Commissioner or a Collector thinks it necessary to review any order which he has not himself passed, and when the Revenue Officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue Officer or Collector to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within that period;
- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;
- (d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purpose of this section the Collector shall be deemed to be the successor in office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

**64. Computation of period limited for appeals and applications for review.-** In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefore shall be governed by the Indian Limitation Act, 1963 (36 of 1963).

**65. Power to call for, examine and revise proceedings of Revenue Officers and Revenue Courts.-** (1) The Financial Commissioner may at any time call for the record of any case pending before or disposed of by any Revenue Officer or Revenue Court subordinate to him.

(2) The Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If in any case in which the Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3), the Financial Commissioner is of opinion that it is inexpedient to interfere, with the proceedings or the order or decree, he shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of the opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may, under the law for the time being in force, interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case and may on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

## PROCEDURE

**66. Procedure of Revenue Officer.-**(1) The State Government may make rules consistent with this Act for regulating the procedure of Revenue Officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to cost, and may adapt to proceedings under this Act of all or any of the provisions of the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954), or the Punjab Land Revenue Act, 1887, (17 of 1887), as the case may be, with respect to arbitration.

(4) Subject to the rules under this section, a Revenue Officer may refer any application or case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report, and may decide the case upon the report.

**67. Persons by whom appearances may be made before Revenue Officer as such and not as Revenue Courts.**-(1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Act may be made or done-

- (a) by the parties themselves ; or
- (b) by their recognised agents or a legal practitioner :

Provided that the employment of a recognised agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is especially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the State Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

**68. Costs.**-(1) A Revenue Officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

**69. Procedure of Revenue Courts.**- (1) The State Government may make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure, 1908, (5 of 1908) shall apply, with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub-section (1), and subject to those rules when made and to the provisions of this Act-

- (a) the code of Civil Procedure, 1908, (5 of 1908) shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree ; and
- (b) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise as regards the Courts under his control, all the powers of a High Court under the Code.

**70. Power of Revenue Officer or Revenue Courts to summon persons.** -(1) A Revenue Officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit, or other business before him or it as a Revenue Officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent or legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter all the Revenue Officer or Revenue Court may require.

**71. Mode of service of summons.-** (1) A summons issued by a Revenue Officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognised agent, or (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed, or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which person having the same interest are so numerous that the personal service on all of them is not reasonably practicable, it may, if the Revenue Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the Officer or Court nominates in this behalf, and by proclamation of the contents thereof for the information of the other persons.

(4) A summons may, if the Revenue Officer or Revenue Court so directs, be served and the persons named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under part III of the Indian Post Office Act, 1898 (6 of 1898).

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

**72. Mode of service of notice, order or proclamation, or copy thereof.-** A notice, order or proclamation, or Copy of any such document, issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

**73. Additional mode of publishing proclamation.-**When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by a beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relate.

**74. Joinder of tenants as parties to proceedings relating to rent.-** (1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue Officer or Revenue Court and subject to any rules which the State Government may make in this behalf, be made parties to any proceeding under Chapter III.

(2) But a decree or order shall not be made in any such proceedings unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenant is affected thereby.

**75. Exception of suits under this Act from operation of certain enactments.**-Nothing in section 80 of the Code of Civil Procedure, 1908, (5 of 1908) or similar provision in any laws in force for the administration of local authorities shall be construed to apply to a suit of a class mentioned in section 58 of this Act.

**76. Payment into court of money admitted to be due to a third person.**(1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

**77. Execution of decrees for arrears of rent.**-A court passing a decree for arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property, of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

**78. Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.**-A tenant shall not, during the continuance of his occupancy be liable to imprisonment on application of his landowner in execution of a decree for an arrear of rent.

**79. Power to refer party to Civil Court.**-(1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require by order in writing, requisition any party to the proceeding, to institute within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to, comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of the first instance or appeal, as the case may be.

**80. Power to, refer to High Court questions as to jurisdiction.**-(1) If the presiding officer of a Civil Court or Revenue Court in which a suit has been instituted doubts whether he is precluded

from taking cognizance of the suit, he may refer the matter through the District Judge or Financial Commissioner, or, if he is a District Judge or Financial Commissioner, directly to, the High Court.

(2) On any such reference being made, the High Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the High Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

**81. Power of High Court to, validate proceedings held under mistake as to jurisdiction.**-(1) In either of the following cases, namely:-

- (a) if it appears to a Civil Court that a Court under its control has determined as suit of a class mentioned in section 58 which under the provisions of that section should have been heard and determined by Revenue Court ; or
- (b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court;

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the High Court.

(2) If on perusal of the record it appears to the High Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the High Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the High Court, otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 58 which under the provisions of that section should have been heard and determined by a Revenue Court, the High Court may pass an order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree the High Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the High Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order was required to be registered.

## MISCELLANEOUS

**82. Place of Sitting.**- (1) An Assistant Collector may exercise his power under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

**83. Holidays.**-(1) The Financial Commissioner, with the approval of the State Government, shall publish in the Official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers or Revenue Courts.



(2) A proceeding held before a Revenue Officer or a Revenue Court on a day specified in the list as a day to be observed by the Officer or Court as a holiday shall not be invalid by reason only of its having been held on that day.

**84. Discharge of duties of Collector dying or being disabled.**-When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the State Government in this behalf, shall be deemed to be a Collector under this Act.

**85. Retention of powers by Revenue Officers on transfer.**-When a Revenue Officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that local area, unless the State Government otherwise directs or has otherwise directed.

**86. Conferment of powers of Revenue Officers or Revenue Court.**-(1) The State Government may by notification confer on any person-

- (a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or
- (b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder, and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the State Government may direct and, except as otherwise directed by the State Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub. Section (1), the State Government shall consult the High Court.

(4) If any of the powers of a Collector under section 59, section 60, section 61 or section 63 are conferred on an Assistant Collector, they shall, unless the State Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

**87. Powers exercisable by Financial Commissioner from time to time.**- All powers conferred by this Act on the Financial Commissioner may be exercised by him from time to time as occasion requires.

**88. Bar to legal proceedings.**-No prosecution, suit or other proceedings shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made thereunder.

**89. Powers of the Financial Commissioner and the State Government to make rules.**-(1) The Financial Commissioner may make rules consistent with this Act and any other enactment for the time being in force-

- (a) determining, notwithstanding anything in any record-of rights, the number and amount of the installments and the times by and at which rent is to be paid;
- (b) for the guidance of Revenue Officers in determining, for the purposes of this Act, the amount of the land revenue and value of crop or rent of any land ;

- (c) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officers or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;
- (d) prescribing forms of such books, entries statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue Offices or Revenue Courts or submitted to any authority ;
- (e) declaring what shall be the language of any of these offices and courts ;
- (f) generally for the guidance of Revenue Officers and other persons in matters connected with the enforcement of this Act ;
- (g) the form and language of applications and notices under Chapters III and IV ; and
- (h) the manner in which those applications and notices are to be signed and attested.

(2) The State Government shall make rules for the purposes of sections 66, 69, and <sup>1</sup>[73] and in respect of other matters to be prescribed by it under the preceding Chapters.

### **CHAPTER VIII**

#### **EFFECT OF THIS ACT ON RECORD-OF-RIGHTS AND AGREEMENTS**

**90. Nullity of certain entries in record of rights.**-An entry in any record-of-rights providing-

- (a) that a landowner may prevent a tenant from making, or eject him for making, such improvement on his tenancy as he is entitled to make under this Act ; or
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor; or
- (c) that a landowner may eject a tenant otherwise than in accordance with the provision of this Act; shall be void to that extent.

**91. Nullity of certain agreements contrary to the Act.**-(1) Nothing in any agreement made between landowner and a tenant after the passing of this Act shall-

- (a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 3 or section 4 or section 5 ; or
- (b) take away or limit the right of a tenant as determined by this Act for conferment and vestment of proprietary rights or to make improvements and claim compensation therefor, or where compensation for disturbance can be claimed under this Act, to claim such compensation ; or
- (c) entitle a landowner to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent not exceeding one-third of the produce in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of his landowner, and to the benefit of which the tenant is not otherwise entitled.

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<sup>1</sup>Subs. for the figure '74' by H.P. Ord. No. 2 of 1975 sec. 13, replaced by H.P. Act No. 15 of 1976.

**CHAPTER IX**  
**ACQUISITION OF PROPRIETARY RIGHTS BY OCCUPANCY TENANTS**

**92. Definitions.**-In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) “appointed day” means-
- (i) in relation to any person who at the commencement of this Act, is, or is deemed to be, an occupancy tenant, the date of such commencement ; and
  - (ii) in relation to any other person who, after the commencement of this Act, obtains a right of occupancy in respect of any land the date on which he obtains such right of occupancy;
- (b) “occupancy tenant” means a tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant in the revenue records, and includes a kismi tenant and a tenant who, after such commencement obtains a right of occupancy in respect of the land held by him whether by agreement with the landowner or through a Court of competent jurisdiction or otherwise, and includes also the predecessors and successors in interest of an occupancy tenant.

**93. Appointment of Land Reforms Officers.**-(1) As soon as may be after the commencement of this Act, the State Government shall appoint Land Reforms Officers, who shall be Revenue Officers of the rank of Assistant Collector of the First Grade, to carry out the purposes of this Chapter and Chapter X.

(2) The officers appointed under sub-section (1) shall have the powers of Civil Court under the Civil Procedure Code, 1908 ( 5 of 1908) for the purpose of administering oaths, taking evidence and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

(3) The officers appointed under sub-section (1) shall be guided by such instructions consistent with the provisions of this Act, as the State Government may from time to time issue.

**94. Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landowners.**-Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the appointed day all rights, title and interest (including the contingent interest, if any), recognised by any law, custom or usage for the time being in force, and including the share in the shamlat with respect to the land concerned, of the landowner in the land held under him by an occupancy tenant, shall be extinguished and such rights, title and interest shall be deemed to vest in the occupancy tenant free from all encumbrances, if any, created by the land owner.

**95. Amount payable to the landowner.**-The occupancy tenant shall be liable to pay to the landowner, whose rights have been extinguished under section 94, an amount equal to forty-eight times the land revenue and rates and cesses chargeable in respect of the land the proprietary rights of which vested in him under the said section.

<sup>1</sup>[Provided that if the land is subject to a mortgage with a bank the mortgage debt shall be the first charge on the amount payable by the occupancy tenant.]

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<sup>1</sup>Added by H.P. Ord. No. 2 of 1975, sec. 14, replaced by H.P. Act No. 15 of 1976.

**96. Determination of compensation payable to landowner.**-(1) The Land Reforms Officer shall cause to be prepared a statement of occupancy tenants, in a prescribed form giving amount payable therein estate wise, on receipt of the same from the Patwari, and he shall cause a notice to be served, in the prescribed form, to the landowner whose rights have been extinguished under section 94 and to the occupancy tenant concerned, stating therein the area of land vested and the amount proposed therefor, immediately after the appointed day in the manner prescribed.

(2) On receipt of the notice, the affected person and in case of his death, his legal representative may prefer his objections, if any, with regard to the amount so proposed within a period of sixty days from the service of the notice:

Provided that the Land Reforms Officer may entertain the objections after the expiry of the said period of sixty days, if he is satisfied that the affected person was prevented by sufficient cause from filing the objections within the prescribed time.

(3) The Land Reforms Officer, after giving the parties concerned an opportunity of being heard and making such inquiry as may be necessary, shall determine the amount payable by the occupancy tenant to the landowner in accordance with the provisions of the last preceding section, and also apportion the amount thereof amongst the persons entitled, if there be more than one person.

(4) Where the amount is payable to a minor or to a person having a limited interest, the Land Reforms Officer may make such arrangements as may be equitable having regard to the interest of the minor, the parties concerned and their reversionary.

**97. Certain mortgages and charges not enforceable against land held by occupancy tenants.**-Notwithstanding anything to the contrary contained in any contract, or in any law, custom or usage for the time being in force, no claim or liability whether under any decree or order of a Civil Court or otherwise, enforceable against a landowner for any money which is charged on, or is secured by mortgage of, any land held under him by an occupancy tenant shall be enforceable against the land and every such claim or liability shall be deemed to be charged on the amount payable to the landowner in respect of such land.

**98. Payment of amount.**-(1) The amount determined under the foregoing provisions of this Chapter shall either be paid in cash or be deposited with the Land Reforms Officer by the occupancy tenant within a period of three months of the date of the determination of the amount.

(2) In case the amount is not so paid or deposited within the aforesaid period, there shall be paid by the occupancy tenant on the amount an interest at the rate of 3 per centum per annum after the expiry of ninety days from the date of determination of compensation:

Provided that the Land Reforms Officer may, on the application of the tenant to be made within the aforesaid period, having regard to the amount or for other reasons and after recording his reasons for so doing, allow the occupancy tenant to pay the amount in such half yearly installments, not exceeding in any case six, as he thinks fit.

(3) Where the occupancy tenant makes a default in the payment of the amount such amount due may be recovered in the same manner as an arrear of land revenue.

**99. Chapter not to apply to evacuee property.**-(1) Nothing in this Chapter shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (31 of 1950)

<sup>1</sup>[and the composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the, Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954.]

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Chapter shall apply to-

- (a) a person who, after the appointed day, obtains right of occupancy from the Central Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954);
- (b) an occupancy tenant of landowner who is an evacuee as defined in clause (d) of section 2 of the Administration of Evacuee Property Act, 1950 (31 of 1950) ;

**100. Appeal and revisions.**-(1) Any person aggrieved by an order made by the Land Reforms Officer may, within thirty days from the date of the order, prefer an appeal to the Collector in such form and manner as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Collector may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) With respect to all matters dealt with under this Chapter, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Land Reforms Officer, or the Collector or the Commissioner as provided in section 65 of this Act.

**101. Bar of jurisdiction.**-Save as otherwise expressly provided in this Chapter, every order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Chapter, shall be called in question by any Court or before any officer or authority.

**102. Bar to legal proceedings.**-No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Chapter or of any rules made thereunder.

**103. Power to make rules.**-(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the form of notice and the manner in which notices may be served under this Chapter ;
- (b) the manner in which inquiries may be held under this Chapter;
- (c) the manner in which amount may be determined and paid;
- (d) the manner in which appeals and applications for revisions may be filed;

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<sup>1</sup>Added by H.P. Ord. No. 2 of 1975, sec. 15, replaced by H.P. Act No. 15 of 1976.

(e) any other matter which has to be, or may be prescribed.

**CHAPTER X**  
**ACQUISITION OR PROPRIETARY RIGHTS BY TENANTS OTHER THAN**  
**OCCUPANCY TENANTS**

**<sup>1</sup>[104. Right of tenant other than occupancy tenant to acquire interests of landowner.-**

(1) Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the commencement of this Act, if the whole of the land of the landowner is under non-occupancy tenants, and if such a landowner has not exercised the right of resumption of tenancy land at any time since January 26, 1955, under any law as in force:-

- (i) such a landowner shall be entitled to resume before the date to be notified by the State Government in the official Gazette and in the manner prescribed, either one and a half acres of irrigated land or three acres of un-irrigated land under tenancy from one or more than one tenants for his personal cultivation and the right, title and interest (including contingent interest, if any) of the tenant or tenants, as the case may be, therefrom shall stand extinguished free from all encumbrances created by the tenant or tenants to that extent :

Provided that if the tenant has taken loan from the State Government, a co-operative society or a bank for the improvement of tenancy land which the landowner has resumed under clause (i) or clause (ii) and has used such loan for the improvement of such land, then the landowner shall be liable to repay the outstanding amount of such loan and to the extent actually used for the said purpose and interest thereon to the State Government or to the Cooperative Society or a bank, as the case may be, proportionate to the improved land resumed by him :

Provided further that the landowner shall not be entitled to resume from a tenant more than one half of the tenancy land;

- (i) in case the landowner holds less than one and a half acres of irrigated land or three acres of un-irrigated land in his personal cultivation, he shall be entitled to resume tenancy land only to make up the land under his personal cultivation to the extent of one and a half acres of irrigated land, or three acres of un-irrigated land, as the case may be, subject to the other conditions laid down in this section;
- (ii) the right, title and interest in the rest of the tenancy land of the landowner, who is entitled to resume land under clauses (i) and (ii) shall vest in the tenant free from an encumbrances with effect from the date to be notified by the State Government in the Official Gazette ;
- (iii) in case the land under the tenancy is partly irrigated and partly un-irrigated and the landowner intends to resume land of both these classes, he shall be entitled to do so in the ratio and manner to be prescribed ;
- (iv) in the event of any dispute between the landowner and the tenant with regard to the selection of land for resumption, the first right of selection of the land shall be that of the tenant who may exercise this right in the prescribed manner and before the date to be notified by the State Government in this respect in the Official Gazette;
- (v) in case the tenant fails to exercise his right of selection of land by the date notified under clause (v), the Land Reforms Officer shall determine his share after giving the

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<sup>1</sup>Subs. for the original section by H.P. Ord. No. 2 of 1975, sec. 16, replaced by H.P. Act No. 15 of 1976.

parties an opportunity of being heard. In such a case also, the tenant shall be given the first choice to select the land.

(2) Where the landowner does not cultivate the land resumed under sub-section (1) personally, within one year from taking possession thereof, then such land shall vest in the State Government on payment of an amount at the rate of ninety-six times the land revenue plus rates and cesses and such land shall be disposed of by the State Government in such manner as may be prescribed. In such an event the first right to get such land shall be that of the tenant from whom the land was resumed by the landowner.

(3) All rights, title and interest (including a contingent interest, if any) of a landowner other than a landowner entitled to resume land under sub-section (1), shall be extinguished and all such rights, title and interest shall with effect from the date to be notified by the State Government in the Official Gazette vest in the tenant free from all encumbrances:

Provided that if a tenancy is created after the commencement of this Act, the provision of this sub-section shall apply immediately after the creation of such tenancy.

(4) Whenever a dispute arises whether a person cultivating the land of a landowner, is a tenant or not, the burden of proving that such a person is not a tenant of the landowner shall be on the latter.

(5) The landowner whose rights, title and interest are extinguished under this section, shall be entitled to receive an amount at the rate of ninety-six times the land revenue plus rates and cesses payable either in lump sum or in such number of installments not exceeding ten during a period not exceeding five years as may be prescribed:

Provided if the tenant makes a default in the payment of any installment of the amount the same shall be recoverable as an arrear of land revenue:

Provided further that if the land for which the amount is to be paid under this section is subject to a mortgage debt from a bank, the mortgage debt will be the first charge on the amount payable for such land:

Provided also that the tenant shall not be liable to pay the amount to the landowner for the acquisition of ownership rights in the tenancy land which is equal in area to that of his tenancy land resumed by the landowner under clauses (i) and (ii) and the extinguishment of rights, title and interest of the tenant in the land resumed by the landowner shall be deemed to be the amount therefor.

(6) Save as otherwise provided in section 114, every decision of the Land Reforms Officer, under this section shall be binding on all persons claiming an interest in a holding notwithstanding the fact that any such person has not appeared or participated in the proceedings before the Land Reforms Officer or any other revenue authority.

(7) The provisions of the foregoing sub-section shall apply to evacuee land as defined in the Administration of Evacuee Property Act, 1950, (31 of 1950), to composite property as defined in the Evacuee Interest (Separation) Act, 1951, (65 of 1951), or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954), with effect from such date as the State Government by notification, in the Official Gazette, specify.

(8) Save as otherwise provided in sub-section (9), nothing contained in sub-sections (1) to (6) shall apply to a tenancy of a landowner during the period mentioned for each category of such landowners in sub-section (9) who,-

- (a) is a minor or unmarried woman, or if married, divorced or separated from husband or widow ; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity ; or
- (c) is a serving member of the Armed Forces; or
- (d) is the father of the person who is serving in the Armed Forces, up to the extent of inheritable share of such a member of the Armed Forces on the date of his joining the Armed Forces, to be declared by his father in the prescribed manner.

(9) In the case of landowners mentioned in clauses (a) to (d) of sub-section (8), the provisions of sub-sections (1) to (6) shall not apply:-

- (a) in case of a minor during his minority and in case of other persons mentioned in clauses (a) and (b) of sub-section (8) during their life time ;
- (b) in case of persons mentioned in clauses (c) and (d) of sub-section (8), during the period of their service in the Armed Forces subject to resumption of land by such persons to the extent mentioned in first proviso to clauses (d) and (dd) of sub-section (1) of section 34.]

<sup>1</sup>[Provided that nothing contained in this section shall apply to such land which either owned by or is vested in the Government under any law, whether before or after the commencement of this Act, and is leased out to any person.]

**105. Total compensation payable by a tenant.**-The total <sup>2</sup>[amount] payable by a tenant shall be the <sup>3</sup>[amount] determined under foregoing section together with the value of any building on the land and belonging to the landowner, as assessed by the Land Reforms Officer:

<sup>4</sup>[Provided that the amount so determined shall not exceed 50 % of the market price of such building and structure].

**106. Claims for compensation and determination of such claims.**- (1) The Land Reforms Officer, as soon as may be after the determination of the <sup>5</sup>[amount] under this Chapter, shall cause to be published in the prescribed manner in the estate a notice requiring all persons claiming an interest in the total <sup>6</sup>[amount] in respect of the lands of any tenancy to file before him a statement within a period of six months from the date of publication of the notice:

Provided that the Land Reforms Officer may, in suitable cases, extend the period within which such claim may be made.

<sup>1</sup>Proviso added vide Act No. 6 of 1988.

<sup>2</sup>Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>Subs. for the words "amount of compensation" by H.P. Act No. 15 of 1976.

<sup>4</sup>Added by H.P. Act No. 15 of 1976.

<sup>5</sup>Subs. for the words "amount of compensation" H.P. Act No. 15 of 1976.

<sup>6</sup>Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.



<sup>1</sup>[(2) If the amount payable relates to the land mortgaged with a bank, or other lending institution or agency, then the priority of claiming such amount against mortgage money shall be that of the bank, lending institution or agency, as the case may be].

**107. Reference to Civil Court.**-Where any dispute arises between persons claiming <sup>2</sup>[amount] the Land Reforms Officer shall require them to refer their claims to a competent Civil Court for adjudication.

**108. Disposal of claims by Land Reforms Officer.**-On consideration of the claim filed under section 106 the Land Reforms Officer shall dispose of the claim in accordance with respective shares of the claimants.

**109. Payment of compensation.**-(1) Where there is no dispute between the claimants as to their respective shares in the compensation, the Land Reforms Officer shall make payment to them in accordance with their respective shares.

(2) Where there is a dispute between the claimants as to their respective shares in the <sup>3</sup>[Amount], the Land Reforms Officer shall make payment to them in accordance with the adjudication of the Civil Court under section 107.

**110. Compensation to be deposited in case of minors.**-Where the landowner is a minor the Land Reforms Officer shall cause the <sup>4</sup>[amount] to be deposited with the Collector or in any bank selected in this behalf by the State Government.

**111. Arrears of land revenue to be deducted.**-The arrears of land revenue payable by the landowner for the period before extinguishment of rights, if any, shall be deducted by the Land Reforms Officer from the total <sup>5</sup>[amount] payable to the landowner and credited to the State Government.

**112. Bar of jurisdiction.**-Save as otherwise expressly provided in this Chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any Civil Court or before any other authority.

**113. Bar of transfer of ownership rights.**-No land in respect of which proprietary rights have been acquired under this Chapter shall be transferred by sale, mortgage, gift or otherwise during a period of ten years by a person from the date he acquires proprietary rights:

<sup>6</sup>[Provided that nothing contained in sub-section (1) shall apply to the transfer of land made for a productive purpose with the prior permission of the State Government in a prescribed manner:]

Provided further that nothing in this sub-section shall apply to the land mortgaged with the Co-operative Societies established under the Himachal Pradesh Co-operative Societies Act, 1968, (3 of 1969), or with a <sup>7</sup>[Bank].

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<sup>1</sup>Added by *ibid* (Sec. 18).

<sup>2</sup>Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>4</sup>Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>5</sup>Subs. for the words "amount of compensation" by *ibid*.

<sup>6</sup>Proviso Subs. vide Act No. 6 of 1988.

<sup>7</sup>Subs. for the words "Land Mortgage Bank or with new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970" by H.P. Ord. No. 2 of 1975, sec. 21, replaced by H.P. Act No. 15 of 1976.

(2) Any transfer of land made in contravention of sub-section (1) shall be void and no registering authority shall register any document evidencing such transfer under the Indian Registration Act, 1908.

**114. Appeal and revision.-** (1) Any person aggrieved by an order made by the Land Reforms Officer may, within thirty days from the date of the order, prefer an appeal to the Collector, in such form and manner, as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was pre-vented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Collector may, within sixty days from the date of the order, prefer an appeal to the Commissioner, in form and manner, as may be prescribed:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) With respect to all matters dealt with under this Chapter, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Land Reforms Officer, or the Collector or the Commissioner as provided in section 65 of this Act.

**115. Bar of jurisdiction.-** Save as otherwise expressly provided in this Chapter, every order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Chapter, shall be called in question by any Court or before any officer or authority.

**116. Bar to legal proceedings.-**No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Chapter or of any rules made thereunder.

**117. Power to make rules.-**The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

## CHAPTER XI CONTROL ON TRANSFER OF LAND

<sup>1</sup>[**118. Transfer of land to non-agriculturists barred.** <sup>2</sup>[(1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this chapter, no transfer of land(including sales in execution of a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.]

<sup>3</sup>[Explanation. For the purpose of this sub-section, the expression “transfer of land” shall not include-

- (i) transfer by way of inheritance ;

<sup>1</sup>Section 118 subs. vide Act No. 6 of 1988.

<sup>2</sup>Sub-sections (1) and (2) substituted vide Act No. 6 of 1995.

<sup>3</sup>Explanation subs. vide Act No. 9 of 1997

- (ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
- (iii) transfer by way of lease of land or building in a municipal area; but shall include-
  - (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non agriculturist ; and
  - (b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.]

(2) Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour of—

- (a) a landless labourer ;or
- (b) a landless person belonging to a scheduled caste or scheduled tribe; or
- (c) a village artisan ; or
- (d) a landless person carrying on an allied pursuit ;or
- <sup>1</sup>(dd) a person who, on commencement of this Act, worked and continues to work for gain in an estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed—
  - (i) in case of a dwelling house—500 square Meters ; and
  - (ii) in the case of a shop or commercial establishment—300square meters:

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the state.]

- (e) the State Government or Central Government, or a Government Company as defined in section 617 of the Companies Act, 1956,<sup>2</sup>[ or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894] or a statutory body or a corporation or a board established by or under a statute and owned and controlled by the State or Central Government ; or
- (f) <sup>3</sup>[a person who has become non- agriculturist on account of—
  - (i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894 ; or
  - (ii) vestment of his land in the tenants under this Act; or]
- (g) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the <sup>4</sup>[Himachal

<sup>1</sup>Clause (dd) ins. vide Act No. 9 of 1997.

<sup>2</sup>Ins. vide Act No. 9 of 1997.

<sup>3</sup>Clause (f) Subs. vide Act No. 9 of 1997.

<sup>4</sup>Subs. for the words, signs and figures, “Himachal Pradesh State Housing Board established under the Himachal Pradesh Housing Board Act, 1972,” vide Act No. 10 of 2007 be deemed effective w.e.f 15<sup>th</sup> day of May, 2004.

Pradesh Housing and Urban Development Authority, established under the Himachal Pradesh Housing and Urban Development Authority Act 2004], or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 or from any other statutory Corporation set up for framing and execution of house accommodation schemes in the State under any State or Central enactment ;or

- (h) a non-agriculturist with the permission of the State Government for the purposes that may be prescribed:

Provided that a person who is non-agriculturist but purchase land either under <sup>1</sup>[clause (dd) or clause (g)] or with the permission granted under clause (h) of this sub-section shall, irrespective of such purchase of land, continue to be a non-agriculturist for the purpose of the Act:

Provided further that a non-agriculturist <sup>2</sup>[who purchases land under clause (dd) or] in whose case permission to purchase land is granted under clause (h) of this sub-section, shall put the land to such use for which the permission has been granted within a period of <sup>3</sup>“three years” or a further such period not exceeding <sup>6</sup>“two year”, as may be allowed by the State Government for the reasons to be recorded in writing to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the State Government, the said user for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances.]

(3) No Registrar or the Sub-Registrar appointed under the Indian Registration Act, 1908 shall register any document pertaining to a transfer of land, which is in contravention to sub-section (1): <sup>4</sup>[XXXXXXXXXXXXX].

Provided that the Registrar or the Sub-Registrar may register any transfer-

- (i) where the lease is made in relation to a part or whole of a building; or
- (ii) where the mortgage is made for procuring the loans for construction or improvements over the land either from the Government or from any other financial institution constituted or established under any law for the time being in force or recognized by the State Government.

<sup>5</sup>[3A Where—

- (a) the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908 (16 of 1908), before whom any document pertaining to transfer of land is presented for registration, comes to know or has reason to believe that the transfer of land is in contravention of sub-section (1);or
- (b) a Revenue Officer either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land

<sup>1</sup>Subs. for words, brackets and alphabet “clause(g)” vide Act No. 9 of 1997.

<sup>2</sup>Added vide Act No. 9 of 1997.

<sup>3</sup> Subs. for the words “two years” and “one years” vide Act No. 3 of 2023.

<sup>4</sup>The words “and such transfer shall be void ab-initio and the land involved in such transfer, if made in contravention of sub-section(1), shall together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances” deleted vide Act No. 6 of 1995.

<sup>5</sup>New Sub-sections (3A), (3B), (3C) and (3D) added vide Act No. 6 of 1995.

has been transferred or is being transferred in contravention of the provisions of sub-section (1);

such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference, or where the Revenue Officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of subsection (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or is not in contravention of sub-section (1) and he shall, within <sup>1</sup>[six months] from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing, record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

**3B** The person aggrieved by the findings recorded by the Collector, that a particular transfer of land is in contravention of the provisions of subsection (1), may, within 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector <sup>2</sup>[ xxxxxxx ] reverse, alter or confirm the order made by the Collector <sup>3</sup>[ and the order made by the Divisional Commissioner shall be final and conclusive].

<sup>4</sup>**(3-C)** (a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.]

**(3-D)** Where the Collector of the District under sub-section (3A), in case an appeal is not made within the prescribed period, or the Divisional Commissioner in appeal under sub-section(3B), or the Financial Commissioner in <sup>5</sup>[revision] under sub-section (3C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void abinitio and the land involved in such transfer together with structures, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances; and

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<sup>1</sup>Subs. for the figure and word “90 days” vide Act No. 10 of 2007.

<sup>2</sup>In Sub-section(3-C) the words “ and after making such enquiry as he things fit either personally or through an officer working under him “ omitted vide Act No. 9 of 1997.

<sup>3</sup>Ins. vide Act No. 9 of 1997.

<sup>4</sup>Sub-section (3-C) subs. vide Act No. 9 of 1997.

<sup>5</sup>The word “revision” is subs. for word’ appeal’ Act No. 9 of 1997.

(4) It shall be lawful for the State Government to make use of the land which is vested or may be vested in it under sub-section (2) or sub-section <sup>1</sup>[(3D)] for such purposes as it may deem fit to do so.

<sup>2</sup>[*Explanation-I* for the purpose of this section, the expression “land” shall include-

- (i) land recorded as “Gair-mumkin”, “Gair-mumkin Makan” or any other Gair-mumkin land, by whatever name called in the revenue records; and
- (ii) land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture <sup>3</sup>[but shall not include a built-up area in the municipal area;]

<sup>4</sup>[*Explanation-II*- For the purpose of this section the expression “municipal area” means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.]

**119. Transfer of land in favour of State Government.**-(1) Where an agriculturist intends to transfer his land in favour of the State Government he shall give a notice of his intention to transfer the land, in the prescribed form and manner, to the Collector of the District in which the land or any part thereof is situate, specifying the price at which he is willing to transfer such land. The Collector shall, thereupon hold an inquiry in the manner prescribed, and determine the reasonable price of the land, and shall forward the case to the State Government with his recommendations.

(2) The State Government, on receipt of the recommendations of the Collector under sub-section (1), may decide to purchase the land or refuse to purchase it, and shall communicate its decision within six months from the receipt of recommendations of the Collector, through the Collector, to the notice server or in case the land is owned jointly by more than one person to all of them, in the manner prescribed.

(3) The Collector shall, as soon as may be, after the receipt of the decision of the State Government under sub-section (2), take steps to make payment of the reasonable price, determined by him under sub-section (7) subject to orders of the State Government, to the owner, or owners, as the case may be, in the manner prescribed, or intimate refusal of the State Government to him or them, as the case may be.

(4) Immediately on payment of the reasonable price under this section, all rights, title and interest (including contingent interest, if any) in the land of the owner, or owners, as the case may be, shall be extinguished and shall stand transferred to, and vested in, the State Government free from all encumbrances:

<sup>5</sup>[Provided that the vestment of land in the State Government shall not affect the rights of a tenant in such land.]

<sup>1</sup>Subs. for the brackets and figure “(3)” vide Act No. 6 of 1995.

<sup>2</sup>Explanation Subs. vide Act No. 6 of 1995 and again renumbered at Explanation-I. vide Act No. 9 of 1997.

<sup>3</sup>Added vide Act No. 9 of 1997.

<sup>4</sup>Explanation-II added vide Act No. 9 of 1997.

<sup>5</sup>Added by *ibid* (sec.22)

**120. Determination of reasonable price for purpose of transfer.** - (1) Except as otherwise provided in this Chapter, the Collector shall determine the reasonable price for the purpose of transfer of land including structures, wells, embankments constructed, permanent fixtures and trees planted on the land under the provisions of section 119, within a period of three months from the date of receipt of notice, and shall take into consideration the following factors for determining such price-

- (a) the rental value of land used for similar purpose in the locality ;
- (b) the structures, wells, embankments constructed or permanent fixtures affixed to, and trees planted on, the land ;
- (c) the profits from agriculture in respect of similar lands in the locality;
- (d) the price of crops and commodities current in the locality;
- (e) the improvements made in or on the land;
- (f) the land revenue and cesses and other sum payable in respect of the land ; and
- (g) such other factors as may be prescribed.

(2) The reasonable price determined by the Collector under subsection (1) shall be final when confirmed by the State Government.

**121. Distribution of land transferred in favour of the State Government.**-The State Government shall distribute, the land transferred in its favour under section 119, in such manner and on payment of such reasonable price as may be prescribed, to persons in the following order of preference :

- (a) <sup>1</sup>[landless agricultural labourers and co-operative farms of such labourers;]
- (b) landless persons belonging to scheduled castes and scheduled tribes ;
- (c) artisans;
- (d) landless persons carrying on an allied pursuit ;
- (e) dependents of those who have laid down their lives for the defence of the country. Service for the defence of the country shall mean service in a uniformed force as well as in the capacity of a civilian, provided the death occurred on a front, be it military or civil ;
- (f) service personnel of the Armed Forces and ex-servicemen ;
- (g) agricultural labourers or agriculturists possessing uneconomic land holdings ;
- (h) any other agriculturist of the village in which the land is situated; or
- (i) a co-operative farming society.

<sup>2</sup>[**121-A.Bar of jurisdiction.**-Save as otherwise, expressly provided in this chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any civil court or before any other authority.]

**122. Power to make rules.**-The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

<sup>1</sup>Subs. for the original Cl. by H.P. Ord. No. 2 of 1975, sec. 23, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Section 121-A. ins. vide Act No. 6 of 1995.

## CHAPTER XII GENERAL

**123. Rules to be made after previous publication.**-The power to make any rule under this Act is subject to the condition of the rules being made after previous publication.

**124. Laying of the rules before the Legislative Assembly.**-Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature requires any modification in the rule or desires 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.

**125. Power to remove difficulties.**-If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette make such provisions or give, such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

**126. Repeals.**-With effect from the commencement of this Act,-

- (a) the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (15 of 1954), the Punjab Tenancy Act, 1887 (16 of 1887), the Pepsu Tenancy and Agricultural Lands Act, 1955 (13 of 1955), the Himachal Pradesh Tenants (Rights and Restoration) Act, 1952 (55 of 1954), the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971 (15 of 1971), the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954 (15 of 1954), the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (8 of 1953), and the Punjab Security of Land Tenures Act, 1953 (10 of 1953), as amended from time to time, are hereby repealed in their application to respective areas of Himachal Pradesh;
- (b) so much of any other law as is inconsistent with the provisions of this Act shall be deemed to be and is hereby repealed ;
- (c) the words “Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953” (15 of 1954), wherever occurring in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or in any other enactment for the time being in force, shall be substituted by the words “the Himachal Pradesh Tenancy and Land Reforms Act, 1972”.

**127. Savings.**-(1) The repeal of the enactments referred to in clauses (a) and (b) of the last preceding section shall not affect their previous operation.

(2) Subject to the provisions of sub-section (1), anything done or any action taken including any appointment, delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form or scheme framed, date, time and place appointed and other things done, under the repealed Act or law shall-



- (a) be deemed to have been done or taken under the corresponding provisions, if any, of this Act ;
- (b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or by other competent authority.

(3) Notwithstanding the repeal of the enactments mentioned in section 126, all suits, applications or other proceedings pending disposal at the commencement of this Act, shall be disposed of in accordance with the provisions of the said Acts as if these Acts had not been repealed.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS RULES, 1975**

**No. 10-5/73-Revenue-A.** - Whereas the draft Himachal Pradesh Tenancy and Land Reforms Rules, 1975, were published as required by section 123 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) in the Rajpatra Himachal Pradesh Extraordinary, dated the 11<sup>th</sup> September, 1975, under the notification of even number dated the 9<sup>th</sup> September, 1975, of the Government of Himachal Pradesh, Revenue Department for inviting the objections and suggestions from all persons likely to be affected thereby within a period of 15 days from the date of publication of the draft rules in the Rajpatra.

2. And whereas, the Government have considered the objections and suggestions received on the said draft rules within the prescribed period of 15 days.

Now, therefore, in exercise of the powers conferred by sections 89, 103, 117 and 122 of the said Act, the Governor, Himachal Pradesh, hereby makes the following rules namely :-

**1. Short title, extent and commencement.** - (1) These rules may be called the Himachal Pradesh Tenancy and Land Reforms Rules, 1975.

(2) They extend to the whole of Himachal Pradesh.

(3) They shall come into force at once.

**2. Definitions.** - In these rules, unless there is anything repugnant in the subject or context, -

(a) "Act" means the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974);

(b) "estate" has the same meaning as has been assigned to it in the Punjab Land Revenue Act, 1887 (17 of 1887), or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as the case may be;

(c) "form" means a form appended to these rules;

(d) "section" means section of the Act; and

(e) all other words and expressions used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

**Part II**

**Procedure for Revenue Officers for the purposes of Chapters II To VIII of The Act**

**3. Statements, pleadings and verification of applications.** - (1) The Statements and pleadings made by or on behalf of parties to a revenue proceedings, whether oral or written, shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as far as possible to simple and concise narrative of the facts which the party by whom or on whose behalf the statement of pleading is made believes to be material to the case, and which he either admits or believes that he be able to prove.

(2) Every written application or statement filed by a party to a revenue proceeding shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

**4. Proceeding not to abate on death or marriage of party.** - The death of one of the parties to a revenue proceeding, or, in proceeding to which a female is a party, her marriage shall not cause the proceeding to abate. And the Revenue Officer before whom the proceeding is held shall have power to make the successor-in-interest of the deceased person or of the married female a party thereto.

**5. Procedure for fixing for dates for hearing etc.** - In fixing dates for the hearing of parties and their witnesses in adjourning proceedings, and dismissing applications for default or for other sufficient reason, a Revenue Officer shall, so far as the nature of the case requires or permits be guided by principals of the procedure for the time being in force in Revenue Courts.

**6. Expenses of witnesses.** - (1) A Revenue Officer may at his discretion award to a witness attending on summons, a sum on account of his expenses not exceeding the sum to which the witness would have been entitled for a like attendance in a Civil Court.

(2) The sum so awarded shall be costs in the proceeding.

**7. Record of other proceedings under the Act.** - In proceedings before a Revenue Officer under the Act, the Revenue Officer shall make with his own hand a brief memorandum of the statement of parties and witnesses at the time when such statement is made.

**8. Contents of orders.** - In every proceeding in which an order is passed on merits after inquiry, the Revenue Officer making the order shall also record a brief statement of the reasons on which it is founded.

**9. Apportionment of cost and recovery thereof.** - (1) In proceedings in which costs have been incurred the final order shall apportion the costs between the parties to the proceedings.

(2) Costs thus apportioned shall be recoverable by the Revenue Officer by attachment and sale of the movable property of the person liable for the same in the manner prescribed in section 70 of the Punjab Land Revenue Act, 1887 (17 of 1887), or section 76 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as the case may be.

**10. Execution of order of ejectment etc.** - (1) Orders of ejectment from, and delivery of possession of immovable property shall be enforced in the manner provided in the Code of Civil Procedure for the time being in force in respect of the execution of decree whereby a Civil Court had adjudged ejectment from, or delivery or possession of such property.

(2) And in the enforcing of these orders a Revenue Officer shall have all the powers in the matter of resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-rule. (1).

**[10A. Devolution of tenancy right.** - No entry showing a person to be a tenant by succession under section 45 or otherwise shall be made in the record, except through a mutation.]

**Part III**  
**Temporary Disability Under Clause (D) Of Section 30 And Relinquishment Of Tenancy Under Section 31**

**11. Temporary disability for the purpose of section 30.** - For the purpose of clause (d) of sub-section (1) of section 30 a land-owner who is -

- (a) temporarily an (idiot) or a lunatic; or
- (b) a person incapable of cultivating by reason of blindness or other physical infirmity; or
- (c) pursuing studies in recognised institution and does not exceed 25 years in age and whose father or mother, as the case may be, either suffers from any of the disqualifications mentioned in clause (a) or (b) of the said sub-section or has died; or

(d) under detention or imprisonment,  
 shall be treated as temporarily disabled.

**12. Relinquishment of land under section 31.** - (1) If a non-occupancy tenant wants to make a voluntary surrender of his tenancy land in favour of the Government under section 31, he shall apply to the Collector in Form LR I. On receipt of the application, the Collector shall record the statement of the tenant and after having satisfied himself of the fact of voluntarily relinquishing, pass order that the tenant has voluntarily surrendered his tenancy land in favour of the Government. Thereafter, the Collector shall cause the taking over of the possession of the land through the Tehsildar concerned in favour of the Government.

(2) On having taken over the possession of the tenancy land under sub-rule (1), the Collector shall cause the necessary entry to be made in the Land Records substituting the right of the Government on the relinquished tenancy in place of the tenant and shall take possession of the land on behalf of the State Government.

(3) The Collector shall sub-let the land to the landless agricultural labourers or to those tenants whose land holding shall fall short of one acre as a result of resumption of tenancy land by the landowners under sub-section (1) of section 104.

**Part IV**  
**Acquisition of Proprietary Rights by occupancy tenants**

**13. Attestation of mutation.** - As soon as may be, after the appointed day, the Assistant Collector of the 2nd Grade of the tehsil or Sub-tehsil, as the case may be, will attest the mutations of proprietary rights of the tenancy land in favour of the occupancy tenants after making a summary enquiry.

**14. Preparation of Statement under section 96.** - (1) Soon after the mutations have been attested, the Patwari shall prepare a statement estate wise in Form LR II and submit the same to the Land Reforms Officer concerned. On receipt of the statement the Land Reforms Officer shall issue notice in Form LR III to the landowners and the tenants who have acquired proprietary rights, asking them to be present before him on the date and place to be mentioned in the notice.

(2) The occupancy tenants who have acquired ownership rights or the landowner concerned may file objections, if any, to the Land Reforms Officer regarding the amount proposed to be paid within 15 days of the receipt of the notice.

**15. Determination of amount and apportionment thereof.** - In case there are objections regarding the proposed amount the Land Reforms Officer will give a hearing to the parties and will determine the amount payable to the landowners and apportion the amount among the landowners where there are more than one according to their respective shares.

**16. Manner of service of notices.** - Notices under Chapter IX of the Act shall be served in the manner prescribed in section 71 of the Act for the mode of service of summons.

**17. Form of manner of appeals.** - (1) An appeal under section 100 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal shall be accompanied by a certified copy of the order appealed against.

(2) An appeal shall be made on -

- (a) one rupee court-fee stamp paper, when made to the Collector; and
- (b) two rupees court-fee stamp paper, when made to the Commissioner.

**18. Stamp duty on application for revision.** - An application for revision to the Financial Commissioner shall be made on a court-fee stamp of four rupees and shall be accompanied by a certified copy of the order sought to be revised.

**19. Application to be free of stamp duty.** - All applications under Chapter IX of the Act shall be on judicial papers and no stamp duty except as expressly provided in rules 17 and 18 shall be chargeable.

**20. Maintenance of register of amount.** - A register of the amount received from the tenant for payment to the landowners shall be maintained in Form LR-IV in the office of the Land Reforms Officer concerned to ensure timely recovery of dues of the landowners from the tenants and its payment to the landowners. In case of amount payable to the State Government the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-Treasury, as the case may be, under the relevant Head of Account.

## **Part V**

### **Acquisition Of Proprietary Rights By Non-Occupancy Tenants**

**21. Application for resumption of land by the landowner under section 104.** - (1) A landowner who intends to resume land for his personal cultivation under section 104 shall himself or through an authorised person submit an application in Form LR V in duplicate to the Land Reforms Officer in whose jurisdiction the land is situated. In filling up the Form the landowner shall be assisted by the Patwari concerned.

(2) The period for submission of application under sub-rule (1) above is :-

- (i) for the landowners other than those mentioned in sub-section (8) of section 104 [Upto thirty first December, 1975];
- (ii) for the minors within 6 months from the date of attainment of majority;
- (iii) for members of Armed Forces mentioned in clauses (c) and (d) of sub-section [(8)] [of section 104 within 3 years] from the date on which they cease to be the members of the Armed Forces.

**22. Manner of selection of land for resumption.** - The Land Reforms Officer shall issue receipt of the Form LR V received by him under sub-rule (1) to the landowner in Form LR VI. If

the land of the landowner is with more than one tenant from whom he intends to resume land under the provisions of section 104, he shall select the land for resumption from the tenant holding the largest area of tenancy land and then from the tenants who hold lesser tenancy land in descending order. The landowners who hold the tenancy land jointly, they shall resume the land with respect to their shares keeping in view the principles of consolidation of holdings.

**23. Conversion ratio for the purpose of section 104(1)(iv).** - In case the landowner intends to reserve both classes of land i.e., irrigated and unirrigated the conversion ratio for such reservation shall be 1 : 2.

Provided that the total area should not exceed 3 acres when better class of land is converted into the inferior class.

**24. Procedure for dealing with applications for resumption.** - (1) On the receipt of the application under rule 21, the Land Reforms Officer shall issue a 10 days notice in Form LRVII to the parties asking them to be present before him on the date and place (within patwar circle) to be mentioned in the notice. On the date so fixed the Land Reforms Officer will hear the parties and if the selection of the land made by the landowner under rule 22 is mutually agreed upon by the parties, the Land Reforms Officer shall pass an order about the extinguishment of the rights of the tenant in such land. He shall further order that the possession of the land be given to the landowner from the date to be specified in the order. At the same time regarding the remaining land of such tenant or tenants the Land Reforms Officer shall confer proprietary rights on such tenant or tenants, as the case may be.

(2) Where the selection of land made by the landowner under rule 22 is not mutually agreed upon between the parties, the Land Reforms Officer, shall ask the tenant to exercise the right of selection of land, in writing within one month from the date of issue of notice under sub-rule (1). On receipt of the choice of the tenant within the said period of one month the Land Reforms Officer shall hear the parties, and after having satisfied himself that the landowner is entitled to resume land under the provision of section 104 of the Act, shall pass orders regarding the land chosen to be retained by the tenant and also in respect of the land to be resumed by the landowner for personal cultivation, within two months from the date of receipt of Form LR V under sub rule (1) of rule 21. He shall further order the extinguishment of right of tenancy on the land resumed by the landowner and for handing over the possession of land to the landowner by the tenant or tenants, as the case may be after the crop is harvested. Regarding the remaining land of the tenant or tenants, the Land Reforms Officer shall confer proprietary rights of such land upon the tenant or tenants, and determine the amount payable by the tenant to the landowner in respect of that land.

(3) Where part of the fields are involved in selection of land for resumption and to be left with the tenant, the tatima shajras will be prepared by the Patwari and checked by the Field Kanungo. The Revenue Officer will also check 25% of the tatima shajras.

(4) While determining the amount payable by the tenant or tenants, as the case may be, to the landowner for extinguishment of his rights in land mentioned in sub-rule (2), the Land Reforms Officer shall follow the provisions of sub-section (5) of section 104.

**25. Mutation.** - The order of the Land Reforms Officer passed under rule 24 shall be given effect to by way of mutation on the expiry of the period of limitation prescribed for appeal and revision in section 114. There will be two mutations in each case, one for extinguishment of tenancy

rights and the other for extinguishment of ownership rights of land in question. The mutation fee chargeable on these mutations will be the same as that for giving effect to a decree of a Civil Court.

**26. Disposal of land vested in State Government under sub-section (2) of section 104. -**

(1) In case the landowner fails to bring under personal cultivation the land reserved by him under clauses (i) and (ii) of sub-section (1) of section 104 within one year from taking over the possession of the land, the Patwari shall make a report to the Land Reforms Officer of such failure. On receipt of such a report, the Land Reforms Officer shall issue a notice to the landowner to show cause within fourteen days from the receipt of the notice as to why the land shall not vest in the State Government. On hearing the landowner, if the Land Reforms Officer comes to the conclusion that the landowner has failed to cultivate the land without sufficient cause then he shall pass an order in writing under sub-section (2) of section 104 that such land vest in the State Government. The Land Reforms Officer may also order payment of amount to the landowner at rates prescribed in sub-section (2) of section 104. He shall also take possession of the land on behalf of the State Government and shall cause to make entry in the revenue records to this effect.

(2) On vestment of the land in the State Government under sub-rule (1), the Land Reforms Officer shall summon the tenant from whom the landowner resumed the land for personal cultivation and shall give him an option and the first choice to acquire the proprietary rights of the land on payment of the amount at the rate prescribed in sub-section (2) of section 104.

(3) In case the tenant agrees to acquire ownership rights of the land under sub-rule (2) he shall be asked to pay the amount in lump sum or in such number of six monthly installments not exceeding ten during the period not exceeding five years from the date of order of the Land Reforms Officer. The Land Reforms Officer shall at the same time pass an order for the delivery of possession of the land to such a person on payment of 1st installment of the amount who acquires the proprietary rights under this sub-rule.

(4) In case the tenant does not exercise option under sub-rule (2) then the land will be allotted in the following order of preference on payment of 96 times the annual land revenue plus rates and cesses chargeable thereon :-

- (a) to landless agricultural labourers;
- (b) to village artisans; and
- (c) to members of scheduled castes and scheduled tribes.

**27. Procedure for conferment of proprietary rights on tenants covered by sub-section (3) of section 104. -** All rights, title and interest in the tenancy land of landowners who have already under their personal cultivation 3 acres unirrigated or 1½ acres irrigated land shall vest in the non-occupancy tenants with effect from the commencement of these rules. Similarly, the proprietary rights of tenancy land of the non-occupancy tenants on Government land shall also vest in the tenants from the commencement of these rules.

**28. Attestation of mutations. -** (1) The Patwari shall enter the mutation of ownership in the mutation Register in favour of the non-occupancy tenants on whom proprietary rights under rule 27 vested and the Revenue Officer will attest the mutation in the presence of the parties.

(2) Where a part of a field number is vested in tenants, tatima Shajra of such part will be prepared on the body of the mutation sheets.]

**29. Determination of disputes under sub-section (4) of section 104.** - If there is a dispute regarding the entries of the land records the Land Reforms Officer, in his capacity as an Assistant Collector of the First Grade, shall decide the dispute under sub-section (4) of section 104 in accordance with the relevant provisions of the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as the case may be. The disputes of such cases will be determined on a summary inquiry on the files.

Where a tenancy is in a part of a field number, tatima shajras of that part will be prepared.

**30. Manner of determination of the amount.** - Immediately after the attestation of the mutation in favour of the tenants the Patwari of the circle shall prepare a statement, in Form LR VIII showing the non-occupancy tenants who have acquired proprietary rights as a result of the mutation under rule 28 estate-wise and forward the same to the Land Reforms Officer concerned. On receipt of the statement, the Land Reforms Officer shall issue 15 days notice in Form LR IX to the landowners and the tenants concerned to be present before him on the date and place mentioned in the notice. The Land (Reforms) Officer shall hear the parties on the fixed date. In case there are objections from any side, the Land Reforms Officer shall, after a summary inquiry, pass order regarding the determination of the amount, apportionment of the same among the interested landowners.

**31. Maintenance of register of the amount.** - As soon as the Land Reforms Officer gives his decision regarding the determination of the amount under rule 30, entry to that effect shall be made in a Register to be maintained in Form LR IV in his office tehsil-wise. The entries of recoveries of the amount in lump sum or installments, as the case may be, from the tenants and payment thereof to the landowners shall be made in this register at the proper time. This register will be checked and verified by the Land Reforms Officer every month.

**32. Payment of amount.** - (1) The amount shall be deposited by the tenant with the Land Reforms Officer in lump sum or in such number of installments as may be determined by the Land Reforms Officer under [sub-section (5) of section 104.] The Land Reforms Officer will pay the same to the landowner whose rights, title and interests are extinguished. In case there are more than one landowners the amount shall be paid in accordance with their respective shares. In case of amount payable to the State Government, the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-treasury, as the case may be, under relevant Head of Account.

(2) Where there is a dispute between the various claimants the amount determined by the Land Reforms Officer and deposited by the tenants shall be kept in the deposit in the Treasury/Sub-Treasury pending adjudication of the case by the competent court or officer, as the case may be.

(3) The amount deposited by the tenant shall be paid to the landowner by means of cash payments against receipts.

(4) In case the tenants fail to pay the installments according to the time fixed by the Land Reforms Officer in his order, the landowner shall make an application to the Land Reforms Officer for recovery of the amount due as arrear of land revenue.

**33. Declaration under clause (d) of sub-section (8) of section 104.** - (1) The declaration required to be made under clause (d) of sub-section (8) of section 104 shall be furnished in Form LR X by the father of the member of the Armed Forces to the Collector concerned within [2



months] from coming into force of these rules. The declaration shall be supported by an affidavit and a copy of the jamabandi pertaining to the land given in the declaration.

(2) The Collector to whom the declaration in Form LR X is furnished under sub-rule (1) shall issue a receipt of the Form in Form LR XI to the person furnishing the declaration, as soon as the declaration is received by him. Thereafter the Collector shall send a copy of the declaration to the Tehsildar who will verify the declaration in the presence of the parties and will direct the Patwari concerned to make entry in the revenue records in the light of the particulars given in the declaration, during the harvest inspection next following the declaration.

**34. Procedure.** - The procedure of Land Reforms Officer under this part and Part V of these rules shall be, as far as possible, the procedure prescribed in Part II of these rules for the proceedings before the Revenue Officers.

**35. Manner of service of notices.** - Notices under Chapter X of the Act shall be served in the manner prescribed in section 71 of the Act for the Mode of service of summons.

**36. Form and manner of appeals.** - (1) An appeal under section 114 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal or revision petition shall be accompanied by a certified copy of the order appealed against, or sought to be revised, as the case may be.

(2) An appeal or revision petition, as the case may be, shall be made;

(a) One rupee court-fee stamp paper, when made to the Collector;

(b) two rupees court-fee stamp paper, when made to the Commissioner; and

(c) four rupees court-fee stamp paper, when made to the Financial Commissioner.

**37. Application to be free of stamp duty.** - All applications under Chapter X of the Act shall be on petition paper and no stamp duty except as expressly provided in rule 36 shall be chargeable.

## **Part VI**

### **Control On Transfer Of Land**

**38. Affidavit by a person for acquisition of land.** - (1) Where transfer of land by way of sale, gift, exchange, lease or mortgage with possession, of which registration is not compulsory under the Registration Act, 1908 (16 of 1908) in favour of a person, who is not an agriculturist as defined in the Act or comes within the exemptions given in clauses (a) to (g) of sub-section (2) of section 118, such a person intending to secure a transfer of land in his favour shall swear an affidavit before the Revenue Officer, attesting the mutation, to the effect that he is eligible to secure transfer of land in his favour being an agriculturist. The Revenue Officer shall satisfy himself about the contents of an affidavit by the aforementioned person and shall attest a mutation only if that person is found to be an eligible person.

(2) Where a transfer of land by way of sale, gift, exchange, lease or mortgage with possession requiring compulsory registration under the Registration Act (16 of 1908) in favour of a person who is not an agriculturist as defined in the Act, such a person intending to acquire land by way of sale, gift, exchange, lease or mortgage with possession, shall file an affidavit along with the registration deed before the sub-Registrar or Registrar, as the case may be, to the effect that such a person is eligible to secure the transfer of land in his favour. The Registrar or the Sub-Registrar, as

the case may be, shall satisfy himself by such an inquiry as he deems fit that such a person is eligible to get the land under the aforesaid sub-section and only then register the document presented to him for registration, otherwise the registration of deed shall be refused.

**<sup>1</sup>[38-A. Purpose for which land is transferable under section 118(2)(h).] –**

(1) Where a non-agriculturist intends to acquire land in his name by way of sale, gift, will, exchange, lease or mortgage with possession, he shall apply for permission under clause (h) of sub-section (2) of section 118 of the Act, in Form LR XIV or <sup>2</sup>[online as may be notified by the Revenue Department]duly supported with the documents specified, to the Collector in whose jurisdiction the land is situated.

<sup>3</sup>[Provided that where land is proposed to be acquired for investible project which has been approved by the State level Single Window Clearance and Monitoring Authorized Officers shall forward such cases to the State Government for consideration alongwith Essentiality Certificate and relevant documents showing the location and area of land proposed to be acquired.]

(2) (a) On receipt of the application, complete in all respects under sub-rule (1), the Collector shall, after calling for the information from the revenue staff in form LR XV and holding such enquiry as he may deem fit, verify the title of the land in question and if he is of the opinion that the application should be accepted, he shall recommend application within a period of [10 days] from the date of its receipt by him to the State Government for its consideration.

Provided that if there is any objection or shortcoming in the application Form LR XIV, the Collector shall convey all such objection(s) or shortcoming(s) at one time only to avoid unnecessary delay.

Provided further that in case of transfer of land to Industrial/Tourism units or Hydro electric projects, the documents shown in items II, VI and VII of Part II of Form LR XIV and spot inspection report of the revenue officers/officials in Form LR XV shall not be required.

(b) On receipt of the recommendations made by the Collector under clause (a) of this sub-rule, the State Government shall consider the application and allow or [reject the application with in 10 days.

<sup>4</sup>(b-1) On receipt of the applications from the concerned HOD, under proviso to sub-rule (1), the State Government shall consider and decide the same within 15 days. If application is allowed, the sanction shall be conveyed to the Collector concerned with a copy to the concerned Head of Department and the non-agriculturist concerned. On receipt of sanction, the non agriculturist shall apply to the collector concerned on Form LR-XIV alongwith relevant documents specified in Part II thereof, and the Collector shall examine the same under the provision of section 118 of the Act, and if he deems it fit, he shall issue sanction giving therein the particulars of land, with a copy to the State Government and concerned HOD for information. The collector may refer back the matter to the Government along with detailed reasons for re-consideration. In any case the collector shall clear such cases within a period of 7 days from the receipt of all

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<sup>1</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2014

<sup>2</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

<sup>3</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

<sup>4</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

documents specified under these rules and thereafter the State Government shall again consider and decide the case accordingly.”

Provided that in case of Industrial/Tourism units or Hydro electric projects, the permission so granted shall be subject to the fulfillment of other statutory requirements if any.

- (c) The applicant shall be informed of every order passed by the State Government under clause (b) of this sub-rule; and
- (d) Any applicant, whose application has been rejected, may, within 60 days of the date of order of rejection, apply to the State Government to review the order and the Government may, after making such further inquiry as it may think fit, pass such order as it considers necessary.

Provided that the State Government may entertain the review application after the expiry of the said period of 60 days, if it is satisfied that the applicant was prevented by sufficient cause from filing the review application in time.

(3) The permission under sub-rule (2) may be granted for any of the following purposes and subject to such scales, eligibility and conditions as specified against each purpose:-

<b>Sr. No.</b>	<b>Purpose</b>	<b>Area</b>	<b>Conditions on transferor(s)</b>	<b>Eligibility of transferee (s)</b>	<b>Other conditions</b>
1	2	3	4	5	6
1.	For agriculture or horticulture purpose or for both purposes	An area not exceeding 4 acres only in rural area.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As per proforma for Essentiality Certificate and Check list appended to these rules as Form LR-XV.
2.	For building residential house.	Upto 500 Sqr. Mtrs. but not less than 150 Sqr. Mtrs.	Shall not become landless/ houseless.	1.(a) A person who on the commencement of this Act worked and continues to work for gain in an estate situated in Himachal Pradesh. (b) A person working in the State for more than 30 years recommended by concerned local body for grant of permission. (c) Permanent Government Employees (both State and Central Government including autonomous bodies, corporation which are substantively financed by them).	Recommendations of Deputy Commissioner.

				<p>2. Padma Award/ Gallantry Award Winners.</p> <p>3. Other eminent persons subject to the satisfaction of the Government regarding the necessity and desirability for such permission after careful evaluation of the merit of each case.</p>	
3.	Built up building with land appurtenant thereto for residential purpose.	Upto 500 Sqr. Mtrs.	In case transferor is an agriculturist, he shall not become landless/ houseless.	As against Sr. No. 2 above.	Recommendations of Deputy Commissioner.
4.	Part of building for residential purpose	Unto 500 Sqr. Mtrs.	In case transferor is an agriculturist, he shall not become landless/ houseless.	Any citizen of India including an OCI (Overseas Citizen of India) and legal entity registered in India under any law for the time being in force.	Recommendations of Deputy Commissioners.
5.	For construction of shop.	Upto 300 Sqr. Mtrs.	Shall not become landless/ houseless.	<p>(a) A person who on the commencement of this Act worked and continues to work for gain in an estate situated in Himachal Pradesh.</p> <p>(b) A person working in the State for more than 30 years recommended by concerned local body for grant of permission.</p>	Recommendations of Deputy Commissioners.
6.	For industrial/ religious/ tourism/ apartment/ hydel project/ BT/IT project, purpose.	Such area as may be certified by the Department concerned.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As per proforma for Essentiality Certificate and Check list appended to these rules as Form LR-XV.
7.	For socially useful activities i.e. old age home, gausadan, health related activities, orphanages, education related or	Such area as may be certified by the department concerned.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As above.

	related to creation of sports facilities, etc.				
8.	Public use facilities normally undertaken for profit i.e. shopping malls, office complex, garage, cold storages, service stations, petrol pumps etc. and any other activity not covered above.	Such area as may be certified by the department under whose control the activity falls.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As above.

Provided that the permission granted under this rule shall be valid for a period of one year from the date of issue of the orders of the State Government granting such permission:

Provided further that the State government may for reasons to be recorded in writing, extend the said period.

**[38-B. Execution of orders for vestment of Land.** - The District Collector within his jurisdiction shall pass an order regarding vestment of land/buildings together with structures or other attachments, if any, under sub-section (2) or sub-section (3D) of section 118 of the Act, as the case may be, in the State Government, and,-

- (i) the order of such vestment and delivery of possession of immovable property shall be executed in the same manner as provided in the Code of Civil Procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejection from or delivery of possession of such property; and
- (ii) in execution of these orders the Revenue Officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in (i) supra.]

**39. Transfer of land in favour of State Government under section 119.** - (1) Where an agriculturist intends to transfer his land in favour of the State Government, he shall give a notice of his intention to transfer the land in Form LR XII to the Collector. The decision of the State Government under sub-section (2) of section 119 shall be conveyed to the notice server in Form LR XIII.

(2) The price of the land as determined by the Collector and confirmed by the State Government shall be paid to the transferor in cash after withdrawal of the money from the Government Treasury or the Sub-Treasury against the appropriate Head of Account.

(3) After payment of the price of the land under sub-rule (2), the Collector shall take over possession of the land on behalf of the State Government and take steps to get the mutation of the land in favour of the State Government, attested.

**40. Distribution of land purchased by State Government under rule 39.** - The distribution of the land among the persons mentioned in section 121 shall be made by the Collector.

The eligible person shall be required to make an application to the Collector who shall allot the land keeping in view the order of preference mentioned in the aforesaid section.

**41. Price of the land for distribution under section 121.** - The price of land for distribution among the persons entitled to get it under section 121 shall not be less than the price paid by the State Government under sub-rule (2) of rule 39. The total price will be recoverable in six monthly installments not exceeding 20.

**42. Repeal and Savings.** - (1) The corresponding rules framed under the enactments repealed under section 126 in their application to the respective areas of Himachal Pradesh shall stand repealed from the date of the commencement of these rules.

(2) The repeal of the rules referred to in sub-rule (1) shall not affect their previous operation or anything done thereunder.

(3) Notwithstanding the repeal of the rules under sub-rule (1) all suits, applications or other proceedings pending disposal under the Acts mentioned in section 126 shall be disposed of in accordance with the provisions of the rules repealed under sub-rule (1) as if these rules had not been repealed.

**Form LR-I**

[See sub-rule (1) of rule 12]

**Form of application for voluntary surrender of tenancy land by a tenant in favour of government under sub-rule (1) of rule 12 schedule**

Name, parentage and other particulars of tenant	Name, parentage and other particulars of the landowners	Names of District, Tehsil/ Sub-Tehsil and estate in which the land is situated	Duration of possession as tenant	Particulars of tenancy land			Total revenue	Rates and cesses	Rent payable to the landowner	Remarks
				Khew at No.	Khatauni and field Nos.	Area in Bighas				
1	2	3	4	5	6	7	8	9	10	11

To

The Collector,

.....

Sir,

I hereby voluntarily surrender my tenancy land shown in the Schedule given above in favour of the Government under section 31 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).

.....  
Signature of tenant.

Address.....

.....  
Dated.....

I have compared the entries made in this application with the latest jamabandi entries of the estate and have found that the entries of this application tally with the entries of the Jamabandi.

.....  
Signature of Patwari.

Circle No. and Name .....

Dated .....

**Form LR-II**

[See sub-rule (1) of rule 14]

**Statement Of Occupancy Tenants Under Section 96 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972, Pertaining To Village.....Tehsil.....District.....****(To Be Prepared By The Patwari)**

				Particulars of land held by occupancy tenant							
Serial No.	Village (Revenue Estate)	Khew at No.	Khatauni No.	Name with description of landowner and shares in case of more than one	Name with description of occupancy tenant and share in case of more than one. (The position before attestation)	Field No.	Area in Acres	Total land revenue	Rates and cesses	Total amount	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

.....  
Signature of Patwari,  
Circle No. and Name.....  
Dated.....

I have compared the entries of the statement with the latest jamabandi entries of the village and have found that the entries of this statement tally with the entries of the Jamabandi.

.....  
Signature of Field Kanungo of the Circle.  
Dated.....

**Note.** - The entry in Col. No. 5 will be an exact copy of ownership column of the Jamabandi and entry of Col. No. 6 will be the exact copy of column of cultivation of the Jamabandi.



**Form LR-III**

[See sub-rule (1) of rule 14]

**Notice Under Rule 14 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975**

Before the Land Reforms officer ..... District.

In the matter of Shri.....(Landowner).

Versus

Shri.....(Occupancy Tenant),

To

All persons concerned.

Whereas Shri/Sarvshri....., s/o....., resident of ....., Tehsil..... District ..... is/are the proprietors of the land per Khewat/Khatauni No. .... Khasra Nos. .... measuring .....hect./ bighas ..... biswas ..... situated in Revenue Estate ..... Tehsil ..... District and Sarvshri ....., sons of ..... was/were the occupancy tenants thereof;

And whereas all rights, title and interests of the land described above have vested in the aforesaid occupancy tenants free from all encumbrances under section 94 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974);

And whereas a sum of Rs. .... is proposed to be allowed as an amount to be paid by the said Shri/Sarvshri.....tenant/tenants to the said Shri/Sarvshri ..... landowner/landowners for extinguishment of the rights, title and interests of the said landowner/landowners in the land described above.

Now, therefore, in pursuance of rule 14 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, it is hereby notified for information of all persons concerned that objections in regard to assessment of the said amount of Rs. .... shall be heard by the undersigned on.....(date) at.....(Place). Any person having any objection to make in the matter may do so on the said date and place.

In the event of your, your legal practitioner or a recognised agent, non-appearances in proceedings will be taken against you *ex-parte*.

Given under my hand and seal of this office this.....day of..... 20.....

Land Reforms Officer,  
.....district

Dated.....

Seal.

**Form LR-IV**

[See rules 20 and 31]

**Register Of Conferment Of Proprietary Rights Of Occupancy And Non-Occupancy Tenants  
In Tehsil.....District.....**

1. Name and address of tenant/tenants.
2. Name and address of landowner/landowners.
3. Particulars of land in respect of which proprietary rights are transferred to the tenant/ tenants.
4. Amount of compensation determined by:-
  - (a) Land Reforms Officer;
  - (b) Commissioner;
  - (c) Financial Commissioner.
5. Compensation whether payable in installments or lump sum, number and nature of installments if payable in installments.
6. Amount of compensation received from the tenant/tenants & in installments with dates.  
1 2 3 4 5 6 7 8 9 10
7. Amount of compensation paid to the landowner/landowners in installments.  
1 2 3 4 5 6 7 8 9 10
8. Remarks.

**Note.** - Entries in column Nos. 6 and 7 shall be initialed by the land Reforms Officer.

**Form LR-V**

[See sub-rule (1) of rule 21]

**Application For Resumption Of Land Under Rule 21 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975**

To

The Land Reforms Officer,  
.....

Sir,

As required under sub-rule (1) of rule 21 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, I furnish below the particulars of land held by me and of land which I want to resume for personal cultivation:-

			Land owned by the applicant showing Khasra No., area in acre and class of land							
Serial No.	Tehsil/District		Name of Revenue Estate		Khasra No.			Area in Acres		Names of tenants
1	2		3		4			5		6
Particulars of land of the applicant to held by the tenant/tenants			Particulars of tenancy land which the applicant intends to resume for personal cultivation				Tenancy land left with tenant/tenants shown in col. 11 showing particulars thereof			
Khasra No.	Class of land	Area in acres	Names of the tenants holding land	Khasra No.	Class of land	Area in acres	Class of land	Khasra No.	Area in acres	Remarks
7	8	9	10	11	12	13	14	15	16	17

I solemnly affirm that the particulars of land given above are correct to the best of my knowledge and belief.

I have satisfied myself that I am eligible to resume land under the provisions of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).

.....  
Signature of the landowner.  
Name and full address.....  
Dated.....

## Verification By The Patwari

Certified that I have verified the entries of the statement and these are correct in accordance with the entries of Land Records and that the landowner is eligible to resume land for his personal cultivation under the provisions of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).

.....

Signature of the Patwari.

Name and Circle No.....

Dated.....

**Note.** - In case of resumption of Part of Khasra number the tatima Shajra verified by the Field Kanungo will also be filed with the application.

**Form LR-VI**

(See rule 22)

**Receipt Under Rule 22 To Be Issued To The Landowner About Receipt Of Form LRV Regarding Resumption of Land By The Land Reforms Officer**

Received statement of resumption of land for personal cultivation from Shri.....s/o (landowner) resident of..... Tehsil. .... District ..... today the .....20, personally/ through his authorised agent.

Land Reforms Officer.

.....district

Dated.....

**Form LR-VII**

(See rule 24)

**Notice Under Sub-Rule (1) Of Rule 24 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975**

Before the Land Reforms Officer ..... district.

In the matter of Shri..... (landowner):

Versus

Shri ..... (tenant):

To

All persons concerned.

Whereas Shri/Sarvshri ..... Sons of Shri..... resident of....., Tehsil..... District , is/are the proprietors of the land comprising Khewat Khatauni No. ...., Khasra Nos ..... Measuring.....bighas.....biswas.....situated in Revenue Estate.....Tehsil....., District and Shri./Sarvshri ..... son of Shri.....residents of village ..... are the non-occupancy tenants of the said land.

And whereas the said landowner has submitted statement under rule ..... of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, in respect of resumption of land for personal cultivation.

Now, therefore, it is hereby notified for the information of all concerned that the objections in regard to the resumption of land by the said Shri/Sarvshri ..... shall be heard by the undersigned on ..... at ..... All concerned are, therefore, required to appear before the undersigned on the said date.

Given under my hand and seal of this office this.....day of ..... 20.

Dated

Seal.

Land Reforms Officer,

.....district.

**Form LR-VIII**

(See rule 30)

**Statement Of Land Held By Non-Occupancy Tenants To Be Prepared By The Patwari Under Section 104(3) Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972**

Serial No.	Name of estate	Khewat No.	Khatauni No.	Particulars of the landowners	Particulars of tenants	Total area of Khatauni	Land Revenue assessed	Rates and cesses	Total amount payable to the landowner	Remarks
1	2	3	4	5	6	7	8	9	10	11

- Note.** - 1. Col. No. 5 will be the exact copy of ownership col. of the latest Jamabandi and col. No. 6 will be the exact copy of col. of cultivation of latest Jamabandi.
2. The Kanungo should verify the entries of the statement and certify that the entries have been compared by him with the latest Jamabandi and have been found to be correct.
3. In case the entries of tenancy exist in the Khasra Girdawari and not yet incorporated in the latest Jamabandi the Kanungo will certify that the entries are correct according to Khasra Girdawari.
4. The statement will be made owner-wise.

.....  
 Signature of the Patwari.  
 Circle No. and Name.....  
 Dated.....

.....  
 Signature of the Field Kanungo.  
 Circle No. and Name.....  
 Dated.....

**Form LR-IX**

(See rule 30)

**Notice Under Rule 30 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975**

Before the Land Reforms Officer District.

In the matter of Shri.....(Landowner)

Versus

Shri.....(Tenant)

To

All persons concerned.

Whereas Shri/Sarvshri ..... sons of Shri ..... resident of ..... Tehsil ....., District ..... is/are the proprietors of the land per Khewat Khatauni No. .... Khasra Nos ..... measuring ....., bighas ..... biswas ..... situated in Revenue Estate ....., Tehsil ..... District ..... and Shri/Sarvshri ..... sons of ..... is/are non-occupancy tenant/tenants thereof;

And whereas all rights, title and interest of the land described above have vested in the aforesaid non-occupancy tenant/tenants free from all encumbrances as under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) with effect from .....

And whereas a sum of Rs. .... is proposed to be allowed as amount to be paid by Shri/Sarvshri ..... tenant/tenants to the said Shri/Sarvshri ..... landowner/landowners for extinguishment of the rights, title and interest of the said landowner/landowners in the land described above.

Now, therefore, in pursuance of rule 30 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, it is hereby notified for information of all persons concerned that objection in regard to assessment of the said amount of Rs. .... shall be heard by the undersigned on ..... at ..... Any persons having any objection to make in the matter may do so on the said date and place.

Given under my hand and seal of this office on this ..... day of ..... 20.

Dated.....

Seal.

Land Reforms Officer,  
.....district.

**Form LR-X**

[See sub-rule (1) of rule 33]

**Form Of Declaration Under Clause (D) Of Sub-Section (8) Of Section 104 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972 (ACT NO. 8 OF 1974)**

I.....s/o.....resident of.....Tehsil/Sub-Tehsil ..... District..... hereby declare the tenancy land given below as the inheritable share of my sons Shri/ Sarvshri.....on his date/their date of joining the Armed Forces;

				Particulars of land declared as inheritable share of the member/members of the Armed Forces shown in Column 2				
Name, parentage and particulars of the person furnishing the declaration	Name of the son/sons who is/are member/members of the Armed Forces	Date of joining the Army	Name of the tenant on the land, his parentage and other particulars	Name of Village Tehsil/Sub-Tehsil in which the land is situated	Khatauni No.	Khasra No.	Area in Acres	Remarks
1	2	3	4	5	6	7	8	9

In case of parts of the field, the Tatima Shajra thereof should be attached with this declaration.

**Affidavit**

I solemnly affirm that the particulars given by me in the above declaration are true to the best of my knowledge and belief and that nothing has been concealed.

Dated.....

.....  
Signature of landowner.

Resident of Village.....

Tehsil/Sub-Tehsil.....

District.....



**Attestation**

Certified that the above declaration was made on solemn.....affirmation before me this ..... day of ..... 20 .... at ..... in ..... District ..... by Shri ..... resident of Village ....., Tehsil/Sub-Tehsil ....., District .....

Dated.....

Magistrate 1<sup>st</sup> Class/Oath  
Commissioner at.....  
.....

Certified further that the above affidavit has been read out to Shri .....s/o Shri....., resident of village..... Tehsil/Sub-Tehsil ..... District ..... the deponent who seems perfectly to understand the same at the time of its making.

Dated .....

Magistrate 1st Class/Oath  
Commissioner at.....

**Form LR-XI**

[See sub-rule (2) of rule 33]

**Receipt Under Sub-Rule (2) Of Rule 33 To Be Issued In Favour Of The Father Of A Serving Soldier About Receipt Of Form LR-X Regarding Declaration Of Inherited Share Of The Serving Soldier In The Tenancy Land**

Received declaration under clause (d) of sub-section (8) of section 104 in Form LRX from  
 Shri.....s/o .....(landowner), resident of.....Tehsil.....,  
 District.....today the.....20.

Signature of Collector,

District.....

Dated .....20

**Form LR-XII**

[See sub-rule (1) of rule 39]

**Notice To The Collector Under Sub-Section (1) Of Section 119 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972 (Act No. 8 Of 1974)**

To

The Collector,  
 .....District.

Sir,

I intend to transfer my land comprising Khewat Khatauni No.....Khasra Nos.  
 ..... measuring ..... bighas. .... biswas ..... situated in  
 village ..... Tehsil ... ..... District ..... of which the copies of Jamabandi and  
 tatima shajra are enclosed, in favour of the State Government. I am willing to transfer the said land  
 for Rs. .... Kindly convey me the Government decision in the matter.

Yours faithfully,

Signature and Address of the applicant.

**Form LR-XIII**

[See sub-rule (I) of rule 39]

**Form Of Intimation By The Collector Of The Decision, Of The State Government Under Sub-Rule (1) Of Rule 39 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975**

From

The Collector,  
.....District.

To

Shri .....  
.....

No....., dated.....

**Memorandum:**

With reference to your application dated ..... under sub-rule (1) of rule 27 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, for transfer of land in favour of the State Government has, agreed to purchase the land mentioned in your application for Rs ..... /has refused to purchase the said land.

.....  
Signature of Collector,  
..... district.

**[Form LR-XIV]**

[See sub-rule (1) of rule 38A]

**Application For Permission Required Under Sub-Rule (1) of Rule 38A of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975****Part-1**

1. Name of the applicant ....., Son/Daughter/Wife of ..... resident of Village ..... Tehsil....., District.....
2. Permanent address Village/ Town..... Tehsil..... District.....State.....
3. Present occupation and address.....:
4. Purpose for which the land is required.
5. Particulars of the land applied for:
  - (i) District.
  - (ii) Tehsil.
  - (iii) Number of estate (Hadbast) with name of Estate.
  - (iv) Khata/Khatoni/Khasra Numbers alongwith total No. of Kitas with area and classification of land.....
6. Particulars of the land holder from whom land is intended to be transferred. Name ..... son/daughter/wife of....., resident of Village.. Tehsil., District .....
7. whether the applicant applied previously for such permission if so, give the following particulars:-
  - (a) Date of application, if known.
  - (b) Whether permission granted or refused (the date of order of the State Government).
  - (c) Particulars of land permitted to be transferred previously:-
    - (i) District
    - (ii) Tehsil
    - (iii) Name of Estate with Hadbast number
    - (iv) Khasra number with area and classification.
8. Any other information which the applicant considers to be relevant.

I solemnly affirm and declare:-

That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.

Signature of the Applicant.

Address.....

.....

Dated:

Remarks of the Collector.

Signature of the Collector

District.....

Dated.....

**<sup>1</sup>[PART-II****(DOCUMENTS TO BE ENCLOSED WITH THE APPLICATION FOR PERMISSION)**

- (1) Latest copy of Jamabandi and tatima shajra.
- (2) Copy of agreement entered into by the transferor and transferee.
- (3) Affidavit of the transferor stating that he, after the proposed transfer, will not become landless, and if so he will not claim any benefit/land under any scheme prepared for the benefit of landless persons in the State.
- (4) No objection of all the co-sharers/tenants of the land proposed to be transferred in case of a joint holding where a particular Khasra No. or part thereof is proposed to be transferred in the form of affidavit stating that he/she has no objection in case land is transferred to proposed transferee. This affidavit will not be required in any case of transfer of a share in an entire joint holding.
- (5) In case of application under number (2) (3) or (4) of sub-rule (3) of rule 38-A, proof of being an eligible applicant:-
  - (i) for purpose at serial number 2 and eligibility below column number 5 in items I. (a) & (b) and for purpose at serial number 4 certificate may be issued by a Naib-Tehsildar/Tehsildar/SDM/ADM/ADC/DC having jurisdiction over the area.
  - (ii) for purpose at serial number 2 and eligibility below column number 5 in items number I.(c) in addition to (i) above, a Certificate from the department concerned.
  - (iii) for purpose at serial number 2 and eligibility below column number 5 in item number 2, an attested copy of Award/certificate.
  - (iv) for purpose at serial number 2 and eligibility below column number 5 in item number 3, the documents as may be asked by the Government for its satisfaction regarding the necessity and desirability to evaluate merit for such permission.
  - (ii) In case of any other applicant. Essentiality Certificate from the concerned department.
  - (iii) In case of non-agriculturist seeking to sell any land or building purchased after obtaining permission under section 118, proof of utilization for the purpose for which permission was obtained from relevant department or local body concerned within the period allowed for utilization.]
- (6) <sup>2</sup>Notwithstanding anything contained above, for setting up an investible project only the following documents need to be attached with the application form:-
  - (i) Latest copy of Jamabandi
  - (ii) Tatima shajra.
  - (iii) Affidavit of the transferor stating that after the proposed transfer of land for the proposed industrial unit, he/she will not become landless, and even if so he/she

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<sup>1</sup> Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2014

<sup>2</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

will not claim any benefit/land under any scheme prepared for the benefit of landless persons: and

- (iv) Essentiality Certificate from the Industries Department indicating that the land proposed to be purchased is the minimum required for the proposed industrial unit.”

**[Form LR-XV]**

<sup>1</sup>[Proforma for issuance of Essentiality Certificate

(see sub-rule (3) No. 1, 5, 6 & 7)

**PART-I**

Government of Himachal Pradesh  
Department of \_\_\_\_\_

No. \_\_\_\_\_ Dated : \_\_\_\_\_ Place \_\_\_\_\_

**ESSENTIALITY CERTIFICATE**

This is to certify that land/land & building measuring upto \_\_\_\_\_ of private land in District \_\_\_\_\_ is essentially required by M/s \_\_\_\_\_ (complete address) for the purpose of \_\_\_\_\_.

Authority concerned.

<sup>2</sup>**[PART-II**

2. Preliminary Project Report”.

<sup>1</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

<sup>2</sup>Substituted vide H.P. Tenancy and Land Reforms (Amendment) Rules, 2019

**[Part-1]**  
**(Tenancy)**

**Notifications, Instructions and Clarifications issued under the Himachal Pradesh Tenancy and Land Reforms Act, 1972 [Except Section-118]**

<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	The H.P. Govt. Department Notification No. 1-8/68-Rev.I. dated 29.03.1975	Notification	Delegation of Powers to Revenue officers.	309
2.	The H.P. Govt. Department letter No. 10-32/72-Revenue-B Dated 07.05.1976	Instruction	Interpretation of section 104 of the H.P. Tenancy and Land Reforms Act, 1972	311
3.	The H.P. Govt. Department letter No. 10-32/72-Revenue-B Dated 05.11.1976	Clarification	Felling of trees by the tenants and grant of lease of Government land	312
4.	The H.P. Govt. Department letter No.10-32/72-Revenue-B Dated: 22.03.1977.	Clarification	Felling of trees by the tenants and grant of lease of Government land	313
5.	The H.P. Govt. Department letter No.Rev.2F(5) -2/77 Dated : 31.08.1978.	Instruction/ Clarification	Resumption of land by landowners under section 104 of the Himachal Pradesh Tenancy and land reforms Act, 1972	314
6.	The H.P. Govt. Department letter No.Rev.2 F (9)4/91 Dated: 15.12.1992	Instruction/ Clarification	Procedure of recording tenancy in the revenue record	315
7.	The H.P. Govt. Department letter No. Rev.D(F)6-9/91 Dated: 28.12.1993.	Instruction	Bar of transfer of ownership rights by an owner who acquires land under section 104 of the H.P. Tenancy and Land Reforms Act, 1972	317
8.	The H.P. Govt. Department letter No. Rev-A(B)3-10/98 Dated: Shimla-2, 03.10.2007.	Instruction/ Clarification	Conferring proprietary right of Devta's land upon its "non-occupancy tenant" under section 104(3) of HP Tenancy & Land Reforms Act	319
9.	The H.P. Govt. Department letter No. Rev.B.F.(10)-287/2011 dated 21.07.2012	Clarification	Registration of built up structures as per amendments carried out in H.P. Tenancy and Land Reforms Rules, 1975	321

## NOTIFICATION

Under

### THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972

#### APPOINTMENT AND DELEGATIONS

#### REVENUE DEPARTMENT

Notifications

Shimla-2, dated the 29<sup>th</sup> March, 1975

**No. 1-8/68-Rev.I.**-In exercise of the powers vested in him under sub-section (1) of section 86 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to confer on all the Tehsildars in Himachal Pradesh all the powers exercisable by an Assistant Collector of First Grade, for the purposes of Chapter IX of the aforesaid Act, within their respective jurisdiction, with immediate effect.

Shimla-2, dated the 29<sup>th</sup> March, 1975

**No. 1-8/68-Rev.I.**- In exercise of the powers vested in him under sub-section (1) of section 93 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to appoint all the Tehsildars in Himachal Pradesh, who have been conferred the powers of Assistant Collector First Grade, vide this government notification of even number and date, as the land Reforms Officer for carrying out the purposes of Chapter IX of the aforesaid Act, within their respective jurisdiction, with immediate effect.

(R.H.P., dated the 24<sup>th</sup> May, 1975, p.506)

Shimla-2, the 27<sup>th</sup>/29<sup>th</sup> September, 1975

**No. 1-8/68-Rev.I.**-In exercise of the powers vested in him under sub-section (1) of section 86 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to confer on all the Tehsildars in Himachal Pradesh all the powers exercisable by an Assistant Collector of First Grade, for the purposes of Chapter X of the aforesaid Act, within their respective jurisdiction, with immediate effect.

#### REVENUE DEPARTMENT

*Notification*

Shimla-2, the 27<sup>th</sup>/29<sup>th</sup> September 1975

**No. 1-8/68-Rev.I.**- In exercise of the powers vested in him under sub-section (1) of section 93 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to appoint all the Tehsildars in Himachal Pradesh, who have been conferred the powers of Assistant Collector First Grade, vide this government notification of even number and date, as the land Reforms Officer for carry out the purposes of Chapter X of the aforesaid Act, within their respective jurisdiction, with immediate effect.

Shimla-2, the 27<sup>th</sup>/29<sup>th</sup> September, 1975

**No. 1-8/68-Rev.I.**-In exercise of the powers vested in him under sub-section (1) of section 86 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to confer on all the sub-Divisional Officers (Civil) in Himachal Pradesh all the powers exercisable by an Assistant Collector



of First Grade for the purposes of the said Act except Chapters IX and X of the said Act, within their respective jurisdiction , with immediate effect.

(R.H.P., dated the 4<sup>th</sup> October, 1975, P 1283)

Shimla-2, the 22<sup>nd</sup> January, 1976.

**No. 1-8/68-Rev.I.-** In exercise of the powers vested in him under sub-section (1) of section 86 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act. 8 of 1974) and all the powers enabling him in this behalf the Governor, Himachal Pradesh is pleased to confer on all the sub-Divisional Officers (Civil), Dalhousie, all the powers exercisable by an Assistant Collector of First Grade for the purposes of Chapters IX and X of the aforesaid Act, within the jurisdiction of Bhattiyat Tehsil during the period the Tehsildar Bhattiyat remains on leave.

(R.H.P., dated the 31<sup>st</sup> January, 1976, P 141)

Shimla-2, the 22<sup>nd</sup> January, 1976.

**No. 1-8/68-Rev.I.-** In exercise of the powers vested in him under sub-section (1) of section 93 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act. 8 of 1974) and all the powers enabling him in this behalf the Governor, Himachal Pradesh is pleased to appoint sub-Divisional Officers (Civil), Dalhousie, who has been conferred the powers of Assistant Collector, First Grade, vide this Government Notification of even number and date, as the Land Reforms Officer for carrying out the purposes of Chapters IX and X of the aforesaid Act, within the jurisdiction of Bhattiyat Tehsil during the period the Tehsildar Bhattiyat remains on leave.

(R.H.P., dated the 7<sup>th</sup> February, 1976, P 165)

No. 10-32/72-Revenue-B  
 Government of Himachal Pradesh  
 Revenue Department

From

The Under Secretary (Revenue)  
 to the Government of H.P.

To

All the Deputy Commissioners,  
 in Himachal Pradesh.

Shimla-171002, dated the 7<sup>th</sup> May, 1976.

Subject: Interpretation of section 104 of the H.P. Tenancy and Land Reforms Act, 1972-  
 Clarification.

Sir,

I am directed to say that it has been brought to the notice of the Government that some Revenue Officers are not attesting mutations of ownership in favour of the non-occupancy Tenants of Temples under section 104 of the Himachal Pradesh Tenancy Land Reforms Act 1972. It is hereby clarified that such lands are not exempted from the purview of section 104 of the Act *ibid* and the mutations in favour of such tenants have to be attested. It is further clarified that such religious institutions and Temples in the capacity of landowners are entitled to resume land under the said section.

Jai Hind.

Yours faithfully,

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-171002, dated the 7th May, 1976.

Copy forwarded for information to Sh. Narotam Dass, Village and Post Office Karsog, Tehsil Karsog Distt. Mandi H.P. with reference to his application dated 27-4-1976.

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

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No. 10-32/72-Revenue-B  
 Government of Himachal Pradesh  
 Revenue Department

From

Shri P.K. Mattoo,  
 Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Divisional Commissioner  
 Himachal Pradesh, Shimla-171002.

Shimla-171002, dated the 5<sup>th</sup> November, 1976.

Sub: Implementation of Himachal Pradesh Tenancy and Land Reforms Act, 1972 Felling of trees by the tenants and grant of lease of Government land.

Sir,

I am directed to refer to your letter No.123-1/73-Commer dated the 2<sup>nd</sup> June, 1976 on the subject mentioned above and to say that there is no bar for imposing condition for not felling the trees by the tenants in respect of whom proprietary rights have been transferred under the Act. In this connection I am to state that an amendment to the Himachal Pradesh Tenancy and Land Reforms Act, 1972 has been proposed and will be issued as soon as possible, in the meantime, it is requested that necessary instructions may kindly be issued to all concerned to keep strict watch on the felling of trees by the tenants.

5. As regards the lease of land, for any purpose other than the agriculture purpose or subservient to such purposes and for orchards, ghasnies, only fall under the definition of the term 'Tenancy' as defined under section 2 (18) of the said Act. Any other lease such as for establishment of an industry or construction of a shop or residential house is not covered thereunder.
6. So far as the tenancies on government land for agricultural purposes are concerned, it may kindly be noted that no tenancies should be created/granted for agricultural purposes or for purposes subservient to agriculture or pasture in future.
7. The above instructions may kindly be brought home to each and every officer concerned in the districts. The receipt of this letter may also kindly be acknowledged.

Jai Hind.

Yours faithfully,  
 Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-171002, the 5 November, 1976.

Copy forwarded to All Deputy Commissioners in Himachal Pradesh for information and strict compliance of the instructions in question, this also disposes of Deputy Commissioner Kullu's D.O. letter No. 1570/DRA dated the 14<sup>th</sup>/23<sup>rd</sup> July, 1976 to the address of the Financial Commissioner Himachal Pradesh.

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No.10-32/72-Revenue-B  
 Government of Himachal Pradesh  
 Revenue Department

From

Shri H.S .Dubey,  
 Secretary (Revenue) to the Government of Himachal Pradesh.

To

The Divisional Commissioner,  
 Himachal Pradesh, Shimla-2.

Shimla-171002, dated the 22<sup>nd</sup> March, 1977.

Subject: Implementation of H.P. Tenancy and Land Reforms Act, 1972-Felling of trees by the tenants and grant of lease of Government land.

Sir,

I am directed to refer to this Deptt. letter of even number dated the 5.11.1976 on the subject cited above and to say that para 2 of the aforesaid letter may kindly be substituted as under:-

2. As regards the lease of Government, land for any purpose other than the agricultural purpose or for purpose subservient to agriculture or for pasture, it may be added that as confirmed by the Law Deptt. In case Government lands are leased out for construction of buildings, setting up of camps or industries etc., such leases will not create tenancies within the meaning of the expression "tenancy" as given in section 2(18) of the H.P. Tenancy and Land Reforms Act, 1972. it is further clarified that the expression "land" used in section 2(18) *ibid*, shall mean the land falling within the definition of "land" given in section 2(7) of the aforesaid Act, therefore, the lessees to whom Government lands are leased out for the purpose of setting up of industries construction of buildings, etc., shall not be entitled to acquire proprietary rights of the land under Chapter X of the Act.

Jai Hind.

Yours faithfully,

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Copy forwarded to All Deputy Commissioners in Himachal Pradesh for information and necessary action, in continuation of this Deptt. endt. of even number dated the 5th November, 1976.

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

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No.Rev.2F(5)-2/77  
 Government of Himachal Pradesh.  
 Revenue Department.

From

Sh. R.K .Dharmani,  
 Under Secretary to the Government, of Himachal Pradesh.

To

- (1) The Divisional Commissioner, Himachal Pradesh, Shimla.
- (2) All the Deputy Commissioners, in Himachal Pradesh.
- (3) All the Sub-Divisional Officers (civil) in Himachal Pradesh.
- (4) All the Land Reforms Officers (Tehsildars) in Himachal Pradesh.

Shimla-171002, dated the 31-8-1978.

Subject:- Resumption of land by landowners under section 104 of the Himachal Pradesh Tenancy and land reforms Act, 1972-Clarification regarding.

Sir,

On the matter of resumption of land by the landowners from the non-occupancy tenancy and Land Reforms Act, 1972 a point has arisen whether for the purpose of resumption, uncultivated account. The matter has been examined and the point is clarified as follows:-

Section 104 lays down that owners can resume land for personal cultivation upto three acres of unirrigated or 1 ½ acres of irrigated land from the non-occupancy tenants. The use of the expression irrigated land and un-irrigated land read with cultivated land is to be taken into account for computing the existing land held by the land owners for working out his entitlement for resumption of 3 acres of un-irrigated and 1½ acres of irrigated land and not the uncultivable land. In other words the sphere of choice is fortified to the cultivated land only. However, out of the cultivated land the first choice for selection of the tenants as the law provides.

Please acknowledge receipt.

Yours faithfully,

Sd/-

Ram Krishan Dharmani,  
 Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No.Rev.2 F (9)4/91  
 Government Of Himachal Pradesh  
 Department Of Revenue

From

The Financial Commissioner-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners, in Himachal Pradesh.
2. The Director of Land Records, Himachal Pradesh.
3. All the Deputy Commissioners, in Himachal Pradesh
4. The Settlement Officer, Kangra Division at Dharamshala/Shimla and Kinnaur Districts at Shimla.-171006.
5. The Settlement Officer (Consolidation) Hamirpur, H.P.
6. The Settlement Officer (Consolidation) Bilaspur, District Bilaspur, H.P.
7. The C.O.C. to Financial Commissioner (Appeals) H.P. Government

Shimla 171002, dated the 15<sup>th</sup> December, 1992.

Subject:- Procedure of recording tenancy in the revenue record.

Sir,

It has been noticed that the Patwaris generally record a person who cultivates or is in possession of any land as 'tenant' (Gairmaurosi in pencil during crop inspection without ascertaining the relationship of landlord and tenant. The Revenue Officer also, without going into facts of the case, attests such entry and the person is recorded as tenant (Gairmaurosi) in the khasra Girdawari or revenue record. Recording a tenant in such a summary manner adversely affects the right of a landlord. As soon as a person is entered as tenant (Gairmaurosi), he becomes the owner of the land under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. Thus, due to wrong action on the part of a patwari or a Revenue Officer, the landlord is deprived of his valuable properties. Besides, this also leads to un-necessary criminal and civil litigation.

2. Under Para 8.15 of the Himachal Pradesh Land Records Manual, 1992, the status of a landowner or tenant cannot be altered except. -

(a) by agreement of all the parties interested.

3. Again under rule 10A of the Himachal Pradesh tenancy and Land Reforms Rules, 1975, no entry showing the person to be a tenant by succession under section 45 or *otherwise* will be made in the record except through mutation.

4. Under rule 29 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, if there is a dispute regarding the entries of land records, the Land Reforms Officer in his capacity as an Assistant Collector of the First Grade shall decide the dispute under sub section (4) of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 in accordance with the relevant procedure of Himachal Pradesh Land Revenue Act, 1954.

5. In view of above provisions of the law, it is not desirable in the interest of justice to empower a patwari or a Revenue Officer or an Inspecting Officer to make entry of tenancy in the revenue record in a summary manner without following proper law and procedure.

6. It has been decided that notwithstanding anything contained in Himachal Pradesh Government Revenue Department letter No. 10-5/73-II, dated 4-9-1980 and clauses (f) and (g) of para 9.9 of Himachal Pradesh Land Records Manual neither the patwari nor an Inspecting Officer shall record any person as tenant during crop inspection. Tenancy shall only be recorded by the orders of a Revenue Officer not below the rank of Assistant Collector First Grade as per procedure prescribed below:-

The applicant shall apply to Assistant collector First Grade. After inquiry Assistant collector, 1st Grade shall pass an order to record tenancy in revenue record only with the consent of the interested parties on the basis of their written agreement, provided that the creation of tenancy is not in contravention of the provisions of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1968 or any other law. The entry of tenancy shall be made by way of mutation on the basis of the order of Assistant Collector First Grade.

7. These instructions shall also apply during the settlement and consolidation operations.

Yours faithfully,  
(I.S. Chandel)  
Joint Secretary (Revenue) to the Government  
of Himachal Pradesh Shimla-171002.

No.Rev.D(F)6-9/91  
 Government of Himachal Pradesh  
 Department of Revenue.  
 Shimla-171002, dated the 28-12-1993.

From

The Financial Commissioner-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners, in Himachal Pradesh.
2. All the Deputy Commissioners, in Himachal Pradesh
3. The Settlement Officer, Kinnaur and Shimla Districts at Shimla/Kangra Districts at Dharamshala(HP).
4. The Director of Land Records, Himachal Pradesh, Shimla.
5. The Director, Consolidation of Holdings, Himachal Pradesh, Shimla.

Subject:- Bar of transfer of ownership rights by an owner who acquires land under section 104 of the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to state that it has come to the notice of the Government that the bar of 10 years on transfer of land vested in a tenant under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, is being taken from the date of attestation of mutation of conferment of proprietary rights by the Revenue Officers on a tenant. This is not a correct interpretation of the law. The period of 10 years is to be computed from the date of coming into force of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 i.e., 3-10-1975 as laid down under rule 27 of the Rules *ibid*. If the entry of tenancy exists prior to the coming into force of these Rules in the revenue records and from the date the person is recorded as tenant *thereafter* in revenue records as laid down under proviso to sub section (3) of section 104 of the Act *ibid*.

2. It has been held by the Himachal Pradesh High Court in case titled "*Daulat Ram v. State of Himachal Pradesh*, (SLC 1979 pages 215-222) that once a person is entered as a tenant in the revenue records then notwithstanding any agreement etc., to the contrary the person so entered shall become the owner by virtue of the provision of sub-section (3) of Section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. The conferment of proprietary rights under the Act is automatic from the date of publication of the H.P. Tenancy and Land Reforms Rules, 1975 in the Official Gazette and the vestment of ownership shall be free from all encumbrances. These rules came into force with effect from the 3rd October, 1975. Therefore, the provision of law does not leave any room for doubt that a person who is entered as a tenant is to become the owner of land with effect from the date of entry in the revenue records on payment of compensation as prescribed under the Act.

3. From the law as explained above, it is clarified that in respect of old tenancies recorded in revenue records prior to the rules *ibid*, the date of coming into force of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 i.e., 3-10-1975 shall be taken as the date from which 10 years are to be computed for the purpose of section 113 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. In respect of those tenancies which are created and recorded in revenue records after 3-10-1975, the date of entry of tenancy in revenue records shall be computed for the purpose



of section 113 of the Act *ibid*. It may please be noted that the date of attestation of mutations shall not be taken into consideration for computing 10 years.

4. You are accordingly requested to adhere to these instructions meticulously, in future.

5. These instructions may be brought to the notice of all the Revenue Officers in your respective jurisdiction for guidance and entries made contrary to these instructions in the revenue records be corrected accordingly.

Please acknowledge receipt.

Yours faithfully,  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh, Shimla.  
Shimla-171002, dated the 28-12-1993.

Copy to:-

- (1) Revenue 'B' Section
- (2) Inspector Registration-cum-Stamp Auditor (Stamp Cell) for information and necessary action.

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh, Shimla.

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No. Rev-A(B)3-10/98  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner's  
 Shimla/Mandi and Kangra at Dharamshala (HP).
2. All the Deputy Commissioner's  
 in Himachal Pradesh.
3. The Settlement Officer's  
 Shimla and Kangra at D/Shala (HP).

Dated Shimla-2 the,                      3<sup>rd</sup> October, 2007

Subject: Instructions regarding conferring proprietary right of Devta's land upon its "non-occupancy tenant" under section 104(3) of HP Tenancy & Land Reforms Act.

Sir,

I am directed to invite your attention on the subject cited above and to say that in view of various Court ruling and legal position status regarding treating Devta's land-minor or otherwise, has been got examined from the Law Department. The Law Department has opined in the matter as under:-

The A.D. has raised following proposition for opinion of this department.

"The law Department is requested to offer advice in the matter of conferring proprietary right of Devta's land upon its "non occupancy tenant" under section 104(3) of H.P. Tenancy & Land Reforms Act in view of various Court ruling and legal position status regarding treating Devta's land minor or otherwise."

"The aforesaid proposition of the AD has been gone through in the Law Department in the light of provisions of section 104 of the HP Tenancy & Land Reforms Act, 1972 and the Court ruling on the subject matter in hand.

In this behalf it is pointed out that there is no provision in the HP Tenancy & Land Reforms Act, 1972 to exempt the temple lands from the operation of the provisions of section 104(3) of the Act. As such, the temple lands cannot be exempted from the operation of section 104(3) of the Act *ibid*. Further, temple lands does not fall within any category mentioned in sub-section (8) of section 104 of the Act *ibid* and therefore, this provisions is also not applicable to temple lands. Further, the word "minor" has no where been defined in the Act and as such it will have to be assigned its ordinary meaning and the temple/deity does not fall within the ordinary meaning of the minor. As such, the temple/deity can not be treated as minor for the purpose of the said Act.

So far as the legal position based on the rulings of Hon'ble Court's on the subject matters in hand is concerned in this behalf it is pointed out that the Hon'ble Supreme Court in case AIR 1999 SC.2131 has held that Hindu Law recognizes Hindu idol as a judicial subject being capable in law

of holding property by reason of the Hindu Shastras following the status of a legal person in the same way as that of a natural person.

On the question as to whether Hindu idol/deity is a minor or not the Hon'ble High Court in case ILR 1972 page 142 titled as Negi Ram Vs. Mandir Shivaji Maharaj held that Hindu idol is not a minor and therefore not entitled to the exemption under section 104(8) of H.P Tenancy and land Reforms Act.

Hence, in view of the legal position explained above this department is of the considered opinion that the non occupancy tenants can be conferred proprietary rights of Devta's land".

You are requested that the advice of the Law Department may be kept in view while deciding such cases by the Revenue officers.

Yours faithfully,  
-sd-  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla-2 the, 3<sup>rd</sup> October, 2007.  
Copy forwarded to the Deputy Secretary (Revenue) to the Government of Himachal Pradesh for information.

-sd-  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.F.(10)-287/2011  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Principal Secretary (Town and Country Planning),  
 Government of Himachal Pradesh.

Dated: Shimla-2, the 21<sup>st</sup> July, 2012

Subject: Regarding registration of built up structures as per amendments carried out in H.P. Tenancy and Land Reforms Rules, 1975.

Sir,

I am directed to say that as per requirement of Rule 38-A (3) (c) of the H.P. Tenancy and Land Reforms Rules, 1975 (amended vide notification No. Rev.B.A.(3)-5/2000-I dated 23.12.2011), built up building or part thereof for residential purpose is to be registered with the Town and Country Planning Department in areas where town and Country Planning Department has not already issued NOC/approval for construction of building to the seller.

It has been observed that the department is refusing to register the structures which do not fulfill the norms fixed by the Department but were constructed prior to coming into force of the above said rules. However, in the case of areas notified in planning areas, prior construction need not conform to the specified norms and is given NOC on this basis. It is appropriate that similar policy should guide NOC for buildings constructed in non planning areas and for which permission under section 118 is being sought.

In this regard, it is therefore, requested that since the preliminary notification for amendment of HP Tenancy and Land Reforms Rules, 1975 was issued on 29.07.2011, such structures/buildings which have been constructed before the aforesaid notification, may kindly be registered granted NOC on similar lines as has been/ is being done in case of prior construction in notified planning areas.

Yours faithfully

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh  
 21<sup>st</sup> July, 2012

Endst. No. As above.

Dated: Shimla-2,

Copy forwarded to:-

1. The Director, Town and Country Planning Department, Shimla-9 for similar necessary action.
2. The Town & Country Planner, Division Town Planning Office, Solan, H.P. with reference to registration certificate issued in the name of Sh. Rajesh Kumar (photo copy enclosed), for similar necessary action.
3. Copy for file No. Rev. B.A.(3)-5/2000-II for record

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh

**[Part-2]**  
**(Agriculturist Status)**

**Instructions and clarification relating to Agriculturist Status under H.P. Tenancy and Land Reforms Act, 1972.**

<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	HP Govt. Letter No. Rev. 2E(5)2/77-II dated 30.09.1988.	Clarification	Definition of Agriculturist	324
2.	The H.P. Govt. Department letter No. Rev-2F(10)93/91 Dated 07.08.1991.	Clarification	Agriculturist status of Radha-Swami Satsang Beas.	326
3.	The H.P. Govt. Department letter No. Rev-B.F.(5)-7/2001 Dated 30.04.2002	Clarification	Non-Agriculturist husband married to Himachali Agriculturist girl.	327
4.	HP Govt. Letter No. Rev.B.A.(3)-3/99-Loose dated 09.10.2006	Clarification	Agriculturist Status of persons rendered Landless due to acquisition of land or due to vesting of land in tenants.	328
5.	HP Govt. Letter No. Rev.B.A.(3)-3/99 dated 02.04.2007	Clarification	Agriculturist Status of person owning a proprietorship firm.	329
6.	HP Govt. Letter No. Rev.B.A.(3)-3/99-Loose dated 19.05.2007	Clarification	Agriculturist Status of owners of gair-mumkin type of land.	330
7.	HP Govt. Letter No. Even dated 06.08.2007	Clarification	Agriculturist Status of proprietor firm.	332
8.	HP Govt. Letter No. Rev.B.A.(3)-3/99-Loose dated 23.10.2007	Clarification	Agriculturist Status	335
9.	HP Govt. Letter No. Rev.B.A.(3)-3/99-Loose dated 13.05.2008	Clarification	Agriculturist Status	336
10.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-Loose dated November, 2008	Clarification	Agriculturist Status	338
11.	The H.P. Govt. Department letter No. Rev-B.F.(10)253/2008 Dated 21.02.2009.	Clarification	Agriculturist Status of H.P Shiksha Samiti.	339
12.	HP Govt. Department Letter dated 18.03.2010	Instruction	Procedure for issueing Agriculturist Certificate.	340
13.	The H.P. Govt. Department letter No. Rev-B.A.(5)-8/2001 Dated 24.05.2010.	Instruction/ Clarification	Withdrawal of clarification related to Non-Agriculturist Husband.	342
14.	The H.P. Govt. Department letter No. Rev.B.A.(3)-1/2010 dated Shimla-2, the 26.05.2010	Instruction	Procedure for issuance of agriculturist certificates	343
15.	The H.P. Govt. Department letter No. Rev-B.A.(3)1/2010 Dated 14.07.2010	Clarification	Agriculturist Status (Banjar-Jadid and Banjar Kadeem Land)	344

16.	The H.P. Govt. Department letter No. Rev-B.A.(3)1/2010 Dated 14.07.2010	Instruction/ Clarification	Agriculturist Status (Gair Mumkin Makan)	345
17.	HP Govt. Letter No. Rev. B.A.(3)-1/2010 dated 12.12.2011	Instruction/ Clarification	Agriculturist Status (Himachali female person married to non-agriculturist)	346
18.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-III dated 12.03.2012	Instruction/ Clarification	Agriculturist status (purchaser of evacuee land)	347
19.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-I-Loose dated 02.07.2012	Instruction/ Clarification	Agriculturist Status (Acquisition of land and vesting of land in tenants.)	348
20.	HP Govt. Letter No. Rev.B.A.(3)-1/2010-I dated 10.09.2012	Instruction/ Clarification	Agriculturist Status (landless due to Will)	349
21.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-I-Loose dated 26.07.2013	Instruction/ Clarification	Agriculturist Status (Children of female person married to non-agriculturist)	350
22.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-1 dated 12.09.2014	Instruction/ Clarification	Agriculturist Status (deprivation on account of Will or selling of entire agricultural land.)	351
23.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-I dated 07.10.2014	Instruction/ Clarification	Agriculturist Status	353
24.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-I dated 26.11.2014.	Clarification	Agriculturist Status (Daughter-in-law)	354
25.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-I dated 24.03.2015.	Clarification	Agriculturist Status (deprivation by Will or otherwise)	355
26.	HP Govt. Letter No.Rev.B.A.(3)-5/2000-II-loose- dated 11.04.2016	Clarification	Agriculturist Status (deprivation on account of Will or otherwise)	356
27.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-1 dated 20.05.2016	Instruction/ Clarification	Agriculturist Status (Persons married to Himachali Agriculturist girls)	357
28.	HP Govt. Letter No. Rev. B.A.(3)-1/2010-1-loose dated 08.09.2016.	Instruction/ Clarification	Agriculturist Status (Persons married to Himachali Agriculturist girls)	358
29.	HP Govt. Letter No. Rev.B.A.(3)-1/2016 dated 02.03.2020	Clarification	Agriculturist Status	359
30.	The H.P. Govt. Department letter No. Rev.B.A.(9)8/2020 dated Shimla-2, the 20.12.2021	Clarification	Agriculturist Status	360

**No. Rev.2E(5) 2/77-II**

**Classification of Definition of an Agriculturist  
Government of Himachal Pradesh  
Department of Revenue**

The Financial Commissioner-cum-Secretary (Revenue) to the Government of Himachal Pradesh, Shimla-171002.

- (i) All the Deputy Commissioners in Himachal Pradesh.
- (ii) All the Sub-Divisional officers(Civil) in Himachal Pradesh.
- (iii) All the Tehsildar in H.P.
- (iv) All the Naib Tehsildars in H.P.

Dated Shimla-171002, the 30<sup>th</sup> September, 1988.

Subject : Clarification of definition of an agriculturist.

Sir,

I am directed to say that it has been brought to the notice of the Govt. that some Registrars/ Sub-Registrars are not entertaining the registration deeds evidencing sale of land in favour of married women, although their parent(s) happen(s) to be agriculturists within the meaning of section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

2. The expression "agriculturist" has been defined under sub-section (2) of section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, as under:-

"Agriculturist" means a person who cultivates land personally in an estate situated in Himachal Pradesh."

3. This definition has further been elaborated under sub-section (4) and (5) of this section which are also reproduced hereunder:-

"to cultivate personally" with its grammatical and cognate expression means-

- (i) by one's own account;
- (ii) by one's own labour.
- (iii) by the labour of any member of one's family;
- (iv) under the personal supervision of one self or any member of one's family, by hired labour or by servant on wages payable in cash.
- (v) "Family" means husband, his wife and their children including step or adopted children and include his parents, grand parents, brothers and unmarried, widowed and divorced sisters.

4. The act nowhere provides that the status of a child as an agriculturist shall change after he/she attains majority. This way it is clear that a daughter/son whose father owns land in H.P. and cultivates it "personally" is an agriculturist alright, since she/he is also one of the "children" of an agriculturist.

I am therefore to say that the sale deeds in such cases, should not be refused. The same holds good in respect of mutations also in such cases.

Yours faithfully,

Deputy Secretary (Rev. I)  
to the Government of Himachal Pradesh.

Endst. No. Rev. 2E(5)2/77, dated Shimla-2 the 30<sup>th</sup> Sept., 1988.

Copy forwarded to:-

1. The Divisional Commissioner Shimla/Mandi/Dharamsala.
2. The Settlement Officer, Kangra at Dharamsala/Shimla and Kinnaurs District at Shimla-171006.
3. The C.O.C. to the F.C. (Appeals) Government of H.P.

Deputy Secretary (Rev. I) to the  
Government of Himachal Pradesh.



No. Rev-2F(10)93/91  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Hamirpur, District Hamirpur, H.P.

Dated: Shimla-2 the, 07<sup>th</sup> August, 1991.

Subject: Attestation of land- Registry in respect of Charitable Hospital at Bhota-Clarification thereof.

Sir,

I am directed to refer to your letter No. R-2-Misc./959/DRDA, dated the 22<sup>nd</sup> July, 1991 seeking clarification for the purchase of land for Charitable Hospital at Bhota by Radha Swami Satsang and to say that the matter was referred to the Law Department who have opined in the matter as under:-

“Radha Swami Satsang is a religious society and can be said to be a juristic person within the meaning of section 2(35) of Himachal Pradesh Central Clauses Act. Being a juristic person, it can get its land cultivated through its hired labour. According to sub-section (2) of Section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, a person who cultivates land personally in an estate situated in Himachal Pradesh is an agriculturist. The expression “to cultivate personally” as defined in sub-section (4) of section 2 of the Act, *ibid*, a person can cultivate land through hired labour and will be called to have cultivated personally. Since the Radha Swami Satsang (Beas) is cultivating the land in Himachal Pradesh through hired labour or by servant on wages payable in cash, then it will fall within the expression of “agriculturist”.

It is requested that further action in the matter may kindly be taken accordingly.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev-B.F.(5)-7/2001  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioner's  
 in Himachal Pradesh.

Dated: Shimla-2 the, 30<sup>th</sup> April, 2002

Subject: Clarification regarding definition of Agriculturist under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to say that the cases are being referred to the Government for seeking clarification regarding definition of Agriculturist that whether a non Himachali/non-agriculturist who married a Himachali agriculturist female can also be considered as agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and permission to purchase land in the State of Himachal Pradesh as required under section 118 of the Act *ibid* is required for such non Himachali/Non agriculturist or not.

In this regard, it is clarified that section 118 of the H.P. Tenancy and Land Reforms Act, 1972 bars any transfer of land by way of exchange, lease, mortgage with possession or creation of Tenancy in favour of a person who is non-agriculturist. Under section 2(2) agriculturist is a person who cultivate land personally in an estate situated in Himachal Pradesh and in terms of section 2(4)(iii) "to cultivate personally" also includes by the labour of any member of the family. In terms of section 2(5) family "means husband, his wife, and their children including step or adopted children etc." The word "Land owner" as defined in section 2(10) means a person defined as such in H.P. Land Revenue Act, 1954 and shall include the predecessor or successor in interest of the land owner. From the combined reading of sub-section (2), (4), (5) and (10) of section 2 of the Act *ibid* it is clear that a husband who is successor in interest of his wife and being member of the family also falls in the expression "to cultivate personally" is an agriculturist for the purpose of section 118 of the Act in question and no permission as required by the said section is necessary.

However, it is also clarified that above clarification can not have uniform application in all cases because every land owner may not be an agriculturist. As such, every case has to be examined separately depending upon the nature facts of the case and the aforesaid clarification will be applicable only when the land owner in that case owns a agricultural land and cultivate the same personally within the meaning of section 2(4)(iii) of the Act *ibid*.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99-Loose  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Shimla, District Shimla, H.P.

Dated :Shimla-2, the 9-10-2006.

Subject: Clarification

Sir,

I am directed to refer to your letter No. SML.LRM 21 (inst.)/2006-3229, dated 28<sup>th</sup> July, 2006, on the subject cited above and to say that from the combined reading of provisions of section 2(5) and 118 (2)(f)(i) & (ii) of the H.P. Tenancy and Land Reforms Act, 1972 it is crystal clear that those persons who have become non-agriculturist on account of acquisition of his land for any public purpose under the Land Acquisition Act, 1894 or where land of such person has vested in the tenants under the provisions of H.P. Tenancy and Land Reforms Act, 1972 then in their case and in the case of their successors the permission under section 118 of the Act will not be required if such person/successors acquires land in the State of H.P.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla -2, the 9-10-2006

Copy forwarded to all the Deputy Commissioners in H.P. (Except Shimla District) for information.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99  
Government of Himachal Pradesh  
Department of Revenue

From

Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Solan, District Solan, H.P.

Dated :Shimla-2, the 02-04-2007

Subject: Clarification regarding issue of Agriculturist Certificate.

Sir,

I am directed to refer to your letter No. PSH/9-86-Part-7, dated 17<sup>th</sup> January, 2007, on the subject cited above and to say that matter has been examined under the provisions of H.P. Tenancy and Land Reforms Act, 1972, in consultation with the Law Department.

Since, the land in question has been recorded in the name of a firm in the revenue record since day one which has independent legal entity as such Smt. Bhupinder Kaur though proprietor of the firm can not be held an "agriculturist" to avail the facility of an agriculturist as per provisions of H.P. Tenancy and Land Reforms Act, 1972.

As per opinion of the Law Department even M/s P.A. Pinnion Dharampur can not be termed as an "agriculturist" being a juristic person and as such the proprietor or any other partner of the firm can not claim the benefits of an agriculturist. All the papers received with your letter referred to above are returned herewith in original.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

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No. Rev. B.A.(3)-3/99-Loose  
 Government of Himachal Pradesh  
 Department of Revenue

From

A.C.S.-cum-F.C.(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Shimla, District Shimla, H.P.

Dated :Shimla-2, the 19<sup>th</sup> May, 2007

Subject: Clarification.

Sir,

I am directed to refer to your letter No. SML.LRM21(Inst.)2006-5671, dated 12<sup>th</sup> December, 2006 and No. SML.LRM 21(Inst.)/2006-515, dated 3<sup>rd</sup> February, 2007, on the subject cited above and to say that the matter was got examined in consultation with the Law Department.

The Law Department has pointed out that the jamabandis of the land in question since the year 1950-51 to 2001-2002 either shows the classification of land Gair mumkin Kothi, Gair Mumkin Kawator, Gair Mumkin Ahata or Jai Safed and Jamabandi for the year 2001-2002. The relevant portion of the opinion tendered by the Law Department is as under:-

**From the combined reading of provisions of clause (2), (7) and (13) of Section 2 of the H.P. Tenancy and Land Reforms Act, 1972, it is clear that any person can be termed as “agriculturist” only when he cultivates land personally in any estate situated in Himachal Pradesh and in such eventuality the terms land means only such agricultural land which is put to agricultural purpose or for the purposes or subservient thereto. Further the term as per clause (13) of section 2 of the Act ibid terms orchards such a compact area of land, having fruit bearing tree grown thereon in such number that preclude, or when fully grown would preclude a substantial part of such land from being used for any agriculture purpose. Whereas in the instant case as per report of Patwari Halqua Station Ward Bara Shimla as stated in the report of Enquiry Officer SDO(C), Shimla (Rural) dated 7.7.2006, the trees of apples have been planted only two years back alongwith some other crops as reflected in Khasra Girdawari for the year 2001-2002.**

Thus the clarification raised on first issue of letter dated 12<sup>th</sup> December, 2006 is answered in the negative firstly the person who wants to avail the facility/benefit of an agriculturist should have been cultivating the land in the state of H.P. on the commencement of the H.P. Tenancy and Land Reforms Act, 1972, whereas it is not so in the instant case as per requirement of clause (2) of Section 2 of the Act ibid.

Secondly in order to determine as to whether the land is agricultural land as defined in the Act or no, what is required to be seen is the main and primary purpose for which it was or had been taken. Moreover, from the perusal of revenue entries in the Jamabandies till 2001-2002 and in other revenue record up to 2001-2002, no part of the property was being cultivated but the entire

property was shown as Gair Mumkin Kothi, Gair Mumkin Kawator, Gair Mumkin Ahata and Jai Safed etc. And it is only in the year 2001-2002 that a fraction of the land is shown to have been brought under cultivation either by sowing “Sarson”, “Chali” or by planting 19 apple trees only.

Hence, in view of the legal proposition explained above. Sh. Karandeep Singh can not be termed as an agriculturist on account of land owned and possessed by him bearing Khasra Number 804 measuring 795-11 Sq. Mts. as per Jamabandi for the year 2001-2002 situated in Up-Mohal Ridge, Tehsil Shimla(Urban) H.P. as his claim of an agriculturist is beyond the scope of the H.P. Tenancy and Land Reforms Act, 1972 and the agriculturist certificate issued in his favour is bad in the eyes of law being void ab-intio.

You are, therefore requested to take further necessary action in the matter as per opinion of the Law Department.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99-Loose  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Solan, District Solan, H.P.

Dated :Shimla-2, the 06-08-07

Subject: Clarification regarding issue of Agriculturist Certificate.

Sir,

In supersession of this Department letter of even number dated 2.4.2007, on the subject cited above I am directed to say that the matter has been re-examined in consultation of the Law Department has opined in the matter as follows:-

“Re-examined in the Law Department. This Department has gone through the judgement of the Court cited by the application and also the representation of Bhupinder kaur Purewal. This Department has also perused the classification of land including the ownership and possession of land as reflected in the Jamabandi of the year 1967 and 68 and jamabandi for the year 2002-03 Mauza Kumarada, Tehsil Kasauli, District Solan. From the perusal of the record it is an admitted fact that the land in question is in the owner and possession of a firm P.A. Pinion Dharampur, Kasauli and the land as per latest jamabandi has been recorded as Bagicha Bangar Deom and Ghasni. The applicant has represented that she is sole proprietor of the land belonging to the firm and she is personally cultivating that land. On the strength of these submission Smt. Bhupinder Kaur is claiming Agriculturist Certificate within the meaning of H.P. Tenancy and Land Reforms Act, 1972, the main contention of the applicant is that a firm does not have a legal entity therefore the land owned by a sole proprietor firm belongs to her and she is cultivating that land therefore she is entitled to Agriculturist Certificate.

Section 4 of Indian Partnership Act, 1932 defines the expression partnership as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. The persons who have entered into partnership with one another are called individually a partners and collectively a firm and the name under which there business is carried on is called the firm name.

It is clear from this provision that the word firm or the firm name is merely a compendious description of all the partners collectively.

The above contention of the applicant has been examined in the light of the law laid down by the Hon'ble Supreme Court from time to time. In Malawar Fisheries Co. Vs. C.I.T. (1989) 120 IPR 49, the Hon'ble Supreme Court while examining the entity of a partnership firm has observed as under:

**“It seems to us clear that a partnership firm under the Indian Partnership Act, 1932, is not a distinct legal entity apart from the partners constituting it and equally in law the firm as such has no separate rights of its own in the partnership assets and when one talks of the firm’s assets all that is meant is property or assets in which all partners have joint or common interest.”**

The Calcutta High Court in *CWT Vs. Sh. Norang Raj Aggarwals* (1985) 155 ITR 752 relating to the claim for exemption by partner of the value of the share of the house that belong to the firm U/S 5(1) (iv) held that the firm was not a legal entity and the property of the firm belongs to all its partners. Calcutta High Court in still another case *corporation of Calcutta Vs. M/S United Oil Mills and ors* AIR 1968 Calcutta 342 again held that in case of proprietorial firm and firm has no separate legal entity apart from its proprietor, the firm name being another name of the proprietor himself. Such a view has also been taken by the Hon’ble Supreme Court in case *Juggi Lal Kamalpat Bankers Vs. Wealth Tax officer* (1984) 145 ITR 482.

In the light of aforesaid decision of the Hon’ble Supreme Court and Calcutta High Court there is no manner of doubt that a partnership firm under the India Partnership Act, 1932 has no distinct legal entity apart from partner constituting it and equally in law. The firm as such has no separate right of its own in the partnership assets and the property of the firm in law belonged to its partners.

In the instant case, P.A. Pinion is a sole proprietorship firm and by applying the law referred to above it can safely be concluded that Bhupinder Kaur Purewal who is sole proprietor of the firm is in fact the owner of the said land.

Section 2(2) of the H.P. Tenancy and Land Reforms Act, 1972 defines that expression the Agriculturist means a person who cultivate land personally in an estate situated in H.P. to Cultivate personally has further been defined in section 4 means:-

- (i) by one’s own account;
- (ii) by one’s own labour;
- (iii) by the labour of any member of one’s family; or
- (iv) under the personal supervision of one-self or any member of one’s family by hired labour or by servant on wages payable in case.

If Smt. Bhupinder Kaur Purewal who is sole proprietor of the firm is actually on the spot is cultivating the land as per classification of land recorded in Jamabandi for the year 2002-03 then she can be issued agriculture certificate in view of the fact that as per law laid down above the property of the firm in law belongs to the partner and particularly when the land in question is owned and possessed by sole proprietorship since 1966-67. However, it is pertinent to point out that in General Power of Attorney executed by Bhupinder Kaur in favour of Herbinder Singh Purewal on 11-12-1992 as available in the file clearly point out that the firm in the name and style of M/s P.A. Pinion Kasauli Dharampur is engaged in the manufacture of watch component and precision part. Thus, if the entire land of the firm is occupied by the firm for establishing factory to manufacture watch components than in such



a situation Smt. Bhupinder Kaur Purewal even being sole proprietor of the firm can not be given Agriculturist Certificate because in such a situation she can not be said to be cultivating the land personally.”

You are, therefore, requested to ascertain the factual position about the land being used by the aforesaid firm as per opinion of law department reproduced above and proceed further accordingly.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

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No. Rev. B.A.(3)-3/99-Loose  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Shimla, District Shimla, H.P.

Dated :Shimla-2, the 23-10-07

Subject: Clarification.

Sir,

I am directed to refer to your letter No. SML.LRM21(Inst.)/2006-2083 dated 4<sup>th</sup> August 2007, on the subject cited above and to say that the matter was got re-examined in the Law Department. The relevant portion of the opinion tendered by the Law Department in the matter is reproduced below:-

**“The AD has clearly stated that the representationist inherited the land in the year 1992 and the land was substantially put to agriculture use prior to 1972 also. The AD has further informed that presently also the substantial portion of land is also under Bagicha as per Khasra Girdawari. Now the question is as to whether benefit of an agriculturist can be given to Karandeep Singh or not in view of the facts sated by the AD.**

**The term agriculturist has been defined in section 2(2) of H.P. Tenancy and Land Reforms Act, 1972 according to which an agriculturist means a person who cultivates land personally in an estate situated in Himachal Pradesh. The form cultivate personally has further been defined in section 2(4) means:-**

- (i) by one’s own account;**
- (ii) by one’s own labour;**
- (iii) by the labour of any member of one’s family; or**
- (iv) under the personal supervision of one-self or any member of one’s family by hired labour or by servant on wages payable in case.**

**The AD is advised to make an enquiry as to whether Sh. Karandeep Singh is actually cultivating the land within the meaning of Sub-Section (2) of Section 2 read with Sub-Section (4) of Section 2 then he can be given the benefit of agriculturist.”**

The land is being used as Bagicha which is form of cultivation and as such Sh. Karandeep Singh is an agriculturist.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99-Loose  
Government of Himachal Pradesh  
Department of Revenue

From  
F.C.-cum-Pr. Secretary(Revenue) to the  
Government of Himachal Pradesh.

To  
The Settlement Officer,  
Shimla Division, Shimla-9

Dated :Shimla-171002, the 13/05/2008

Subject: Clarification of definition of an agriculturist.

Sir,

I am directed to refer to your letter No. Rev(ST)SML/Pe/1-119/2004, dated 7<sup>th</sup> December, 2007, on the subject cited above and to say that matter has been examined in consultation with the Law Department and it has been concluded that through the name of Sh. Partha Sarthi Mitra is not directly referred as hold of the proprietary rights in the revenue record yet his case is squarely covered under the definition of term "agriculturist" in view of the provisions sections 2(2), 2(4) and 2(5) of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 and as such he can be termed as an agriculturist as per the scheme of the Act, *ibid.* the opinion tendered by Law Department is also enclosed.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated :Shimla-2, the 13<sup>th</sup> May, 2008

Copy alongwith above referred enclosure is forwarded to Sh. Parthasarthi Mitra, Set No. 17, Type-V, Kasumpti, Shimla-9 with reference to his letter dated 5<sup>th</sup> April, 2008 for information.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Law Department**

N-26 (ante)-Re-examined in the Law Department. From the perusal of record placed on file it is seen that the land in question has been purchased before the commencement of the H.P. Tenancy and Land Reforms Act, 1972. Now the question which remains for consideration is as to whether Sh. Parth Sarthi mitra can be termed as an agriculturist as per provisions of Act ibid particularly when the land purchased/owned by his grand-father has been mutated in the name of his son by way of will.

In this behalf it is pointed out that the report of Naib Tehsildar, dated 27.10.2007, as contained at page 6/Corr, also states that the land in question was purchased by the great-grand-father of Sh. Rudraksha (son of Sh. Partha Sarthi Mitra) before the commencement of the H.P. Tenancy and Land Reforms Act, 1972.

Now in terms of provisions of clause (2) (4) & (5) of Section 2 of the Act ibid and Report of Naib Tehsildar it is seen that the land in question stands purchased before the commencement of the Act ibid by grand father of Sh. Partha Sarthi Mitra and it had been willed in favour of his son Sh. Rudraksha by his grand father. Now on the question of agriculturist status of Sh. Partha Sarthi Mitra it is pointed out that the Explanation below clause (4) of Section 2 of the Act provides that in the case of a Joint family the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family. Further, clause (5) of Section 2 of the Act defines the term "family" as under:-

(5) "Family" means husband, his wife their children, including step or adopted children, and includes his parents, grand parents, brothers and unmarried, widowed separated and divorced sisters."

Meaning thereby though the name of Sh. Partha Sarthi Mitra is not directly referred as holder of the proprietary rights in the revenue record yet his case is squarely covered under the above definition and he can be termed as an agriculturist as per scheme of the Act ibid.

This has the approval of Pr. Secretary (Law).

-sd-

DLR-Cum-Dy. Secretary Law (O) to the  
Government of Himachal Pradesh

Secretary (Rev) (out)

-sd-

Jt. Secy (Rev.)

No. Rev. B.A.(3)-1/2008-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Pr. Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Hamirpur, District Hamirpur, H.P.

Dated :Shimla-171002, the                      November, 2008

Subject:            Regarding agriculturist Certificate.

Sir,

I am directed to refer to your letter No. S.K.O.K(Hida.)-6021, dated 4<sup>th</sup> August, 2008, on the subject cited above and to say that the provisions of Section 2(2), 2(4) and 2(5) Himachal Pradesh Tenancy and Land Reforms Act, 1972 are very clear with regard to preposition raised by you. From combined reading of aforesaid provisions it is clear that Smt. Sita Devi wife of late Sh. Nand Lal son of Late Sh. Gokul and Sh. Kishan Chand son of late Sh. Gokul are agriculturists being covered under the definition of expression, "family" of an agriculturist as defined in section 2(5). Moreover, the aforesaid applicant are legal heirs of late Sh. Gokul who was an agriculturist, but have been deprived to inherit property by late Sh. Gokul by way of Hibbanama in favour of one of his son Sh. Lekh Ram.

So far as issuance of certificate is concerned, the same will be issued by the Tehsildar of area where agricultural land is situated.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.F.(10)253/2008  
Government of Himachal Pradesh  
Department of Revenue.

From

F.C.-cum-Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Shimla, District Shimla.

Dated: Shimla-2 the, 21<sup>st</sup> February, 2009.

Subject: Application for permission to purchase of land under the provision of H.P. Tenancy and Land Reforms Act, 1972 by Himachal Shiksha Samiti (Registered).

Sir,

I am directed to refer to your letter No.SML-LRM-21(7)/2008-1018751 dated June 12, 2008 on the above cited subject and to say that the Hon'ble Hight Court of Himachal Pradesh in CWP No. 1187 of 2004 titled Himachal Shiksha Samiti Vs. State of H.P. and another, which was decided on 04.05.2007 has held that 'Himachal Shiksha Samiti' is an agriculturist. As such the Samiti is not required to obtain permission under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 for acquiring land by way of purchase, gift, will, exchange, lease or in any other manner.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated : Shimla-2, the 21<sup>st</sup> February, 2009.

Copies to:-

1. General Secretary, Himachal Shiksha Samiti, Saraswati Vidya Mandir Parisar, Vikas nagar, Shimla-171009 with reference to their letter No. Hi.Shi.S.Shimla/2035/2008-09 dated 11.12.2008.
2. All the Deputy Commissioner in H.P.
3. All the Tehsildars in Himachal Pradesh.

for information & necessary action.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Deputy Commissioners, in H.P.
2. The settlement Officers, Shimla, Kangra at Dharamshala, H.P.
3. All the Sub-Divisional Officers (Civil), in Himachal Pradesh.
4. All the Tehsildars/Naib-Tehsildars , Himachal Pradesh.

*Dated : Shimla-2 the 18<sup>th</sup> March, 2010.*

**Subject – Procedure for issuance of Agriculturist Certificate.**

Sir,

I am directed to say that the procedure for issuing various certificates has been detailed in Chapter 28 of THE HIMACHAL PRADESH LAND RECORDS MANUAL (REVISED EDITION 1992)", but the procedure for issuance of agriculturist certificate has not been given in the said Chapter. As such following procedure is prescribed herewith for issuing agriculturist certificates, which shall form part of aforesaid chapter:-

**Definitions** – The term "**Agriculturist**" shall have the same meaning as assigned to it in Himachal Pradesh Tenancy and Land reforms Act, 1972.

In section 2(2) the term "**Agriculturist**" has been defined as follows:-

(2) "**Agriculturist**" means a **Landowner** who **cultivates Land Personally** in an estate situated in Himachal Pradesh.

(4) "**To cultivate Personally**" with its grammatical variations and cognate expression means:-

- (i) by one's own account ;
- (ii) by one's labour
- (iii) by the labour of any member of one's family ; or
- (iv) Under the personal supervision of one-self or any member of one's family by hired Labour or by servant on wages payable in cash.

**EXPLANATION**-In the case of a joint family the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family ;

The term "family " has been assigned the following meaning in Section 2(5) as follows:-

(5)"Family " means husband, his wife and their children, including step or adopted children and includes his parents, grand parents , brothers and unmarried , widowed , separated and divorced sisters.

Further sub –section 2(10) defines the "land owner" as follows:-

(10) "land owner" , means a person defined as such in the Himachal Pradesh Land Revenue Act 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be , and shall include the predecessor or successor in the interest of the land owner.

**Competent Authority**- The Tehsildar or the Naib –Tehsildar (in Sub Tehsils) shall be competent authorities to issue agriculturist certificates within their respective jurisdiction.

**Procedure**-(1) The application who intends to obtain agriculturist certificate, shall submit the application Form –A-I (appended to these instructions), duly filled and verified by the patwaris concerned, to the Competent Authority.

(2) The Competent Authority shall satisfy himself/herself about the correctness of the contents of the application and verification made by the Patwari. He/She make further inquiry as deems necessary

In the matter before issuing the certificate.

(3) After satisfying himself/herself about the correctness of the contents of application and report of the Patwari concerned ,the competent Authority shall issue agriculturist certificate to the applicant as per FORM appended to these instructions and shall keep record thereof on the Register appended as FORM R-2 to the instructions.

### **CLARIFICATIONS**

The State Government has issued clarification regarding definition of an Agriculturist vide letter No. Rev.2 E(5)2/77-II, dated 30<sup>th</sup> September , 1988. It has been clarified that the Act nowhere provides that the status of a child as an agriculturist shall change after he/she attains majority. This way it is clear that a daughter /son whose father owns land in H.P. and cultivates it “personally” is an agriculturist, since she /he is also one of the “children “of an agriculturist.

Further, the government vide letter No. Rev.B.F(5) -7/2001 , dated 30<sup>th</sup> April ,2002 has issued clarification regarding definition of agriculturist for the purpose of Section 118 of the Himachal Pradesh Land Reforms Act, 1972. The Government has clarified that a non-agriculturist who married a Himachali agriculturist female and is successor in interest of his wife is covered under definition of term “agriculturist” in terms of provisions of Sub-Section (2), (4), (5) and (10) of Section 2 of the H.P. Tenancy and Land Reforms Act, 1972.

However, it has also been clarified that above clarification can not have uniform application in all cases because every land owner may not be an agriculturist.

### **DIRECTIONS**

It has been observed in the recent past that some unscrupulous persons are managing to purchase land in the State of Himachal Pradesh on the basis of fake agriculturist certificates.

In order to avoid this practice it has become imperative to get the agriculturist certificates verified from the concerned Tehsildar/Naib-Tehsildar who has issued such certificate before registering the deeds with regard to transfer of land in the State.

All the Registrar and Sub-Registrars are hereby directed that they should get the agriculturist certificate verified from the Tehsildar/Naib-Tehsildar concerned, before registering deeds with regard to transfer of land.



No. Rev-B.A.(5)-8/2001  
Government of Himachal Pradesh  
Department of Revenue.

From

ACS-cum-F.C. (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioner's  
in Himachal Pradesh.

Dated: Shimla-2 the, 24/05/2010

Subject: Clarification regarding definition of Agriculturist under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

I am directed to say that it has been brought to the notice of the Government that the instructions issued vide this Department letter No. Rev.B.F.(5)-7/2001 dated 30<sup>th</sup> April, 2002 regarding clarification of definition of Agriculturist under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 are being misinterpreted and misused by some unscrupulous persons just to obtain the status of agriculturist under the guise these instructions to defeat the main objective behind the enactment of section 118 of the Act *ibid*.

Hence, the aforesaid instructions are withdrawn immediately.

The receipt of this communication be also acknowledged.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated : Shimla-2, the 24/05/2010

Copy to file No. Rev.B.A.(3)-1/2010 for record and further necessary action.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-1/2010  
Government of Himachal Pradesh  
Department of Revenue.

From

The ACS-cum-F.C. (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Director,  
Land Records, Himachal Pradesh, Shimla-9
3. All the Deputy Commissioners  
in Himachal Pradesh.
4. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
5. All the Sub-Divisional Officers (Civil),  
in Himachal Pradesh.
6. All the Tehsildars/Naib-Tehsildars  
in Himachal Pradesh.

Dated: Shimla-2, the 26.05.2010

Subject: Procedure for issuance of agriculturist certificates.

Madam/Sir,

I am directed to say that the government have withdrawn the instructions issued vide this department letter No.Rev.B.A.(5)-7/2001 dated 30<sup>th</sup> April, 2002 regarding clarification of definition of Agriculturist under section 118 of the HP Tenancy and Land Reforms Act, 1972 vide letter No. Rev.B.A.(5)-8/2001 dated 24<sup>th</sup> May, 2010 as the same are being misinterpreted and misused.

Hence, the procedure laid down for issuance of agriculturist certificates; vide this Department letter of even number dated 18.03.2010 is modified to the extent that second and third paras of "**CLARIFICATIONS**" part which was based upon the aforesaid clarification dated 30<sup>th</sup> April, 2002, are withdrawn.

These instructions may be followed in letter and spirit. The receipt of this communication be also acknowledged.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.A.(3)1/2010  
Government of Himachal Pradesh  
Department of Revenue.

From

F.C.-cum-Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Chamba, District Chamba, H.P.

Dated: Shimla-2 the, 14-07-2010

Subject: Regarding procedure for issuance of agriculturist certificate.

Sir,

I am directed to refer to your letter No. CBA-SK-23(3)/80-Part-II-2190 dated 6<sup>th</sup> May, 2010, on the subject cited above and to say that the issue raised by you was examined in consultation with the Law Department and it has been concluded that a person who is owner of land recorded in revenue record as “Banjar Jadid” or “Banjar kadim” is eligible for issuance of an agriculturist certificate.

Yours faithfully,  
-sd-  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.A.(3)1/2010  
 Government of Himachal Pradesh  
 Department of Revenue.

From

F.C.-cum-Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Kangra at Dharamshala, H.P.

Dated: Shimla-2 the, 14-07-2010

Subject: Regarding procedure for issuance of agriculturist certificate.

Sir,

I am directed to refer to your letter No. 660/Bhu.Su, Sha. Dated 22<sup>nd</sup> April, 2010 on the subject cited and to say that no clarification is required on issue No. 1 and 2 as the same are clear from the provisions of H.P. Tenancy and land Reforms Act, 1972 and instructions issued vide this department letter of even number dated 18.3.2010. However, it is informed that as per definition of agriculturist given in Section 2(2), a person, who owns no land can not be termed as agriculturist of the State of H.P. Further, a person who was owner of cultivating land, but presently the status of land has changed to gair mumkin Makan, can not be termed as an agriculturist.

So far as issue No. 3 is concerned, the matter was examined in consultation with the Law Department and the Law Department has opined as follows:-

“The Himachal Pradesh Tenancy and land Act 1972 nowhere provide specifically that in order to be an “agriculturists” as person must own and cultivate specific minimum area of land in the State of Himachal Pradesh. Thus a person who owns few square meters of land in the State of Himachali Pradesh and is cultivating that land personally with the meaning of Sub-Section (4) of Section 2 of the Act, then he can be said to be an “agriculturist” within the meaning Sub-Section 2(2) of the Act.”

You are, therefore, advised to take action as per above mentioned opinion of the Law Department.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev-B.A.(3)-1/2010  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Shimla, District Shimla, H.P.

Dated: Shimla-2 the, 12<sup>th</sup> December, 2011.

Subject: Clarification regarding definition of agriculturist.

Sir,

I am directed to refer to your letter No. SML LRM 21 (Instruction)/2009, dated 5<sup>th</sup> March, 2011, on the subject cited above and to say that the matter regarding issuance of agriculturist certificate to Himachali female persons whose parents are agriculturist, but who are married to a non-agriculturist, has been examined in detail in consultation with the Law Department.

In this regard, it is clarified what a Himachali female person married to a non-agriculturist whether within or outside Himachal Pradesh where the parents of such a person are covered under the definition of Agriculturist in terms of Section 2 (2) of the Act is also an agriculturist because she is a landowner within the meaning of Section 2 (10) of the Act being successor-in-interest of her parents who are agriculturists of H.P. However, the successor-in-interest of such a female person married to a non-agriculturist shall not have the status of agriculturist. It is further clarified that persons who have become landless on account of acquisition of their entire land holdings will also be covered under the definition of agriculturist.

You are requested to direct all the Tehsildars/Naib-Tehsildars accordingly.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

12<sup>th</sup> December, 2011.

Endst. No. As above. Dated: Shimla-2, the

1. Copy forwarded to all the Deputy Commissioners in H.P. for information and similar necessary action.
2. Copy forwarded to Tehsildar, Kotkhai Tehsil Kotkhai, with reference to his letter No. 1466 dated 13.10.2011 for compliance.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-III  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Solan, District Solan, H.P.

Dated :Shimla-2, the 12<sup>th</sup> March, 2012

Subject: Dispute regarding status of agriculturists.

Sir,

I am directed to say that one Sh. Avinash Kumar son of Sh. Amrit Lal, R/o Kothi No. 365, Gaini Zial Singh Nagar, Ropar, Punjab has brought to the notice of the Government that his father had purchased evacuee land bearing khasra No. 1779/77, measuring 1 bigha in village Majra in the year 1983 by way of public auction. This land is being cultivated personally by legal heirs, but the agriculturist certificate bearing No. 486/2008 dated 30.01.2008 issued by revenue officer has been cancelled by the Tehsildar Nalagarh. The applicant has also brought to the notice of Government that there are a number of such cases in which such evacuee land was purchased by non-agriculturists in 1980s, but they are now enjoying the status of agriculturist and he is the only person whose certificate has been cancelled.

This issue was examined in detail and it has been concluded that since, at the time of such purchase of land in open auction, the purchasers were non-agriculturist of the State; as such they cannot attain the status of agriculturist after such purchase. Hence, an enquiry may be got conducted and agriculturists certificates issued in favour of non-agriculturists who purchased evacuee land in open auction, be got cancelled immediately and relevant entries in remarks column of concerned jamabandis be recorded.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated : Shimla-2, the 12<sup>th</sup> March, 2012.

Copy forwarded Sh. Avinash Kumar son of Sh. Amrit Lal, R/o Kothi No. 365, Gaini Zial Singh Nagar, Ropar, Punjab with reference to his representation dated 15.1.2012 addressed to Hon'ble Chief Minister, H.P. for information.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2010-I-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
in Himachal Pradesh.

Dated : Shimla-2, the 2<sup>nd</sup> July, 2012.

Subject :- Clarification regarding definition of agriculturist.

Sir,

I am directed to draw your attention towards provisions of clause (f) of Sub-Section (2) of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 which provides that nothing in sub-section (1) of said section, shall be deemed to prohibit the transfer of land in favour of a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the Land Acquisition Act, 1894 or vestment of his land in the tenants under this Act. Further in clause (10) of Section 2 of the H.P. Tenancy and Land Reforms Act, 1972, the term landowner also includes the successors and predecessors of a landowner, hence, the benefit of aforesaid clause (f) is to be provided to the successors and predecessors of a person whose land has either been acquired by the Government or vested in the tenants under the provisions of H.P. Tenancy and Land Reforms Act, 1972.

In view of above, it is requested that all the Tehsildars/Naib-Tehsildars may kindly be directed that in all such cases a certificate may be issued in favour of such person to the effect that he/she has become landless on account of acquisition of land owned by him or his predecessor in interest under the provisions of Land Acquisition Act, 1894 or vestment of land owned by him or as predecessor in interest in tenants under the provisions of H.P. Tenancy and Land Reforms Act, 1972 and is therefore, exempt from the requirement of section 118 about permission to transfer land in their favour.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2010-I  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Kangra at Dharamshala, H.P.

Dated : Shimla-171002, the 10-09-2012

Subject :- Application for issuance of agriculturist certificate Clarification thereof.

Sir,

I am directed to refer to your letter 278/S.K.-N.S.K. dated 13.02.2012, on the subject cited above and say that the issue as to whether a person whose father has "Willed" his entire land in favour of one or some of legal heirs depriving other, will be covered under the definition of agriculturist or not was examined in detail. As per provisions contained in section 2(2) read with Section 2(4) 2(5) and 2(10) of the H.P. Tenancy and Land Reforms Act, 1972, a person should be landowner or a successor or predecessor of a landowner, cultivating land personally at the time of his claim to be an agriculturist.

Hence, a person who has been deprived to be a landowner does not satisfy the provisions of aforesaid section and as such cannot be covered under the definition of agriculturist.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. As above.

Dated: Shimla-2, the 10-09-2012

Copy forwarded to all the Deputy Commissioners (except Kangra at Dharamshala) in H.P. for information.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.



No. Rev. B.A.(3)-1/2010-I-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioner,  
in Himachal Pradesh.

Dated : Shimla-171002, the 26/07/2013

Subject :- Clarification regarding definition of agriculturist.

Sir,

In partial modification of this departments letter of even number dated 12<sup>th</sup> December, 2011 which is addressed to the Deputy Commissioner, Shimla and copy thereof endorsed to all the Deputy Commissioners and another, on the subject cited above. I am directed to clarify that children of a female person, whose parents are agriculturists, but married to a non-agriculturist will be covered under the definition of "agriculturist" only if such female person acquires the ownership right through succession from her parents. However, it may be ascertained that such children fulfill the other requirements of Sub-section 2(4) of the H.P. Tenancy and Land Reforms Act, 1972.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2010-I  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All Deputy Commissioners  
 in Himachal Pradesh.

Dated : Shimla-171002, the 12<sup>th</sup> September, 2014.

Subject :- Clarification regarding definition of agriculturist.

Sir,

I am directed to say that the following issues are being raised by different quarters for seeking clarifications in this department;

1. An agriculturist has willed his/her entire agricultural land in favour of one of his legal heirs, depriving the others. In such a situation, as to whether the deprived LR's who were/are successors in interest of an agriculturist will be covered under the definition of agriculturist or not.
2. An agriculturist sells his entire agricultural land and some of his/her LR's purchased agricultural land prior to aforesaid sale and as such they remained agriculturist. But those LR's who could not purchase the agricultural land prior to sale of land by their predecessor are deprived of the status of agriculturists. In such a situation, whether the LR's, who could not purchase land may be covered under the definition of agriculturist or not.

These issues were examined in detail in consultation with the Law Department. By a bare reading of the provisions or section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and the provisions of Section 2(2) read with Section 2(10) of the Act, it is clear that the main objective behind enacting Section 118 of the Act is to discourage such persons from acquiring land in the State of Himachal Pradesh who are not agriculturists in the State of Himachal Pradesh. Further section 2(2) of the Act defines the expression agriculturist to mean a "landowner" who cultivates land personally. In an estate situated in Himachal Pradesh. The word "landowner" has been defined in section 2(10) of the Act to mean a person defined as such in H.P. Land Revenue Act, 1954 (6 of 1954) or The Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be and shall include "predecessor" or successor in interest of the landowner.

From the combined reading of the provisions of section 2(2) read with section 2(10) of the Act. It would seem that in order to come within the ambit and scope of expression agriculturists, the primary requirement is that he should be landowner and further the successor in interest by virtue of the definition of land owner in Section 2(10) was also be an agriculturist. Thus from the plain reading of Section 2(2) read with section 2(10), inevitable conclusion is that firstly if a person is a landowner and agriculturist in the State of Himachal Pradesh then his successors and predecessors in interest shall also be landowners Secondly such a landowner should be cultivating the land personally. Hence, by a technical interpretation, if a person is deprived by his predecessor/ father/ mother from succeeding

such land by way of execution of will or otherwise then such a person will also be deprived from the status of “agriculturist”.

However, logically it cannot be the intention of the Legislation to deprive such a person from the status of “agriculturist” who was likely to inherit agricultural land by way of normal succession. To deprive such a person from his status of an ‘agriculturist’ would be stretching the basic intent of the enactment of Section 118 of the H.P. Tenancy and Land Reforms ACT too far. It has been mentioned in the objects & reasons of the enactment that:-

“Restrictions have been imposed to purchase land by the non-agriculturists to avoid concentration of wealth in the hands of non-agriculturists moneyed class”.

Hence, keeping in view the basic spirit of the Act, *ibid*, it can be presumed that a person who has been deprived of inheriting agricultural land by an execution of Will or otherwise by his predecessor/ father/ mother such a person shall be deemed to be an agriculturist. This may be brought to the notice of all Revenue Officers.

Yours faithfully,

-sd-

(TARUN SHRIDHAR)

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2010-I  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Una, District Una, H.P.

Dated : Shimla-171002, the 07-10-2014

Subject :- Clarification regarding considering son-in-law/daughter-in-law as agriculturist on the basis of their father-in-law/mother-in-law.

Sir,

I am directed to refer to your letter No. 696/DRO/NTLR, dated 5<sup>th</sup> April, 2014, on the subject cited above and to say that the issue regarding issuance of agriculturist certificate to daughter-in-law has already been clarified to the Deputy Commissioner, Solan vide letter No. Rev.B.A.(3)-1/2010 dated 21-09-2010. So far as son-in-law is concerned, this issue has also been clarified already vide letter No. Rev. B.A.(3)-1/2010, dated 12.12.2011 and No.Rev.B.A.(3)-1/2010-Loose, 26-07-2013.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2010-I  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Una, District Una, H.P.

Dated : Shimla-171002, the 26<sup>th</sup> November, 2014.

Subject :- Clarification regarding considering daughter-in-law as agriculturist on the basis of their father-in-law/mother-in-law.

Sir,

In continuation of this department letter of even number dated 07.10.2014, regarding above cited subject I am directed to say that from the combined reading of Sections 2(2), 2(4), 2(5) and 2(10) of H.P. Tenancy and Land Reforms Act, 1972 and Section 4(9) of H.P. Land Revenue Act, 1954 it is clear that daughter-in-law of an agriculturist will be covered under the definition of agriculturist being a successor of an agriculturist.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the 26<sup>th</sup> November, 2014

Copy forwarded to Sh. Narinder Paul Saini, Architect Engineer, C/o Opp. Sainik Rest House, 1<sup>st</sup> Floor, Una, H.P. for information.

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Phone No. 0177-2621895

No. Rev. B.A.(3)-1/2010-I  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary-cum-FC(Revenue) to the  
Government of Himachal Pradesh.

To

The Director,  
Town and Country Planning,  
H.P., Shimla.

Dated : Shimla-171002, the 24-03-2015.

Subject :- Clarification regarding definition of agriculturist.

Sir,

I am directed to refer to your office letter No. HIM/TP/LAW/2015-14639 dated 04-03-2015 on the subject cited above and to say that as per the clarification issued by this department vide letter dated 12-09-2014, in case any legal heir of an agriculturist is deprived by his/her parent from agricultural land by way of "Will or otherwise", he/she still enjoy the status of "agriculturist".

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Phone No. 0177-2621895

No. Rev. B.A.(3)-5/2000-II-loose-  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Shimla, District Shimla, H.P.

Dated : Shimla-171002, the 11<sup>th</sup> April, 2016

Subject :- Clarification regarding issuance of agriculturist certificate.

Sir,

I am directed to refer to your letter No.SML-LRD-18(49)/2015-Volume-122599, dated 29<sup>th</sup> January, 2016 on the subject cited above and to clarify that the instruction dated 12-9-2014 in its concluding para says:-

“Hence keeping in view the basis spirit of the Act ibid it can be prescribed that a person who has been deprived of inheriting agricultural land by an execution of will or otherwise by his predecessor, father/mother, such a person shall be deemed to be an agriculturist”

Therefore all cases where a person has been deprived of his legitimate share by his predecessors due to any reason are covered under the instruction dated 12-09-2014

Yours faithfully,

-sd-

(RAKESH MEHTA)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
in Himachal Pradesh.

Dated : Shimla-171002, the 20<sup>th</sup> May, 2016.

Subject :- Clarification regarding definition of agriculturist under Section 118 of the H.P.  
Tenancy and Land Reforms Act, 1972.

Madam/Sir,

I am directed to refer to the subject cited above and to say that clarification issued by this Department letter No.Rev.B.F(5)-8/2001 dated, 30<sup>th</sup> April, 2002 was withdrawn by the Government vide this Department letter No.Rev.B.F(5)-8/2001, dated 24.05.2010. the reason was that the clarification dated 30<sup>th</sup> April, 2002 was being misinterpreted and misused by some unscrupulous persons just to obtain the status of agriculturist under the guise of these instructions to defeat the main objective behind the enactment of section 118 of the Act *ibid*. it was observed that some unscrupulous persons (Himachali/non-Agriculturist) were gaining the status of agriculturist of the State by first marrying agriculturist Himachali girls and then divorcing them after acquiring the status of an agriculturist.

It was clarified vide early clarification dated 30<sup>th</sup> April, 2002 that “under section 2(2) agriculturist is a person who cultivates land personally in an estate situated in Himachal Pradesh and in terms of section 2(4)(iii)” To cultivate personally also includes by the labour of any member of the family. In terms of section 2(5) family ‘means husband, his wife and their children including step or adopted children etc’.

The word “Land Owner” as defined in section 2(10) means a person defined as such in H.P. Land Revenue Act, 1954 and shall include the predecessor or successor in interest of the land owner from the combined reading of sub-section (2), (4), (5), (10) of section 2 of the Act *ibid*, it is clear that a husband who is successor in interest of his wife and being member of the family also falls in the expression “to cultivate personally” is an agriculturist for the purpose of section 118 of the Act in question and no permission as required by said section is necessary.

After withdrawal of the above clarification, various cases have been received in this department for granting them status of an agriculturist being member of family unit. The matter was again examined in consultation with the Law Department. It is clarified that as per definition of agriculturist, a husband is legally covered therein as had been already clarified vide clarification dated 30<sup>th</sup> April, 2002. Therefore, in supersession of the letter dated 24-05-2010 it is again clarified that a husband who is successor in interest of his wife and being member of the family also falls in the expression “to cultivate personally” and is an agriculturist for the purpose of section 118 of the Act in question and no permission as required by said section is necessary. **However, the issuing authorities may take due care that this definition is not again misused and issue certificate to such person after exercising due diligence. This may be brought to the notice of all Revenue Officers.**

Yours faithfully,  
-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



No. Rev. B.A.(3)-1/2010-I-loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
in Himachal Pradesh.

Dated : Shimla-171002, the 8<sup>th</sup> September, 2016

Subject :- Clarification regarding definition of agriculturist under Section 118 of the H.P.  
Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this department letter of even number, dated 20-05-2016 vide which clarification regarding definition of agriculturist under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 was issued. Now it has been decided by the Govt. that the aforesaid clarification/instruction contained therein should be kept in abeyance.

You are therefore requested to direct the Registrars/Sub-Registrars not to register any transaction on the basis of the aforesaid clarification/instructions.

This may be brought to the notice of all Revenue officers.

Yours faithfully,

-sd-

(TARUN SHRIDHAR)

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2016  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

Sh. Gulsher Ali  
 S/o Adrish Ahmad, R/o Devi Nagar, Ward No. 10/285,  
 Paonta Sahib Distt. Sirmaur, H.P.

Dated :Shimla-2, the 02/03/2020

Subject: Clarification on definition of Agriculturist in State of H.P. Reference to letter No.  
 Rev.B.A.(3)-1/2010-I dated 12.09.2014.

Sir,

I am directed to refer to your representation dated 21-02-2020 on the subject cited above. In this regard it is clarified/intimated that the terms "Agriculturist" as define in the Section 2 (2) (4) (5) & (10) of the H.P. Tenancy and Land Reforms Act, 1972 is as follows;-  
**(2)"agriculturist"** means **a landowner who cultivates land personally** in an estate situated in Himachal Pradesh. **(4) " to cultivate personally"** with its grammatical variations and cognate expression means:-

- (i) By one's own account;
- (ii)By one's labour;
- (iii)By the labour of any member of one's family; or
- (iv)Under the personal supervision of oneself or any member of one's **family** by hired labour or by servant on wages payable in cash.

Explanation.- In the case of a joint **family** the land shall be deemed to have been cultivated personally if it is cultivated by any member of such **family**;

**(5) "family"** means husband, his wife and their children, including step or adopted children, and includes his parents, grand parents, brothers and unmarried, widowed, separated and divorced sisters.

**(10) "land-owner"**, means a person defined as such in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be, and shall include the predecessor or successor in interest of the land-owner.

Therefore, keeping in view the aforesaid definition as well as the clarification issued vide letter No. Rev. B.A.(3)-1/2010-I dated 12.09.2014, the son of such a lady who is not an agriculturist as mentioned in your representation is not covered under the definition of "Agriculturist".

Yours faithfully,  
 -sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(9)8/2020  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
District Una, Himachal Pradesh.

Dated: Shimla-2, the 20-12-2021

Subject: Clarification regarding agriculture certificate.

Sir,

I am directed to refer to your letter No. 1104-1105/MA-MC-I dated 29-01-2021 on the subject noted above and to say that the matter has been examined in consultation with the Law Department. The Law Department has tendered its opinion in the matter, a copy of which is enclosed herewith.

You are, therefore, requested to take further necessary action in the matter in accordance with the opinion of Law Department.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Law Department(O).**

**1/43(ante):-** Examined in the Law Department. The AD has referred the present matter to this department and sought opinion on the point that is to whether the children of a female (who got married outside the State of H.P.), and who inherited property of her mother would fall under the definition of Agriculturist or not.

The word agriculturist is defined in sub-section (2) of the section of the HP Tenancy and Land Reforms Act, 1972 which is reproduced as under:-

“agriculturist” means a landowner who cultivates land personally in an estate situated in Himachal Pradesh.

From the perusal of the definition of the ‘agriculturist’ it is clear that for becoming an agriculturist one should be a landowner and have to cultivate such land personally.

The word “landowner” is further defined in sub-section (10) of section 2 of the HP Tenancy and Land Reforms Act, 1972 which provides that landowner shall include the predecessor or successor are also landowner as per the section 2(10) of the Act. Hence, if such successor is cultivating the land personally as defined in section 2(4) of the Act then he/she will fall under the definition of the “agriculturist”. Apart this as per the letter dated 26/07/2013 (Flag ‘X’) issued by the government of H.P. Department of Revenue, children of a female person whose parents are agriculturist, but married to a non-agriculturist will be covered under the definition of “agriculturist” only if such female person acquired the ownership right through Succession from her parents.

In view of the above this department is of the opinion that if the person who inherited the property of her mother are fulfilling the conditions stated in above para(s) then they will fall under the definition of the “agriculturist”. Hence, the AD is advised to verify the land position and decide the matter accordingly.

the approval of the Legal Remembrancer.

-sd-

**JLR-cum-Joint Secy.(Law) to the  
Government of Himachal Pradesh.**

**Secretary (Revenue)**

**[Part-3]**  
**(Related to Section 118)**  
**Instructions related to Permission to non-agriculturist for purchasing land/ property**  
**under section 118**

1.	The H.P. Govt. Department letter No.Rev.2F(5)2/77-II Dated 10.06.1983.	Instruction/ Clarification	Permission u/s 118	366
2.	HP Govt. Letter No. Rev. D(G)6-14/86-Part dated 27.04.1989	Instruction/ Clarification	Exemption for permission u/s 118 for Government approved sale/lease in favour of non-agriculturist	368
3.	The H.P. Govt. Department letter No. Rev.B.A.(3) 3/96-Loose 22.01.1999	Instruction/ Clarification	Provision for the purchase of land by the non-agriculturists within the Municipal areas upto 500 Sq. Mtrs.	370
4.	The H.P. Govt. Department letter No. Rev.B.F.(5)-7/2001-Loose Dated 06.10.2001.	Instruction/ Clarification	Permission u/s 118 of HP Tenancy and Land Reforms Act, 1972 – Its non-application in the case of units sold by HPFC in accordance with section 29 of the SFCs Act, 1951.	371
5.	The H.P. Govt. Department letter No. Revenue 1-2 (Stamp) 4/85-Vol.I dated Shimla-2, the 30.09.2003	Office Order	Registration of all sale documents is in accordance with the provisions of the section 118	373
6.	The H.P. Govt. Department letter No. रैव-बी0एफ0(10)-187 / 2003 Dated 29.10.2003.	Clarification	अकृषक व्यक्तियों/कम्पनियों द्वारा सरकार की पूर्व अनुमति से विभिन्न प्रयोजनों हेतु कय की गई भूमि का उपयोग निर्धारित समयावधि के भीतर सुनिश्चित करने बारे दिशा-निर्देश।	374
7.	The H.P. Govt. Department letter No. Rev.B.A.(3)-3/99 Dated 23.08.2004	Clarification	Registrar and the sub-registrar may register any transfer where the lease is made in relation of a part or whole of a building	376
8.	The H.P. Govt. Department letter No. Rev.B.F(10) 199/2003. Dated 08.05.2006.	Order	The land granted on long-term lease basis on nominal lease money to the Tibetan Refugees, Societies Institutions and Trusts promoted by Tibetan Refugees for the welfare of Tibetan community	377
9.	HP Govt. Letter No. Rev.B.A.(3)-3/99-Loose dated 15.01.2007	Clarification	Permission u/s 118 (two members of a family)	379

10.	H.P. Govt. Letter No. Rev. B.A. (3)-3/99 dated 22.01.2008	Instruction/ Clarification	Essentiality Certificate by Industries Deptt. for permission u/s 118.	380
11.	The H.P. Govt. Department letter No. रैव0बी0एफ0(10)187 / 2003 Dated 23.06.2008	Instruction	शैक्षणिक संस्थानों की स्थापना हेतु भूमि कय आदि करने के लिए अनिवार्यता प्रमाण पत्र जारी करने बारे निर्देश	381
12.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-loose dated 24.07.2008	Clarification	Exemption of transfer of builtup area to non-agriculturist u/s 118 in MC Area.	383
13.	HP Govt. Letter No. Rev.B.A.(3)-1/2008 dated 28.03.2009	Instruction/ Clarification	Permission u/s 118	384
14.	HP Govt. Letter No. Rev.B.A.(3)-1/2008 dated 09.07.2009	Instruction/ Clarification	Requirement of permission u/s 118 by Punjab State Electricity Board.	385
15.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-II dated 22.05.2010	Clarification	Permission u/s 118	386
16.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-II dated 03.07.2010	Clarification	Permission u/s 118	387
17.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-II dated 15.09.2010	Clarification	Permission u/s 118 (Land acquisition and lease by Industries Deptt.	388
18.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-II dated 28.05.2011.	Clarification	Time limit of Essentiality Certificate for permission u/s 118.	389
19.	The H.P. Govt. Department Notification No. Home-B(F)13-3/2009 dated Shimla-2, the 16.06.2011	Notification	Commission of Inquiry.	390
20.	H.P. Govt. Letter No. Rev.B.A.(3)-5/2000-I dated 02.08.2011.	Instruction	Permission u/s 118	392
21.	H.P. Govt. Letter No. Rev.B.A.(3)-5/2000-I dated 05.09.2011	Instruction	Permission u/s 118 (Essentiality Certificate)	393
22.	HP Govt. Letter No. Rev.B.A.(3)-5/2000-I dated 22.09.2011	Instruction	Permission u/s 118 (Permission to sale, change of land use, extention of period etc.)	395
23.	H.P. Govt. Letter No. Rev.B.F.(10)-154/2009 dated 16.02.2012	Instruction	Regarding name change by Companies/firm.	397
24.	H.P. Govt. Department Letter No. Rev.B.F.(10)-154/2009 dated 12.03.2012	Clarification	Applicability of 118 for the land to be acquired by the non-agriculturist through will.	399
25.	H.P. Govt. Letter No. Rev.B.F.(10)-7/2008-II dated 15.03.2012	Instruction	Permission u/s 118 (Utilization of Land)	400
26.	H.P. Govt. Department Letter No. Rev. B.A.(3)-1/2008-III dated 30.04.2012	Clarification	Applicability of 118 for the land to be acquired	402

			by the non-agriculturist through will.	
27.	The H.P. Govt. Department letter No. Rev-B.A.(3)-5/2000-II-Loose Dated 28.05.2012.	Instruction/ Clarification	Permission u/s 118 (Selling of land/property by non-agriculturist.	403
28.	H.P. Govt. Letter No. Rev.B.A.(3)-3/2003-III dated 30.07.2012	Instruction	Self attested undertaking/ declaration for the purpose of affidavits.	404
29.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-III dated 14.08.2012	Clarification	Essentiality Certificate for permission u/s 118.	405
30.	The H.P. Govt. Department letter No. Rev.B.A.(3)-5/2000-II dated Shimla-2, the 31.01.2013	Instruction/ Clarification	Permission u/s 118 (Withdrawal of clarification dated 15.03.2012)	406
31.	The H.P. Govt. Department letter No. Rev-B.A.(3)-5/2000-III Dated 31.10.2013	Clarification	Purchase of land under Section 118 by Nepali people in H.P	407
32.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-IV dated 20.08.2014	Clarification	Applicability of section 118 on land purchased prior to commencement of H.P. Tenancy and Land Reforms Act. 1972.	408
33.	HP Govt. Letter No. Rev.B.A.(3)-1/2008-IV dated 25.08.2014	Instruction/ Clarification	Applicability of Section 118 on mining lease.	410
34.	HP Govt. Letter No. Rev.B.A.(3)-3/2014 dated 23.09.2014	Instruction/ Clarification	Applicability of Section 118 on transfer of Industrial plots developed by HPSIDC or Industries Deptt.	411
35.	The H.P. Govt. Department letter No. Even Dated 30.01.2015.	Instruction/ Clarification	Permission u/s 118 for transfer of land/built-up structures from HIMUDA to non-agriculturist and to further sale.	412
36.	The H.P. Govt. Department letter No. Rev-B.A.(3)-3/2013-I-Loose Dated 24.04.2015.	Clarification	Permission u/s 118 by Govt. Employees (non-agriculturist)	413
37.	H.P. Govt. Letter No. Rev.B.A.(3)-3/2013-I-loose dated 05.02.2016	Instruction	Exclusion of period of statutory hindrances for putting the land to use u/s 118.	414
38.	The H.P. Govt. Department letter No. Rev-B.A.(3)-5/2017 Dated 20.05.2017.	Instruction/ Clarification	Permission u/s 118 (change of Proprietorship to Partnership firm and Partnership to Limited Company)	416
39.	The H.P. Govt. Department letter No. Rev-B.E.(2)-23/2017 Dated 21.11.2017.	Clarification	Vacant plots not to be considered as residential colony for the purpose of section 118.	417

40.	The H.P. Govt. Department letter No. Rev.B.A.(3)-3/2013-I-Loose. Dated: 12.03.2018.	Clarification	Permission u/s 118 (Govt. Employees non-agriculturist)	419
41.	HP Govt. Letter No. Rev.B.A.(3)-1/2016 dated 30.01.2019	Clarification	Exemption from section 118 for builtup structures in MC Area.	420
42.	HP Govt. Letter No. Rev.B.A.(3)-1/2016 dated 30.04.2019	Instruction/ Clarification	Permission u/s 118	423
43.	The H.P. Govt. Department letter No. Rev.B.A.(3)-5/2017 Dated 26.06.2019.	Instruction/ Clarification	Permission u/s 118 (Change of name of the companies, partner firms, LLP, amalgamation, and proprietorship firms.)	424
44.	The H.P. Govt. Department letter No. Rev-B.A.(3)-3/2013-I-loose Dated 07.08.2019.	Instruction/ Clarification	Permission u/s 118 (Partnership firms formed by the Himachali Agriculturist.)	426
45.	The H.P. Govt. Department letter No. Rev.B.A.(3)-6/2020 Dated 17.08.2020.	Clarification	Permission u/s 118 (building or part thereof on lease basis in rural areas)	430
46.	The H.P. Govt. Department letter No. Even Dated: 05.01.2021.	Instruction/ Clarification	Ascertaining the citizenship of purchasers/applicants in respect of cases under Section 118	431
47.	The H.P. Govt. Department letter No. Rev-B.E.(3)92/2019 Dated 07.06.2021.	Instruction/ Clarification	Permission u/s 118 (Transfer of Land through open auction under SARFAESI Act.)	432
48.	The H.P. Govt. Department letter No. Rev-B.A.(3)1/2004-IV Dated 04.03.2022.	Clarification	Applicability of Section-118 on the H.P. Agriculture and Rural Development Bank	434
49.	The H.P. Govt. Department letter No. Rev-B.A.(3)7/2021 Dated 03.08.2022.	Clarification	Permission u/s 118 (selling of flats by real estate promoters to Himachali agriculturists)	435
50.	The H.P. Govt. Department letter No. Rev-B.F.(10)-154/2009 Dated 25.03.2023.	Instruction	Permission u/s 118 (Change of Partners by partnership firms and charging of stamp duty)	436
51.	The H.P. Govt. Department letter No. Rev.B.E.(3)100/2016 Dated 28.06.2023.	Clarification	Regarding change of company name from Public Limited to Private Limited.	438
52.	The H.P. Govt. Department letter No. Rev.B.F.(10)-154/2009 Dated 27.07.2023	Clarification	Regarding change of Directors of company.	439
53.	The H.P. Govt. Department letter No. Rev.B.F.(10)-154/2009 Dated 02.11.2023	Instruction	Guidelines for submitting cases for permission u/s 118.	440



No.Rev.2F(5)2/77-II-  
Government of Himachal Pradesh  
Revenue Department

From

The Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Deputy Commissioners in H.P.
2. All the Sub-Divisional Officers(Civil)
3. All the Tehsildars in Himachal Pradesh.

Dated:Shimla-2, the 10<sup>th</sup> June, 1983.

Subject:- Scope of section 118 of the H.P. Tenancy & Land Reforms Act, 1972 a clarification.  
Sir,

I am directed to say that it has been brought to the notice of the Government that in some districts the sale deed or other documents purporting to transfer the land with built up houses to non-agriculturists are being refused registration by the Sub-Registrars on the plea that the subject-matter of these documents fall with in the purview of section 118 and therefore cannot be registered.

In this behalf I am to draw your attention to the definition of expression "Land" as given under sub-section (7) of section 2 of the Himachal Pradesh Tenancy & Land Reforms Act, 1972. This sub section reads as under:-

"Land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for Agricultural purposes or for proposes subservient to agriculture, or for pasture and includes,-

- a. the sites of buildings and other structures on such land,
- b. orchards,
- c. ghasnies
- d. banjar land, and
- e. private forests; .

It will be seen that the "Land which is not occupied as the site of any building in a town or village has, *inter alia*, been, made as land for the purposes of the Act. In other words, the land which is so occupied i.e., occupied as a site of a building in a town of village and is not occupied or has not been let for agricultural purposes or for purposes subservient to agriculture has been clearly excluded from the scope of the Act. Therefore a sale deed purporting the sale of a house fulfilling these conditions cannot be refused to be registered, since they are out side the scope of section 118, irrespective of the fact as to what the house was constructed prior to or after the enforcement of the H.P. Tenancy & Land Reforms Act.

Kindly acknowledge receipt.

Yours faithfully,  
Under Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Shimla-171002, dated the 10th May, 83.

Copy forwarded to:-

1. The Divisional Commissioner, Shimla.
2. The Divisional Commissioner, Kangra, Division Kangra, at Dharamshala, Himachal Pradesh.
3. The Director of Land Records, Himachal Pradesh, Shimla
4. The Director, Consolidation of Holdings, H.P. Shimla. - 171002.
5. The Settlement Officer, Kangra. - Dharamshala/Shimla &Kinnaur
6. The Clerk of Court to the Financial Commissioner, H.P. for information.

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. D(G)6-14/86-Part  
**GOVERNMENT OF HIMACHAL PRADESH**  
**REVENUE DEPARTMENT**

From

Shri M.S. Mukherjee,  
 FC-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Shimla District,  
 Shimla.

Dated Shimla-2, the 27<sup>th</sup> April, 1989.

Subject: Allotment of land for establishment of residential educational institution.

Sir,

Please refer to your letter No. SML-SR-L(12)/86-238 dated 24<sup>th</sup> April, 1989 on the above noted subject. In this connection I am to clarify that the State Govt. in the Revenue Department has already formally allowed to sell the aforesaid land in favour of the particular trust/institution. Since such transfer has been allowed, the permission of the Government as required under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 for transfer of land in favour of a non-agriculturist organization be presumed to have been given. You may, therefore, take further necessary action regarding attestation of mutation accordingly.

2. In this connection I am further to give general clarification that wherever the Govt. in the Deptt. Of Revenue by special order allows sale/lease of Govt. land in favour of any individual/institution or legal entity, no separate permission from the Govt. will be needed in term of section 118 of the H.P. Tenancy and Land Reforms Act, 1972 regarding registration/transfer/sanction of transfer of the land in favour of the beneficiary, even if latter is a non-agriculturist.

Yours faithfully,  
 (M.S. Mukherjee)

Endst. No. Rev.D(G)6-14/86-Part Dated Shimla-2, the 27<sup>th</sup> April,  
 Copy forwarded for information and compliance to:-

1. The Deputy Commissioner, Bilaspur, H.P.
2. The Deputy Commissioner, Mandi, H.P.
3. The Deputy Commissioner, Kullu, H.P.
4. The Deputy Commissioner, Lahaul & Spiti at Keylong, H.P.
5. The Deputy Commissioner, Kinnaur at Kalpa, H.P.
6. The Deputy Commissioner, Kangra at Dharamshala, H.P.
7. The Deputy Commissioner, Chamba, H.P.
8. The Deputy Commissioner, Hamirpur, H.P.
9. The Deputy Commissioner, Una, H.P.
10. The Deputy Commissioner, Solan, H.P.

11. The Deputy Commissioner, Sirmaur at Nahan, H.P.
12. Shri I.S. Chandel, Joint Director of Land Records, Himachal Pradesh Shimla-2, regarding incorporation of the instructions in the proposed Land Code/Land Administration Manual.

FC-cum-Secretary(Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev.D(G)6-14/86-Part Dated Shimla-2, the 27<sup>th</sup> April, 89

Copy forwarded for information and necessary action to:-

1. The Divisional Commissioner, Shimla Division, Shimla-2.
1. The Divisional Commissioner, Kangra Division at Dharamsala, H.P.
2. The Divisional Commissioner, Mandi Division, Mandi, H.P.
3. The Dy. Secy. (Rev.)I(Rev.B) to the Government of Himachal Pradesh, Shimla.

FC-cum-Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)3/96-Loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated Shimla-171002, the 22<sup>nd</sup> January, 1999.

Subject: Provisions of the Himachal Pradesh Tenancy and land Reforms (Amendment) Act,  
 1997 (Act No. 5 of 1997).

Sir,

I am directed to say that necessary guidelines were issued to carry out the provisions of the Himachal Pradesh Tenancy and Land Reforms (Amendment) ordinance 1996 (Now an amendment Act 1997) vide this Department letter of even no. dated 17.1.1997. The provisions of clause (dd) of sub section (2) of section 118 provides for the purchase of land by the Non-Agriculturists within the Municipal areas upto 500 Sq. Mtrs. who are permanently residing in H.P. on or before the commencement of the Act. The clause has properly been worded as a person on commencement of this act. work or continues to work for gain in estate situated in H.P. which was requirement of the law. However, main purpose of making such provision was to allow to those non-agriculturists to purchase land in Municipal areas who are permanently residing in H.P. on or before the commencement of the Act. This entitlement however for such non-agriculturists was made for the purchase of land up to 500 Sq. Mtrs. and that is also in the municipal areas.

It has come to the notice that some of the Registration Authorities are refusing to register the sale deeds of such non-agriculturists after getting word to word meaning of the provision. It is therefore clarified that a non-agriculturist who was minor on the commencement of the Act or a child born on or after the commencement of the Act, should be taken as permanent resident of H.P. by virtue of his parents as such subject to the condition that such a non-agriculturists proves himself as such. You are, therefore, requested to issue necessary directions to the competent authorities under your control to carry out provisions of the Act accordingly.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the 22<sup>nd</sup> January, 1999.

Copy to the Divisional Commissioner, Mandi/Kangra at Dharamshala/Shimla for information and necessary action.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.F.(5)-7/2001-Loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Commissioner (Revenue),  
 H.P. Shimla-2.
2. All the Deputy Commissioners  
 in Himachal Pradesh.

Dated: Shimla-2, the 6<sup>th</sup> October, 2001.

Subject: Permission u/s 118 of HP Tenancy and Land Reforms Act, 1972 – Its non-application in the case of units sold by HPFC in accordance with section 29 of the SFCs Act, 1951.

Sir,

I am directed to say that the Department of Industries vide their letter No.Ind.A(F)20-16/2000 dated 15<sup>th</sup> June, 2001 raised the matter with regard to applicability of section 118 of the HP Tenancy and Land Reforms Act, 1972 on the corporation empowered to take over the property of the Industrial concern and transfer it by sale of lease in order to recover the defaulter amount under the provision of SFCs Act, 1951.

The matter was examined in consultation with the Law Department and Law Department has opined as under:-

“Examined in the Law Department. The HP Tenancy and Land Reforms Act, 1972 have been enacted by the State legislatures as the subject matter exclusively fall under List-II(State List). In terms of Article 25 (2), Repugnancy in State enactments if made by Legislatures of the State with respect to matter enumerated in concurrent list shall prevail in the State over the earlier law made by Parliament in respect to same matter enumerated in concurrent list if the same has been reserved for the consideration of President and has received the assent. No doubt the provision of Section-118 of the H.P. Tenancy and Land Reforms Act, 1972 have been enacted by the State Legislature after the Act having been reserved for consideration of President can not allow the provisions of Section 118 to prevail upon any other law made by Parliament.

The State Financial Corporation Act, 1951 has been enacted by the Parliament vide Entry No. 43 of the Union list, therefore, the provisions of section 29 of the Central Act shall prevail over the non obstante Clause contained in section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

In view of the provisions of Article 354 (1) of the Constitution of India. In other words for the purpose of section 29 of the State Financial Corporation Act, 1951 the provisions of section 118 of the State Act shall be void to the extent of repugnancy.

In view of legal position explained above the provision of section 118 of the H.P. Tenancy and Land Reforms Act, 1972 will not be applicable where H.P. Financial Corporation takes any legal action under section 29 of the State Financial Corporation Act, 1951.

In view of the above opinion of law department, it is requested that the provisions of a section 118 of the H.P. Tenancy and land Reforms Act, 1972 will not be applicable where H.P. Financial Corporation takes any legal action under section 29 of State Financial Corporation Act, 1961. This is for your information and necessary action.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Revenue 1-2 (Stamp) 4/85-Vol-I  
Government of Himachal Pradesh  
Department of Revenue (Stamp-Registration)

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OFFICE ORDER

To ensure that registration of all sale documents is in accordance with the provisions of the section 118 of the Land Reforms and Tenancy Act, 1972, it has been decided that in future, the Inspector Registration-cum-Stamp Auditor while conducting audit under section 73 of Indian Stamp Act will also check violation, if any, of section 118 of the Land Reforms and Tenancy Act, 1972 in the office of Sub-Registrar and report the same to F.C.-cum-Secretary (Revenue).

By order

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-171002, the 30.9.2003

Copy is forwarded for information and necessary action to:-

1. All the Divisional commissioners in H.P.
2. All the Deputy Commissioners in H.P.
3. The Inspector General of Registration, H.P., Shimla-9.
4. All the Assistant Commissioners to D.C.s in H.P.
5. All the District Revenue officers in H.P.
6. All the Tehsildars in H.P. and Naib-Tehsildars in Sub-Tehsils in H.P.
7. Inspector Registration-cum-Stamp Auditors (Tehsildar) H.P. Sectt., Shimla-2 for similar action.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.



संख्या: रैब-बी0एफ0(10)-187 / 2003  
हिमाचल प्रदेश सरकार  
राजस्व विभाग

प्रेषक

वित्तायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रेषित

1. अतिरिक्त मुख्य सचिव (विद्युत)  
हिमाचल प्रदेश सरकार।
2. निदेशक, सूचना  
उद्योग एवं प्राद्योगिकी,  
हिमाचल प्रदेश, शिमला-1
3. निदेशक,  
पर्यटन, हिमाचल प्रदेश,  
शिमला-1
4. समस्त मण्डलायुक्त,  
हिमाचल प्रदेश।
5. समस्त उपायुक्त,  
हिमाचल प्रदेश।

दिनांक शिमला-171002,

29.10.2003

विषय:- अकृषक व्यक्तियों/कम्पनियों द्वारा सरकार की पूर्व अनुमति से विभिन्न प्रयोजनों हेतु क़य की गई भूमि का उपयोग निर्धारित समयावधि के भीतर सुनिश्चित करने बारे दिशा-निर्देश।

महोदय,

उपरोक्त विषय पर इस विभाग के समसंख्यक पत्र दिनांक 05.07.2003 एवं दिनांक 28.08.2003 के क्रम को जारी रखते हुए मुझे यह कहने का निर्देश हुआ है कि हिमाचल प्रदेश टैन्सैसी एवं लैण्ड रिफोमज़ एक्ट, 1972 की धारा 118 के अन्तर्गत विभिन्न अकृषक कम्पनियों/व्यक्तियों द्वारा विभिन्न प्रयोजनों हेतु क़य की गई भूमि से सम्बन्धित मामलों को मोनीटर करने बारे मामला सरकार के विचाराधीन था तथा इस पर सरकार द्वारा निम्नलिखित निर्णय लिए गए हैं:-

1. सभी मामलों में जिनमें सरकार द्वारा अनुमति प्रदान की जाती है, में सम्बन्धित विभागाध्यक्ष, जिसमें अनिवार्यता प्रमाण पत्र जारी किया हो या मामलों में अनुसंशा की हो, जैसे कि औद्योगिक इकाईयों के मामले में निदेशक, उद्योग एवं सूचना प्रौद्योगिकी, पर्यटन इकाई के मामलों में निदेशक, पर्यटन, विद्युत परियोजनाओं के मामलों में सचिव, विद्युत परियोजनाएं तथा गृह निर्माण आदि के मामलों में सम्बन्धित उपायुक्त द्वारा विक्रय विलेख पंजीकृत होने की तिथि से 2 वर्ष की अवधि समाप्त होने के तुरन्त बाद एक प्रमाण पत्र विभाग को भेजा जाएगा, जिसमें यह सुनिश्चित किया हो कि अकृषक क़यता द्वारा क़य की गई भूमि का उपयोग उसी उद्देश्य हेतु किया जा चुका है, जिसके लिए सरकार द्वारा अनुमति प्रदान की गई थी।
2. यदि कोई अकृषक क़यता क़य की गई भूमि का उपयोग बदलना चाहे या उसे विक्रय करना चाहे, भले ही विक्रय किसी हिमाचली कृषक व्यक्ति को प्रस्तावित क्यों न हो, तो वह ऐसा करने से पूर्व उक्त अधिनियम के प्रावधानों के अनुसार सरकार की अनुमति प्राप्त करेगा। यदि इस

प्रकार का कोई भी मामला जिसमें अधिनियम में किए गए प्रावधानों की उल्लंघना हो, तो उस पर उक्त अधिनियम की धारा 118 में किए गए प्रावधानों के अनुसार तत्काल सख्ती से कार्यवाही उमल में लाई जाएगी।

भवदीय,

—हस्त0—

उप सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

पृष्ठांकन सं०: यथोपरि दिनांक शिमला—171002 29.10.2003  
प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आगामी आवश्यक कार्यवाही हेतु प्रेषित है:—

1. समस्त उप—मण्डलाधिकारी (ना०), हिमाचल प्रदेश।
2. समस्त तहसीलदार एवं नायब तहसीलदार, हिमाचल प्रदेश।

—हस्त0—

उप सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

No. Rev.B.A.(3)-3/99  
Government of Himachal Pradesh  
Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Shimla, H.P. Shimla-1.

Dated: Shimla-2, the 23<sup>rd</sup> August, 2004

Subject: Clarification.

Sir,

I am directed to refer to your letter No. SML-LRM/21(Inst)/2004-Vol-II-2665 dated 12<sup>th</sup> August, 2004 on the subject cited above and to say that there is clear cut provision in sub-section (3)(1) of section 118 of the HP Tenancy and Land Reforms Act, 1972 under which registrar and the sub-registrar may register any transfer where the lease is made in relation of a part or whole of a building. As such a transfer of building or a part thereof by way of lease in favour of non-agriculturist without seeking prior permission of the State Government is valid in rural as well as in urban areas.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

*Authoritative English text of this department order No.Rev.B.F.(10)199/2003, dated 8<sup>th</sup> May, 2006 as required under clause (3) of Article 348 of the Constitution of India.)*

Government of Himachal Pradesh  
Revenue Department

No.Rev.B.F(10)199/2003.  
Shimla-171002, the 8-5-2006.

Order

Whereas, it has come to the notice of the Government that the Tibetan refugees are in possession/use of private lands without title in the State of Himachal Pradesh particularly in and around Dharamshala. Most of these cases pertain to lands under utilization by institutions, trusts and societies promoted by Tibetan refugees for setting up of schools, nunneries, hospitals, monasteries etc. and certain cases pertain to lands in possession of individual Tibetans being used for residential and business activities etc., Since, the Tibetan refugees are in possession/use of such lands without title, as such, in certain cases even proceedings under sub-section (3D) of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 are under adjudication in the courts.

And Whereas, proposals in this behalf have been received from His Holiness Dalai Lama and also from the aforesaid welfare Tibetan refugees.

And Whereas, for such rehabilitation resettlement of the Tibetan refugees the matter has been examined in the light of policy guidelines of Government of India. As the Government of India, Ministry of Home Affairs vide its communication, dated 10-6-1999 has clearly observed that from humanitarian angle the Tibetan refugees can not be left in lurch, at this critical juncture and Government of India is committed to their rehabilitation as it was in the year 1959, and it has to provide all facilities/infrastructure for their resettlement/rehabilitation and the Government of India has further observed that the task of rehabilitation is to be accomplished by the Government of India with the active cooperation of State Government. The aforementioned communication also emphasises on the need of giving the lease of land to the Tibetan refugees till return of these refugees to their home land and by extending the lease from time to time.

Now Therefore, in exercise of the powers conferred by sub-section (4) of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, the Governor of Himachal Pradesh is pleased to order that the land, which is vested or may be vested in the State Government under sub-section (2) or sub section (3D) of section 118 of the Act *ibid*, may be granted on long-term lease basis on nominal lease money to the Tibetan Refugees, Societies Institutions and Trusts promoted by Tibetan Refugees for the welfare of Tibetan community on following terms and condition:-

1. Lands will be leased out in favour of His Holiness the Dalai Lamas Central Tibetan Relief Committee Dharamshala which is a Registered Charitable Society, only for the purpose of rehabilitation and resettlement of Tibetan refugees as a special welfare measure keeping in view the Government of India's policy guidelines regarding resettlement/rehabilitation of Tibetan refugees.
2. Only those privately owned lands will be leased out for rehabilitation and resettlement of Tibetan refugees which are in possession/use of institutions, Societies and Trusts promoted

by Tibetan refugees in furtherance of the rehabilitation and welfare of the Tibetan refugees and in possession/use of individual Tibetan refugees being used as residential/business premises for their shelter and livelihood and which are so vested or may be vested with the State Government under section 118(3D) of the Himachal Pradesh Tenancy and Land Reforms Act.

3. Such lands will be leased out to the Central, Tibetan Relief Committee for a period of fifty years or till the return of these refugees to their home lands whichever is earlier. Sub-lease in favour of Societies/Trusts/Institutions promoted by Tibetan refugees for their welfare, livelihood and shelter and also to individual Tibetan refugees for his shelter and livelihood will be allowed, with the prior written approval of the Government of H.P. on merit of each case, for a period of 33 years, which can be further renewed up to a total lease period of 50 years.
4. Ten per cent. (10%) amount of the market value of land at the time of entering into lease deed shall be charged as one time lumpsum lease money and thereafter token lease money/rent of rupees one per annum will be charged from the Central Tibetan Relief Committee. Usual stamp duty on lease deed will be payable by the lessee.
5. Leased land shall be used only for rehabilitation and resettlement as a welfare measure and in the event of any violation of lease deed; such lands shall revert to State Government free from all encumbrances.
6. This decision of grant of lease is only a one time measure, as special case and will be applicable only in such cases where transactions, in violation of law, have taken place prior to 31-12-2005 and vestment order is/has been passed under section 118(3D) of the Act *ibid*.

The Governor, Himachal Pradesh, is further pleased to order that the cases under adjudication under section 118(3D) of the Himachal Pradesh Tenancy and Land Reforms Act, after their final disposal may be processed accordingly on the application for grant of lease of such lands by His Holiness the Dalai Lama's Central Tibetan Relief Committee, if any, for consideration of lease at the Government level and also for permission under section 118 *ibid* if any, required.

By order

(Subhash Negi)

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.  
Shimla-171002, dated 8-5-2006.

Copy forwarded to:-

1. The Deputy Commission, Kangra at Dharamshala, H.P. for information and necessary action.
2. The Secretary, His Holiness the Dalai Lama's Tibetan Relief Committee, GangchenKyishong, Dharamshala, Distt. Kangra, H.P. for information and necessary action.
3. The Private Secretary to His Holiness the Dalai Lama, Mcleodganj, Dharamshala, District Kangra for information.
4. The ALR-cum-under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-171002.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Mandi, District Mandi, H.P.

Dated :Shimla-2, the 15-1-07

Subject: Clarification

Sir,

I am directed to refer to your letter No. Mandi-S.R./L.R./2006,-33062-66, dated 7<sup>th</sup> September, 2006, on the subject cited above and to say that there is no such restriction in the H.P. Tenancy and Land Reforms Act, 1972 and Rules framed thereunder, under which two members of one family can not apply for seeking permission of the Government to purchase of land in the State of H.P.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/99  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

The Under Secretary (Industries) to the  
 Government of Himachal Pradesh.

Dated : Shimla-2, the 22<sup>nd</sup> January, 2008

Subject: Guidelines for issuance of Essentiality Certificate by Industries Department for obtaining the permission of Government for purchase of land.

Sir,

I am directed to refer to your letter No. Ind.A(F)19-25/2007, dated 29<sup>th</sup> December, 2007, on the subject cited above and to submit following parawise comments on guidelines for issuance of Essentiality Certificate by Industries Department for obtaining permission of the Government u/s 118 of the H.P. Tenancy and Land Reforms Act, :-

I. & II. These paras require no comments.

III. An application form may be devised for the purpose on which the entrepreneurs can apply for essentiality certificates. So far as documents at Annexure 1 is concerned, it is also suggested that it will be appropriate to obtain revenue record as per requirement of rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 so that the documents once obtained from revenue agency may be used/attached with the applications for obtaining clearances in various departments. This will be helpful for entrepreneurs to save their time, money and labour. In addition to above, the undertaking in form of affidavit of Purchaser Company may be obtained for providing 70% employment to bonafide Himachalies. An extract of rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 is enclosed herewith for the purpose of making the provisions of guidelines in consonance with the said rule.

IV. On receipt of application for Essentiality Certificate, the GM, DIC/MS SWCA should assess the requirement of area for the particular unit, during spot verification and actual requirement of land for a particular project/industry may be examined very carefully and effort should be made to give only the minimum requirement of land based on actual need and the tendency to inflate the requirement and then speculate on the same may be curbed.

V. Last Sentence of the para may be omitted as these provisions are there in H.P. Tenancy and Land Reforms Act, 1972 and are not required to be given in this policy. Moreover, if any amendment is carried out in the present provisions which can be avoided by deletion of these lines.

VI. to VIII. The land purchased for industrial unit under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 can only be allowed to be sold subject to provisions of aforesaid Section. However, the Department of Industries can recommend selling the same for industrial purpose only in the interest of proper utilization of land and overall interest of industrial development of the State, but not in cases where violation of Section 118 has taken place on account of non-utilization of land within the stipulated period.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

संख्या: रैव0बी0एफ0(10)187 / 2003  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

प्रेषक

वितायुक्त एवं प्रधान सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

1. प्रधान सचिव (शिक्षा),  
हिमाचल प्रदेश सरकार।
2. प्रधान सचिव (तकनीकी शिक्षा),  
हिमाचल प्रदेश सरकार।
3. निदेशक,  
प्रारम्भिक शिक्षा, हिमाचल प्रदेश, शिमला।
4. निदेशक,  
सकैण्डरी शिक्षा, हिमाचल प्रदेश, शिमला।
5. निदेशक,  
तकनीकी शिक्षा, हिमाचल प्रदेश।

दिनांक: शिमला-171002      23 / 06 / 2008

विषय: शैक्षणिक संस्थानों की स्थापना हेतु भूमि क्रय आदि करने के लिए अनिवार्यता प्रमाण पत्र जारी करने बारे निर्देश।

महोदय,

हिमाचल प्रदेश मुजारियत एवं भू-सुधार अधिनियम, 1972 की धारा 118 की उप-धारा (2) के खण्ड (एच) के अन्तर्गत गैर कृषक व्यक्तियों/कम्पनियों/संस्थाओं द्वारा हिमाचल प्रदेश में विभिन्न प्रयोजनों हेतु भूमि क्रय करने की अनुमति प्राप्त करने का प्रावधान है।

उक्त प्रावधानों के क्रियान्वयन हेतु सृजित हिमाचल प्रदेश मुजारियत एवं भू-सुधार नियम, 1975 के नियम 38-बी के उप नियम (3) के खण्ड (ई) के अन्तर्गत चैरिटेबल, धार्मिक या सामाजिक उद्देश्यों हेतु रकबा की आवश्यकता/प्रमाणिकता की पुष्टि सम्बन्धित उपायुक्त द्वारा अनिवार्यता प्रमाण पत्र जारी करके की जाती रही है। इस प्रावधान के अन्तर्गत ही उपायुक्तों द्वारा शैक्षणिक संस्थानों की स्थापना हेतु भी भूमि की आवश्यकता को प्रमाणित करने हेतु अनिवार्यता प्रमाण पत्र जारी किए जाते रहे हैं। परन्तु पिछले कुछ समय से देखने में आया है कि प्रदेश में बहुत से शैक्षणिक संस्थान (बी0एड0, बी फारमैसी, तकनीकी शिक्षा इत्यादि) खोलने हेतु भूमि क्रय करने की अनुमति प्राप्त करने हेतु प्रकरण प्राप्त हो रहे हैं तथा इन उद्देश्यों हेतु भूमि की वास्तविक आवश्यकता का आंकलन करना सम्बन्धित उपायुक्त के कार्यक्षेत्र में नहीं आता है तथा जारी अनिवार्यता प्रमाण पत्र वास्तविक से परे होता है। उपायुक्त के पास उक्त संस्थानों की स्थापना के मापदण्ड इत्यादि उपलब्ध नहीं होते हैं और न ही वह ऐसे संस्थानों की स्थापना हेतु भूमि की आवश्यकता का सही आंकलन कर सकते हैं, जिसके दृष्टिगत उपायुक्तों द्वारा जारी किए जा रहे अनिवार्यता प्रमाण पत्र पर्याप्त/उचित नहीं है तथा इससे भविष्य में अनावश्यक विवाद की भी आशंका बनी रहती है।

उक्त स्थिति के दृष्टिगत विभाग द्वारा यह निर्णय लिया गया है कि शैक्षणिक संस्थानों की स्थापना हेतु सम्बन्धित निदेशक द्वारा ही भूमि की आवश्यकता को प्रमाणित करते हुए ऐसे मामलों में संस्था द्वारा भूमि की आवश्यकता का प्रमाण पत्र अर्थात् अनिवार्यता प्रमाण पत्र (Essentiality Certificate) जारी किए जाएं जैसे कि उद्योगों की स्थापना बारे निदेशक उद्योग तथा पर्यटन से सम्बन्धित संस्थानों का पर्यटन विभाग द्वारा जारी दिए जाते रहे हैं। ऐसे अनिवार्यता प्रमाण पत्र जारी करने से पूर्व प्रत्येक मामले में सम्बन्धित निदेशालय के किसी प्राधिकृत अधिकारी द्वारा मौका का निरीक्षण किया जाए ताकि यह सुनिश्चित किया जाए की संस्था द्वारा क्रय शैक्षणिक संस्थान की स्थापना के लिए प्रस्तावित भूमि सम्बन्धित प्रयोजन हेतु उचित, उपयोगी,



अनिवार्य एवं आवश्यकता से अधिक न हो। अनिवार्यता प्रमाण पत्र में भूमि का पूर्ण विवरण तथा उसके उपयोग का विस्तृत ब्योरा दिया जाए।

अतः आपसे अनुरोध है कि भविष्य में शैक्षणिक संस्थानों की स्थापना हेतु भूमि क्रय की अनुमति प्राप्त करने के सभी मामलों में सम्बन्धित निदेशक उक्त निर्देशों को ध्यान में रखते हुए अनिवार्यता प्रमाण पत्र जारी करें। तत्पश्चात ही शिक्षण संस्थान द्वारा धारा 118, हिमाचल प्रदेश मुजारियत एवं भू-सुधार अधिनियम/लीज रूलज के अन्तर्गत आवेदित प्रकरण पर विचार किया जाएगा।

यह निर्देश वित्तायुक्त एवं प्रधान सचिव (राजस्व), हिमाचल प्रदेश सरकार की स्वीकृति के अनुरूप जारी किया गया है।

भवदीय,

हस्त०

संयुक्त सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

पृष्ठांकन संख्या: यथोपरि। दिनांक: शिमला-171002, 23/06/2008

प्रतिलिपि निम्न लिखित को प्रेषित है:-

1. समस्त मण्डलायुक्त, हिमाचल प्रदेश।
2. समस्त उपायुक्तों को इस आशय से कि वह शिक्षा संस्थानों के सभी प्रकरणों में अकृष्क व्यक्ति/संस्था से सम्बन्धित निदेशक के अनिवार्यता प्रमाण पत्र प्राप्त करने के उपरान्त ही सरकार के विचारार्थ प्रेषित करें।

हस्त०

संयुक्त सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

No. Rev. B.A.(3)-1/2008-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Pr. Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Shimla, District Shimla, H.P.

Dated :Shimla-171002, the 24-07-2008

Subject: Clarification

Sir,

I am directed to refer to your letter No. SML.LRM 21(31)/2008-1019215, dated 21<sup>st</sup> June, 2008, on the subject cited above and to say that it appears that in the instant case built up structure on the land bearing khasra No. 240/1 measuring area 151 Sq.Mtrs. which is part of khasra number 240 total area measuring 678 Sq. Mtrs., has been transferred. Since the aforesaid area was situated in Nagar Panchayat at the time of such transfer, there is no violation of the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 as the built area in municipal area does not fall in the definition of land as per Explanation given below sub-section (4) of the said section.

You are, therefore, requested to take necessary action in the matter accordingly.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Pr. Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Kullu, District Kullu, H.P.

Dated :Shimla-2, the 28<sup>th</sup> March, 2009.

Subject: Clarification regarding grant of permission under section 118 of H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to your letter No. 5140/S.K (NSK) dated 15<sup>th</sup> December, 2008, on the subject cited above and to say that the provisions of Sub-Rule (3) of rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 are clear with regard to the question/proposition raised by you. However, it is clarified that as per provisions of rules referred to above, a non agriculturist can apply for the permission under sub-rule 2 of the said rule of any one or more purposes prescribed in clause (a) to (j) of Sub-Rule 3.

So far as recommendations of such cases are concerned, such case is required to be examined on its merit.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008  
 Government of Himachal Pradesh  
 Department of Revenue

From

A.C.S.-cum-F.C.(Revenue) to the  
 Government of Himachal Pradesh.

To

Deputy Commissioner,  
 Solan, District Solan, H.P.

Dated :Shimla-171002, the 9<sup>th</sup> July, 2009.

Subject: Permission for execution of sale deeds of the land being purchased by PSEB for the construction of Towers of 220 KV Nalagarh to Mohali Transmission Line-Clarification thereof.

Sir,

I am directed to refer to your letter No. DRA/1-123/2008-1-4582, dated 1<sup>st</sup> June, 2009, on the subject cited above and to say that proposition raised by you was examined in consultation with the Law Department and it has been concluded that the Punjab State Electricity Board (PSEB) can purchase land after obtaining the permission under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972. The detailed opinion tendered by the Law Department is reproduced below:-

“Examined in the Law Department. As per Section 2(20) of the HP General Clauses Act, 1961, the word “Government” or “the Government” shall include the State Government as well as the Central Government. The State Government is not defined in the H.P. Tenancy and Land Reforms Act, 1972. As per section 2(24) of the General Clauses Act, 1897, the word “ Government” or “the Government” shall include both the Central government and any state Government.

Section 118 (2) (e) envisages that the State Government or the Central Government, or a Government Company as defined in section 617 of the Companies Act, 1956 or a Company incorporated under the companies Act, 1956 for which land acquired though the State Government under the Land Acquisition Act, 1894, or a statutory body or Board established by or under a statute and owned and controlled by the State or Central Government.

Punjab State Electricity Board is established by or under a statute and owned and controlled by the State Government. In simple words, PSEB is indirectly controlled by the State Government of Punjab. As per the General Clauses Act, 1897, any State Government falls in word/expression “State Government” but on the other side, in H.P. General Clauses Act, 1968, the word, “any State Government” has not been used. Therefore, in the light of provisions of definition of H.P. General Clause Act, 1961, the State Government means only the government of Himachal Pradesh.

Thus, PSEB can purchase Land after obtaining the permission under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972”.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-II  
Government of Himachal Pradesh  
Department of Revenue

From

A.C.S.-Cum-F.C.(Revenue) to the  
Government of Himachal Pradesh.

To

Sh. Nandan Tandon,  
36, Lakkar Bazar, Shimla, H.P.

Dated :Shimla-171002, the 22-05-2010

Subject: Regarding a law for purchasing a land in the State of H.P.

Sir,

I am directed to refer to your representation dated 15<sup>th</sup> January, 2010 on the subject cited which is addressed the President of India on the subject cited above.

In this regard, it is informed that complete ban has not been imposed on purchase of land by non-agriculturist in the State of H.P. and a non-agriculturist can purchase land in the State of H.P. with prior permission of the State Government as per provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and rules framed thereunder. It is further informed that as per clause (dd) of Sub-Section (2) of the aforesaid section, a non-agriculturist who on commencement of the Principal Act worked and continued working for gain in State of H.P. can purchase land within Municipal Area without permission of the State Government upto 500 Sq. Mtrs. For residential purpose and 300 Sqr. Mtrs. for shop or any other commercial establishment subject to the condition that such person does not have any vacant land or dwelling house in Municipal area in the State.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-II  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Pr. Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Settlement Officer,  
Shimla, District Shimla, H.P.

Dated :Shimla-171002, the 03-07-10

Subject: Reference regarding giving effect to the "WILL" in consequence with the order dated 31.08.2009, passed by the Ld. Civil Judge (Sr. Division) Kasauli, District Solan in Civil Suit No. 88/1 of 2007.

Sir,

I am directed to refer to your letter No. Rev.(ST)SML(P)1-47/82, dated 10.06.2010, which is addressed to the District Collector, District Solan, H.P. and copy thereof endorsed to this department amongst others, on the subject cited above and to say that since the land in question is being transferred now in execution of "WILL" the present provisions of Section 118 of H.P. Tenancy and Land Reforms Act, 1972, will be attracted and the non-agriculturists will have to seek prior permission of the State Government as per provisions of said Section for transfer of land in their favour in execution of the "WILL" registered in the year 1985.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-II  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Pr. Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Secretary (Industries) to the  
 Government of Himachal Pradesh.

Dated :Shimla-171002, 15-09-10

Subject: Regarding clarification in respect land acquisition under the Land Acquisition Act, 1894 and u/s 118 of the HP Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to your letter No. Ind-A(F)16-1/2010, dated 31.07.2010, on the subject cited above and to say that you have raised following two issues for clarification in the agenda attached with your aforesaid letter:-

1. Whether permission u/s 118 of the HP Tenancy and Land Reforms Act, 1972 is required in cases where the land is acquired under the provisions of Land Acquisition Act, 1894?
2. Whether permission u/s 118 of the HP Tenancy and Land Reforms Act, 1972 is required in respect of land given on 95 years lease to industrial units in industrial areas developed by Industries Department?

In this regard, so far as 1<sup>st</sup> issue is concerned in view the provisions of sub-section (2) (e) of section 118 of the HP Tenancy and Land Reforms Act, 1972, the permission of the State Government is not required to transfer land in favour of a Company incorporated under the Companies Act, 1956 for which land is acquired through the State Government under the Land Acquisition Act, 1894.

So far as 2<sup>nd</sup> issue is concerned, as per provisions of Section 118 of the Act, *ibid*, 'lease' is included in "transfer of land" and hence the said provisions will be attracted even in cases where the Industries Department leases out the land to Industrial units.

However, if any meeting is required in this behalf, the same may be convened by the Industries Department as per decision taken in the meeting of Monitoring/Inter-disciplinary Committee held on 21.05.2010.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-II  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Chief Engineer (Energy),  
Directorate of Energy,  
Govt. of H.P., Thakur-Vatika, Khalini, Shimla-2.

Dated :Shimla-2, the 28-05-2011

Subject: Essentiality Certificate-Clarification thereof.

Sir,

I am directed to refer to your letter No. HPDOE/CE(Energy)/EC/2011-631-32, dated 2<sup>nd</sup> May, 2011, on the subject cited above and to say that this department has no where fixed the time limit for validity of Essentiality Certificates. Such certificates are issued by the department concerned on the basis of their own terms and conditions.

It is, therefore, upto the department to decide such matter as deemed fit.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



**Government of Himachal Pradesh**  
**Home Department**

**No. Home-B(F)13-3/2009**

**Dated:**

**16<sup>th</sup> June, 2011**

NOTIFICATION

Whereas, during the last Budget Session of Himachal Pradesh Vidhan Sabha the Treasury and Opposition benches had raised the issue of Benami Land Transactions in violation of Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 and irregularities in the issue of Essentiality Certificates for buying land for development, under Himachal Pradesh Apartment and Property Regulation Act, 2005.

Whereas, the Hon'ble Chief Minister had made an announcement in the Vidhan Sabha that the Government would institute a Judicial Inquiry into all issues related to Benami Land Transactions and issue of Essentiality Certificates under the Himachal Pradesh Apartment and Property Regulation Act, 2005 in violation of the Statutory provisions thereof.

Now, therefore, the Governor, Himachal Pradesh, in exercise of the powers vested in her under sub Section (1) of Section 3 of the Commission of Inquiry Act, 1952, is pleased to appoint Justice Sh. D.P. Sood (Retired Judge of the H.P. High Court) as Commission of Inquiry to enquire into the issues relating to Benami Land Transactions and issuance of Essentiality Certificates under the Himachal Pradesh Apartment and Regulation of property Act, 2005. The Terms of Reference of the Commission shall be as follows:-

The Commission shall enquire into all cases of Benami Land Transactions in Violation of Section 118 of H.P. Tenancy & Land Reforms Act, 1972, since 2003, till 31.3.2011 in Himachal Pradesh, which have resulted in transfer of Agricultural Land to Non-Agriculturists.

The Commission shall also enquire into violations of statutory provisions and administrative procedures regarding issuance of Essentiality Certificates under the H.P. Apartment and Property Regulation Act, 2005, since the inception of the Act, till 31.3.2011.

The Commission may also give its findings on any other issue which may be relevant to the above issues.

Further, the Governor of Himachal Pradesh is of the opinion that having regard to the nature of Inquiry to be conducted and other circumstances of the case, the provisions of Sub-Section (2), (3), (4) and (5) of Section 5 of the Commission of Enquiry Act, 1952 should be made applicable to the Commission and in exercise of the powers vested in her under Sub-Section (1) of the Section 5 of the aforesaid Act is pleased to direct that the provisions contained in Sub-Section (2), (3), (4) and (5) of Section 5 shall apply to the Commission.

The Commission shall have its headquarters at Shimla and it may visit such places in the State as may be necessary in connection with the inquiry and shall submit its enquiry report to the State Government, within a period of Six months.

By Order  
Chief Secretary to the  
Govt. of Himachal Pradesh.

Endst. No. As above.

Dated: 16/6/2011

Copy forwarded for information and necessary action:-

1. Justice Sh. D.P. Sood (Retd. Judge of H.P. High Court), Chotta Shimla-2.
2. All Secretaries to the Govt. of Himachal Pradesh.
3. Pr. Accountant General, H.P. Shimla-3.
4. The Deputy Accountant General (A&E), H.P. Shimla-3.
5. The Director General of Police, H.P. Shimla.
6. All Divisional Commissioners in H.P.
7. All DCs in Himachal Pradesh.
8. Controller, Printing & Stationery, H.P. Shimla-5 for its publication in the Rajpatra.
9. Director, Public Relation, H.P. Shimla-2.

-sd-

Principal Secretary (Home) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-5/2000-1  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Administrative Secretaries,  
 Government of Himachal Pradesh.
2. All the Head of Departments,  
 in Himachal Pradesh.

Dated: Shimla-2, the 2<sup>nd</sup> August, 2011

Subject: Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to say this Department has notified amendments in the H.P. Tenancy and Land Reforms Rules, 1975 vide notification No. Rev. B.A.(3)-5/2000-I dated 29.07.2011 which have been published in H.P. Rajpatra on 30.07.2011 for inviting suggestion/objections from the general public. The copies of notification have been circulated to all the Administrative Secretaries and HODs.

As per amendments proposed in Sub-Rule (3) of Rule 38-A of the said rules, for the purpose of clause (a) and clauses (e) to (g), cases will be considered for permission only on the basis of Essentiality Certificate on the proforma notified vide this Department notification of even number dated 2<sup>nd</sup> August, 2011. This may be issued by the department concerned after ascertaining the eligibility of transferee and obtaining all the documents shown in the check list attached to said proforma. Copy of notification dated 2<sup>nd</sup> August, 2011 is enclosed herewith.

You are, therefore, requested to lay down the necessary criteria to ascertain the qualification/eligibility of transferee as per requirement of amendment in proposed in Sub-rule(3) of rule 38-A of the said rules and this department may be informed accordingly. Early action in the matter will be highly appreciated.

Yours faithfully

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh

No. Rev.B.A.(3)-5/2000-I  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Administrative Secretaries,  
 Government of Himachal Pradesh.
2. All the Head of Departments.  
 in Himachal Pradesh.

Dated : Shimla-2, the 5<sup>th</sup> September, 2011.

Subject: Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this department letter of even number dated 2<sup>nd</sup> August, 2011 on the subject cited above. I am directed to say that for issuance of Essentiality Certificate for purposes covered under your department, documents enlisted in Annexure "B" attached to notification of even number dated 2<sup>nd</sup> August, 2011, are required to be procured from the non-agriculturist applying for essentiality certificate.

In this regard, it is clarified that the department is modifying the check list (Annexure "B") as follows:-

1. A brief description of proposed activities may be accepted as Preliminary Project Report.
2. NOC from Town & Country Planning Department may be taken where the area is covered by a notification under Town and Country Planning Act. In other cases affidavit that the applicant will abide by the regulations applicable in the nearest area notified under the TCP Act may be taken as sufficient for issue of EC. Such NOC will be not required, for Agriculture/Horticulture purpose.
3. NOC from the IPH department may be taken in all cases where the water supply is proposed to be taken from an existing scheme or a bore well is proposed to be sunk in an area where as per notification by the IPH department their prior permission is required. In all other cases an affidavit may be taken that the applicant will arrange his own water supply and there is no restriction of IPH department in this regard to issue EC. NOC will also not be required in all cases where State Level Single Window Clearance Authority, Clearance has been obtained.
4. NOC of HPSEBL need not be obtained in cases where the project has been approved/cleared by the State Level Single Window Clearance Authority or the requirement is below 100KW.
5. The condition of NOC for approach road is being deleted.

6. The NOC of Pollution Control Board should only be obtained to the extent that Pollution Control Board has no objection subject to consent to operate being obtained separately if required. However, such NOC will not be required where the land is proposed to be transferred for agricultural/horticulture purpose or where the project has been approved by the State Level Single Window Clearance Authority.
7. The NOC of Forest Department should only be procured in cases where the land proposed to be transferred attracts, the provisions of Forest Conservation Act, 1980 or the law laid down by the Hon'ble Supreme Court of India in this behalf with regard to compact wooded block above five hectares of private land.

Yours faithfully,

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated : Shimla-2, the 5<sup>th</sup> September, 2011.

Copy forwarded to:-

1. The Addl. Chief Secretary (Forests) to the Government of H.P.
2. The Principal Secretary (Environment and Science and Technology) to the Government of Himachal Pradesh.

They are requested to kindly direct the concerned filed agencies accordingly.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-5/2000-I  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated : Shimla-2, the 22<sup>nd</sup> September, 2011.

Subject: Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this department notification of even number dated 29<sup>th</sup> July, 2011. I am directed to say that it has been experienced that under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972, following types of application are generally made by non-agriculturist:-

1. Application to purchase land for purposes specified in Rules.
2. Permission to sell land/structure by the non-agriculturists acquired with permission u/s 118.
3. Permission by non-agriculturists to purchase land/structure from non-agriculturists selling as in 2 above.
4. Permission to change purpose for which land was purchased with prior permission of the State government.
5. Permission for extension of period to utilize land purchased with permission of the State Government.
6. Permission for extension of period of registration of sale deed.

While processing the cases under aforesaid situations following guidelines may be adhered to:-

1. **Application to purchase land for purposes specified in Rules.**

These application may be processed in accordance with the Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 as amended in year, 2011 and further instructions issued vide letter No. Rev.B.A.(3)-5/2000-I, dated 5<sup>th</sup> September, 2011.

2. **Permission to sell land/structure by the non-agriculturists.**

- (i) In case of application received within a period of 2 years or 3 years (if extension has been granted), the application should have attached a copy of permission letter vide which permission to purchase was granted and copy of extension was required and was granted.
- (ii) In case of application received after a period of 2 years or 3 years (if extension has been granted) the application should have attached a Utilization Certificate issued by the concerned department where Essentiality Certificate was required for the initial

permission under Rule 38-A and in other cases by the local body concerned or by concerned Naib-Tehsildar/Tehsildar/ SDM/ ADM/ ADC/DC.

**3. Permission to purchase land/structure form Non-agriculturist.**

In case the proposed purchaser is a non-agriculturist, he has to apply for permission to purchase as per provisions of Rules on form LR-XIV provided that in cases, where the land is proposed to be utilized for the same purpose for which earlier permission was granted, the recommendations of the department concerned will be sufficient in place of an essentiality certificate. However, in case the purpose for which acquisition is being made is different from that for which permission was originally granted then Essentiality Certificate from the concerned Department will be required if the rules specify an EC for the Changed purpose.

**4. Permission to change land use of land purchased with prior permission of the State Government.**

- (i) In case of an application made within a period of 2 years or 3 years (if extension has been granted), it should have attached:-
  - (a) Copy of permission letter vide which permission to purchase was received.
  - (b) Copy of extension letter, if relevant, and
  - (c) Essentiality Certificate from the relevant department wherever the new purpose requires such an essentiality certificate under the rules, in case of other purposes no other document is required.
- (ii) In case of an application made after a period of 2 years or 3 years (if extension has been granted) it should have attached:
  - (a) Utilization Certificate issued by the concerned department where the original purpose required an Essentiality Certificate and in case of other purposes by local body concerned or by the concerned NT/Tehsildar/SDM/ ADM/ADC/DC.
  - (b) Essentiality Certificate in case the Rules specify this requirement for the changes purpose. In other cases no other documents are required.

**5. Permission for extension of period for registration of sale deed.**

The application should have attached a copy of permission letter granted by the Government.

**6. Permission for extension of period to utilize land purchased with permission of the State Government.**

The application should have attached a copy of land transfer deed.

You are, therefore, requested to kindly follow procedure outlined above and ensure that only the documents listed in each situation outlined above are sought for processing the matter for permission of the State Government.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.F.(10)-154/2009  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary-cum-F.C.(Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Inspector General of Registration SDA  
 Complex, Shimla-9, Himachal Pradesh.
2. All the Deputy Commissioner  
 in Himachal Pradesh.
3. All the Tehsildars/Naib  
 Tehsildars, in Himachal Pradesh.

Dated : Shimla-2, the 16<sup>th</sup> February, 2012.

Subject: Instructions for disposal of cases regarding change in name of the Company.

Sir,

I am directed to say that the matter with regard to registration of a transaction for mutation of land in revenue records pursuant to change in name of Company has been under consideration of the department for quite some time.

2. Section 394 of the Companies Act, 1956 deals with the provision for facilitation and amalgamation of two or more Companies. The amalgamation scheme, which is an agreement between the two of more Companies, is presented before the Court which passes appropriate order sanctioning the compromise or arrangement. Under the scheme of amalgamation the whole or any part of the undertaking, the property or liability of any Company concerned in the scheme is to be transferred to the other Company. The amalgamation scheme, sanctioned by the Court, would be an instrument and Stamp Duty is chargeable on such instrument unless the Hon'ble Court, while sanctioning a scheme, has directed under Section 394(2) of the Companies Act, 1956 that on transfer of property on sanction of scheme of amalgamation under Section 391 to 394 no stamp duty shall be payable. Where no such direction has been given by the Court while sanctioning scheme of amalgamation, then on such instrument, stamp duty shall be chargeable.

3. In cases where merely the name of the Company is changed with the approval of the Registrar of Companies in terms of Sections 21 and 23 of the Companies Act, 1956, no transaction/sale of property takes place and only change in name of the Company is sought to be recorded in the revenue record, no stamp duty is chargeable.

4. For the purpose of this clarification, the change of name of a company will mean that an existing company with name "A" changes its name to "B" which is not the name of a pre-existing company and name "A" ceases to exist consequent to this change. It is also clarified that in case assets are proposed to be transferred to a company or an existing company proposes to change its name to a pre-existing company, then it will constitute transfer/merger and will normally constitute a transaction and will required registration after obtaining permission under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.



5. In cases where the name change as per example given in para 4 above is approved by the Registrar of Companies and the change in name has also been given effect to by the Director, Industries, the District Collector concerned will order to effect change in name in revenue record as per procedure laid down in Chapter 8.52 (ii) of “The Himachal Pradesh Land Records Manual” and an entry in remarks column of revenue record i.e. Jamabandi, shall be made with red ink giving therein the old name of Company and reference of order in compliance to which the name is changed.

Yours faithfully,

-sd-

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2 the 16<sup>th</sup> February, 2012

Copy forwarded for information and similar necessary action to:-

1. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.
2. All the Sub-Divisional Magistrates, in Himachal Pradesh.
3. The IRSA-cum-Tehsildar, Stamp Cell, H.P. Sectt. Shimla-2

-sd-

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

Deputy Commissioner,  
Shimla, District Shimla, H.P.

Dated :Shimla-2, the 12<sup>th</sup> March, 2012

Subject: Regarding Clarification.

Sir,

I am directed to refer to your letter No. SML.LRM 21 (instructions)/2011-42784, dated 14.2.2012, on the subject cited above and to say that the matter was examined in the department and it has been concluded that although the "Will" has been made in favour of Sh. Govinder Singh on 10.03.1989 i.e. prior to amendment carried out in the H.P. Tenancy and Land Reforms Act, 1972 to bar transfer of land by way of "Will" i.e. 4.4.1995, but the "Will" is being executed after the said amendment on death of executants of the said will which took place on 10.7.2000. Hence, Sh. Govinder Singh can get the land involved in "Will" mutated in his favour only after seeking prior permission of the State Government as per provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972, since he is non-agriculturist.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.F.(10)-7/2008-II  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated : Shimla-2, the 15<sup>th</sup> March, 2012.

Subject: Instructions regarding utilization or change of land use of land purchased with prior permission of the State Government under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to say that transfer of land to non-agriculturist is barred under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 except with the permission of the State Government which is provided for under clause (h) of sub-section (2) of the said section. Further, land purchased with prior permission of the State government, has to be “used for the purpose for which the permission has been granted within two years” which is extendable by a period “not exceeding one year” (to be counted from the date of registration of the deed).

After having acquired the land, the non-agriculturist normally uses the land for the purpose for which the permission has been granted. However, in certain cases the non agriculturist seeks permission to sell the land or change the purpose for which land is to be used. While the procedure for such applications has been given vide letter No. Rev. B.A.(3)-5/2000-I, dated 22<sup>nd</sup> September, 2011, there has been some lack of clarity on the cases which will be entertained. In order to clarify matters the following decision has been taken:-

1. Permission shall ordinarily be granted-
  - (i) Where the non-agriculturist seeks permission to sell the land or change the purpose for which it is to be used within the period prescribed for its use.
  - (ii) Where the land has been used for the purpose for which it had been purchased.
  - (iii) Where the land is put even to partial use e.g. structures etc. have been raised partially or fully but it has not been fully used for the purpose for which it was allowed to be purchase.
2. Where the land was not used at all within the prescribed period-  
 In case this situation has arisen despite bonafide efforts of the person to whom permission has been granted, the time period that has elapsed in obtaining statutory approvals that are essential for putting the land to use for the stated purpose, shall be excluded for calculating the time period stipulated. For this purpose, the concerned department responsible for issuing the essentiality certificate shall ascertain the factual position and pass speaking order and thereafter forward the proposal to this department through, the Deputy Commissioner concerned. In cases of residential purpose or shop the Deputy Commissioner, concerned

shall ascertain such position and forward the cases to Government with his clear cut recommendations.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2 the 15<sup>th</sup> March, 2012

Copy forwarded for information and further necessary action to:

1. All the Principal Secretaries to the Government of H.P.
2. All the Head of Departments in H.P.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-III  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Kullu, District Kullu, H.P.

Dated : Shimla-171002, 30<sup>th</sup> April, 2012

Subject: Interpretation of legal provisions of H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to your letter No. 2107/R-DC, dated 29.7.2011, on the subject cited above and to say that the Collector of the District is empowered under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972, to decide such issues in quasi judicial capacity and no such directions as sought by you, can be issued in this behalf.

However, it is clarified that transfer by way of execution of “will” in favour of a non-agriculturist is barred as per amendment carried out in Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 on 4.4.1995. the transfer of land in favour of a non-agriculturist, by way of mutation attested in the year 1999, in execution of “Will” is not valid and is in violation of the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972. Further, if any clarification is required regarding provisions of Act, a separate and specific reference may be made for the purpose.

Yours faithfully,

-sd-

Addl. Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.A.(3)-5/2000-II-Loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Principal Secretaries,  
 Government of Himachal Pradesh.
2. All the Head of Departments.  
 in Himachal Pradesh.
3. All the Deputy Commissioners  
 in Himachal Pradesh.

Dated : Shimla-2, the 28<sup>th</sup> May, 2012.

Subject: Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this Department letter No. Rev.B.A.(3)-5/2000-I, dated 22<sup>nd</sup> September, 2011 (copy enclosed) on the subject cited above. I am directed to say the essentiality certificates of the department concerned are being obtained under the provisions of Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 for the purpose of acquisition of land by non-agriculturists in the State of H.P. for different purposes. Such Essentiality Certificate is obtained basically to know the exact requirement of area, suitability of land and eligibility of non-agriculturist, to undertake the proposed activity.

There are instances where land has already been put to a particular use either by a non-agriculturists after obtaining approval under section 118 or by an agriculturist after securing such approvals as may have been required and the said property is to be further sold to a non-agriculturists. Existing instructions would appear to make it necessary for the relevant department to issue an Essentiality Certificate in the form given with Rule 38-A. it is clarified that in such cases the requirement of essentiality certificate will be met if the Department concerned issues a NOC together with a recommendation that the transferee is eligible to carry out the relevant activity.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(3)-3/2003-III  
 Government of Himachal Pradesh  
 Department of Revenue.

From

Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Director,  
 Land Records, Himachal Pradesh.
3. All the Deputy Commissioners  
 in Himachal Pradesh.
4. The Settlement Officer,  
 Kangra and Shimla.
5. All the Sub-Divisional Officer (Civil)  
 in Himachal Pradesh.
6. All Tehsildars/Naib-Tehsildars  
 in Himachal Pradesh.

Dated : Shimla-2, the 30<sup>th</sup> July, 2012

Sir,

Affidavits are required for various purposes in the Revenue department e.g. for seeking permission under section 118 of the H.P. tenancy and Land Reforms Act, 1972, registration of sale deeds (for purpose of valuation), for procuring certificates, for attestation of mutations and other similar purposes. It has been decided that henceforth, the purpose of such affidavits will be served if a self-attested undertaking/declaration of an applicant alongwith a copy of his photo identity (e.g. voter-i-card, pan card, Government/Institution card, aadhar card or any other valid photo-id, as notified vide this department notification No. Rev.Stamp (F)8-1/2004, dated 20<sup>th</sup> August, 2011 followed by addendum of same number dated 7<sup>th</sup> September, 2011) will be acceptable in place of affidavits for purposes mentioned above.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-III  
Government of Himachal Pradesh  
Department of Revenue

From

The Addl. Chief Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Director,  
Town & Country Planning Department,  
Himachal Pradesh, Shimla-9

Dated : Shimla-171002, the 14<sup>th</sup> August, 2012

Subject: Clarification regarding grant of Essentiality Certificate.

Madam,

I am directed to refer to your letter No. HIM/TP/Promoter/CC/M/sK-Land Jubbal/2012-4799-4800, dated 30.07.2012, on the subject cited above and to say that though all the partners of M/S K-Land Jubbal, a partnership firm are presently agriculturists of the State but "firm" has a separate legal entity. Moreover in future some more persons are proposed to be included in the firm who may be non-agriculturists also.

It is, therefore, clarified that the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 are attracted in the instant case. Further, as the firm intends to seek permission under section 118 of the Act, ibid to acquire land in the State of H.P. for construction of a residential colony, the Essentiality Certificate is required as per provisions of Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



No. Rev.B.A.(3)-5/2000-II  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
 in Himachal Pradesh.

Dated: Shimla-2, the 31<sup>st</sup> January, 2013.

Subject: Instructions regarding utilization or change of land use of land purchased with prior permission of the State Government under the provisions of Section 118 of the HP Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to invite your attention to this department letter No. Rev.B.F.(10)-7/2008-II dated 15<sup>th</sup> March, 2012, on the subject cited above and to say that the matter has been examined by the department again in consultation with the Law Department.

After through consideration of the issue aforesaid instructions are hereby withdrawn with immediate effect.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2,

the 31<sup>st</sup> January, 2013

Copy forwarded for information to:

1. The Deputy Commissioner, Solan with reference to his letter No. PSH/11-NA(Instruction-118)/12-5750, dated 17.12.12.
2. File No. Rev. B.F.(10)-7/2008-II for record.

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev-B.A.(3)-5/2000-III  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Solan, District Solan, H.P.

Dated: Shimla-2 the, 31<sup>st</sup> October, 2013.

Subject: Clarification regarding purchase of land under Section 118 of HP Tenancy & Land Reforms Act, 1972 by Nepali in H.P.

Sir,

I am directed to refer to your letter No. PSH/11-21(clarification)/12-SLN-1243, dated 20.06.2013 on the subject cited above and to clarify that if a Nepali has acquired Citizenship of India and he also fulfils the eligibility criteria fixed under Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 (Amended in year, 2011), then such Nepali can be considered eligible to purchase land in the State of H.P. otherwise he has to seek permission of Reserve bank of India as per provisions of Foreign Exchange management (Acquisition and Transfer of Immovable property in India) Regulation, 2000.

You are therefore, requested to take further necessary action accordingly.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-2 the 31<sup>st</sup> October, 2013.

Copy forwarded to all the Deputy Commissioners in H.P. (except Solan District) for information.

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2008-IV  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Solan, District Solan, H.P.

Dated : Shimla-171002, 20<sup>th</sup> August, 2014

Subject: Clarification regarding land purchased by Nepali Citizens.

Sir,

I am directed to refer to your letter No. PSH/14-1(NA)(Viol-118)-21/12-KGT-555, dated 15<sup>th</sup> February, 2014, on the subject cited above and to say that the matter was got examined in consultation with the Law Department. It is clarified that in case Shri Jaman Lal and Shri Tulsi Ram, (both Nepali citizen) have acquired the citizenship of India under the Indian Citizenship Act on the date of purchase of land and that too prior to the coming into force of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, then action cannot be taken against them under the provisions of this Act. A photo copy of detailed opinion tendered by the Law Department is enclosed herewith for taking further necessary action.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Ph.No. 0177-2621895

**From Over leaf****Government of Himachal Pradesh,  
Law Department (Opinion)**

N-131. Examined in the Law Department. The A/D have stated that a complaint of Shri Ranu Ram Sharma has been received in the office of Deputy Commissioner Solan from Chief Minister's office against the transaction of landed properties to Nepalis in Village Jadhyaal, Tehsil Kandaghat, District Solan. As stated by the A.D inquiry was conducted by SDM, Kandaghat and it has been found that one Shri Jaman Lal, son of Shri Lal Bahadur got the land through gift deed from Shri Kanshi Ram son of Shri Bhagat Ram on 17-7-1966 and after that Shri Jaman Lal has purchased the land measuring 2-1 bigha in the year 1976 vide mutation No. 101 and Shri Tulsi Ram son of Shri Lal Bahadur has purchased land vide mutation No. 92 dated 13-6-1969 and after that land measuring 3-11 bighas has been allotted to Shri Tulsi Ram son of Shri Lal Bahadur vide mutation No. 100 by Government of H.P. The report reveals that Shri Jaman Lal and Shri Tulsi Ram both son of Lal Bahadur got the land in their names in the year 1966 and 1969 but the H.P. Tenancy and Land Reforms Act, 1972 came into force in the year 1972 and hence the violation of section 118 of the said Act can not be made out. The A/D is of the view that the H.P. Tenancy and Land Reforms Act, 1972 came into force with effect from 21-2-1974 and the above Nepali Citizens purchased land prior to 1972 in H.P. and as such its provisions can be made applicable only from the said date and the transactions made in favour of Nepali Citizens prior to enactment of said Act cannot be proceeded under the provisions of the said Act. The A/D have sought the opinion of this Department on the issue as to whether any other law was/is applicable on transfer of land in favour of Nepali Citizen being foreign national.

In this regard, it is pertinent to mention here that in case the foreign nationals have acquired citizenship as per the provisions of section 3 and 5 of the Citizenship Act, 1955 in that eventuality their cases in relation to transfer of land are to be governed/regulated under the laws applicable to other citizens of India. In relation to the issue raised by the A/D that whether a Nepali citizen who has purchased land prior to 1972 in H.P. can be proceeded against under the provisions of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, it is pointed out that in case the concerned Nepali citizen has acquired the citizenship of India under the Indian Citizenship Act on the date of purchase of land and that too prior to the coming into force of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 then action can not be taken against him under the provisions of the said Act.

This has the approval of LR-cum-Pr. Secretary(Law).

-sd-

ALR-cum-Under Secy.(Law) to the  
Government of Himachal Pradesh.

**Deputy Secretary (Revenue)**

No. Rev. B.A.(3)-1/2008-IV  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

All Deputy Commissioner,  
 in Himachal Pradesh.

Dated : Shimla-2, 25<sup>th</sup> August, 2014

Subject: Clarification regarding applicability of Section 118 of the H.P. Tenancy & Land Reforms Act, 1972 on mining lease.

Sir,

I am directed to say that the matter regarding applicability of the provisions of Section 118 of the H.P. Tenancy & Land Reforms Act, 1972 on mining lease has been examined in consultation with the Law Department. The Law Department has opined that the section 118 postulates that no transfer of land by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist. The transfer of land per se is prohibited by the section be it by sale, gift, will, exchange, lease or mortgage. The section would thus primarily come into play only when the transfer of land is in the first place postulated. If no transfer of land per se is visualized, the provisions of section 118 may not be attracted. The Law Department has further opined that the grant of purported "Mining Lease" in strict terms, thus would not mean "transfer of land".

In view of above, it is clarified that "mining lease" is, in fact, a deemed "mining license" so does not attract the provisions of Section 118 of the Act, ibid as only limited rights i.e. mining of minerals are conferred and not any other right of ownership otherwise over the land. You are, therefore, advised to take further necessary action accordingly and these instructions may be brought to notice of all concerned Revenue Officers under your control.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.  
 Ph.No. 0177-2621895

Endst. No. As above. Dated : Shimla-2, the 25<sup>th</sup> August, 2014

Copy forwarded for information to the Principal Secretary (Industries) to the  
 Government of Himachal Pradesh, Shimla-2

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/2003-I  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Principal Secretary (Industries) to the  
 Government of Himachal Pradesh.
2. All Deputy Commissioner,  
 In Himachal Pradesh.

Dated : Shimla-171002, the 23<sup>rd</sup> September, 2014

Subject: Regarding permission to transfer industrial plots developed by HPSIDC or Industries  
 Department of the State.

Sir,

The matter regarding permission to transfer of industrial plots falling in the Industrial estates or areas developed by the Industries Department or Himachal Pradesh State Industrial Development Corporation, in favour of non-agriculturists under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 was under consideration of the State Government.

In this regard, it has been decided that in such cases where Industries Department or HPSIDC transfers industrial plots to non-agriculturist, the permission of the State Government under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 shall be deemed to have been granted. Henceforth no reference will be required to be made to the Government for this purpose.

Yours faithfully,

-sd-

(Tarun Shridhar),

Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated : Shimla-2, the 23<sup>rd</sup> September, 2014

Copy forwarded to the Director, Industries Himachal Pradesh, Shimla-1 for  
 information and similar necessary action.

-sd-

(Tarun Shridhar),

Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Ph.No. 0177-2622382

Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Solan, District Solan, H.P.

Dated: Shimla-2 the, 30<sup>th</sup> January, 2015.

Subject:

Clarification regarding Transfer of land/built-up structures from HIMUDA to Non-Agriculturist.

Sir,

I am directed to refer to your letter No. PSH/11-NA(Misc-118)/11-Vol-II-2099 dated 23<sup>rd</sup> July, 2014 on the subject cited above and to say that the issues raised by you are clarified as follows:-

- 1) The property purchased by a non-agriculturist from the HIMUDA under clause (g) of sub-section (2) of section 118 of the H.P. Tenancy and Land Reforms Act, 1972 can be further sold by such non-agriculturist without seeking prior permission of the State Govt. because, the provision of second proviso below clause (h) of sub-section (2) of aforesaid section does not apply to such non-agriculturist. However, if such plot/flat structure is to be purchased by another non-agriculturist, the provisions of section 118 will come into force and he will have to seek prior permission of the Government under section 118 of the Act, *ibid*, because the HIMUDA is no more in picture.
- 2) The HIMUDA can issue NOC for subsequent transfer/sale of property already sold by it. However, as stated above the provision of Section 118 of the Act, *ibid* will come into play if the property is to be purchased by the another non-agriculturist.
- 3) This issue has already been clarified in (1) and (2) above.

This issues with the prior approval of the competent authority.

Yours faithfully,

-sd-

(K.R.Saizal)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

30<sup>th</sup> January, 2015

Enst. No. As above. Dated: Shimla-2 the

Copy forwarded to:-

1. All Deputy Commissioners in H.P. for information and similar necessary action.
2. Joint Secretary (Housing) to the Govt. of H.P. Shimla-02 w.r.t. his letter No. HSG-F(11)-2/2011 dated 26.11.2014 for information and necessary action.

-sd-

(K.R. Saizal)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B. A.(3)-3/2013-I-Loose  
 Government of Himachal Pradesh  
 Department of Revenue

From The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To The Deputy Commissioner,  
 Kangra at Dharamshala  
 Himachal Pradesh.

Dated: Shimla-171002, the 24<sup>th</sup> April, 2015.

Subject:- Clarification regarding permission to purchase land under item No. 1(c) of  
 column No. 5 of Sr. No. 2 of the amended Notification dated 12-09-2014 of  
 section 118 of HP Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to your letter No. 221/Land Reforms Branch dated 31-01-2015 on the subject cited above and to say that the matter was examined in this department. Under the item No. 1 (c) of Sr. No. 2 of sub-rule (3) of the rule 38-A of the HP Tenancy and Land Reforms Rules, 1975 as amended vide this department Notification No. Rev.B.A(3)-3/2013-I dated 12-09-2014, the eligibility for the govt. employees to purchase land under section 118 of the HP Tenancy and Land Reforms Act, 1972 has been fixed as “(c) Permanent Government Employees (Both State and Central Government including autonomous bodies, corporation which are substantively financed by them)”. In this regard, it is clarified that this eligibility applies to the State Government employees or those Central Government/PSUs employees who are likely to remain in the state for some time in future necessitating a residence in the state.

You are, therefore, requested to take further necessary action accordingly and process the cases of above category under section 118 in the light of above clarification.

Yours faithfully,

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.  
 Ph. No. 0177-2621895

Endst. No. As above. Dated Shimla-171002, the 24<sup>th</sup> April, 2015

Copy is forwarded to all the Deputy Commissioners (except DC Kangra) for information and necessary action please.

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.



No. Rev.B.A.(3)-3/2013-I-loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Administrative Secretaries,  
 Government of Himachal Pradesh.
2. All the Heads of Departments  
 Himachal Pradesh.
3. All the Deputy Commissioners,  
 Himachal Pradesh.

Dated : Shimla-2, the 5<sup>th</sup> February, 2016

Subject: Instruction regarding excluding the period for which a person was prevented from putting the land into use due to statutory hindrances of some action of the Government, from two/three years as stipulated in the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to the subject cited above and to say that transfer of land to non-agriculturist is barred under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 except with the permission of the State Government. As per the second proviso under section 118 (2) (h) "a non-agriculturist who purchases land under clause (dd) or in whose case permission to purchase land is granted under clause (h) of this sub section, shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one years as may be allowed by the State Govt."

After having acquired the land, the non-agriculturist normally uses the land for the purpose for which the permission has been granted. There is no provision either under the H.P. Tenancy and Land Reforms Act, 1972 to extend the period of use of the land for which permission is granted under Section 118 of the Act, beyond the period prescribed.

However, certain cases have been brought to the notice of this Department where permissions have been granted under Section 118 of H.P. Tenancy and Land Reforms Act, 1972 but the buyers have failed to "put the land into use" as provided under the proviso mentioned above due to some statutory hindrances or operation of other provisions of law in force or a policy or any other action on the part of Government itself. Due to this reason, the prescribed time period in these cases has expired. Such affected firms/applicants have represented to the Government through concerned Department(s), who have issued essentiality certificates in their favour. The relevant departments have also recommended these cases for consideration, with cogent reasons and justification to consider these sympathetically and allow them to utilize the land for the purpose for which permission was granted as there was no fault on their part in its non utilization.

A Division Bench of the Hon'ble High Court of Himachal Pradesh in CWP No. 254 of 1995(AIR 1993 H.P. 43), titled "Ravinder Chauhan and others Vs State of Himachal Pradesh and others" decided on 18.09.1998, while considering and interpreting the provision of second proviso to sub section (2) of section 118 of the Act *ibid* has held as under:-

**“In our view when the statute contemplated the failure on the part of the person, who has been granted with permission to purchase, as a condition precedent for bringing into the force of the operation of the vesting clause, the failure should be on account of the conscious default, negligence or refusal on the part of the person concerned and where the non-compliance was for reasons beyond his control or due to the fact that it was incapable or impossible of performance due to the operation of other provisions of law in force and that the authorities, who accorded the permission with such conditions, which are not capable of being complied with and performed and were equally at fault, it is not permissible for the respondents or for that matter anybody from public including the petitioners to insist or assert that despite the obvious and for no fault of the 6<sup>th</sup> respondent, he should be condemned as having failed to comply with the conditions, that which otherwise he could have complied with, and thereby take over his property by enforcing the vesting clause engrafted in the second proviso.”**

Hence, keeping in view the observation of the Hon’ble High Court in this matter, the intent of the legislature in incorporating the time period condition and also the fact that to vest a land purchased by a non-agriculturist when he has a bonafide intention of utilizing the same but has been prevented by legal reasons or an action on part of the Government itself would be against the principles of natural justice and too harsh upon the applicant. It has been hence decided that the period of 2 years extendable by another one year to “put the land into use” as provided under Second Proviso of Section 118-2(h) of the H.P. Tenancy and Land Reforms Act, 1972, should be counted after excluding the period for which a person was prevented from putting the land into use due to some mandatory statutory hindrances or operation of other provisions of law in force or policy or any other such action on the part of the Government itself. In such cases the department which has issued the essentiality certificates will recommend and refer the matter to the Revenue Department. However, before recommending and referring such cases to Revenue Department for consideration, the concerned Department(s) shall ascertain the reasons put forth by the person for consideration and will verify the period to be excluded with cogent reasons, full justification and alongwith detailed comments for allowing the exclusion of such period(s). The recommendation of the department concerned will be put up before the State Government for decision and in case the applicant person is allowed by the State Govt. to utilize the land for the purpose for which permission has been originally granted, he/she will have to complete the project in all respects within the stipulated time failing which land, in question, will vest in the Government free from all encumbrances as envisaged in section 118 *ibid*.

Yours faithfully,

-sd-

(Tarun Shridhar)

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-171002, the 05.02.2016

Copy forwarded to The Addl. Secretary (GAD) to the Govt. of H.P. w.r.t. cabinet decision on item No. 90 taken in the cabinet meeting held on 14.01.2016 for information please.

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.A.(3)-5/2017  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Principal Secretary (Industries) to the  
 Govt. of Himachal Pradesh.
2. All the Deputy Commissioners  
 in the Himachal Pradesh.

Dated: Shimla-2 the, 20<sup>th</sup> May, 2017.

Subject: Clarification regarding change of Partnership firm to Limited Company.

Sir,

I am directed to refer to your letter No. Ind.-A(f)19-3/2017 dated 4<sup>th</sup> March, 2017 and letter No. Ind.-A(F)19-5/2012-I-loose dated 22.10.2016 on the subject cited above and to say that the issue raised by you was got examined in this department. It is clarified that the permission under section 118 of the HP Tenancy and Land Reforms Act, 1972, is required when a company is changed from proprietorship to partnership firm and partnership to Ltd. Company and therefore, stamp duty as well as registration fee is also chargeable in such kind of cases. So far as the cases of merely change of name of Company/Firm is concerned the instruction issued vide this department letter No. Rev.B.F.(10)-154/2009 dated 16<sup>th</sup> February, 2012 may be kept in view.

Yours faithfully,

-sd-

(Ashish Kohli)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-171002 the 20<sup>th</sup> May, 2017.

Copy forwarded to:

1. The Deputy Commissioner Solan, District Solan, H.P. w.r.t. his letter No. Peshi/11-2/2017-NLG-5833-34 dated 6.3.2017 for information.

-sd-

(Ashish Kohli)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.E.(2)-23/2017  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The District Collector,  
Solan, District Solan,  
Himachal Pradesh.

Dated: Shimla-171002 the, 21<sup>st</sup> November, 2017

Subject: Regarding examination of order dated 05-01-2017 passed by Ld. District Collector Solan in case No. 1/13 of 2017 titled as State of H.P. Vs M/s Omaxe Constructions Ltd.

Sir,

I am directed to refer to your letter No. LB/XIII-568/95-XVI-1251 dated 07-10-2017, on the subject cited above and to say that the matter has been examined in consultation with the Law Department and the Law Department has opined that the said order of Ld. District Collector is not legally proper and is liable for further agitation. A photo copy of detailed opinion tendered by the Law Department is enclosed herewith alongwith all the papers received with your letter referred to above.

You are therefore, requested to take further necessary action in the matter in accordance with the opinion of Law Department.

Yours faithfully,

-sd-

(Ashish Kohli)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Government of Himachal Pradesh,  
Law Department (Opinion)**

N-6. Examined in the Law Department. The A/D have sought the opinion of this Department on the Order dated 306-2017 passed by the learned District Collector, Solan in case No. 1/13 of 2017 titled as State of H.P. Vs M/s Omaxe Construction Limited.

In the above context, it is stated that the Hon'ble Court in para 7 of the above Order has mentioned that since letter No. HIM/TP Apt./Lic. No. 07/M/s Omaxe Limited/2013-10504-05 dated 13-11-2014 makes it clear that plots are part of residential colony, therefore, sale of plots by the Respondent can not be said to be in violation of Section 118 of the Act, Accordingly, the Learned Court held that in view of this, Notice dated 5-1-2017 issued to the Respondent is hereby withdrawn and the proceedings are dropped as these are not maintainable under the Act.

It is pertinent to mention here that permission under section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 was accorded/granted in favour of the Respondent company by the Government on 16<sup>th</sup> February, 2006 for the establishment of residential colony subject to terms and conditions contained in the permission letter. The Respondent Company instead of establishing the residential colony has developed the land into plots and are executing sale deeds of vacant plots in violation of the permission granted to them. Since, permission in favour of the Respondent company was granted for the specific purpose it can not deviate from basic intent behind the said permission in the garb of the provisions contained in the Himachal Pradesh Apartment and Property Regulation Act, 2005 (now repealed) as interpreted by the Town and Country Planning Department in their letter No. HIM/TP/Apt./Lic. No. 07/M/s Omaxe limited/2013-10504-05, dated 13-11-2014. Accordingly, this Department is of the considered opinion that the Order passed by the Learned Court of District Collector, Solan is not legally proper and is liable for further agitation.

This has the approval of LR-cum-Pr. Secretary (Law).

-sd-

DLR-cum-Deputy Secy. (Law-O) to the  
Government of Himachal Pradesh.

Joint Secretary (Revenue)

No. Rev.B.A.(3)-3/2013-I-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Addl. District Magistrate,  
Kangra at Dharamshala, H.P.

Dated: Shimla-171002, the 12<sup>th</sup> March, 2018

Subject: Guideline/Instruction regarding Himachal Pradesh Tenancy and Land Reforms  
(Amendment) Rules 2014 Serial number 2 column number 5 item number 1 (C).

Sir,

I am directed to refer to your office letter No. 2220 dated 29.11.2017 on the subject cited above and say that the matter was examined in this department. The provisions mentioned at serial No. 2 Column No. 5, item No. 1(C) by implication applies to employees of State/Centre Govt. working in the State and not outside. Only those bonafide who have their permanent home in Himachal but are working anywhere else in the Country, are eligible under rule 2 (1)(a).

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-1/2016  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Addl. Chief Secretary(Revenue) to the  
 Government of Himachal Pradesh.

To

The Director,  
 Land Records Himachal Pradesh

Dated :Shimla-2, the 30-01-2019.

Subject: Regarding clarification on "Explanation-I appended to sub Section 4 of Section 118  
 of H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to refer to your letter No. Rev.(LR) A-5(2)/2018-5731 dated 29.11.2018 on the subject cited above and to say that the issue raised by the Sub Registrar Paonta Sahib, District Sirmaur was examined in consultation with the Law Department. The Law Department has opined that transfer of built up area/built up structure excluding the land beneath such structure to a non-Himachali or a Non agriculturist within the limits of Municipal Area is permissible whether it is agricultural land or even not recorded in the revenue records. The detailed opinion tendered by the law Department is enclosed herewith for taking further necessary action as advised by the law Department.

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla -171002, the

30.01.2019

Copy forwarded to:

1. The Sub Registrar Paonta Sahib, District Sirmaur, H.P. for further necessary action.
2. Sh. Surjit Singh S/o Sh. Harbans Singh, village Bhagani, Tehsil Paonta Sahib, District Sirmaur, H.P. w.r.t. his letter dated 7.12.2018 for information.

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Department of Law (O)**

**N.21-27/ante:-** Examined in the Law Department. The AD has sought opinion of this department on the following three points:-

- (i) Whether transfer of only a 'built up structure' excluding the land beneath such structure to a Non-Agriculturist within the limits of M.C. area is permissible when such structure has recently been come up on agriculture land and has not even find its mention in the revenue records yet?
- (ii) If permissible, then, is the land beneath the structure also permissible to be transferred to such purchaser(s) mentioned in point number (1) above in view of the 'Explanation-I to section 118(4) of the H.P. Tenancy and Land Reforms (Amendment) Act, 1997 which exclude the 'Built up Area' from the definition of land as defined under section 2(7) of the Act?
- (iii) An elaborated distinction between 'Built up Structure' and 'Built up Area'.

In this regard, it is stated that the transfer of land to a non-agriculturist is completely barred under section 118 of H.P. Tenancy and Land Reforms Act, 1972, by any of the modes as prescribed in the section i.e. by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner. The expression land has been defined under section 2(7) of the Act *ibid* and means the land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes,

- a) The sites of buildings and other structures on such land,
- b) Orchards,
- c) Ghasnies,
- d) Banjar land, and
- e) Private forests

In addition to above, the expression land in view of explanation clause I appended below sub-section (4) of section 118 of the Act *ibid*, shall include-

- (i) The land recorded as "Gair-mumkin", "Gair-mumkin Makan", or any other gair-mumkin land by whatever name called in the revenue records; and
- (ii) The land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture (**but shall not include a built-up area in the municipal area.**)

Further, as per explanation clause II appended below sub-section (4) of section 118, the municipal area means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.

In view of above, it is explicitly clear that the built up area in a municipal area can be transferred without permission of the State Government as the built up area is not included in the definition of land. Moreover, the embargo imposed under sub-section (1) of section



118 of the Act *ibid*, is related to transfer of land to the non-agriculturist. As there is a bar in transfer of land to the non-agriculturist and also in view of the fact that built up area does not fall within the ambit of land, thus, transfer of land beneath any built up area/structure would amount to violation of provision of sub-section (1) of Section 118 of the Act.

This department has carefully gone through the explanation clauses I & II appended under sub-section (4) of Section 118 of the Act *ibid* and does not find any ambiguity or inconsistency in the provisions. These explanation clauses nowhere provide that the Revenue Department can transfer land beneath the built up structure to the non-agriculturist. These explanation clauses merely provide the definition of land wherein the built up area in the municipal area has been excluded from the definition of land. The Revenue Department has examined the matter at N-21-25 and has rightly concluded that the transfer of land to non-agriculturist is barred and whereas, built up area/structure in municipal area is not barred.

As far as distinction between 'built up structure' and 'built up area' is concerned, it is stated that broadly speaking there is hardly any difference between these two expressions for the purpose of section 118 of the Act. It is a fact that built up area of built up structure has not been defined under H.P. Tenancy and Land Reforms Act, 1972. However, the expression built up area has been defined under section 80-IB(14)(a) of Income Tax Act, 1961 as the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units and whereas, the expression structure is anything built or constructed, any piece of work artificially built up can be a structure but not necessarily a building. Every building is a structure through every structure is not building and the terms structure can be applied to a wall, shed or any other unsubstantial erection for which the word 'building' cannot be used.

In view of foregoing discussion, as the explanation clauses I & II appended under sub-section (4) of Section 118 of the Act *ibid*, are abundantly clear and unambiguous, thus, the AD may take further decision in the matter accordingly.

This has the approval of the LR-cum-Pr. Secy.(Law).

-sd-

DLR-cum-Deputy Secy. (Law) to the  
Government of Himachal Pradesh

Additional Chief Secretary (Rev.)

**No. Rev. B.A.(3)-1/2016**  
Government of Himachal Pradesh  
Department of Revenue

From

The Addl. Chief Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Director,  
Mount Carmel School, Thakkurdwara  
Palampur, Distt.Kangra, H.P.

Dated :Shimla-2, the 30-04-2019.

Subject: If we obtain Government approval in one place, through the Section 118 Act, please allow us to purchase land anywhere in H.P. without going through Section 118.

Sir,

I am directed to refer to your representation dated 22-04-2019 on the subject cited above and to say that there is no such provision in the Section 118 of the H.P. Tenancy and Land Reforms Act, 1972, which provides exemption as requested by you. The Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 is a regulatory provision, which allows a non-agriculturist to purchase land with the permission of the State Government. The intention of the regulation is to conserve the agricultural holdings of the State. Any non-agriculturist may apply and seek permission to purchase land as per the Rules framed for this purpose. Hence, prior permission of Government is required to be obtained by the Society/School to purchase land everywhere in the State of H.P.

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.A.(3)-5/2017  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The District Collector,  
 District Sirmaur at Nahan.

Dated: Shimla-2 the, 26.06.2019.

Subject: Clarification regarding instruction for disposal of cases for change of name of the companies, partner firms, LLP, amalgamation, and proprietorship firms.

Sir,

I am directed to refer to your letter No. Peshi-II-SK-18 (9)/2018-1010 dated 17.04.2012 on the subject cited above and to say that the issue raised by you was examined in consultation with the Law Department. The opinion tendered by the Law Department is enclosed herewith for your guidance.

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-171002 the 26.06.2019.

Copy is forwarded to all the Deputy Commissioners in the State of H.P. except D.C. Sirmaur, H.P. alongwith copy of aforesaid opinion of Law Department for further necessary action.

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

**Government of Himachal Pradesh**  
**Law Department (O)**

Ns.20-22/ante:- Examined in the Law Department. The AD has sought opinion of this department on the following points framed at N. 20/-

- i) Whether the instructions dated 16.2.2012 issued by the Department which relate to charging or non-charging of stamp duty in the case of change in the name of Company takes place will be applicable or not in the case of change in the names of proprietorship firms, partnership firms, limited liability partnership and if yes, then which cases may be dealt with at District Collector level and which cases are required to be sent to the Government for change of namely and what stamp duty will be chargeable in which case.

The instructions dated 16<sup>th</sup> February, 2012 have been gone through in this Department and it is found that the said instructions have been issued with intent to dispose of the case relating to change in the name of company which may take place subsequent to its registration in terms of section 21 and 23 of the Companies Act, 1956. Under these instructions it has been specifically provided that no stamp duty shall be chargeable in case mere change in the name of already registered company takes place u/s 21 & 23 of the Companies Act, 1956, with approval of the Registrar, as change in the name of already registered company does not amount to constitution of new company and moreover, no transaction/sale of property is involved. As far as the issues raised by the AD in respect of proprietorship firms, Partnership firms, Limited liability Partnership are concerned, it is stated that if there is a mere change. In the name of already registered proprietorship firms, partnership firms and Limited Liability Partnership in accordance with the provisions of the Acts, then, there is no justification to charge the stamp duty. However, if changes in the names of Proprietorship Firms, Partnership Firms and Limited Liability Partnership should result into creation of completely a new entity, or new partners are included in the firms, then, certainly, stamp duty is required to be charged. So far as other issues raised by the AD are concerned, the AD may decide at its own level as per provisions of the Acts.

This has the approval of the Legal Remembrancer.

-sd-

DLR-cum-Deputy Secretary (Law) to the  
Government of Himachal Pradesh

No. Rev-B.A.(3)-3/2013-I-loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The FC-cum-Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
 in Himachal Pradesh.

Dated: Shimla-2 the, 07-08-2019.

Subject:

Clarification w.r.t. permission under section 118 of the HP Tenancy and Land Reforms Act, 1972 in favour of the partnership firms formed by the Himachali Agriculturist.

Sir,

I am directed to say that the matter with regard to permission under section 118 of the HP Tenancy and Land Reforms Act, 1972 in favour of the partnership firms formed by the Himachali Agriculturist remained under consideration of the department for quite some time. The same was also received in this department vide letter No. Ind. A(F)6-2/2019 dated 25<sup>th</sup> March, 2019 of the Special Secretary (Inds.) to the Govt. of H.P. The issue raised by the Industries Department was examined in consultation with the Law Department and the law Department has opined that the partnership firm formed by the Himachali agriculturist is not required to obtain permission under section 118 of the HP Tenancy and Land Reforms Act, 1972. In view of the Judgement given by the Hon'ble High Court of H.P. in M/s K-Land Jubbal Vs. State of H.P. in CWP No. 2293 of 2018 on dated 28.02.2019. A copy of opinion tendered by the Law Department is enclosed herewith for your guidance and further reference.

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-171002 the 07.08.2019.

Copy is forwarded for information and similar necessary action to:-

1. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.
2. All the Sub-Divisional Magistrates, in Himachal Pradesh.
3. IRSA-cum-Tehsildar, Stamp Cell, H.P. Sectt. Shimla-2

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Law Department (O)**

**Ns. 144-145/ante:**-Examined in the law Department. The AD has sought opinion of this department on the issue framed at N.137/- as to whether the Himachali Agriculturist having partnership firm can run their unit without taking any permission from the Government u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 or not.

The matters relating to permission required u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 for the purchase of land by the non-agriculturist firms where all partners are Bonafide Himachali and agriculturist have already been examined in this department at length and advices were tendered earlier to the AD that though a partnership firm is not a separate legal entity yet the property belonging to the partnership business shall be termed as the property of the firm in terms of section 14 of the Indian Partnership Act, 1932. However, the matter has been re-examined in this department in terms of provision of section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and under Indian Partnership Act, 1932, and judgment passed by the Hon'ble High Court of Himachal Pradesh on 28.02.2019 in CWP No. 2293 of 2018 M/s K-Land Jubbal through its partners and another versus state of Himachal Pradesh and another, and it is found that as per section 4 of the Indian Partnership Act, 1932, partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Persons who have entered into partnership with one another are called individually partners and collectively a firm, and the name under which their business is carried on is called the firm name. The **Hon'ble Apex Court in Dy.CST versus Kelukutty (1985) 155 ITR 158 (SC)** has inter-alia enunciated the following principles:-

- i) **The concept of partnership law is that a firm is not an entity or a person in law but only a compendious mode of designating persons who have agreed to carry on business in partnership.**
- ii) **A firm as such is not entitled to enter into partnership with another firm or individual as the definition of person in section 3(42) of the General Clauses Act, 1897, cannot be imported into section 4 of the Indian Partnership Act.**
- iii) **Under the income-tax law a firm is an independent and distinct juristic person for the purpose of assessment as well as for recovery of tax as it is a 'person' within the meaning of section 2(31) of the Act, having its own entity and personality. It is also separate entity under the sales tax law.'**

The Hon'ble Apex Court in V. Subramaniam V. Rajesh Raghuvandra Rao, 2009 5 SCC 608, has inter-alia held as under:-

**'a partnership firm, unlike a company registered under the Companies Act, is not a distinct legal entity, and is only a compendium of its partners. Even the registration of a firm does not mean that it becomes a distinct legal entity like a company. Hence, the partners of a firm are co-owners of the property of the firm, unlike shareholders in a company who are not co-owners of the property of the Company.**

Further, the Hon'ble Apex Court in S.V. Chandra Pandian and others v. S.V. Sivalinga nadir and others, (1993) ISCC 589, has inter-alia held as follows:

**‘From the foregoing discussion it seems clear to us that regardless of its character the property brought into stock of the firm or acquired by the firm during its subsistence for the purposes and in the course of the business of the firm shall constitute the property of the firm unless the contract between the partners provides otherwise. On the dissolution of the firm each partner becomes entitled to his share in the profits, if any, after the accounts are settled in accordance with section 48 of the Partnership Act.’**

The Hon’ble High Court of Gujarat in Vijaybahi Zinabhai Prajapat v. State of Gujarat, decided on 10.08.2018, has inter-alia, held as follows:

**‘a partnership firm under the Indian Partnership Act, 1932, is not a distinct legal entity apart from the partners constituting it and equally in law, the firm, as such, has no separate rights of its own in the partnership assets and when one talks of the firm’s property or firm’s assets all that is meant is property or assets in which all partners have a joint or common interest. If that be the position, it is difficult to accept the contention that upon dissolution the firm’s rights in the partnership assets are extinguished. The firm as such has no separate rights of its own in the partnership assets but it is the partners who own jointly in common the assets of the partnership and, therefore, the consequences of the distribution, division or allotment of assets to the partners which flows upon dissolution after discharge of liabilities is nothing but a mutual adjustment of rights between the partners and there is no question of any extinguishment of the firm’s rights in the partnership assets amounting to a transfer of assets.’**

Further, the Hon’ble Apex Court in Ashok Transport Agency versus Awadhesh Kumar and ors., decided on 31.03.1998, has inter-alia held that ‘a partnership firm differs from a proprietary concern owned by an individual. A partnership is governed by the provision of the Indian Partnership Act, 1932. Though a partnership is not a juristic person but order XXX Rule 1 CPC enables the partners of a partnership firm to sue or to be sued in the name of the firm.’

**‘it goes without saying that if the partners of the petitioner firm are bonafide agriculturists of Himachal Pradesh, they were/are entitled to purchase the agriculture land without any prior permission under Section 118 of the Act. the Firm will also draw legal status and entity from that of its partners. In such an eventuality, it appears to us that if the petitioner-firm was unable to make out a case for extension of time, the land purchased by it at best will revert back to its partners who being bonafide Himachalies agriculturists are competent and entitled to purchase the same.’**

From the law cited above, it is amply clear that the partnership firm has existence but has no separate legal entity distinct from its partners. It is merely a collective name given to the individuals composing it. As per section 25 of the Indian Partnership Act, 1932, every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner. Further, section 15 of the Act provides that subject to contract between the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

It is stated that issue framed by the AD for advice of this department is whether Himachali Agriculturist having partnership firm can run their unit without taking any permission from the Government u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972. In this regard, this department has been consistently maintaining that the partnership firm formed by Himachali Agriculturist will have to obtain permission of the State Government u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 for the purpose of purchase of land in the Himachal Pradesh. However, the matter has been reconsidered in the light of judgments delivered by various Courts and also in view of provision of section 118 of the aforesaid Act, and it is found that section 118 has been incorporated in the said Act with an object to restrict the transfer of land by any mode of transfer to a person who is not an agriculturist. The scope and object of insertion of section 118 in the Act was to avoid exploitation of the poor and innocent natives of the Himachal Pradesh and further putting a check on the concentration of wealth in the hands of non-agriculturist moneyed class, so that the economically advantaged class does not take undue advantage of the economically disadvantaged class and agriculturists of the State by purchasing their small holdings. This section does not impose any such restriction upon the Himachali agriculturists. Thus, in view of the law discussed hereinabove, the partnership law is that a firm is not an entity or a person in law but only a compendious mode of designating persons who have agreed to carry on business in partnership. As the Himachali agriculturist can purchase and hold the land without previous permission of the State Government, therefore, there should be no bar in purchasing or holding the land by a partnership firm formed by the Himachali agriculturists, without previous permission of the State Government.

In view of foregoing discussions, and by reviewing all previous advices tendered earlier on the subject, this department is of considered opinion that the partnership firm formed by the Himachali agriculturist is not required to obtain permission under section 118 of the H.P. Tenancy and Land Reforms for purchase of land in the Himachal Pradesh and in case Non-agriculturist or non-Himachali is included in the partnership Firm, then, certainly, permission u/s 118 will be mandatory to be obtained by such Firm. The AD may proceed further in the matter accordingly.”

This has the approval of the Legal Remembrancer.

-sd-

JLR-cum-Joint Secretary (Law) to the  
Government of Himachal Pradesh.

Pr. Secretary (Rev.)



No. Rev.B.A.(3)-6/2020  
Government of Himachal Pradesh  
Department of Revenue.

From

The F.C.-cum-Pr. Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioner,  
in Himachal Pradesh.

Dated: Shimla-2, the 17<sup>th</sup> August, 2020.

Subject: Withdrawal of Clarification.

Sir,

I am directed to say that the State Government had issued clarification to the Deputy Commissioner, District Shimla vide letter No. Rev.B.A.(3)-3/99 dated 23<sup>rd</sup> August, 2004 that a transfer of building or a part thereof by way of lease in favour of non-agriculturist without seeking prior permission of the State Government is valid in rural as well as in urban areas. Now after a careful consideration the State Government has decided to withdraw the above said clarification with immediate effect. All such clarifications issued subsequently in this regard shall also be treated as withdrawn with immediate effect.

Yours faithfully,

-sd-

(K.K. Sharma)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Department of Revenue**

To

All the District Collectors (DCs),  
in Himachal Pradesh.

Dated Shimla-171002, the 05/01/2021.

Subject:- Instructions for ascertaining the citizenship of purchasers/applicants in respect of cases under Section 118 of H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to say that it has come to the notice of the Government that while forwarding the cases of non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and Rules made thereunder for seeking permission to purchase land/built-up structure in the State for various purposes, it is not being ascertained as to whether the purchaser is also a citizen of India or not. However, the certificates certifying such persons as bonafide Himachali, worked and continues to work for gain in an estate from the commencement of the Act ibid or working in the State for more than 30 years recommended by the concerned local body for grant of permission, duly issued by the Naib-Tehsildar/Tehsildar/SDM/ADM/ADC/DC for having jurisdiction or cases relating to permanent government employees (both State and Central Government including by autonomous bodies, corporations substantively financed them etc. as per Sub Rule 3 of Rule 38-A of the HP Tenancy and Land Reforms Rules are also being forwarded, but the status of the applicants for being citizen of India as per the Citizenship Act, 1955 is not being certified.

It is, therefore, requested that henceforth, while sending recommending the cases to the Government for consideration under Section 118 of the HP Tenancy & Land Reforms Act and Rule made thereunder including on-line, the DCs will ascertain the status of the applicant/purchaser with regard to permanent place of residence and also for being citizen of India as per the Citizenship Act, 1955. The fact may be verified seriously regarding citizenship by mentioning in the forwarding letter as well in LR-XIV.

Yours faithfully,

(K.K. Sharma)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla-171002, 2021

Copy is forwarded to:-

Concerned dealing assistant of this branch, dealing with subject matter of Acts & Rules for information.

(K.K. Sharma)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev-B.E.(3)92/2019  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary-FC. (Revenue) to  
 the Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
 Shimla, Mandi and Kangra in H.P.
2. All Deputy Commissioners  
 in Himachal Pradesh.
3. The Director (Land Records),  
 Himachal Pradesh, Shimla-9.
4. The Settlement Officers,  
 Kangra & Shimla (HP).

Dated: Shimla-2 the, 07-06-2021.

Subject: Clarification regarding applicability of the provisions of Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 on transfer of Land through open auction under SARFAESI Act.

Sir,

I am directed to say that the matter regarding applicability of the provisions of Section 118 of Himachal Pradesh Tenancy and Land Reforms Act, 1972 on transfer of land to Non-agriculturists by way of auction conducted by the financial institutions under the provisions of the SARFAESI Act, 2002, was under consideration of the State Government.

The matter has been considered in consultation with the Law Department as well as Ld. Advocate General H.P. Ld. Advocate General H.P. has opined that 'Banking' is a central subject and finds mention as entry No. 45 list one of Schedule 7. While considering the case referred to by the department, the Hon'ble Supreme Court has considered the effect of this entry being in Union list vis-à-vis provisions of the Tripura Land Reforms Act, 1960. The ratio of the judgment is that when any State law comes in conflict with the Central Law, which is covered in Union list i.e. list 1 of Schedule 7, the State law will give way to the Central Law. In the present case SARFAESI Act, 2002 is an Act which regulates the 'Banking' and other things incidental thereto. When there is a conflict between this Act which is Central Act, and State Legislation, and pertains to matter, which is exclusively within the domain of the Parliament the State legislation will have to give way to the Central Legislation because the subject in issue is specifically covered under list 1 of Schedule 7. The effect of this judgment on Section 118 of the H.P. Tenancy and Land Reforms Act is that section 118 of the Act will remain as it is in the status Book and it will be eclipsed when it comes into conflict with the SARFAESI Act, 2002 and for that matter, any Act passed by the Union Parliament with regard to the subject, which is specifically covered by entry in list 1 of Schedule 7 of the Constitution of India and as such rigors of Section 118 of the H.P. Tenancy and Land Reform Act, 1972 will not apply to the extent of seeking permission of the State Government for transfer of title in case of auction conducted by Banking Institution under the SARFAESI Act, 2002. Apart from it, the transfer of title does not affect the State as the auction purchaser steps into the shoes of earlier owner, so far as the state is concerned.

**However, it is made clear that the auction purchaser(s) of such land will remain non-agriculturist of H.P. for the purpose of this Act and a note be given in all remarks column of jamabandi with red ink to this effect. It is further clarified that the provisions of the Section 118 of the H.P. Tenancy and Land Reform Act, 1972 will be applicable in all other cases.**

In view of above, you are requested to take appropriate action in the matter accordingly.

Yours faithfully,

-sd-

(K.K. Sharma)

Additional Secretary (Revenue) to the  
Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-171002 the 07-06-2021.

Copy is forwarded to COC-cum-Tehsildar to F.C.(Appeals) H.P. Sectt. Shimla-2 for information please.

-sd-

(K.K. Sharma)

Additional Secretary (Revenue) to the  
Government of Himachal Pradesh.

Form

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Mandi, Distt. Mandi, H.P.

Dated Shimla-2, the 04-03-2022

Subject: - Clarification on applicability of Section-118 of HP Tenancy and Land Reforms Act, 1972 on the HP Agriculture and Rural Development Bank.

Sir,

I am directed to refer to your letter No.MND/SR/RC/2019-21156 dated 25.04.2019 on the subject cited above and to say that matter was examined in consultation with the Law Department and it is clarified that HP Agriculture and Rural Development Bank is exempted from seeking permission of Govt. u/s 118 of the HP Tenancy and Land Reforms Act, 1972 for the limited purpose of Section 32 of HP Agriculture and Rural Development Banks Act, 1979 i.e. to purchase any property sold under the chapter VII of the Act *ibid*. However, while disposing off such acquired property, if the purchaser happens to be a non-agriculturist, permission of Govt. u/s 118 of the tenancy act shall be mandatory for the purchaser.

Your faithfully,

(Anil Chauhan)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No.Rev.B.A(3)1/2014-IV dated Shimla-02, the 04-03-2022

Copy forwarded for similar necessary action to:-

1. All the Deputy Commissioners, Himachal Pradesh.
2. The Managing Director, HP Agriculture and Rural Development Bank for information.

(Anil Chauhan)  
Joint Secretary (Revenue) to the

No. Rev-B.A.(3)7/2021  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Chairperson,  
 H.P. Real Estate Regulatory Authority,  
 Shimla, Himachal Pradesh.

Dated: Shimla-2 the, 03-08-2022.

Subject: Regarding registration of sale deed of Sh. Hemant Kumar (Himachal Agriculturist) of flats purchased from M/S Gupta Properties & Developers Pvt. Ltd. Baddi.

Sir,

I am directed to refer to your office letter No. HPRERA/OFL/2021-29-427 dated 04-06-2022 on the subject noted above and to say that matter under reference was examined in consultation with the Department of Law and it is clarified that the promoter companies/firms, who have sought permission of Government under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 for the purpose of construction of commercial projects of housing/residential colony and has put the land to use for the purpose for which permission was granted within the stipulated period, need not to seek permission of Government again for selling out the built up structures/flats to the Himachali agriculturist. However, while registering the flats in the name of Himachali Agriculturist, the registering authority shall ask for the put to use/utilization certificate issued by the concerned Department (i.e. Department which has initially issued the essentiality certificate).

Yours faithfully,

-sd-

(Anil Chauhan)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-171002, the 03-08-2022.

Copy is forwarded to all the Deputy Commissioners, Himachal Pradesh for information.

-sd-

(Anil Chauhan)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev-B.F.(10)-154/2009  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners,  
 in Himachal Pradesh.
2. All the Deputy Commissioners,  
 in Himachal Pradesh.

Dated: Shimla-171002 the, 25<sup>th</sup> March, 2023.

Subject: Permission u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 on account of  
 Change of Partners by Partnership Firm and charging of stamp duty.

Sir,

I am directed to refer to the subject cited above and to say that the matter regarding the permission u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 on account of change of partners by the partnership firms, which had earlier acquired the land after obtaining the permission of Government under section 118 of the said Act, has been examined in consultation with the Law Department. After careful consideration of the various legal issues, following is clarified in this regard:-

1. The Partnership Firms constituted by the non agriculturist partners shall require permission of Government under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 for transfer of land in their name. the land may be transferred in the name of firm after such permission and details of names of all its partners shall be entered in the revenue record after verifying the same from the registration certificate duly issued by the Registrar of Partnership firms. (Example- partnership firm ABC through its Partners X, Y, Z etc.)
2. Whenever there is change in the constitution of partnership firms on account of addition or replacement of partner/partners in accordance with the provision of the Indian Partnership Act, 1932 and the firm intends to continue its business activity without dissolving the existing firm completely, the permission u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 shall be required for effecting the change of partners in the revenue records.
3. Stamp duty shall be chargeable at par with the release deed, if any of the existing partner/partners retire from the firm whereas stamp duty shall be chargeable as conveyance, if new partner/partners is/are added to the firm and it should be charged on the proportion of the value of the property (land and building) to which the new partner is the shareholder in the business of the firm.
4. It is also observed that the names of the partners of the firms have not been added in the revenue record with the firm name till now. It is clarified that the partnership firms are different from the companies and a firm does not have a separate legal status. The property of the firm belongs to its partners. Therefore, the cases where names of the

partners are not recorded in the revenue record, the same may be added with the name of the firm. Further, it is also clarified that the firms which have already changed their partners or changes partners as per the provision of the Indian Partnership Act, 1932 the new partners may be added in the revenue record only after permission u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 and on payment of the applicable stamp duty.

It is emphasized that the status of non agriculturist partners added with the firm name shall remain non agriculturist for the purpose of the H.P. Tenancy and Land Reforms Act, 1972 and utmost care should be taken for recording suitable remarks in the revenue record to this effect and these remarks should be carried forward properly during periodic updation of the revenue record.

Yours faithfully,

-sd-

(Anil Chauhan)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.



No. Rev.B.E.(3)100/2016  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Divisional Commissioners  
in Himachal Pradesh.
2. All the Deputy Commissioners  
in Himachal Pradesh.

Dated: Shimla-171002, the 28.06.2023.

Subject:- Clarification regarding change of company name from Public Limited to Private Limited and vice versa.

Sir,

I am directed to refer to the subject cited above and to say that the issue of change of a company name from Public Limited to Private Limited and vice versa was under consideration of Government for past some time. The matter has been examined in light of the judgment of Hon'ble H.P. High Court in CWP No. 1293 of 2019 titled M/s Reckitt Banckiser (India) Pvt. Ltd. v/s State of H.P. & another and in consultation with the Law Department. After considering all the facts, it is clarified that the cases of name change of company from Public Limited to Private Limited and vice versa, processed in accordance with the provisions of the Companies Act, 1956 (now companies act, 2013) and duly registered by the Registrar of Companies may be effected in the revenue records without charging the stamp duty and registration fees by the District Collector after verifying the facts that there is no indirect conveyance involved under the garb of change of name of the company.

This is for your kind information and necessary action please.

Yours faithfully,

-sd-

(Anil Chauhan)

Joint Secretary(Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.F.(10)-154/2009  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Director of Industries,  
Himachal Pradesh, Shimla.

Dated: Shimla-171002, the 24.07.2023

Subject: - Change of Share Holders & Directors thereof.

Sir,

I am directed to refer to your office letter No. Ind. Dev. F(14)EC-467/2023-417 dated 06.04.2023 on the subject cited above and to say that the matter has been examined in consultation with the Law Department. As per the opinion of /department of Law in the case under reference the permission u/s 118 of the /act ibid, was granted to the company which is registered under the Companies Act, 1956 and not to its directors individually. The Directors of a company are retired and incorporated into a company under the Companies Act, 1956 (now companies Act, 2013) and it is not illegal if directors are incorporated and retired in accordance with the Central Act i.e. Companies Act. Moreover, the process of change of directors of a company is also not to be considered as transfer of land/ property as the ownership of assets and properties remains intact with the company notwithstanding with change of its directors and therefore permission under section 118 of the HP Tenancy and Land Reforms Act, 1972 is not required on mere change of directors.

You are requested to take necessary action accordingly.

Yours faithfully,

-sd-

(Anil Chauhan)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.B.F.(10)-154/2009  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
 Himachal Pradesh.

Dated, Shimla-171002, the 02.11.2023.  
 Subject: Guidelines for submitting the cases for permission under section 118 of H.P.  
 Tenancy & Land Reforms Act, 1972.

Sir,

I am directed to refer to the subject cited above and to say that it has been observed at the Government level that the cases of permission under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 are unduly delayed at various levels on account of variety of queries and objections by the investigating officers/officials. Government is keen to promote investment in the State by facilitating the investors and to provide hassle free and transparent platforms for granting various clearances and permissions. In order to streamline and expedite the process of granting permission u/s 118 following guidelines are issued.

**(1) Put to use certificate**

As per the provision of section 118 of H.P. Tenancy and Land Reforms Act, 1972 the land purchased by a non-agriculturist after obtaining the permission of Government is required to be put to use within stipulated period for the purpose for which permission was granted. It has been observed that the cases of permission to sell in respect of the non-agriculturist, who has purchased the land after obtaining the permission under section 118 of the Act, ibid are being received in the department without clear land utilization certificate. In this regard while submitting/recommending such cases to Government, the instructions of the Department dated 22-09-2011 may strictly be complied with and;

- (i) In cases of commercial purposes clear “put to use” certificate issued by the competent authority of the department which has issued the essentiality certificate initially, in the format as given in **Annexure-I** shall be submitted.
- (ii) In cases of Residential purposes “put to use” certificate issued by the concerned Magistrate (Naib-Tehsildar/Tehsildar/SDM/ADM/ADC/DC) shall be submitted in the format given in **Annexure-II**.

**(2) Report on the details of Land**

As per the Rule 38 (A) of H.P. Tenancy and Land Reforms Rules, 1975, the jamabandi of the proposed land is to be attached with the case. In many cases the updated status of all transactions in the property is not found updated on the Jambandi and a report of concerned patwari is usually required about the status of title and ownership of the sellers. Similarly a report on the balance land left with the seller is also desirable. The cases are examined at multiple levels on these points to ascertain the clear title of the proposed land to the satisfaction of the recommending officer. In order to have a clear and unambiguous report on the status of title,

ownership and other details related to land and to address all possible queries a report prepared by patwari duly countersigned by the Tehsildar/Naib-Tehsildar shall be submitted in the formats given in **Annexure-III and IV**.

**(3) Timely disposal of Cases:**

It is also observed that the cases remain unattended for long time at various levels and shortcoming are conveyed to the applicant in piece meal causing harassment to the applicant. In order to address this issue the provision of clause (2) of rule 38-A may strictly be adhered to by conveying the shortcomings or objections at one time only to avoid unnecessary delay. The District Collectors shall personally monitor the disposal of permission cases periodically and also submit a monthly report to the department in Annexure- V.

**(4) Submission of cases through online mode.**

The department has developed a module for processing the cases of permission under section 118 on the single window clearance system portal. All necessary changes have been carried out in the module to facilitate the investors/applicants for applying for permission through this portal. In order to communicate directly with the investor/applicant the mobile number and e-mail Id of the applicant company/firm/person only may be mentioned on the prescribed column added with the LR-XIV form. Investors/applicants may be asked to apply and upload the documents on the portal directly without involving any third party as the portal is self guiding and easy to operate. Further, it has been decided that all cases of permission shall be received only through the online portal and no physical files may be sent to the Government henceforth.

You are requested to submit the cases after complying with these guidelines.

Yours faithfully,

(Anil Chauhan)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated, Shimla-171002, 02.11.2023.  
Copy is forwarded to following for information and necessary action:-

1. The Principal Secretary (Industries) to the Govt. of H.P.
2. The Principal Secretary (Tourism) to the Govt. of H.P.
3. The Principal Secretary (TCP) to the Govt. of H.P.
4. The Secretary (Agricultural) to the Govt. of H.P.
5. The Secretary (Hort.) to the Govt. of H.P.
6. The Secretary (Education) to the Govt. of H.P.
7. The Secretary (LAC) to the Govt. of H.P.
8. All the Divisional Commissioners in H.P.

(Anil Chauhan)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Annexure-I****(Put to use certificate for commercial projects)**

It is to certify that the total land measuring..... purchased by the..... (Name of Person/Company/Firm) after obtaining the permission of Government u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 vide permission letter no..... Dated.....issued on the strength of essentiality certificate no..... Dated..... issued by this department for the purpose of ..... has been put to use for the specified purpose within the stipulated time period.

Date-

**(Director)****Annexure-II****(Put to use certificate for non commercial/residential purpose)**

It is to certify that the land measuring.....purchased by the ..... (Name of Person/Company/Firm) after obtaining the permission of Government u/s 118 of the H.P. Tenancy and Land Reforms Act, 1972 vide permission letter no. .... Dated..... for the purpose of construction of residential house/shop has been put to use for the specified purpose within the stipulated time period.

Date-

**(Magistrate)**

## Annexure-III

Report for the case of permission u/s 118 of H.P Tenancy and Land Reforms Act, 1972 to acquire the land or land along with building through sell/lease/gift by a non agriculturist  
(to be submitted along with jamabandi)

## Part-1 (Land detail)

Khata /Khatoni no.	Khasra no.	Area	Remarks
Grand Total			

Signature of Tehsildar/Naib Tehsildar

Signature of Patwari

**Part-II (OTHER DETAILS)**

Sr, no.	Particulars	Remarks
1.	Whether the seller is an agriculturist? Give detail of mode of acquisition of land by the seller with date of registration and mutation. <b>(agriculturist certificate may also be attached)</b>	
2.	Whether the seller will be left with agricultural land after transfer of proposed land? Give quantum of balance land.	
3.	Whether there is any encumbrance on the proposed land?	
4.	Whether the seller(s) is/are absolute owners of the proposed land or there are other co- sharers? (share of seller may be worked out)	
6.	Whether the seller(s) is/are selling the complete share in the khata or only a particular khasra no.?	
7.	Whether there is any pre existing structure on the proposed land and proposed to be transferred along with land?	
8.	Whether the proposed land is under the physical possession of the seller?	
9.	Any other remarks//observation about the proposed land and its physical status ?	

**Note:- if complete share is proposed to be sold out from whole khata then NOC's of other co sharers are not required but if a particular khasra no is being sold out NOC's of other co sharer in the form of affidavits may be attached.**

Signature of Tehsildar/Naib Tehsildar

Signature of Patwari

**Annexure-IV**

**Report for the case of permission u/s 118 of H.P Tenancy and Land Reforms Act, 1972 to acquire the building/part of building/flat through purchase/lease/gift by a non agriculturist  
(to be submitted along with jamabandi)**

Sr. No.	Particulars	Detail
1.	Description of land on which the building is located the part/flat of which is proposed to be transferred.	
2.	No. of commercial blocks with total no. of residential units /flat in each such block and the detail of built up structure/flat proposed to be transferred. (type, area, floor etc)	
3.	Whether there is any encumbrance on the proposed land or the building the part/flat of which is proposed to be transferred?	
4.	Whether the seller (s) is/are absolute owners of the building the part/flat of which is proposed to be transferred?	
5.	Whether the seller is registered as promoter with TCP/RERA (attach valid license)	
6.	Whether the building has been constructed after approval of maps from TCP? If not reasons for not taking such approval.	
7.	Whether the proposed building or part of it proposed to be transferred is under the physical possession of the seller?	
8.	Any other remarks	

Signature of Tehsildar/Naib Tehsildar

Signature of Patwari



- **THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972**
- **THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS RULES, 1973**
- **INSTRUCTIONS AND CLARIFICATIONS ISSUED UNDER THE H.P CEILING ON LAND HOLDINGS ACT, 1972**

**THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972**  
**ARRANGEMENT OF SECTIONS**

**CHAPTER I**  
**PRELIMINARY**

Sections:

1. Short title, extent and commencement.
2. Declaration as to giving effect to certain Directive Principles of State Policy.
3. Definitions.

**CHAPTER II**  
**CEILING ON LAND HOLDINGS, ACQUISITION AND**  
**DISPOSAL OF SURPLUS AREA**

4. Permissible area.
  5. Exemptions.
  6. Ceiling on land.
  - 6-A. Change in use of land under tea estates.
  7. Certain transfers not to affect the surplus area.
  - 7-A. Bar to transfer of land under tea estates.
  8. Selection of permissible area.
  9. Declaration supported by affidavits to be furnished by certain land owners and tenants.
  10. Submission of statement to Collector.
  11. Vesting of surplus area in the State Government.
  12. Power to take possession of surplus area.
  13. Power to separate shares of land-owners.
  14. Principle for determination and payment of amount.
  15. Disposal of surplus area.
  - 15-A. Utilization of land for development of the State.
  16. Bar of future acquisition of land in excess of permissible area.
  17. Future acquisition of land by inheritance or otherwise in excess of permissible area or increase in such area as a result of operation of this Act.
  - 17-A. Treatment of certain transfers and change of use of lands exempted under section 5.
  18. Bar of jurisdiction.
  19. Mode of recovery of amount and penalty.
  20. Appeal and revision.
  21. Officers holding enquiries to have powers of civil courts.
  22. Penalty for making false statement.
  23. Procedure.
  24. Certain officers to be public servants.
  25. Protection of action taken under this Act.
  26. Power to make rules.
  27. Power to remove difficulties.
  28. Repeal and saving.
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**THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972**  
(ACT NO. 19 OF 1973)

(Received the assent of the President on the 10<sup>th</sup> July, 1973 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 28<sup>th</sup> July, 1973, pp. 1201-1213)

**An Act to consolidate and amend the laws relating to ceiling on land holdings in the State of Himachal Pradesh.**

*Amended, repealed or otherwise affected by,-*

1. H.P. Act. No. 1 of 1974<sup>1</sup> assented to by the President on the 1<sup>st</sup> January, 1974, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 22<sup>nd</sup> January, 1974, pp. 41-43, effective from 28<sup>th</sup> July, 1973.
2. H.P. Act No. 11 of 1987<sup>2</sup>, assented to by the Governor on 8<sup>th</sup> May, 1987, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 8<sup>th</sup> May, 1987, pp. 778-781, effective from 28<sup>th</sup> July, 1973.
3. H.P. Act No. 7 of 2000<sup>3</sup>, assented to by the President on the 29<sup>th</sup> March, 2000, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 11<sup>th</sup> April, 2000, pp. 841-850. Sections 2, 3 and 4 shall be deemed to have come into force from 28<sup>th</sup> July, 1973.
4. H.P. Act No. 2 of 2014<sup>4</sup>, assented to by the President on 7<sup>th</sup> January, 2014, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 17<sup>th</sup> January, 2014, pp. 5827-5828.
5. H.P. Act No. 8 of 2023, assented to by the President on 10<sup>th</sup> April, 2023, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 26<sup>th</sup> April, 2023.

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

**CHAPTER 1**  
**PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Ceiling on Land Holdings Act, 1972.

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

(3) It shall come into force at once.

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<sup>1</sup>For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extraordinary), dated 18th October, 1973, p. 1576.

<sup>2</sup>For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extraordinary), dated 1st April, 1987, p. 624.

<sup>3</sup>For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extraordinary), dated 19th August, 1999, pp. 3305 and 3311.

<sup>4</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh dated 29<sup>th</sup> August, 2012, pp. 3155-3157.

**2. Declaration as to giving effect to certain Directive Principles of State Policy.-** It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

**3. Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-

- (a) "adult" means a person who is not a minor;
- (b) "appointed day" means the 24<sup>th</sup> day of January, 1971;
- (c) "banjar land" means land which has remained uncultivated for a continuous period of not less than two years immediately preceding the appointed day and includes culturable waste land recorded as banjar in the revenue records;
- (d) "Collector" means the Collector of a District or any other officer not below the rank of an Assistant Collector of the First Grade empowered in this behalf by the State Government;
- (e) "family" means husband, wife and their minor children or any one or more of them;
- <sup>1</sup>[(ee) "handicapped person" means a crippled, or physically or medically deficient person whose annual income from all sources does not exceed rupees seven thousand and five hundred and who, on account of injury, disease or congenital deformity, is substantially prevented from or is incapable of leading a normal life or earning full wages for the work in which he is employed or obtaining or keeping employment or undertaking work on his own, of a kind in view of that injury, disease or deformity which work would have suited his age, experience and qualifications;  

*Explanation.-* For the purposes of this clause, a person who has incurred physical disablement to the extent of fifty per cent or more shall be deemed to be substantially incapable or disabled person;
- (eee) "houseless person" means a person who owns no house or site to construct a house:  

Provided that a person whose father is alive or whose annual income from all sources exceeds Rs. 3,000/- shall not be deemed to be a houseless person;]
- (f) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes-
  - (i) the sites of buildings and other structures on such land;
  - (ii) orchards;
  - (iii) ghasnies;
  - (iv) banjar land; and
  - (v) private forests;
- (g) "landowner" means a person defined as such in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be, and shall include the predecessor or successor in interest of the landowner;
- (h) "landless person" means a person who, holding no land for agricultural purposes, whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally <sup>2</sup>[:]

<sup>1</sup>Clauses (ee) and (eee) added vide H.P. Act No. 11 of 1987, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>Substituted for the sign “;” vide H.P. Act No. 11 of 1987, effective from 28<sup>th</sup> July, 1973.

<sup>1</sup>[Provided that a person whose father is alive or whose annual income from all sources exceeds Rs. 3,000/- shall not be deemed to be a landless person];

- (i) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be;
  - (j) "minor" means a person who has not completed the age of eighteen years;
  - (k) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose <sup>2</sup>[but shall not include land under banana or guava gardens or vine-yards];
- <sup>3</sup>(l) "other eligible person" means person,-
- (i) who, holding for agricultural purposes land less than one acre whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally;
  - (ii) whose father is not alive; and
  - (iii) whose annual income from all sources does not exceed Rs. 3,000/-; and shall not include a person who holds a share or a portion of an estate jointly owned or cultivated by two or more persons;]
- (m) "permissible area" means the extent of land specified in section 4 of this Act;
  - (n) "person" means the landowner <sup>4</sup>[,] <sup>5</sup>[tenant and mortgagee with possession], and includes a company, a family, an association or other body of individuals, whether incorporated or not, and any institution capable of holding property;
  - (o) "prescribed" means prescribed by rules made under this Act;
  - (p) "private forest" means a forest which is not the property of the Government or over which the State has no proprietary rights or the whole or any part of the forest produce of which the State is not entitled;
  - (q) "separate unit" means an adult son or in case of his death, his widow and children, if any <sup>6</sup>[\*\*\*];
  - (r) "surplus area" means the area in excess of the permissible area;
  - (s) "tea estate" means an area under tea plantation and includes such other area necessary for purposes subservient to tea plantation as may be prescribed;
  - (t) "tenant" means a person who holds land under a landowner, and is, or but for a contract to the contrary would be liable to pay rent for that land to that landowner, and includes-

<sup>1</sup>Proviso added vide H.P. Act No. 11 of 1987, effective from 28th July, 1973.

<sup>2</sup>Inserted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>3</sup>Clause (l) omitted vide H.P. Act No. 1 of 1974 and again added vide H.P. Act No. 11 of 1987, effective from 28<sup>th</sup> July, 1973.

<sup>4</sup>The sign “,” inserted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>5</sup>Substituted for the words "and tenant" vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>6</sup>The words ", and an adult daughter" omitted vide H. P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

- (i) a sub-tenant <sup>1</sup>[\*\*\*\*\*]; and
- (ii) the predecessors or successors in interest of a tenant or a sub-tenant, as the case may be, but it does not include-
  - (a) a mortgagee of the rights of landowner; or
  - (b) a person to whom a holding has been transferred or an estate or holding has been let in farm under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear; <sup>2</sup>[xxxxxx]
  - (c) <sup>3</sup>[xxxxxxxxxx]
  - (d) "tenancy" means a parcel of land held by a tenant of a land-owner under one lease or one set of conditions; and
  - (e) the words and expressions used herein but not defined in this Act shall have the meanings assigned to them in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be.

## CHAPTER II

### CEILING ON LAND HOLDINGS, ACQUISITION AND DISPOSAL OF SURPLUS AREA

**4. Permissible area.-** (1) The permissible area of a landowner or a tenant or a mortgagee with possession or partly in one capacity or partly in another of a person or a family consisting of husband, wife and upto three minor children shall be in respect of-

- (a) land under assured irrigation capable of growing two crops in a year- 10 acres.
- (b) land under assured irrigation capable of growing one crop in a year- 15 acres.
- (c) land of classes other than described in clauses (a) and (b) above including land under orchards- 30 acres.

(2) The permissible area for the purposes of clause (c) of sub-section (1) for the districts of Kinnaur and Lahaul and Spiti, Tehsil Pangi and Sub Tehsil Bharmaur of Chamba district, area of Chhota Bhangal and Bara Bhangal of Baijnath Kanungo Circle of Tehsil Palampur of Kangra district, and area of Dodra Kwar Patwar Circle of Rohru Tehsil and Pandra-bis Pargana of Rampur Tehsil of Shimla district shall be 70 acres.

(3) The permissible area of a family under sub-section (1) shall be increased by one-fifth of the permissible area under sub-sections (1) and (2) for each additional minor member of a family subject to the condition that the aggregate permissible area shall not exceed twice the permissible area of a family under sub-sections (1) and (2).

(4) Every adult son <sup>4</sup>[of a person] shall be treated as a separate unit and he shall be entitled to the land upto the extent permissible to a family under sub-sections (1) and (2) subject to the

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<sup>1</sup>The words "recorded as such in the revenue record" omitted by H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>The word "or" omitted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>3</sup>Para (c) omitted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>4</sup>Substituted for the words "or daughter of a landowner" by H.P. Act No. 1 of 1974, effective from the date of commencement of the Principal Act i.e. 19 of 1973.

condition that the aggregate land of the family and that of the separate units put together shall not exceed twice the area permissible under the said sub-sections:

Provided that where the separate unit owns any land, the same shall be taken into account for calculating the permissible area for that unit.

<sup>1</sup>[(5) If a person holds land of two or more categories described in clauses (a), (b) and (c) of sub-section (1) and sub-section (2) of this section then the permissible area shall be determined on the following basis:-

- (i) in the areas mentioned in sub-section (2) of this section one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1) and seven acres of land mentioned in clause (c) of sub-section (1);
- (ii) in the areas other than the areas mentioned in sub-section (2) of this section, one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1), and three acres of land mentioned in clause (c) of sub-section (1):

Provided that on the basis of ratio prescribed in clauses (i) and (ii), the permissible area shall be converted into the category of land mentioned in sub-section (2) and in clause (c) of sub-section (1) as the case may be, and the total area so converted shall not exceed 70 acres in case of clause (i) and 30 acres in case of clause (ii)].

(6) Where a person is a member of the family, the land held by such person together with the land held by all the members of the family shall be taken into account for the purpose of calculating the permissible area.

**5. Exemptions.-** The provisions of this Act shall not apply to-

- a) lands owned by the State Government or the Central Government;
- b) lands belonging to registered Co-operative Farming Societies:

Provided that the share of a member of such society, together with his other land, if any, does not exceed the permissible area;

- <sup>2</sup>[(c) lands belonging to Land Mortgage Banks, the State and Central Co-operative Banks and any other Banks.

*Explanation.-* For the purpose of this clause 'any other Banks' means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), as Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), and a "corresponding new bank" as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), the Agricultural Refinance Corporation, and Agro-Industries Corporation, Agricultural Finance Corporation Ltd., a company incorporated under the Companies Act, 1956 (1 of 1956), and any other financial institution notified by the State Government in this behalf;]

<sup>1</sup>Sub-section (5) substituted vide H.P. Act No. 1 of 1974, effective from the date of commencement of the Principal Act i.e. 19 of 1973.

<sup>2</sup>Clause (c) substituted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

- (d) lands belonging to or vested in local authorities;

<sup>1</sup>[*Explanation:* For the purpose of this sub-clause “local authority” means a Nagar Panchayat, Municipal Council, Municipal Corporation, Gram Panchayat, Panchayat Samiti, Zila Parishad, Board, Corporation, University or other statutory bodies constituted under any law made by the State Government or the Central Government;]

- <sup>2</sup>[(e) and (f) XXXXXXXXXXXXXXXXXXXXX]

- (g) tea estates;

- <sup>3</sup>[(h) land as is notified by the State Government being land which is held or to be acquired in any manner, by an industrial undertaking for a bonafide industrial use, or by a hydel project for a bonafide project use. In considering whether such land is so held or to be acquired, the State Government shall have regard to the extent and location of the land, if any, already held by the industrial undertaking or the hydel project including any land which it may already hold for industrial or project use and its genuine requirement for future expansion:

Provided that if the State Government in the case of land notified under this clause is satisfied that the land has not been actually acquired or has not been actually put to use by the industrial undertaking or the hydel project within a period of two years (or such extended period not exceeding five years as the State Government may decide) from the date of notification issued under this clause, the State Government may, after making such enquiry as it thinks fit, by order published in the prescribed manner, direct that the land or any part thereof specified in the order shall, with effect from such date as is mentioned in the order, cease to be exempted land.]

- <sup>4</sup>[(i) lands belonging to religious or spiritual bodies or organizations, propagating moral or secular teachings including eradication of casteism, alcoholism and drug addiction etc.:

Provided that the exemption under this clause shall continue only as long as such land and structure, if any, is used for its purposes by such religious or spiritual bodies or organizations and the same shall not be transferred by way of sale, lease, gift, will, mortgage with possession or in any other manner by such bodies or organizations and in the event of contravention of the provisions of this clause, such land or structure or both, as the case may be, shall vest in the State Government free from all encumbrances.]

**6. Ceiling of land.-** Notwithstanding anything to the contrary contained in any law, custom, usage or agreement, no person shall be entitled to hold whether as a landowner or a tenant or a mortgagee with possession or partly in one capacity and partly in another, the land within the State of Himachal Pradesh exceeding the permissible area on or after the appointed day.

<sup>1</sup>Added vide H.P. Act No. 7 of 2000, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>Clauses (e) and (f) omitted vide H.P. Act No. 7 of 2000, effective from 28<sup>th</sup> July, 1973.

<sup>3</sup>Clause (h) added vide H.P. Act No. 7 of 2000, effective from 28<sup>th</sup> July, 1973.

<sup>4</sup>Clause (i) inserted vide H.P. Act No. 2 of 2014.



<sup>1</sup>**[6-A. Change in use of land under tea estates.-** Notwithstanding the provisions of clause (g) of section 5 of this Act where whole or any part of the land which is comprised in a tea estate, and <sup>2</sup>[xxxxxx] is identified to be exempted by the collector under section 10 of this Act, is put <sup>1</sup>[xxxxxx] to any other use than raising or maintenance of tea plantation or a purpose subservient to tea plantation, the provisions contained in this Act shall apply to such land so put to another use and it shall be treated as surplus area and shall be deemed to have been acquired by the State Government for a public purpose on payment of amount determined under section 14 and all rights, title and interest (including the contingent interest, if any) recognised by any law, custom or usage for the time being in force of all persons in such area shall stand extinguished and such rights, title and interest shall vest in the State Government free from all encumbrances.]

**7. Certain transfers not to affect the surplus area.-** (1) Except in the case of land acquired by the Union Government or the State Government under any law for the time being in force or by a tenant under the Pepsu Tenancy and Agricultural Lands Act, 1955 (13 of 1955), or the Punjab Security of Land Tenures Act, 1953 (10 of 1953), or <sup>3</sup>[the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974), no transfer by a person holding land in excess of the permissible area except a bonafide transfer after the appointed day shall affect the right of the State Government to the surplus area to which it would be entitled but for such transfers.

(2) The Collector shall determine whether a transfer is bonafide or not and his decision shall be final:

Provided that the burden of proving the transfer to be bonafide one shall be on the transferor:

Provided further that if a person transfers any land in contravention of the provisions of this section, in case of vestment in the State, the land left with him after such transfer will be taken into account first and the transferred land will be taken into account only for making up of deficiency of land to be vested.

<sup>4</sup>**[7-A. Bar to transfer of land under tea estates.-** (1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, and the provisions contained in clause (g) of section 5 of this Act no transfer of whole or part of the land under a tea estate and identified to be exempted under section 10 of this Act, shall be made by way of sale, gift, exchange, lease, mortgage with possession or creation of any tenancy or otherwise <sup>5</sup>[xxxxxxxxxx].

(2) No Registrar or the Sub-Registrar appointed under the Indian Registration Act, 1908, (16 of 1908) shall register any document pertaining to the transfer of land which is in contravention of the provisions of sub-section (1) and such transfer, shall be void ab-initio and the land involved in such transfer, shall together with structures, buildings or other attachments, if any, vest in the State

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<sup>1</sup>Section (6-A) inserted vide H.P. Act No. 7 of 2000, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup> The words and figure “irrespective of its being in excess of the permissible area prescribed under section 4” and “without the permission of the State Government” omitted vide the H.P. Ceiling on Land Holdings (Amendment) Act, 2021 (Act No. 8 of 2023).

<sup>3</sup>Substituted for "The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953" by Section 126 (c) of H.P. Act No. 8 of 1974.

<sup>4</sup>Section (7-A) inserted vide H.P. Act No. 7 of 2000, effective from 28<sup>th</sup> July, 1973.

<sup>5</sup> The words “except with the permission of the State Government” omitted vide the H.P. Ceiling on Land Holdings (Amendment) Act, 2021 (Act No. 8 of 2023).

Government free from all encumbrances and such land shall be treated as surplus area under the provisions of this Act.]

**8. Selection of permissible area.-** (1) Every person, who on the appointed day or at any time thereafter holds the land exceeding the permissible area shall furnish to the Collector particulars of all his lands and that of the separate unit within a prescribed period and in the prescribed form and manner and stating therein the selection of land not exceeding in the aggregate the permissible area which he desires to retain:

Provided that such person shall state in the return any transfer or other disposition of land made by him after the appointed day.

(2) If the whole or a part of the land selected under sub-section (1) is under tenants, the land-owner shall not be entitled to eject the tenants there from except on the grounds given in the tenancy laws for the time being in force in the State of Himachal Pradesh.

*Explanation I.-* Where the person is a member of the family, he shall include in his declaration particulars of land held by him and also of land, if any, held by other members of the family.

*Explanation II.-* In calculating the extent of land owned or held by a person, the share of such person in undivided family, registered farming co-operative society or a company shall be taken into account.

(3) In making a selection of his permissible area under sub-section (1), the land-owner may also select land for a separate unit:

Provided that the land selected for the separate unit, after adding the land owned on or after the appointed day by such unit, shall not exceed the permissible area.

**9. Declaration supported by affidavits to be furnished by certain land owners and tenants.-** (1) Every person required to furnish a return under section 8 whose land is situated in more than one patwar circle shall furnish to the Collector within a prescribed period a declaration supported by an affidavit in respect of the land owned or held by him in such form and manner as may be prescribed.

(2) If a person fails to select the permissible area in accordance with the provisions of section 8, the Collector may after collecting the information in such manner as he may deem fit, by order select the permissible area of such person:

Provided that no such order shall be made without giving the person concerned an opportunity of being heard.

**10. Submission of statement to Collector.-** (1) On the basis of the information given in the return under section 8 or the declaration furnished under sub-section (1) of section 9 which shall be duly verified through such agency as may be prescribed or the information obtained by the Collector under sub-section (2) of section 9, the Collector shall prepare a draft statement in the manner prescribed showing among other particulars the total area of land owned or held by such a person the specific parcels of land which a person may retain by way of permissible area or exemption from ceiling and also the surplus area.

(2) The draft statement shall be published in the office of the Collector and a copy thereof shall be served upon the person or persons concerned in the form and manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Collector and after affording the objectors an opportunity of being heard, the Collector shall pass such order as he may deem fit.

(3) A draft statement shall be made final in terms of the order of Collector or the order, if any, passed in appeal, revision or review, as the case may be.

**11. Vesting of surplus area in the State Government.-** The surplus area of a person shall, on the date on which possession thereof is taken by or on behalf of the State Government be deemed to have been acquired by the State Government for a public purpose on payment of amount hereafter provided and all rights, title, and interests (including the contingent interest, if any), recognised by any law, custom or usage for the time being in force, of all persons in such area shall stand extinguished and such rights, title and interests shall vest in the State Government free from any encumbrance :

Provided that where any land within the permissible area of the mortgagor is mortgaged with possession and falls within the surplus area of the mortgagee, only the mortgagee rights shall be deemed to have been acquired by the State Government and the same shall vest in it.

**12. Power to take possession of surplus area.-** (1) The Collector may, by order in writing, at any time after an area becomes surplus, direct the person in possession of such area or deliver possession thereof within ten days of the service of the order on him to such person as may be specified in the order.

(2) If the person in possession of surplus area refuses or fails without reasonable cause to comply with the order made under sub-section (1), the Collector may take possession of the surplus area and may for that purpose use such force as may be necessary.

**13. Power to separate shares of land-owners.-** (1) Where a land owner owns land jointly with other land-owners and his share of such land or part thereof has been, or is to be, declared as surplus area, the officer competent to declare such area, or where such area has been declared, the officer, competent to utilize it, may on his own motion, after summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or part thereof in the land owned by him jointly with other land-owners.

(2) Where, after the declaration of the surplus area of any person and before the utilization thereof, his land has been subjected to the process of consolidation, the officers referred to in sub-section (1) shall be competent to separate the surplus area of such person out of the area of land obtained by him after consolidation.

**14. Principle for determination and payment of amount.-** (1) Where any surplus area has vested in the State Government under section 11, the Collector shall determine the amount payable therefore in accordance with the principles hereinafter set out, that is to say-

- (i) for the land upto ten acres, ninety-five times the land revenue (including rates and cesses);

- <sup>1</sup>[(ii) for the land in excess of 10 acres and below 30 acres, seventy-five times the land revenue (including rates and cesses);] and  
 (iii) for the remaining land, forty-five times the land revenue (including rates and cesses); payable for such land :

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then the adjoining estate or estates, as the case may be:

Provided further that the waste land shall be treated as banjar land for the purpose of assessment of land revenue and determination of an amount.

(2) For the purpose of sub-section (1), the Collector shall prepare a statement of the amount in such form and manner as may be prescribed and shall after following the prescribed procedure apportion the amount amongst the persons having interests in the land.

(3) Wherein the surplus area of any person mortgagee rights have vested in the State Government, the amount payable to the mortgagee shall be mortgage money due to the mortgagee, or the amount payable under this section, whichever is less.

(4) Where on the land there is any building, structure or tube-well or crop, the owner thereof shall, in addition to the amount payable in respect of the land, be entitled to be paid by the State Government an amount therefore which shall be 50% of the market price of such building, structure, or tube-well. The landowner shall be entitled to harvest the crop standing on the surplus area.

(5) The amount shall be payable either in lump sum or in six monthly installments not exceeding ten in the manner prescribed.

**15. Disposal of surplus area.-** (1) The surplus area which has vested in the State Government under section 11 shall be at the disposal of the State Government.

<sup>2</sup>[(2) The State Government may, by notification in the Official Gazette, frame a scheme for utilising the surplus area vested in the State Government by allotment-

- (a) to a landless person <sup>3</sup>[a victim of natural calamities] or any other eligible person;
  - (b) for allotment of a site to a handicapped or houseless person for the construction of a house;
- and the allottee shall pay amount-
- (i) for the land allotted to him, at the rate of ninety-five times the land revenue plus rates and cesses, thereof; and
  - (ii) for building, structure or tube-well, if any, at 50% of the market price of such building, structure or tube-well :

<sup>1</sup>Substituted by H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>Sub-section (2) substituted vide H.P. Act No. 11 of 1987, effective from 28<sup>th</sup> July, 1973.

<sup>3</sup>Added vide H.P. Act No. 7 of 2000.

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue, the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then on the adjoining estate or estates, as the case may be :

Provided further that the waste land shall be treated as ‘banjar’ land for the purposes of assessment of land revenue and determination of the amount.]

<sup>1</sup>[(2-A) For making the allotment of the surplus land under sub-section (2), the first preference among landless persons shall be given to the members of Scheduled Castes and Scheduled Tribes.]

(3) Any scheme framed by the State Government under sub-section (2) may provide for the terms and conditions on which the land comprised in surplus area is to be allotted.

(4) The State Government may, by notification in the Official Gazette, add or amend, vary or revoke any scheme made under this section.

<sup>2</sup>*Explanation.-* For the purposes of this section, the expression “natural calamities” shall mean and include calamities caused by floods, earthquakes, land-slides, avalanches, snow-storms, hail storms, fire, excessive rains, cloud burst, wind storms and lightening.]

<sup>3</sup>**[15-A. Utilization of land for development of the State.-** Notwithstanding anything contained in section 15 of the Act, the State Government may utilise any area of the land vested in it under this Act <sup>4</sup>[by transfer by way of lease or exchange to any person] or by transfer to any Department of the Government in the interest of the development of the State, if the State Government is satisfied that there are sufficient reasons to do so:

Provided that when land is not used by a person for the purpose for which it has been leased, the lease shall stand terminated free from all encumbrances and the Government shall re-enter in the demised premises, and the lease money, if paid to the Government, shall be forfeited and no person shall be entitled to any compensation for any improvement made and for any building constructed thereon.]

**16. Bar of future acquisition of land in excess of permissible area.-** Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of this Act, no person whether as landowner or tenant or a mortgagee with possession shall acquire or possess by transfer, exchange, mortgage, lease, agreement or settlement any land, which with or without the land already owned or held by him, shall in the aggregate exceed the permissible area.

**17. Future acquisition of land by inheritance or otherwise in excess of permissible area or increase in such area as a result of operation of this Act.-** (1) Subject to the provisions of section 15, if after the commencement of this Act, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir of any land, any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands

<sup>1</sup>Inserted vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>Explanation added vide H.P. Act No. 7 of 2000.

<sup>3</sup>Section 15-A added vide H.P. Act No. 11 of 1987, effective from 28<sup>th</sup> July, 1973

<sup>4</sup>Substituted for the words “by lease to any person” vide H.P. Act No. 7 of 2000.

already owned or held by him, exceeds in the aggregate the permissible area or any person whose land exceeds the permissible area as a result of the operation of any provision of this Act, then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situate in more than one patwar circle, he shall also furnish a declaration required by section 9.

(2) If he fails to furnish the return and select his land within the prescribed period, then the Collector may in respect of him obtain the information required to be shown in the return through such agency as he may deem fit and select the land for him in the manner specified in sub-section (1) of section 8.

(3) If such person fails to furnish the declaration, the provisions of <sup>1</sup>[section 9] shall apply.

(4) The excess land of such person shall be at the disposal of the State Government for utilisation as surplus area under section 15 or for such other purpose as the State Government may by notification direct.

*Explanation.*- In the case of family, the return may be furnished by any adult member, of the family and in the case of the sole minor by his guardian :

Provided that the Collector shall, before determining the surplus area, give to all the members of the family an opportunity of being heard.

<sup>2</sup>**[17-A. Treatment of certain transfers and change of use of lands exempted under section 5.-** (1) The Collector shall call for, from the revenue officers in his district, the record of transfers of lands made, after the appointed day but before the commencement of the Himachal Pradesh Ceiling on Land Holdings (Amendment) Act, 1999 by way of sale, mortgage, gift or otherwise in respect of any land comprised in any tea estate, whether under a tea plantation or held for other purposes subservient to a tea plantation and exempted under clause (g) of section 5 of the Act and the rules framed thereunder, and examine such record for satisfying himself as to the legality or propriety of such transfer.

(2) Where either on examination of the record under sub-section (1) or in consequence of definite information which may come into his possession, and after making such enquiry, as he may deem fit, the collector is satisfied that the transfer of land has been made or land has been put to some other use, as a result of fraud or concealment of facts or is detrimental to the interests of the tea plantation/industry, he shall, at any time within two years following the commencement of the Himachal Pradesh Ceiling on Land Holdings (Amendment) Act, 1999, declare such transfer or change of use of land as illegal and void:

Provided that no order under this sub-section shall be passed by the Collector without affording an opportunity of being heard, in the case of the transfer of land to the parties to such transfer, and in the case of change of land use to the land owner.

(3) Where the change of land use has been declared as illegal under sub-section (2), the Collector shall direct the land owner to restore within such period, not exceeding one year, as may be fixed by him, the user of the land for tea plantation or for the purpose subservient to tea

<sup>1</sup>Substituted for the words and figures "section 8" vide H.P. Act No. 1 of 1974, effective from 28<sup>th</sup> July, 1973.

<sup>2</sup>Inserted vide H.P. Act No. 7 of 2000.

plantation i.e. the purpose on account of which it has been exempted from the provisions of the Act under clause (g) of section 5 of the Act, failing which such land shall be taken into account for the purpose of determining the permissible area under section 4 of the Act.

(4) Where any transfer of land has been declared void under sub-section (2), all rights, title and interests, including the contingent interests, if any, of the land owner and of any other person/transferee in such transferred land, notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage shall stand extinguished and all such rights, title and interests shall vest in and shall stand transferred to the State Government together with structures, buildings or other attachments, if any, free from all encumbrances and the person in possession of such land shall be liable to ejectment under the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1954, and such a person shall be entitled only to such amount in lieu of such land as would have been determined and payable to him under the Act, as if such land was in excess of the permissible area and had vested in the State Government under section 11:

Provided that in exceptional cases of hardship, the Collector, with the prior approval of the State Government and for reasons to be recorded in writing, may, in lieu of the transfer and vestment of any structure, building or other attachments together with the land thereunder, order the transfer and vestment free from all encumbrances of any other land, equivalent to the land covered under the aforesaid structure, building or attachment thereto, out of the permissible area of such a land owner who has transferred the land.]

**18. Bar of jurisdiction.-** (1) No civil court shall have jurisdiction to-

- (a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the rights of the State Government to the surplus area under this Act; or
- (b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Commissioner, the Collector.

(2) No order of the Financial Commissioner, the Commissioner or the Collector made under or in pursuance of this Act, shall be called in question in any court.

**19. Mode of recovery of amount and penalty.-** The amount of other sum payable under this Act and the amount of any penalty imposed under this Act may be recovered as an arrear of land revenue.

**20. Appeal <sup>1</sup>[xxxv] and revision.-** (1) Any person aggrieved by any decision or order of the Collector may within sixty days from the date of the decision or order prefer an appeal to the Commissioner:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

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<sup>1</sup>The sign and word "Review" omitted vide H.P. Act No. 7 of 2000.

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1), may, within ninety days from the date of the order, file a revision petition before the Financial Commissioner so as to challenge the legality or propriety of such order and the Financial Commissioner may pass such order as he may deem fit. The order of the Financial Commissioner shall be final.

(3) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may at any time call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in relation thereto as he may deem fit.

**21. Officers holding enquiries to have powers of civil courts.-** Any officer or authority holding an enquiry or hearing an appeal or a revision under this Chapter shall have the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), relating to-

- (a) proof of facts by affidavits;
- (b) enforcing attendance of any person and his examination on oath;
- (c) production of documents;
- (d) issue of commission;

and every such officer or authority shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

**22. Penalty for making false statement.-** (1) If any person fails to furnish a declaration as required by section 9 or during the course of any proceeding under this Chapter makes a declaration or statement or furnishes any information which is false or which he knows or has reasons to believe to be false or which he does not believe to be true, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the Collector.

**23. Procedure.-** In all enquiries and proceedings under this Act, the Collector and any other officer shall have such powers and follow such procedure as may be prescribed.

**24. Certain officers to be public servants.-** Every officer acting under or in pursuance to the provisions of this Act or any rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**25. Protection of action taken under this Act.-** (1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provisions contained in this Act or any rules made thereunder.

**26. Power to make rules.-** (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.



(2) The power to make any rule under sub-section (1) is subject to the condition of the rules being made after previous publication.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature requires any modification in the rule or desires 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.

**27. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

**28. Repeal and savings.-** (1) The provisions of the Punjab Security of Land Tenures Act, 1953 (10 of 1953), and the Pepsu Tenancy and Agricultural Lands Act, 1955 (13 of 1955), and the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (15 of 1954), which are inconsistent with the provisions of this Act are hereby repealed.

(2) The repeal of the enactments referred to in sub-section (1) shall not affect their previous operation.

(3) Subject to the provisions of sub-section (2), anything done or any action taken including any appointment, delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form or scheme framed, date, time and place appointed and other things done under the repealed Acts or law shall ,-

(a) be deemed to have been done or taken under the corresponding provisions, if any, of this Act;

(b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or by other competent authority.

(4) Notwithstanding the repeal of the enactments mentioned in subsection (1) all suits, applications or other proceedings pending disposal at the commencement of this Act, shall be disposed of in accordance with the provisions of the said Acts as if these Acts had not been repealed.

<sup>1</sup>[5. Savings.- Where any allotment of land made under any scheme, framed under the principal Act, is found to be inconsistent with the provisions made in the principal Act, as amended by sections 2 and 3 of this Act, then notwithstanding anything to the contrary contained in any judgment, decree or order of any court; or any other law for the time being in force, it shall be lawful for an officer specially empowered by the State Government in this behalf, to cancel such allotment and take possession of the land so allotted:

Provided that no order under this section shall be passed without affording an opportunity of being heard to the allottee of land in question.]

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<sup>1</sup>The savings section 5 added vide H.P. Act No.1 of 1987, effective from 28<sup>th</sup> July, 1973.

## THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS RULES 1973

Government of Himachal Pradesh  
Revenue Department

### NOTIFICATION

Shimla-2, the 22<sup>nd</sup> November, 1973

**No. 10-5/73-Rev. A.** - Whereas, the draft Himachal Pradesh Ceiling on Land Holdings Rules, 1973 were published as required under section 26 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973) in Rajpatra, Himachal Pradesh Extraordinary, dated the 24th October, 1973 vide Revenue Department notification of even number, dated the 22nd October, 1973 for inviting the objections or suggestions from all persons likely to be affected thereby within a period of 15 days from the date of publication of the draft rules in the Rajpatra.

And whereas, the Government has considered the objections and suggestions received from the public on the said draft rules within the prescribed period.

Now, therefore, in exercise of the powers conferred by section 26 of the said Act, the Governor, Himachal Pradesh hereby makes the following rules, namely:-

**1. Short title, extent and commencement.** - (1) These rules may be called the Himachal Pradesh Ceiling on Land Holdings Rules, 1973.

(2) They extend to the whole of Himachal Pradesh.

(3) They shall come into force at once.

**2. Definitions.** - In these rules, unless there is anything repugnant in the subject or context,-

- (a) "Act" means the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (19 of 1973);
- (b) "form" means a form appended to these rules;
- (c) "the land under assured irrigation" means the land irrigated by perennial State canal, State kuhl or State lift irrigation scheme or State tube-well run by electric/diesel power;
- (d) "section" means section of the Act; and
- (e) all other words and expressions used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

**3. Areas to be treated as subservient to tea plantation.** - (1) The following areas shall be treated as subservient to tea plantation:-

- (a) Areas on which there is programme for expansion of tea plantation during next ten years which will be determined by the State Government;
- (b) areas covered by forests and forest growth of which the fuel wood, timber is required for the manufacture of the tea and maintenance of tea estate;
- (c) low-lying lands which generally serve as water reservoirs for the use of tea plantation; and
- (d) land on which tea factories, labour quarters, playgrounds and other ancillary buildings are situated.

<sup>1</sup>Provided that no land, treated as subservient to tea plantation under this sub-rule and exempted from the operation of the Act under section 5 (g) thereof, shall be transferred by the landowner in any manner.]

(2) The owner of the tea estate will submit return in Form C-I to the Collector showing the areas he intends to include for the purpose of clause (a) of sub-rule (1) within one month from the date on which these rules will come into force. The Collector on receipt of this return shall make such inquiry as he deems fit and thereafter send his recommendations to the State Government for orders which will be final.

**4. Form of return to be furnished by a person having land in excess of permissible area and manner of furnishing thereof.** – (1) Every person required to furnish a return under section 8 shall himself or through an authorised person or in case of a minor through his guardian furnish it in duplicate in Form C-II to the Collector in whose jurisdiction the land is situate, personally or by registered post (Acknowledgment due) within six weeks from the coming into force of these rules:

Provided that where the land of any such person is situate in the jurisdiction of more than one Collector, the return shall be furnished to the Collector in whose jurisdiction the largest area of land mentioned therein is situate with two additional copies thereof for each Collector in whose jurisdiction the land is situate.

(2) In every case falling under the proviso to sub-rule (1), the Collector receiving the return shall retain the original form with him and forward two copies thereof to the Collector/Collectors of the area in which the land of the person is situated.

(3) Where, in the case of a person, additional copies of Form C-II have been received by the Collector under sub-rule (2), the Collector shall, after holding such inquiry as he thinks fit, return them to the Collector from whom they were received, who shall be competent to determine the surplus area of the person concerned with respect of land falling in the jurisdiction of other Collector/Collectors also. This provision will also apply to cases falling under rule 8(3) of these rules.

**5. Patwari to assist in filling up Form C-II.** - A person required to submit a return under rule 4 may take assistance of the Patwari concerned to fill up Form C-II for him on payment of fee of rupee one to the Patwari who shall issue receipt of the fee charged by him to the person as required under the Himachal Pradesh Land Records Manual, or the Punjab Land Records Manual, as the case may be.

**6. Form of declaration and affidavit to be submitted under section 9.** - (1) The declaration supported by an affidavit required to be furnished under section 9 shall be furnished in Form C-III along with the return submitted by a person, under rule 4 within six weeks from the coming into force of these rules.

(2) The Collector to whom the return in Form C-II is furnished under sub-rule(1) of rule 4 and the declaration supported by an affidavit is furnished in Form C-III under sub-rule (1) of this rule shall issue a receipt of these Forms in Form C-IV to the person furnishing the return as soon as the return in the required number of copies is received by him.

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<sup>1</sup>Proviso added vide Notification No. 10-5/73-II Rev.B dated 04.04.86(R.H.P.Ex.ordy.) dated 26.04.86

**7. Verification of particulars given in returns referred to in rule 4.-** On receipt of return under rule 4, the Collector shall get the particulars given therein verified by the Tehsildar of the Tehsil or Naib-Tehsildar of the Sub-Tehsil, as the case may be, in which the land is situate, who shall further get the return verified by the Patwari of the circle concerned. On such verification, the Tehsildar or the Naib Tehsildar, as the case may be, will send back the return to the Collector concerned.

**8. Collection of information under sub-section (2) of section 9. -** (1) Where any person referred to in section 8 fails to furnish the return prescribed thereunder, the Collector shall cause the return to be filled up by the Patwari concerned, in duplicate, in Form C-II. The Patwari shall retain one copy of each return filled in by him and forward the other to Circle Kanungo.

(2) The Circle Kanungo shall, after examination, attest all entries made by the Patwari in Form C-II and forward it further to the Tehsildar of the Tehsil or Naib-Tehsildar of the Sub-Tehsil, as the case may be, who shall verify it and forward it further to the Collector.

(3) Where the land of a person is situated in more than one Patwar Circle, the Patwaris shall prepare returns of land situated in their respective circles and send them to the Tehsildar of the Tehsil or Naib-Tehsildar of the Sub-Tehsil, as the case may be, through the Field Kanungos. The Tehsildar or the Naib-Tehsildar will consolidate the return for the Tehsil or Sub-Tehsil, as the case may be, and submit it to the Collector concerned.

**9. Draft statement under sub-section (1) of section 10. -** (1) After satisfying himself as to the correctness of the particulars mentioned in Form C-II, the Collector shall prepare a draft statement mentioned in sub-section (1) of section 10 of the Act in Form C-V.

(2) The statement in Form C-V shall be published in the Office of the Collector and a copy thereof shall be forwarded immediately by the Collector to the person or persons concerned under cover of an endorsement prescribed in the Form and it shall be served upon person or persons as if it were summons from the Revenue Officer. Any objections received within thirty days of the service shall be duly considered by the Collector and after affording the objectors an opportunity of being heard the Collector shall pass such order as he may deem fit.

**10. Final statement. -** The final statement under sub-section (3) of section 10, of the Act, shall be in Form C-V which shall be adopted subject to the modification that the word 'Draft' and the form of endorsement appearing thereon shall be omitted.

**11. Form of Statement of amount. -** When the final statement has been published under sub-section (3) of section 10 of the Act the Collector shall, within a month from its publication, prepare the statement of the amount in Form C-VI in accordance with the principles laid down in clauses (i) to (iii) of sub-section (1) of section 14 of the Act.

**12. Form of notice. -** On preparation of statement of the amount under rule 11, the Collector shall give a notice in Form C-VII to all person known to have any interest in the land for which the amount is to be paid to appear personally or by duly authorised agent before him at a time and place mentioned therein within 15 days after the date of service of notice and to state the nature of their respective interests in the land and the amount and particulars of their claims to the amount for such interests. Thereafter the amount shall be apportioned among the persons having interests in the land.

**13. Mode of payment of the amount.** - The amount shall be paid in cash either in lump sum or in six monthly installments not exceeding ten in the manner prescribed in rules 14 and 15. Whether the amount shall be paid in lump sum or in installments shall be determined by the Collector.

**14. Issue of voucher for cash payment.** – (1) Payment of the amount in cash shall be made through vouchers in Form C-VIII. The books containing 100 vouchers and counterfoils shall be kept in double lock and shall, on receipt of a demand in Form C-IX be issued to the Collector who shall keep the book in his personal custody and before commencing use thereof, send an intimation to the Treasury Officer, in Form C-X. Only one book shall ordinarily be issued by the Treasury Officer to the Collector at one time.

(2) A Voucher which is not encashed for more than six months from the date of its issue shall cease to be cashable unless it is on an application by the holder thereof, countersigned and revalidated for payment by the Collector. The holder, on failure to obtain payment within 6 months from the date of issue shall submit the voucher with an application for revaluation of the same. In case of loss, destruction or mutilation of the original voucher, the holder may apply for the issue of a fresh one. In such a case fresh voucher shall not be issued until a non-payment certificate has been obtained from the Treasury Officer.

**15. Account of vouchers.** - The Treasury Officer shall keep an account of the vouchers presented and encashed on each day of payment in Form C-XI. The statement in Form C-XI shall be kept in a guard file. Where no payments are made on any day, the Treasury Officer shall prepare a blank statement in Form C-XI. The Treasury Officer shall prepare a monthly statement in Form C-XII and send one copy thereof, to the Collector who shall consolidate the same in district statement to be prepared in Form C-XIII and shall forward copies thereof one each, to the Commissioner of the Division and the Financial Commissioner of Himachal Pradesh.

**16. Return in respect of land acquired by a person under section 17.** – (1) The return under section 17 of the Act shall be furnished in Form C-XIV within three months from the date on which he acquires the land by inheritance, bequest or gift, or transfer etc. in the case of a family by an adult member of the family and in the case of a sole minor by his guardian.

(2) Where any person referred to in section 17 fails to furnish the return in the Form prescribed under sub-rule (1) of this rule, the Collector shall cause the return to be filled up by the Patwari concerned in duplicate in Form C-XIV. The Patwari shall retain one copy of each return filled in by him and forward the other to Circle Kanungo.

(3) The Circle Kanungo shall, after examination, attest all entries made by the Patwari in Form C-XIV and forward it to the Tehsildar of the Tehsil or Naib Tehsildar of the Sub-Tehsil, as the case may be, who shall Verify it and forward it further to the Collector concerned.

(4) Where a land of a person is situated in more than one Patwar Circle, the provisions of rules 4 and 5 of these Rules shall apply for preparations and submission of returns. The declaration supported by an affidavit to be furnished by the person shall be in Form C-XV.

(5) For determination of surplus area under section 17, the provisions of rules 9 and 10 will apply.

(6) The Collector shall follow the same procedure for determination and payment of the amount as prescribed in Rules 11 to 15.

**17. Determination of market value of building, structure or tube-well.** - In determining the market value of any building, structure or tube-well, the Collector shall take into account the advice of the Chief Engineer, Public Works Department, Himachal Pradesh concerned or any other Officer nominated by him.

**18. Procedure.** - In all proceedings, under the Act and these Rules, the Collector or any other Revenue Officer shall observe the procedure as prescribed for Revenue Officers in the tenancy laws for the time being in force in Himachal Pradesh.

**19. Court fee.** - All applications made under the provisions of the Act shall bear Rs.1.25 court fee stamp and process fees shall be chargeable as prescribed by or under the Himachal Pradesh Court Fees Act, 1968 (8 of 1968).

**20. Manner of service of notices or orders.** - Save as otherwise provided in these rules, notices or orders under the Act shall be served in the manner provided in the tenancy laws for the time being in force in Himachal Pradesh.

**21. Repeal and savings.** - The Pepsu Tenancy and Agricultural Land Rules, 1958, the Punjab Security of Land Tenures Rules, 1953 and the Punjab Security of Land Tenures Rules, 1956, as amended from time to time, are hereby repealed in their application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, in so far as they relate to the matters dealt in these rules and are inconsistent with these rules:

Provided that, notwithstanding the repeal of the said rules, anything done or any action taken in the exercise of any power conferred by or under the said rules shall be deemed to have been done or taken in exercise of the powers conferred by or under these rules, as if these rules were in force on the day, on which such thing was done or action was taken.



mortgagee with possession/tenant each member of his family/his adult son or sons	which the land is situate		possession			other capacity		'A')
1	2	3	4	5	6	7	8	9

Area of land left after transfer				Total area under personal cultivation village-wise	Area under tenants	Selected area which the person desires to retain for himself, for the family or separate unit/units with Khasra Nos. and class of land
As landowner	As mortgagee with possession	As lessee	As tenant			
10	11	12	13	14	15	16

Particulars of area sought to be exempted from ceiling under section 5.	Reasons for exemption	Surplus area with Khasra Nos. and class of land.	Remarks
17	18	19	20

Signature/thumb impression of landowner/  
mortgagee with possession/tenant.

Dated.....

Notes.-

1. The age of each member of the family whether minor or adult may be given in the remarks column against his name.
2. The class of land should be filled in as recorded in the Land Records on 24-1-1971.
3. Wherever figures are required in the Form the same should be in English numerals and the area should be given in bighas and acres.
4. For the purpose of columns 3 to 6, the share in the undivided family, registered farming co-operative society or a company shall be mentioned.
5. In case of irrigated land, the source of irrigation whether private or Government be mentioned against each Khasra number.



CERTIFICATE TO BE RECORDED BY THE PATWARI IN CASE THE RETURN IS CAUSED  
TO BE PREPARED UNDER SECTION 9(2)

I hereby certify that entries made by me in this Form are in accordance with those made in  
the revenue records and are correct.

Dated .....

Patwari .....

.....Circle.

ATTESTATION

I have checked the entries made in this Form and attest them to be correct.

Dated.....

Kanungo .....

..... Circle

ATTESTATION

I have verified the entries made in this Form and attest them to be correct.

Dated .....

Tehsildar/Naib Tehsildar,  
.....Tehsil/Sub-Tehsil.

-----

**SCHEDULE 'A'**

(SEE FORM C-II COLUMN 9)

Particulars of transfer by sale, gift, mortgage or any other disposition of land made by a person, or his family members, adult son after 24-1-1971 to date

Name and particulars of transfer	Date of transfer	whether or not by a Registered deed	Mutation No. and kind of mutation	Date of entry of mutation by the Patwari	Date of attestation of mutation by Revenue Officer	Particulars of land i.e. Khasra Nos., class and area
1	2	3	4	5	6	7
Consideration paid, if any		Particulars of person/persons in whose favour land is transferred				Remarks
8		9				10

Dated.....

Signature/thumb impression of the landowner/  
tenant/mortgagee with, possession.

I solemnly affirm that the statement of transfers of land given above by me in the prescribed form are correct as per Land Records.

Dated.....

Signature/thumb impression of the landowner/  
tenant/mortgagee with possession.

OR

**CERTIFICATE TO BE RECORDED BY THE PATWARI IN CASE THE RETURN IS CAUSED TO BE PREPARED UNDER SECTION 9(2)**

I hereby certify that entries made by me in this Form are in accordance with those made in the Revenue Records and are correct.

Dated.....

Patwari.....

.....Circle.

**ATTESTATION**

I have checked the entries made in this Form and attest them to be correct.

Dated.....

Kanungo.....

.....Circle.

**ATTESTATION**

I have verified the entries made in this Form and attest them to be correct.

Dated.....

Tehsildar/Naib-Tehsildar.

.....Tehsil/Sub-Tehsil.

**Form C-III**

(See rule 6)

**FORM OF DECLARATION UNDER SECTION 9 OF THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972 (19 OF 1973)**

I ..... S/o ..... resident of .....  
 Tehsil/Sub-Tehsil ..... District ..... hereby declare that I, the  
 members of my family and separate unit hold land as landowner/tenant/mortgagee with possession  
 in Himachal Pradesh in the following Patwar Circles only:-

S.No.	Name of Patwar Circle	Name of Tehsil/Sub-Tehsil	Name of District	Particular of person who holds land	Total area held as landowner/tenant/mortgagee with permission
1	2	3	4	5	6
				Grand Total.....	

The details of the above land have been given in the return submitted under Rule 4 of the Himachal Pradesh Ceiling on Land Holdings Rules, 1973, which is enclosed.

Dated.....

Signature/thumb impression of the  
 landowner/tenant/mortgagee with  
 possession.

**AFFIDAVIT**

I solemnly affirm that the particulars given by me in the above declaration are true to the best of my knowledge and belief and that nothing has been concealed.

Dated.....

Landowner/tenant/mortgagee with  
 possession, .....  
 resident of village .....  
 Tehsil/Sub-Tehsil .....  
 District .....

**ATTESTATION**

Certified that the above declaration was made on solemn affirmation before me this  
 ..... day of ..... 20....., at ..... in ..... District by Shri .....  
 s/o ..... resident of village ....., Tehsil/Sub-Tehsil .....,  
 District.....

Dated .....

Magistrate 1st Class/Oath  
 Commissioner at.....

Certified further that the above affidavit has been read out to Shri ..... s/o  
 ..... resident of village ..... Tehsil/Sub-Tehsil ....., District  
 ....., the deponent who seems perfectly to understand the same at the time of its making.

Dated.....

Magistrate 1<sup>st</sup> Class/Oath  
 Commissioner at .....

**FORM C-IV**

[See rule 6 (2)]

**FORM OF RECEIPTS TO BE ISSUED BY THE COLLECTOR UNDER SUB-RULE (2) OF  
 RULE 6 OF THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS RULES, 1973**

Received ..... copies in respect of each of the Patwar Circles mentioned below of  
 the return under rule 4 and declaration supported by affidavit under rule 6 (1) of the Himachal  
 Pradesh Ceiling on Land Holdings Rules, 1973 from Shri ..... son of .....  
 landowner/tenant/mortgagee with possession of village ....., Tehsil /Sub-Tehsil .....  
 District .....

Sr. No.	Name of the Patwar Circle	Name of the Tehsil/Sub-Tehsil
1	2	3

Dated.....20...

Collector,.....  
 District.....

**Form C-V**  
(See rules 9 & 10)

DRAFT STATEMENT SHOWING THE PARTICULARS OF A LANDOWNER/  
TENANT/MORTGAGEE WITH POSSESSION TO BE PREPARED UNDER SECTION 10 OF  
THE ACT

Note.-Figures, wherever required to be given in this Form should be given in English numerals.

Name, parentage and place of residence of landowner/ten- ant/mortgagee with possession	Village or villages with name of Tehsil/Sub- Tehsil in which land is situate	Total area owned or held as landowner/ tenant/ mortgagee with possession village- wise	Area (with Khasra & Khewat Nos.) not exceeding the aggregate permissible area which the landowner/tenant/mortgagee with possession desires to retain or selected by the Collector under section 9(2)	Particulars of area (with Khasra & Khewat Nos.) exempted from ceiling under section 5 of of the Act	Surplus area	Remarks
1	2	3	4	5	6	7

No.....

Office of the Collector .....

District.....

Dated the.....20.....

A copy is forwarded to ..... son of ..... landowner/tenant/mortgagee  
with possession resident of village ....., Tehsil/Sub-Tehsil ..... and District .....  
for necessary action under section 10 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972.  
If he desires to take any objection, regarding this draft statement he can send the same to the  
undersigned before the expiry of 30 days after the date of the service of the draft statement upon  
him. The objections, if any, so received, will be taken into consideration before finalizing the draft  
statement under section 10 of the Act.

Collector.....

District.....

Dated.....

**FORM C-VI**

(See rule 11)

**STATEMENT OF AMOUNT UNDER SECTION 13(2) OF HIMACHAL PRADESH  
CEILING ON LAND HOLDINGS ACT, 1972**

Name, parentage and place of residence of landowner/ tenant/ mortgagee with possession	Details of surplus area			The amount for land declared surplus			
	Tehsil/ Sub-tehsil and District in which land is situate	Village(s) in which land is situate with Khewat and Khasra Nos.	Class of land	Total surplus area	For the land upto 10 acres	For the land in excess of 10 acres upto 30 acres	For the land above 30 acres
1	2	3	4	5	6	7	8
Total of columns. 5, 7 and 8.		Amount payable for building structure, tube well, if any, standing on the land.		Total amount of columns 9 and 10.		Remarks	
9		10		11		12	

Collector.....

District.....

Dated.....

**Form C-VII**

(See rule 12)

To

.....  
 .....

A copy of Form C-VI of the statement of amount prepared under sub-section (2) of section 13 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 is forwarded to you under the said sub-section. You are hereby required to appear personally or by duly authorised agent before the undersigned on the.....at.....and state the nature of your interest on the land and the amount and particulars of your claim to the amount for such interest.

Collector.....

District.....

Dated.....

**Form C-VIII**

[See rule 14 (i)]

## VOUCHER FOR PAYMENT OF AMOUNT IN CASH

Book No .....

Voucher No .....

Name, parentage and residence of the claimant \_\_\_\_\_ Head of Service Chargeable \_\_\_\_\_

Amount payable in Cash Rs. \_\_\_\_\_ (in words) Voucher No. \_\_\_\_\_ of list of payment. Received (in words) \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_, the sum of Rs. \_\_\_\_\_ being the amount due to me as the amount under the Himachal Pradesh Ceiling on Land Holdings Act, 1972.

Signature of Collector.

Name, parentage and address of the Claimant \_\_\_\_\_

District \_\_\_\_\_

Dated \_\_\_\_\_

Received Voucher No. \_\_\_\_\_ Book No. \_\_\_\_\_ Approved for Rs. \_\_\_\_\_ (in words) \_\_\_\_\_

Claimant's signature or thumb impression

Address \_\_\_\_\_

Dated \_\_\_\_\_

Signature of Collector.

Dated \_\_\_\_\_

Signature of recipient.

Pay in cash Rs. \_\_\_\_\_ (in words) \_\_\_\_\_ only.

Dated \_\_\_\_\_

Signature of the Collector.

District \_\_\_\_\_

**FORM C-IX**  
[See rule 14 (1)]

**FORM OF REQUISITION TO BE SENT BY THE COLLECTOR TO THE TREASURY OFFICER**

No.....  
Office of the Collector .....  
District.....  
Dated.....

To

The Treasury Officer,

Please issue immediately to the undersigned one Book containing Voucher Nos. 1-100 for payment of amount in cash under the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (19 of 1973).

Collector,  
.....District.  
(His office seal).

**FORM C-X**  
[See rule 14 (1)]

**FORM OF INTIMATION TO THE TREASURY OFFICER REGARDING USE OF VOUCHER BOOKS**

Intimation No .....

dated .....

From

The Collector,  
..... District.

To

The Treasury Officer,

This is to intimate that I have on this ..... day of ..... commenced the use of Book No ..... containing Voucher Nos. 1-100. Please acknowledge receipt of this intimation.

Collector,  
.....District.  
(His office seal).



**FORM C-XI**

(See rule 15)

STATEMENT OF ENCASHED VOUCHERS ISSUED FOR THE SURPLUS AREA DETERMINED UNDER THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972 (19 OF 1973)

Treasury.....District.....

Date of encashment	Book and Sl. No. of Vouchers.	Treasury/ Sub-Treasury Voucher No.	Amount paid	Signature of Treasury Officer	Remarks
1	2	3	4	5	6

**FORM C-XII**

(See rule 15)

MONTHLY STATEMENT OF PAYMENT OF AMOUNT IN CASH FOR THE SURPLUS AREA DETERMINED UNDER THE PROVISIONS OF THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972 (19 OF 1973)

Tehsil/Sub-Tehsil ....., District ..... Month .....  
Year .....

Book and Serial No. of Voucher	Total amount encashed	Remarks
1	2	3

Dated.....

Treasury Officer,  
.....District.

To

The Collector,  
.....District.

**FORM C-XIII**

(See rule 15)

CONSOLIDATED MONTHLY STATEMENT OF PAYMENT OF AMOUNT IN CASH FOR THE SURPLUS AREA DETERMINED UNDER THE PROVISIONS OF THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972 (19 OF 1973)

Month..... Year.

Name of District	Total amount paid by cash payment	Remarks
1	2	3

No..... Dated.....

Forwarded to the-

1. Commissioner,..... Division.
2. Financial Commissioner-cum-Secretary Revenue to the Government of Himachal Pradesh, Shimla-2.

Collector,  
.....District.  
(His seal).

**FORM C-XIV**

[See rule 16 (1)]

To

The Collector,  
.....District.

As required by sub-section (1) or sub-section (2) of section 17 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972, I furnish the following return:-

Name, parentage and place of residence of landowner/tenant/mortgagee with possession/member of his family/adult son, if any.	Village(s) with name of Tehsil/sub-tehsil and district in which land is situate	Particulars of area owned or held prior to acquisition by inheritance, bequest or gift, transfer (i.e. sale, mortgage, exchange, lease etc.)				Total area of columns 3 to 6.
		As landowner	As mortgagee with possession	As tenant	As lessee	

1	2	3	4	5	6	7	
Particulars of area acquired by inheritance, bequest or gift, transfer (i.e. sale, exchange, mortgage, lease etc.) _____						Selected area not exceeding in the aggregate the permissible area which the landowner/tenant/mortgagee with possession desires to retain for the family and separate unit/units/	
Land acquired by inheritance	Land acquired as allottee	Land acquired as mortgagee with possession	Land acquired as tenant	Land acquired as lessee	Total area shown in columns 8 to 12	Land held in proprietary rights	Land held as mortgagee with possession
8	9	10	11	12	13	14	15
Land held as tenant	Land held as lessee	Particulars of area sought to be exempted from ceiling under section 5.			Reasons for exemption	Estimated surplus area	Remarks
16	17	18			19	20	21

I solemnly affirm that the particulars given by me in this Form are correct.

Signature or thumb-impression of  
landowner/tenant/mortgagee with  
possession.

Dated.....

- Notes.-1. The age of each member of the family whether minor or adult may be given in the remarks column against his name.
2. The class of land should be filled in as recorded in the Land Records at the time of acquisition under section 17.
3. Wherever figures are required in the Form the same should be in English numerals and the area should be given in bighas and acres.
4. For the purpose of columns 3 to 6, the share in the undivided family registered co-operative farming society or a company shall be furnished.
5. Land to be reserved for minor member of a family and separate unit to be shown in columns 14 to 17.
6. In case of irrigated land, the source of irrigation whether private or Government be mentioned against each khasra number.

OR

CERTIFICATE TO BE RECORDED BY THE PATWARI IN CASE OF SUB-SECTION (2) OF SECTION 17

I hereby certify that entries made by me in this Form are in accordance with those made in the Revenue Records and are correct.

Dated.....

Patwari.....  
.....Circle.

ATTESTATION

I have checked the entries made in this Form and attest them to be correct.

Dated.....

Kanungo.....  
.....Circle.

ATTESTATION

I have verified the entries made in this Form and attest them to be correct.

Dated.....

Tehsildar/Naib Tehsildar.....  
Tehsil/Sub-Tehsil .....

**FORM C-XV**  
[See rule 16 (4)]

FORM OF DECLARATION UNDER SECTION 17 OF THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972 (19 OF 1973)

I..... s/o.....resident of village, tehsil/sub-tehsil.....district....., hereby declare that I hold land as landowner/tenant/mortgagee with possession in Himachal Pradesh in the following Patwar Circles only:-

Sr. No.	Name of Patwar Circle	Name of Tehsil/Sub-Tehsil	Name of District	Total area held as landowner/tenant/mortgagee with possession prior to acquisition by inheritance, bequest or gift, transfer i.e. (sale, mortgage, exchange, lease etc.)	Total area of land acquired by inheritance, bequest, gift, transfer (i.e. sale, exchange, mortgage, lease etc.)
1	2	3	4	5	6
			Grand Total..		

The details of the above land have been given in the return submitted under rule 16 of the Himachal Pradesh Ceiling on Land Holdings Rules, 1973, which is enclosed.

Dated.....

Signature/thumb-impression of  
the land owner/ tenant/  
mortgagee with possession.

**AFFIDAVIT**

I solemnly affirm that the particulars given by me in the above declaration are true to the best of my knowledge and belief and that nothing has been concealed.

Landowner/tenant/mortgagee with possession,  
resident of Village .....  
Tehsil/Sub-Tehsil .....  
District .....  
Dated.....

**ATTESTATION**

Certified that the above declaration was made on solemn affirmation before me this .....day of.....19.....at .....in.....district by Shri.....  
s/o....., resident of village.....Tehsil/Sub-Tehsil.....  
District.....

Magistrate 1<sup>st</sup> Class/Oath  
Commissioner at .....  
Dated.....

Certified further that the above affidavit has been read out to Shri.....s/o ..... resident of village ..... Tehsil/Sub-Tehsil ....., District ....., the deponent, who seems perfectly to understand the same at the time of its making.  
Dated.....

Magistrate 1st Class/Oath  
Commissioner at.....  
By order  
K.C. Chauhan,  
Under Secretary (Revenue).

<b>Instructions/ Clarifications issued under the Himachal Pradesh Ceiling on Land Holding Act, 1972</b>				
<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	The H.P. Govt. Letter No. Rev.B.A.(10)233/2000 dated 05.01.2001	Clarifications	Regarding changing the classification of tea estate.	484
2.	The H.P. Govt. Letter No. Rev.B.A.(4)8/2004 dated 21.04.2006	Clarification	Regarding implementation of notification issued by the Forest Department in 1952.	485
3.	The H.P. Govt. Letter No. Rev.B.A.(3)-3/2011 dated 14.03.2012.	Instruction	Regarding seeking exemption u/s 5(h) of the H.P. Ceiling on Land Holding Act, 1972	487
4.	The H.P. Govt. Letter No. Rev.B.A.(3)-3/2011 dated 18.10.2012.	Clarification	Regarding Section 6A & 7A.	488
5.	The H.P. Govt. Letter No. Rev.B.A.(3)-3/2011 dated 04.12.2013.	Instruction	Regarding applicability of the provisions of Section 6-A and 7-A .	489
6.	The H.P. Govt. Letter No. Rev.B.A.(3)-3/2001 dated 06.02.2014	Instruction	Regarding amendment in the Himachal Pradesh Ceiling on Land Holdings Act, 1972.	491
7.	The H.P. Govt. Department letter No. Rev.B.F.(10)134/2018 Dated 18.11.2020.	Instruction/ Clarification	Regarding status of land classified as “Gair Mumkin Pahadi”.	493
8.	The H.P. Govt. Department letter No. Rev.B.A.(3)3/2011 dated 25.03.2022.	Clarification	Correction of entries of note prohibiting change of land use or transfer of title of tea estates.	496

संख्या: रैव: बी-एफ(10)233 / 2000  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

प्रेषक

वित्तायुक्त एवं सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त  
कांगड़ा स्थित धर्मशाला,  
जिला कांगड़ा, हि0 प्र0।

दिनांक शिमला7171002

5 जनवरी, 2001

विषय:-  
महोदय,

राजस्व अभिलेख में बगीचा कुहली अव्वल चाय की किस्म की तबदीली के सम्बन्ध में।

जय हिन्द,

उपरोक्त विषय पर आपके पत्र संख्या: 2735/भू0सु0शा0 दिनांक 8.9.2000 द्वारा प्राप्त श्री बृज बिहारी बुटेल निवासी बन्दला टी एस्टेट के आवेदन पत्र पर सरकार द्वारा विचार करने के उपरान्त उसे अस्वीकृत करने का निर्णय लिया है।

2. उपरोक्त के अतिरिक्त हि0प्र0 भू0 जोत अधिकतम सीमा अधिनियम, 1972 की धारा-6ए के अर्न्तगत प्राप्त चाय बागान किस्म की भूमि के उपयोग को बदलने बारे मागें गए मार्ग दर्शन के सन्दर्भ में मुझे यह कहने का निर्देश हुआ है कि मामले पर विधि विभाग की राय प्राप्त की गई जो निम्न प्रकार से है:-

“Thus in terms of section 6A and 7A of the Act any area of land which is under a tea estate whether it is excess of permissible area or otherwise require permission of the State Government if the same is to be transferred to some other person or is to be not maintained as tea estate.”

3. अतः आपसे अनुरोध है कि भविष्य में इस प्रकार के मामलों में विधि विभाग द्वारा दी गई राय के अनुसार कार्यवाही करें। आपके उक्त पत्र द्वारा प्राप्त प्रार्थी का मूल प्रकरण वापिस लौटाया जाता है।

भवदीय,  
(हस्त0)  
अवर सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

No. Rev.B.A.(4)8/2004-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners  
in Himachal Pradesh.
3. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All SDO (Civil),  
in Himachal Pradesh.
5. All the Tehsildars/Naib-Tehsildars,  
in Himachal Pradesh.

Dated : Shimla-2 the 21-04-2006

Subject: Clarification regarding implementation of notification issued by the Forest Department in the year of 1952.

Sir,

I am directed to say that issue regarding applicability of provisions of notification issued in the year 1952, by the Forest Department under Indian Forest Act, 1927 was under consideration of the Government and a Committee under the Chairmanship of Chaudhary Dhani Ram, IAS (Retd.) was constituted by the Government to examine the implications arising out of notification issued by the Forest Department on 25.02.1952 and subsequent notifications and interim direction/orders issued by the Hon'ble Supreme Court dated 12.12.1996 in CWP (Civil)No. 202 of 1995 in case Shri T.N.Godavarman Thirumulkpad Vs Union of India and Ors.

The recommendations of the said Committee were also examined by a Sub-Committee constituted under the Chairmanship of the Director, Land Record in which the representatives of the Forest Department and Revenue Department were associated as members.

Thereafter, the matter has been examined at length at Government level in consultation with the Law Department and it has been concluded/decided that notification issued in the year 1952 by the Forest Department under the provisions of Indian Forest Act, 1927 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 as the land vested under these statutes was belonging to the people before vestment and has to be utilized by the Government for the benefit of weaker sanction of the society as per schemes framed under these statutes to achieve the objective behind the enactment of aforesaid enactments. However, if any land which was vested in the State Government under the aforesaid enactments was ordered as forest land in the revenue record before vestment then even after vestment such land shall continue



to be treated as forest land and the provisions of Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 are applicable on such land and such land can be utilized for non-forest purpose only with the prior approval of the Central Government. Further the forest law shall also apply to surplus area if any which has been demarcated by the Forest Department in consultation with the Revenue Department in terms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

In view of above decision, you are request to direct the field agencies that despite the notification issued in the year 1952 by the Forest Department, the provisions of Indian Forest Act, 1929 and Forest Conservation Act, 1980 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 unless any land which vested in the State Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment or any land which has been demarcated by the Forest Department in consultation with the Revenue Department in Terms of Clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Copy forwarded for information and necessary action to:-

1. The Principal Secretary (Forest) to the Government of Himachal Pradesh, Shimla-2.
2. The Principal Chief Conservator of Forest, H.P.
3. The Director, Land Records, H.P. Shimla-9.
4. The ALR-cum-Under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-2.
5. The COC to the Financial Commissioner (Appeals) to the Government of H.P. Shimla.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/2011  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated: Shimla-171002, the 14<sup>th</sup> March, 2012.

Subject:- Regarding seeking exemption under Section 5 (h) of the H.P. Ceiling on  
Land Holding Act, 1972.

Sir,

I am directed to say that it has been observed that while processing the cases under section 118 of H.P. Tenancy and Land Reforms Act, 1972 for permission to transfer land in favour of a company for setting up industrial or hydel project, the provisions of H.P. Ceiling on Land Holdings Act, 1972 are not being kept in view. Consequently case where such exemption is also necessary and are being referred back for the purpose of seeking exemption under the provisions of Section 5(h) of the H.P. Ceiling on Land Holdings Act, 1972.

In view of the above, it is requested that while processing the applications for permission to transfer of land in favour of non-agriculturist companies under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972, a separate case under section 5(h) of the H.P. Ceiling on Land Holdings Act, 1972 may be prepared and sent to the State Government simultaneously, for seeking exemption to hold land beyond ceiling limit prescribed in Section 4 of the said Act. Such case may be sent in each and every case where land proposed to be transferred (including land already held) is beyond ceiling limit. In case any exemption has already been granted by the Government under section 5(h) the same may be referred to (notification number and date) and the area involved in such exemption may be given so that total holding of such company may be ascertained.

Yours faithfully,

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

संख्या: रैव0बी0ए0(3)-3/2011  
हिमाचल प्रदेश सरकार  
राजस्व विभाग।

प्रेषक

अतिरिक्त मुख्य सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त  
कांगड़ा स्थित धर्मशाला, हिमाचल प्रदेश।

दिनांक शिमला-171002

18/10/2012

विषय:-

हिमाचल प्रदेश भू-जोत अधिकतम सीमा अधिनियम, 1972 की धारा 6-ए एवं 7-ए के अन्तर्गत मामलों के निपटारे बारे।

महोदय,

उपरोक्त विषय पर आपके पत्र संख्या: 1622 भू0सु0शा0 दिनांक 19-8-2012 के सन्दर्भ में मुझे यह कहने का निर्देश हुआ है कि हिमाचल प्रदेश भू-जोत अधिकतम सीमा अधिनियम, 1972 की धारा 6-ए एवं 7-ए के अन्तर्गत चाय बागान किस्म की भूमि का उपयोग बदलने तथा हस्तांतरण करने के लिए सरकार की अनुमति हेतु प्रकरण आपके माध्यम से सरकार को प्रेषित किए जाते हैं तथा आपके द्वारा उक्त पत्र में सुझाए गए पहलू को इस प्रकार के प्रकरणों को सरकार को प्रेषित करने से पूर्व ध्यान में रखा जाना उचित रहेगा।

अतः आपसे अनुरोध है कि उक्त प्रावधानों के अन्तर्गत आवेदन प्राप्त होने पर आप यह भी सुनिश्चित करने की कृपा करें की आवेदक या उसके सहअंशधारियों या पूर्वजों द्वारा आवेदन से पूर्व एवं मूल अधिनियम के लागू होने के उपरान्त कितनी भूमि का हस्तांतरण किया ताकि उक्त अधिनियम के मूल प्रावधानों का हनन न हो।

भवदीय,

उप सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

No. Rev. B.A.(3)-3/2011  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Kangra at Dharamshala, H.P.

Dated: Shimla-171002, the 04-12-2013

Subject:- Regarding applicability of the provisions of Section 6-A and 7-A of the H.P. Ceiling on Land Holdings Act, 1972.

Sir,

I am directed to say that the Hon'ble High Court in its judgment dated 19.07.2013 delivered in CWP No. 643 of 2001-titled Kangra Valley Small Tea Planters Association & Ors. Vs. State of HP and Ors., has upheld the provisions of Sections 6-A and 7-A of the H.P. Ceiling on Land Holdings Act, 1972(hereinafter referred to as the Act). Copy of judgement is available on website of Hon'ble High Court. In the said judgment the Hon'ble Court has discussed the provisions of Section 6-A and 7-A of the Act in detail and in para 40 has concluded as follows:-

“40. The grievance of the petitioners that the purport of Section 6A and 7A would also impact the land owners whose land holding would be within the permissible ceiling area even if land under tea estate was to be taken into account, in our opinion, is founded on complete mis-understanding of Section 6A and 7A of the Act. We have held that Section 6A and 7A of the Act will be attracted only if the total holding of the person concerned were to be in excess of the permissible ceiling area after adding the land under tea estate which was otherwise exempted in the statement under Section 10 prepared by the Collector.”

The interpretation of the Hon'ble High Court was got examined from the Ld. Advocate General, H.P., who has opined as follows:-

“The observations made by the Hon'ble Court in para 24, 27, 28 and 40 of the judgement make it abundantly clear that the rigours of Section 6-A and 7-A shall apply to land exempted by Collector under section 10 of the Act. In other words, the rigours will not apply to the land owners whose holding, including the land originally used as tea estate, is within the permissible ceiling area.”

You are, therefore, requested to examine each and every case for change of land use or transfer of land, under tea estate, or both, keeping in view the aforesaid interpretation of the provisions of Section 6A and 7A by the Hon'ble High court and opinion tendered by the Ld. Advocate General, H.P. in this behalf and send the same to this Department if so required.

These instructions may also be brought in the notice of revenue field agencies.

Yours faithfully,

(Tarun Shridhar)  
Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2,

04-12-2013

Copy forwarded to the Assistant dealing with the cases under Section 6-A and 7-A of the H.P. Ceiling on Land Holdings Act, 1972 for further necessary action.

(Rakesh Mehta)  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-3/2011-I  
 Government of Himachal Pradesh  
 Department of Revenue

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All Deputy Commissioners-cum-Registrars  
 in Himachal Pradesh.
3. The Director, Land Records-cum-Inspector General of  
 Registration, H.P., Shimla-9.
4. The Director, Revenue Training Institute,  
 Jogindernagar, District Mandi, H.P.
5. The Settlement Officer, Shimla/Kangra,  
 Himachal Pradesh.
6. All SDO (C) in H.P.
7. The COC to the F.C. (Appeals),  
 Govt. of H.P.
8. All Tehsildars/Naib Tehsildars-cum-Sub Registrars in H.P.

Dated: Shimla-171002, the 06-02-2014

Subject:- Regarding amendment in the Himachal Pradesh Ceiling on Land Holdings Act, 1972.

Sir,

I am to say that the Himachal Pradesh Ceiling on Land Holdings Act, 1972 has been amended by Himachal Pradesh Ceiling on Land Holdings (Amendment) Act, 2012 (Act No.2 of 2014) mainly to provide exemption to religious and spiritual bodies or organization from the operation of the H.P. Ceiling on Land Holdings Act, 1972 so that such bodies/organizations can hold land beyond permissible area prescribed under Section 4 of the Act, *ibid*. The Amendment Act has been assented to by H.E. the President of India on 07.1.2014 and has been notified by the Law Department vide notification No. LLR-D(6)-31/2012-Leg, dated 17<sup>th</sup> January, 2014 and published in e-gazette dated 17<sup>th</sup> January, 2014.

Vide aforesaid amendment a new clause (i) has been added after existing clause (h) in Section 5 of the Act, *ibid* as follows:-

“(i) lands belonging to religious or spiritual bodies or organizations, propagating moral or secular teachings including eradication of casteism, alcoholism and drug addiction etc.:

Provided that the exemption under this clause shall continue only as long as such land and structure, if any, is used for its purposes by such religious or spiritual bodies or organizations and the same shall not be transferred by way of sale, lease, gift, will, mortgage with possession or in any other manner by such bodies or organizations and in the event of contravention of the provisions of this clause, such land or structure or both, as the case may be, shall vest in the State Government free from all encumbrances.”

Apart from above, while clearing the foresaid amendment Act, the Ministry of Agriculture and Cooperation, Government of India, has observed/suggested as follows:-

“In this regards, it is stated Government of India, Ministry of Agriculture has formulated National Policy for Farmers, 2007(NPF, 2007) which prevents diversion of agricultural land for non-agricultural purposes. NPF, 2007 envisages that ‘**Prime farmland must be conserved for agriculture except under exceptional circumstances,** provided that the agencies that are provided with agricultural land for non-agricultural projects should compensate for treatment and full development of equipment degraded/wastelands elsewhere.

In view of above, Ministry of Agriculture, Department of Agriculture & Cooperation suggest that the increase in ceiling on land holdings should ‘not’ result in change in land use from agricultural to non-agricultural purposes.”

Therefore, all the Registrars and Sub-Registrars are directed to keep in view the observation/suggestion of the Ministry of Agriculture and Cooperation, while registering the conveyance deed in favour of such religious/spiritual organizations.

These instructions may be adhered to in letter and spirit.

Yours faithfully,

(Tarun Shridhar)  
Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B. F (10)134/2018  
Government of Himachal Pradesh  
Department of Revenue.

From

The Addl. Chief Secy.-cum-FC (Revenue) to  
the Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Sirmaur at Nahan, Himachal Pradesh.

Dated: Shimla-2, the 18-11-2020.

Subject:-

Application for the grant of permission to purchase additional land under Section-118 of HPT & LR Act, 1972, by M/s Rica Enterprises through its partner Sh. Rakesh Kumar Goyal S/o Sh. Amrit Lal Goyal R/o H. No. 534, Sector-21, Panchkula, (Haryana).

Sir,

I am directed to refer to your letter No. SRM-S.K.-118 (24)/2018-2089 dated 23-09-2019 on the subject cited above and to say that the issue raised by you was examined in consultation with the Law Department and the Law Department has opined that any class of land, which is occupied, has been included in the definition of land thus, a "Gair Mumkin Pahadi" if occupied, falls under the definition of land for the purpose of the Himachal Pradesh Ceiling on land Holdings Act, 1972. The detailed opinion tendered by the Law Department is enclosed herewith for taking further necessary action accordingly.

Yours faithfully,

(P.K. Taak)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla 01/11/2020, the 18-11-2020

Copy forwarded for information and similar necessary action to:-

1. The Divisional Commissioner, Shimla, Mandi, Kangra in H.P.
2. All Deputy Commissioner in Himachal Pradesh (Except DC Sirmour).
3. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.
4. All the Sub-Divisional Magistrates, in Himachal Pradesh.
5. The IRSA-cum-Tehsildar, Stamp Cell, H.P. Sectt. Shimla-02.

(P.K. Taak)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



**Government of Himachal Pradesh  
Law Department**

**N/63 Onwards:-** Examined in the Law Department. The AD has requested this department to tender an opinion as to whether the land classified as “Gair Mumkin Pahari” will fall under the definition of ‘land’ for the purpose of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (State Act No. 19 of 1973).

In this Regard it is stated that the term ‘land’ has been defined under clause (f) of section 3 of the Act *ibid*, as under:-

*“(f) Land means land which is not occupied as the site of any building in a town or village <sup>(1)</sup> and is occupied<sup>(2)</sup> or has been let for agricultural purposes<sup>(3)</sup> or for purposes subservient to agriculture<sup>(4)</sup>, or for pasture <sup>(5)</sup> and includes-*

- (i) the sites of buildings and other structures on such land;
- (ii) orchards;
- (iii) ghasnies;
- (iv) banjar land; and
- (v) private forests, (Emphasis supplied)”.

From the above definition, it appears that in the definition of land, there at least five kinds of lands. The land of first kind, marked as (1) i.e. the land which is not occupied as site of any building in town or village is exempted in the definition. It means that the land, which is occupied as a site of a building either in a town or village is not a land for the purpose of the said Act. The land of second kind, numbered as (2) seems to be of another kind and is an independent category. From the bare reading, it is clear that any class of land, which is occupied, has been included in the definition of land. In other words, it is irrelevant as to that whether the land is being used for agriculture or non-agriculture purpose and the only condition is that the land must be occupied. Thus, all the occupied lands, except a site of a building falls under the definition of land. The third, fourth and fifth categories of lands are ‘let out’ lands and also includes the five sub-categories, as given in the definition. Thus, a “Gair Mumkin Pahari”, if occupied falls under the definition of land under the State Act No. 19 of 1973.

Further, in section 4 of the Act *ibid*, the permissible area has been discussed, wherein, the land has been classified into three categories. The relevant provision of section 4 is as under:-

***“4. Permissible area.- (1) The permissible area of a landowner or a tenant or a mortgagee with possession or partly in one capacity or partly in another of a person or a family consisting of husband, wife and up to three minor children shall be in respect of-***

- a) land under assured irrigation capable of growing two crops in a year- 10 acres.*
- b) land under assured irrigation capable of growing one crop in a year- 15 acres.*
- c) land of classes other than described in clauses (a) and (b) above including land under orchards-30 acres.*

(2) to (6)

XX

XX

XX”.

The first two categories are related to the agricultural land, but the third category includes all kinds of lands other than the first two categories and orchards. Thus, even the lands not growing crops, like gair mumkin pahadi etc. are required to be taken into account, while calculating the permissible area under the Act. In addition to this, in section 5 of the said Act, the exemptions have been discussed; however, the gair mumkin pahadi has not been exempted.

In view of the above, it is clear that the land classified as “Gair Mumkin Pahadi” falls under the definition of land for the purpose of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (State Act No. 19 of 1973).

This has the approval of the Legal Remembrancer.

(Dr. Vivek Jyoti)  
ALR-cum-Under Secy. (Law) to the  
Government of Himachal Pradesh.

ACS (Revenue)

No. Rev.B.A.(3)3/2011  
Government of Himachal Pradesh  
Department of Revenue.

From

The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Kangra, Himachal Pradesh.

Dated: Shimla-2 the 25-03-2022.

Subject: Correction of entries of note prohibition of change of land use or transfer of title in r/o landowners, whose landholding was within the permissible ceiling limit on the appointed day i.e. (24.1.1971).

Sir,

I am directed to refer to your letter No. 4222/भू-सुशा0 dated 31-12-2020 on the subject cited above and to say that Govt. vide its instruction dated 04-12-2013 has clarified that the rigours of Section 6A & 7A of H.P. Ceiling on Land Holding Act, 1972 will not be applicable to the landowners whose land holdings including the tea estate was within the permissible ceiling limit as on the appointed day i.e. 24-01-1971 fixed in the act *ibid*.

Therefore, the note of prohibition of change in land use or transfer of title in the remarks column of Jamabandi of such landowners recorded in compliance to the instruction of Govt. dated 05-01-2001, may be deleted only after verifying the complete facts/records in this regard, on case to case basis and with a speaking orders of the competent authority as per the applicable provisions of law for correction of revenue entries, after being satisfied himself/herself about the merits of the case.

It is further clarified that this instruction is limited to correct the wrong entries of note in the remarks column (Kaifiyat) of Jamabandi of landowners, whose land holding including the tea estate was within the permissible ceiling limit and shall not be applied for changing the classification of land under tea estate.

Yours faithfully,

-sd-

(Anil Chauhan)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

- **THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND UTILIZATION ACT, 1974.**
- **THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND UTILIZATION RULES, 1975.**
- **NOTIFICATIONS ISSUED UNDER THE H.P VILLAGE COMMON LANDS VESTING AND UTILIZATION ACT, 1974.**
- **INSTRUCTIONS AND CLARIFICATIONS ISSUED UNDER THE H.P VILLAGE COMMON LANDS VESTING AND UTILIZATION ACT, 1974.**

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND  
UTILIZATION ACT, 1974**

**ARRANGEMENT OF SECTIONS**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Vesting of rights in the State Government.
4. Treatment of leases made by Panchayats.
5. Treatment of encroachments on shamlat land or the lands vested in the State Government.
6. Determination of amount payable to land owners.
7. Payment of amount.
8. Utilization of land vested in the State Government.
- 8-A. Utilization of land for development of the State.
9. Appeal.
- 9-A. Review.
10. Bar of jurisdiction.
11. Bar to legal proceedings.
12. Procedure.
13. Power to make rules.
14. Power to remove difficulties.
15. Repeal and savings.

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND  
UTILIZATION ACT, 1974**

**(ACT NO. 18 OF 1974)<sup>1</sup>**

(Received the assent of the President on the 9th August, 1974, and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 29th August, 1974, pp. 1231-1237).

An Act to provide for vesting and utilization of village common lands in the State of Himachal Pradesh.

*Amended, repealed or otherwise affected by:*

- (i) H.P. Act No. 18 of 1981<sup>2</sup>, assented to by the Governor on 18<sup>th</sup> November, 1981, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 19<sup>th</sup> November, 1981, pp. 1025-1027 effective from 1st January, 1979.

<sup>1</sup>For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 22nd October, 1973, p. 1606.

<sup>2</sup>For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 26<sup>th</sup> September, 1981, p. 854.

- (ii) H.P. Act No. 10 of 1987<sup>1</sup>, assented to by the Governor on 8<sup>th</sup> May, 1987, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 8<sup>th</sup> May, 1987, pp. 776-778.
- (iii) H.P. Act No. 12 of 1997<sup>2</sup>, assented to by the Governor on 3<sup>rd</sup> May, 1997, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7<sup>th</sup> May, 1997, pp. 1681-1684.
- (iv) H.P. Act No. 20 of 2001<sup>3</sup>, assented to by the Governor on 27<sup>th</sup> September, 2001, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 1<sup>st</sup> October, 2001, pp. 2739-2746, effective from the date, Principal Act came into force i.e. 29<sup>th</sup> August, 1974.
- (v) H.P. Act No. 32 of 2005<sup>4</sup>, assented to by the President on 26<sup>th</sup> October, 2005, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 17<sup>th</sup> November, 2005, pp. 4535-4540, effective from 8<sup>th</sup> July, 2005.
- (vi) H.P. Act No. 21 of 2015<sup>5</sup>, assented to by the Governor on 24<sup>th</sup> May, 2015, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 30<sup>th</sup> May, 2015 at p. 1061- 1063.

**BE** it enacted by the Legislative Assembly of the State of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974.

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

(3) It shall come into force at once.

**2. Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-

(a) “Collector” means the Collector of the district in which the estate is situated and includes an Officer, not below the rank of an Assistant Collector of the First Grade, appointed by the State Government to perform the functions of a Collector under this Act;

<sup>6</sup>[(a-1) “common purposes” means and includes grazing, collection of fuel wood and tree leaves for fodder, school buildings, Panchayat Ghars, Mahila Mandal Bhawans, School Playgrounds, Community Halls, Janj Ghars, Dispensaries, Government Offices, Kisan Mandies, tree plantation under various State Government Schemes and any other public facilities;]

<sup>1</sup>For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 1<sup>st</sup> April, 1987, p. 627.

<sup>2</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 25<sup>th</sup> March, 1997, pp. 990 and 992.

<sup>3</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 22<sup>nd</sup> August, 2001, pp. 2034 and 2039.

<sup>4</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 9<sup>th</sup> August, 2005, pp. 2303 and 2308.

<sup>5</sup>Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 4<sup>th</sup> April, 2015, pp. 60 and 61.

<sup>6</sup>Clause (a-1) added vide H.P. Act No. 20 of 2001, effective from 29<sup>th</sup> August, 1974.

<sup>1</sup>[(aa) “handicapped person” means a crippled or physically or medically deficient person whose annual income from all sources does not exceed <sup>2</sup>[the limit fixed for persons living below poverty line as notified by the State Government from time to time] and who, on account of injury, disease or congenital deformity, is substantially prevented from or is incapable of leading a normal life or earning full wages for the work in which he is employed; or obtaining or keeping employment or undertaking work on his own of a kind in view of that injury, disease or deformity which work would have suited his age, experience and qualifications.

*Explanation.*- For the purposes of this clause, a person who has incurred physical disablement to the extent of fifty per cent or more shall be deemed to be substantially incapable or disabled person;

(aaa) “houseless person” means a person who owns no house or a site to construct a house for himself:

Provided that a person whose father is alive or whose annual income from all sources exceeds <sup>3</sup>[the limit fixed for persons living below poverty line as notified by the State Government from time to time] shall not be deemed to be a houseless person;]

(b) “inhabitant of an estate” means a person, whether a proprietor or a non-proprietor, who ordinarily resides in an estate:

Provided that a temporary absence or absence in relation to employment elsewhere shall not affect his residence in the estate;

(c) “landless person” means a person who holding no land for agricultural purposes, whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally <sup>4</sup>[:]

<sup>5</sup>[Provided that a person whose father is alive or whose annual income from all sources exceeds <sup>6</sup>[the limit fixed for persons living below poverty line as notified by the State Government from time to time] shall not be deemed to be a landless person;]

(d) “landowner” means a person having a share in the shamlat land as recorded in the land records and includes a panchayat;

<sup>7</sup>[(dd) “other eligible person” means a person,-

(i) who, holding land for agricultural purposes less than an acre whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally;

(ii) whose father is not alive; and

<sup>1</sup>Clauses (aa) and (aaa) inserted vide H.P. Act No. 10 of 1987.

<sup>2</sup>Substituted for the words “rupees seven thousand and five hundred” vide H.P. Act No. 20 of 2001, effective from 29<sup>th</sup> August, 1974.

<sup>3</sup>Substituted for the word, sign and figure “Rs. 3000/-” vide H.P. Act No. 20 of 2001, effective from 29th August, 1974.

<sup>4</sup>Existing sign “;” substituted by sign “:” vide H.P. Act No. 10 of 1987.

<sup>5</sup>Proviso added vide H.P. Act No. 10 of 1987.

<sup>6</sup>Substituted for the word, sign and figure “Rs. 3000/-” vide H.P. Act No. 20 of 2001, effective from 29th August, 1974,

<sup>7</sup>Clause (dd) added vide H.P. Act No. 10 of 1987.

- (iii) whose annual income from all sources does not exceed<sup>1</sup>[the limit fixed for persons living below poverty line as notified by the State Government from time to time.]

and shall not include a person who holds a share or a portion of an estate jointly owned or cultivated by two or more persons.]

- (e) “panchayat” means a panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970);
- (f) “prescribed” means prescribed by rules made under this Act;
- (g) “State Government” means the Government of Himachal Pradesh;
- (h) the words “land” and “private forests” have the same meanings as assigned to these words in the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (19 of 1973); and
- (i) all other words and expressions used in this Act but not defined in it shall have the same meanings as assigned to such words and expressions in the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as the case may be.

**3. Vesting of rights in the State Government.-** (1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any court or other authority, all rights, title and interests including the contingent interests, if any, of the landowner in the lands in any estate-

- (a) vested in a Panchayat under section 4 of the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) except lands used or reserved for the benefit of village community including streets, lanes, playgrounds, schools, drinking wells or ponds within abadi deh or gorah deh;
- <sup>2</sup>[(b) described in the revenue records as shamlat taraf, pattis, pannas, thola, shamlat, shamlat deh, shamlat chak, shamlat tika or by any such other description and not used according to revenue records for the benefit of the community in the village or a part thereof or for common purposes of the village in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 (31 of 1966); and
- (c) described in revenue records as shamlat, shamlat deh, shamlat taraf, shamlat chak, Patti or by any other such description in the areas comprised in Himachal Pradesh immediately before 1<sup>st</sup> November, 1966.]

(2) The provisions of sub-section (1) of this section shall not apply to lands described in clauses (b) and (c) of that sub-section if, before the date of commencement of this Act-

- (a) partition of such lands is made by the individual co-sharers through a process of law by a competent court or authority,
- (b) transfer of such lands is made by the landowner by way of sale, gift or exchange,

<sup>1</sup>Substituted for the word, sign and figure “Rs. 3000/-” vide H.P. Act No. 20 of 2001, effective from 29<sup>th</sup> August, 1974.

<sup>2</sup>Existing clauses (b) and (c) substituted vide H.P. Act No. 20 of 2001, effective from 29<sup>th</sup> August, 1974.



- (c) such land built upon by an inhabitant by raising a residential house or cow-shed,
- <sup>1</sup>[(d) land recorded as “shamlat tika Hasab Rasad Malguzari” or by any such other name in the ownership column of jamabandi and assessed to land revenue and has been continuously recorded in cultivating possession of the Co-sharers so recorded before 26th January, 1950 to the extent of their shares therein:

Provided that the provisions of this clause shall not be applicable to such land which have already been put to use by the Government.]

<sup>2</sup>[2-a) the Land reverted back to co-sharers under clause (d) of subsection (2) shall not be transferred by such co-sharers, by way of sale, gift, mortgage or otherwise, during a period of twenty five years from the date of mutation of such land.

(2-b) No Registrar or the Sub-Registrar, appointed under the Registration Act, 1908 (16 of 1908), shall register any document pertaining to transfer of such land, which is in contravention of sub-section (2-a) and such transfer shall be void ab initio and land involved in such transfer, if made in contravention of sub-section (2-a), shall vest in the State Government free from all encumbrances]

(3) The State Government shall be liable to pay, and the landowners whose rights have been extinguished under sub-section (1) of this section shall be entitled to receive, the amount in lieu thereof, at the following rates:-

- (i) for the land reserved for grazing and other common purposes under clause (a) of sub-section (1) of section 8, five times the annual land revenue including rates and cesses chargeable thereon ; and
- (ii) for the remaining land, fifteen times the annual land revenue including rates and cesses chargeable thereon:

Provided that where the land vested in the State Government under this Act is not assessed to land revenue, the same shall be construed to be assessed as on similar land in the estate and if not available in the estate then in the adjoining estate or estates, as the case may be.

(4) The amount paid to a Panchayat under section 7 shall be deemed to be the Sabha Fund and shall be utilized for such purposes as are mentioned in section 40 of the Himachal Pradesh Panchayati Raj Act 1968, (19 of 1970).

(5) The Collector may, by order in writing, at any time after the land vested in the State Government, direct the landowners to deliver possession thereof within 10 days from the service of the order to such person as may be specified in the order.

(6) If the landowners refuse or fail without reasonable cause to comply with the order made under sub-section (5), the Collector may take possession of the land and may for that purpose use, such force as may be necessary.

**4. Treatment of leases made by Panchayats.-** (1) The Collector shall call for from Panchayats in his district, the record of leases, contracts or agreements entered into by the

<sup>1</sup>Clause (d) inserted vide H.P. Act No. 20 of 2001, effective from 29<sup>th</sup> August, 1974.

<sup>2</sup>Sub-sections (2-a) and (2-b) added vide H.P. Act No. 32 of 2005, effective from 8<sup>th</sup> July, 2005.

Panchayats in respect of any land vested in the Panchayats under the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) and the rules made thereunder and examine such record for satisfying himself as to the legality or propriety of such leases, contracts or agreements.

(2) Where on examination of the record under sub-section (1) and after making such enquiry as he deems fit, the Collector is satisfied that such leases, contracts or agreements are in accordance with the provisions of the said Act and rules, he shall pass orders declaring such leases, contracts or agreements having been made on behalf of the State Government <sup>1</sup>[and will fix the lease money at the rate notified by the State Government from time to time. Such lease money shall be recovered by the Panchayat concerned from the lessee.]

(3) Where on such examination and enquiry the Collector finds that a lease, contract or agreement has been entered into in contravention of any of the provisions of the said Act or the rules made thereunder or has been entered into as a result of fraud or concealment of facts or is detrimental to the interest of the estate right-holders, he shall cancel such a lease, contract or agreement and such person shall be liable to ejection under the provisions of section 150 of the Punjab Land Revenue Act, 1887 (17 of 1887):

Provided that no order under sub-sections (2) and (3) of this section shall be passed by the Collector without affording an opportunity of being heard to the parties to the lease, contract or agreement.

**<sup>2</sup>[5. Treatment of encroachments on shamlat land or the lands vested in the State Government.-** Where the land vested in the State Government or the shamlat land by whatever term it is recorded in the revenue records, which has not vested in the State Government, has been encroached upon by any person or co-sharer before or after the commencement of this Act, the Revenue Officer may of his own motion or on the report of the Patwari of the circle duly verified by the Kanungo of the circle or on the application of any estate right holder or co-sharer, eject such person in accordance with the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954).]

**6. Determination of amount payable to landowners-** (1) The Collector shall cause a notice to be served, in the prescribed form and manner, to the landowner, whose rights have been extinguished under sub-section (1) of section 3, stating therein, the area of land vested in the State Government and the amount proposed therefore, immediately after the commencement of this Act, calling upon him to prefer objections, if any, within 60 days from the receipt of the notice:

Provided that the Collector may entertain the objections after the expiry of the said period of 60 days if he is satisfied that the landowner was prevented by sufficient cause from filing the objections within the prescribed time.

(2) The Collector after giving the landowner or landowners, as the case may be, an opportunity of being heard and making such inquiry as may be necessary, shall make an award determining the amount payable by the State Government to the landowners in accordance with the provisions of subsection (3) of section 3 and also apportion the amount thereof among the landowners.

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<sup>1</sup>Inserted vide H.P. Act No. 20 of 2001.

<sup>2</sup>Section 5 substituted vide H.P. Act No. 20 of 2001.

(3) Where the amount is payable to a minor, the Collector may make such arrangements as may be equitable having regard to the interest of the minor.

**7. Payment of amount.-** The amount payable to a landowner under section 6 shall be paid in the manner and in such number of six monthly installments not exceeding ten as may be prescribed.

**8. Utilization of land vested in the State Government.-** (1) All lands vested in the State Government under this Act shall be utilized for the following purposes:-

- (a) an area not less than fifty per cent of the total area vested in the State Government under section 3 of this Act for grazing and other common purposes of the inhabitants of an estate ; and
- <sup>1</sup>[(b) the remaining land –
  - (i) for allotment to a landless person <sup>2</sup>[, a victim of natural calamities] or any other eligible person; or
  - (ii) for allotment of site to a handicapped or houseless person for the construction of a house;
  - <sup>3</sup>[(iii) for allotment of land to the eligible persons under the schemes notified by the State Government for providing houses to the poorer sections of the society.]

under a scheme to be framed by the State Government by notification in the Official Gazette and the allottee shall pay an amount at the rate of forty-eight times of the land revenue and rates and cesses chargeable on the land allotted to him under the said scheme, either in lump sum or in six monthly installments not exceeding four.]

<sup>4</sup>[Explanation.- For the purpose of this section, the expression ‘natural calamities’ shall mean and include calamities caused by floods, earthquakes, land slides, avalanches, snow-storms, hail-storms, fire, excessive rains, cloud burst, wind storms and lightning.]

(2) The land reserved under clause (a) of sub-section (1) of this section shall be demarcated by such Revenue Officer and in such manner as may be prescribed.

(3) Any scheme framed by the State Government under clause (b) of sub-section (1) of this section may provide for the terms and conditions on which the land is to be allotted.

(4) The State Government may, by notification in the Official Gazette, add to, amend, vary or revoke any scheme made under this section.

**<sup>5</sup>[8-A. Utilisation of land for development of the State.-** Notwithstanding anything contained in section 8 of the Act, the State Government <sup>6</sup>[or any other Officer authorised by the State Government in this behalf] may utilize any area of the land vested in it under the Act <sup>7</sup>[by transfer whether by way of lease or exchange to any person] or by transfer to any Department of the

<sup>1</sup>Clause (b) of sub-section (1) of section 8 substituted vide H.P. Act No. 10 of 1987.

<sup>2</sup>Words “a victim of natural calamities” added vide H.P. Act No. 12 of 1997.

<sup>3</sup>Sub-clause (iii) added vide H.P. Act No. 20 of 2001, effective from 29th August, 1974.

<sup>4</sup>Explanation added vide H.P. Act No. 12 of 1997.

<sup>5</sup>Section 8-A inserted vide H.P. Act No. 18 of 1981.

<sup>6</sup>Added vide H.P. Act No. 20 of 2001, effective from 29th August, 1974.

<sup>7</sup>Substituted for the words “by lease to any person” vide H.P. Act No. 12 of 1997.

Government in the interest of the development of the State, if the State Government <sup>1</sup>[or the Officer authorised by it] is satisfied that there are sufficient reasons to do so subject to the condition that land for the purposes mentioned in clause (a) of sub-section (1) of section 8 in no case shall be less than fifty per cent of the land vested in the Government under the Act:

Provided that where land is not used by a person for the purpose for which it has been leased, the lease shall stand terminated free from all encumbrances and the Government shall re-enter on the demised premises and the lease money, if paid to the Government, shall be forfeited and no person shall be entitled to any compensation for any improvement made and for any building constructed thereon.]

**<sup>2</sup>[8-B. Conferment of proprietary rights on Chakotadars.-** Notwithstanding anything contained in sections 4 and 5 of this Act, the State Government may, by notification in the Official Gazette, frame a Scheme providing for conferment of proprietary rights on Chakotadars, who have been leased out lands on Chakota basis by the Panchayats under the Punjab Village Common Lands (Regulation) Act, 1961, before the commencement of this Act.]

**9. Appeal.-** An appeal from the order of a Collector passed under this Act shall lie to the State Government or an Officer to be authorised by it, by a notification, within 60 days of passing of the order.

**<sup>3</sup>[9-A. Review.-** (1) The Collector or the Officer authorised by the State Government under section 9 may, either on his own motion or on the application of any party interested, review and on so reviewing, modify reverse or confirm any order passed by himself or by any of his predecessors in office.

(2) No order shall be modified or reversed in review unless a notice has been given to the parties affected thereby to appear and be heard in support of the order.

(3) An order against which an appeal has been preferred shall not be reviewed.

(4) An application for review of an order shall not be entertained unless it is made within 90 days of the passing of the order, or unless the applicant satisfies the Collector or an Officer authorised by the State Government that he had sufficient clause for not making the application within that period.]

**10. Bar of jurisdiction.-** Save as otherwise expressly provided in this Act, no order made by the Collector or the State Government or any officer authorised by it, as the case may be, shall be called in question by any court or before any officer or authority.

**11. Bar to legal proceedings.-** No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority for any act which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

**12. Procedure.-** In all enquiries and proceedings under this Act, the Collector and any other officer or authority shall have such powers and follows such procedure as may be prescribed.

<sup>1</sup>Added vide H.P. Act No. 20 of 2001, effective from 29th August, 1974.

<sup>2</sup>Section 8-B inserted vide H.P. Act No. 21 of 2015.

<sup>3</sup>Section 9-A inserted vide H.P. Act No. 20 of 2001, effective from 29th August, 1974.

**13. Power to make rules.-** (1) The State Government may, by notification, in the official gazette make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the form and manner in which a notice is to be served under section 6;
- (b) for fixing of installments and the manner in which, the payment of amount is to be made under section 7;
- (c) the manner in which the land under sub-section (3) of section 8 to be demarcated;
- (d) the manner and procedure in which enquiries may be held under section 12; and
- (e) any other matter which has to be or may be prescribed under this Act.

(3) The power to make any rule under sub-sections (1) and (2) is subject to the condition of the rule being made after previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the State Legislature while it is in session for a total period of not less than seven days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the legislature requires any modification in the rule or desires 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.

**14. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the State Government, may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

**15. Repeal and savings.-** (1) With effect from the commencement of this Act the Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) in its application to the territory added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), shall stand repealed.

(2) Save as provided in section 4 the repeal of the said Act shall not affect anything done or any action taken thereunder.

(3) Subject to the provisions of sub-section (2) no authority shall pass an order in any proceedings whether instituted before or after the commencement of this Act which is inconsistent with the provisions of this Act.

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND  
UTILIZATION ACT, 1974 SAVINGS UNDER SECTION 4 OF THE HIMACHAL  
PRADESH VILLAGE COMMON LANDS VESTING AND UTILIZATION  
(AMENDMENT) ACT, 1987 (10 OF 1987)**

**4. Savings.-** Where any allotment of land made under any scheme, framed under the principal Act, is found to be inconsistent with the provisions made in the principal Act, as amended by sections 2 and 3 of this Act, then notwithstanding anything to the contrary contained in any judgment, decree or order of any court, or any other law for the time being in force, it shall be lawful for an officer especially empowered by the State Government for this purpose, to cancel such allotment and take possession of the land so allotted: Provided that no order under this section shall be passed without affording an opportunity of being heard to the allottee of the land in question.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND  
UTILISATION RULES, 1975<sup>1</sup>**

1. **Short title, extent and commencement.**- (1) These rules may be called the Himachal Pradesh Village Common Lands Vesting and Utilisation rules, 1975.

(2) They shall extend to the whole of Himachal Pradesh.

(3) They shall come into force at once.

2. **Definitions.**- In these rules, unless there is anything repugnant in the subject or context.-

(a) 'Act' means the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974; (18 of 1974).

(b) 'allotable pool' means the land determined and demarcated by the Collector under clause (b) of sub-section (1) of section 8 for allotment to the eligible persons;

(c) 'eligible person' means a person who is eligible under clause (b) of sub-section (1) of section 8 for allotment of land out of the allotable pool;

(d) 'form' means a form appended to these rules;

(e) 'Tehsil Revenue Officer' means the Tehsildar of the Tehsil and the Naib-Tehsildar of the Sub-Tehsil, if the same Tehsil is divided for revenue work between the Tehsildar and the Naib-Tehsildar then they shall be deemed to be Tehsil Revenue Officers of the respective area; and

(f) 'section' means the section of the Act.

3. **Taking possession of the land.**- (1) As soon as may be after coming into force of the Act, the Collector shall ask the Tehsil Revenue Officer to send in Form 'A' details of the shamlat land estatewise that has vested in the State government.

(2) On receipt of the details of the shamlat land under sub-rule (1), the Collector shall proceed to take over possession of the land under sub-sections (5) and (6) of section 3.

4. **Mutation of land in favour of State Government.**- After the possession of shamlat land has been taken under the preceding rule, the Collector shall ask the Tehsil Revenue Officer to mutate the land in favour of the State Government.

5. **Notice to be served on the landowner.**- The notice to be served on the landowner under section 6 shall be in Form 'B' and on the basis of orders passed by the Collector under rule 6 and 7. The notice shall be served in the manner prescribed under the rule made under the Punjab Land Revenue Act, 1887 for service of notice issued by the Revenue Officers.

6. **Demarcation of land under section 8.**- (1) On receipt of the information in Form 'A' the Collector shall start a file of demarcation of land for grazing and common purposes and the land to be earmarked for allotable pool and send the same to the Tehsil Revenue Officer for proper demarcation of the land for grazing and common purposes and for allotable pool. The percentage of

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<sup>1</sup> Rules published in Rajpatra, Extraordinary, dated the 20<sup>th</sup> March, 1975 vide Revenue Department notification No. 10-1/73-Rev. A. dated 12<sup>th</sup> February, 1975.

the land to be reserved for grazing and common purposes shall be fixed in consultation with the estate right-holders keeping in view the provisions of section 8. The Tehsil Revenue Officer and the Collector shall be guided for demarcation of shamlat land for the said purposes by the following consideration:-

- (1) Total cattle population of the estate;
- (2) The number of eligible persons in the estate;
- (3) Total acreage of existing cultivated land excluding area under illegal possession/encroachments;
- (4) Total area of charand lands;
- (5) The land which is used for common purposes like cattle ponds, manure pits, sand bihog, kuhls, paths and the land recorded in khataunis, of 'Sharai-am' and 'Rafai-am' shall continue to be so used and reserved for common purposes;
- (6) The land on which the tree growth is thick and is required to be maintained as forest in the public interest shall be excluded from the allotable pool;
- (7) As far as possible the grazing areas and allotable pool areas shall be demarcated in compact blocks keeping the principles of consolidation of land holdings in view; and
- (8) Land allotted under contracts agreements and leases by the Panchayats in respect of the land vested in the State Government when cancelled under section 4 of the Act shall form part of the allotable pool.

(2) The Tehsil Revenue Officer after a thorough survey and inspection at the Shamlat lands shall demarcate the land and shall get the separate lists of khasra numbers that are reserved for the common purposes and the land to be given to eligible persons attached to the file. He shall also place on the file an index map of the village delineating the shamilat land and showing the demarcation of the grazing land, the land reserved for common purposes and the land reserved for allotable pool. The Tehsil Revenue Officer shall then submit his proposal of demarcation to the Collector.

(3) The Collector after scrutinizing the proposal sent by the Tehsil Revenue Officer shall fix a date for announcing his order after giving the inhabitants of the estate concerned an opportunity of being heard and shall pass the order regarding the percentage of area of land reserved for grazing and common purposes and areas reserved for the allotable pool.

(4) The Collector may amend or vary the percentage as referred to in sub-rule (3) with previous approval of the State Government.

**7. Preparation of records of unmeasured shamilat land.-** In case the shamilat land in an estate is unmeasured the Collector shall prepare record of rights for the same in view of the provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1954 or of Chapter IV of the Punjab Land Revenue Act, 1887 as the case may be and thereafter demarcate the land and pass order in the manner prescribed in rule 6.

**8. Entry of demarcation order in Tehsil Register and land records.-** After having issued the notice under section 6, the file shall be sent to the Tehsil Revenue Officer for making entries in the Tehsil Register to be maintained in Form 'C' and also in the land records within a period of one month. The Tehsil Revenue Officer shall get the necessary entries made in the Tehsil Register and thereafter cause the order to be entered in the land records of the estate. The file shall then be returned to the Collector.





Total of column s 5 & 8 (Gross area in acres)	Land exempted from vestment under clause (a) of sub-section (1) of section 3 of the Act.	Land exempted from vestment under sub-section (2) of section 3 of the Act.						
		Under clause (a) (Partition)	Under clause (b) (transfers)	Under clause (c) (Houses and cow-sheds)				
	Khasra No.	Total area in acres	Khasra No.	Total area in acres	Khasra No.	Total area in acres		
9	10	11	12	13	14	15	16	17

Total net area vested in State Govt. i.e. area shown in column 9 minus total area shown in Cols. 11, 13,15 & 17.		Land that had not vested in Punjab Village Common lands (Regulation) Act, 1961.		Land in possession of individuals recorded as Hisadar as per last settlement/jamabandi and assessed to land revenue.	
Khasra No.	Total area in acres	Khasra No.	Total area in acres	Khasra No.	Total area in acres
18	19	20	21	22	23

## PART II – OTHER INFORMATION

Land in possession of occupancy/non-occupancy tenants		Land under mortgages with possession	
Khasra Nos.	Area in acres	Khasra Nos.	Area in acres
24	25	26	27

Signature of Patwari,  
Circle .....  
Dated .....

I have checked up the statement and satisfied myself that this is correct according to entries last settlement Jamabandi and situation on the spot.

Field Kanungo,  
Circle .....  
Dated .....

FORM 'B'  
(See rule 5)  
FORM OF NOTICE TO BE GIVEN TO LANDOWNERS

Before Sh. .... Collector ..... Whereas the land described below has vested in the State Government under section 3 of the Himachal Pradesh Village Lands Vesting and Utilization Act, 1974 and whereas for the extinguishment of your rights in land aforesaid, the amount of Rs. .... (in words) the ..... is proposed to be paid to you, therefore, under sub-section (1) of section 6 of the Act.

Now, therefore, you are called upon to prefer objections, if any about the proposed amount within 60 days from the receipt of this notice.

Description of land .....  
Name of revenue estate .....  
Khewat and Khatauni No. ....  
Name of landowner as per Jamabandi .....  
Khasra Nos. ....  
Area of land in acres .....  
Annual land revenue .....  
Rates and cesses .....

Note.- In case of the amount to be paid to individual co-sharers, a list showing their names and the amount payable to each co-sharer be added.

Seal.

Date .....

Place .....

Signature of Collector

FORM 'C'  
(See rule 8)

TEHSIL REGISTER OF DEMARCATION OF SHAMILAT LAND VESTED IN THE  
GOVERNMENT SHOWING DETAILS OF LAND RESERVED FOR COMMON PURPOSES,  
GRAZING AND ALLOTABLE POOL LAND

Name of the Revenue estate	Khasra No. with area reserved for grazing and other purposes	Khasra No. with area of common the allotable pool	Remarks
1	2	3	4

**Notifications, Instructions and Clarifications issued under the Himachal Pradesh Village  
Common Lands Vesting and Utilization Act, 1974**

<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	The H.P. Govt. Department Notification No. Rev.B.E.(3)8/2001 dated 30.11.2002.	Notification	Commissioner (Revenue) to perform the function u/s 9.	514
2.	The H.P. Govt. Department Notification No. Rev.B.A.(3)-8/2000-II dated 18.03.2004	Notification	Divisional Commissioners, to perform the functions under Section 9	515
3.	The H.P. Govt. Department Notification No. Rev.B.E.(3)-2/2011 dated 28.10.2011.	Notification	District Collector to change Pool of land vested in the State Govt. u/s 8-A read with section 8.	516
4.	The H.P. Govt. Letter No. Rev.B.A(3)8/2001 dated 12.12.2001.	Clarification	Regarding amendment act, 2001.	517
5.	The H.P. Govt. Letter No. Rev.B.A(3)8/2001 dated 10.09.2004.	Clarification	Regarding amendment act, 2001.	519
6.	The H.P. Govt. Letter No. Rev.B.A(4)8/2004 dated 21.04.2006.	Clarification	Applicability of FCA on the land vested under the Common Land and Ceiling acts.	520
7.	The H.P. Govt. Letter No. Rev.B.A(3)8/2000-IV dated 03.10.2008.	Instruction	Regarding Shamlat Land reverted to the land owners.	522
8.	The H.P. Govt. Letter No. Rev.B.A(3)8/2000-IV dated 23.06.2009.	Clarification	Regarding applicability or restriction/bar on transfer of land reverted to the co-sharer	523
9.	The H.P. Govt. Letter No. Rev.B.A(3)8/2000-IV dated 10.09.2009.	Instruction	Regarding Shamlat Land reverted to the land owners	524
10.	The H.P. Govt. Letter No. Rev.B.A(3)8/2000-V dated 29.05.2013	Instruction	Regarding regulation on transfer of land for a period of 25 years on the land reverted back to the Land owners.	525
11.	The H.P. Govt. Letter No. Rev.B.A(3)8/2000-V dated 17.12.2015.	Instruction	Regarding regulation on transfer of land for a period of 25 years on the land reverted back to the Land owners.	526
12.	The H.P. Govt. Letter No. Rev.B.A.(5)11/2011 dated 01.07.2020.	Clarification	Regarding restriction on the transfer of land for a period of 25 years which was reverted back to co-sharers.	527

(Authoritative English Text of this Department Notification No. Rev. B.E. (3)8/2001, dated 30<sup>th</sup> November, 2002 as required under Article 348 of the Constitution of India.)

**Government of Himachal Pradesh**

**Department of Revenue**

.....  
No. Rev.B.C.(3)8/2001 Dated : Shimla-2, the 30<sup>th</sup> November, 2002

**NOTIFICATION**

In supersession of this department Notification No. 2-27/73-Rev-I, dated 21.03.1996 and in exercise of the powers conferred on him under section 9 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to authorize the Commissioner (Revenue), Himachal Pradesh, to exercise the powers and perform the functions of the State Government under Section 9 of said Act, with immediate effect.

By Order  
(Ravi Dhingra)  
F.C.-cum- Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev. B.A. (3)-8/2001-II, Dated : Shimla-2 the 12<sup>th</sup> December, 2001

Copy forwarded for information and necessary action to:-

1. The Commissioner (Revenue), H.P., Shimla-2.
2. The Addl. Commissioner(Appeals), H.P. Shimla-9.
3. All the Deputy Commissioners in H.P.
4. Clerk of Court to F.C. (Appeal), H.P. Shimla-2.
5. The Settlement Officer, Shimla and Kangra at Dharamshala.
6. The Controller, Printing and Stationary, Shimla-5, for publication in the Himachal Pradesh Extra Ordinary Rajpatra.
7. Sr. Law officer(Hindi), Law Department H.P. Sectt., Shimla-2.
8. Copy to file No. Rev. B.A. (3)-8/2000-II.

-Sd-  
Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

(Authoritative English Text of this Department Notification No. Rev.B.A.(3)-8/2000-II, dated 18-3-2004, as required under Article 348 (3) of the Constitution of India.)

Government of Himachal Pradesh  
Department of Revenue.

No. Rev.B.A.(3)-8/2000-II, dated: Shimla-2, the 18<sup>th</sup> March, 2004.

NOTIFICATION

In supersession of this Department Notification No. Rev.B.E. (3)8/2001, dated 30<sup>th</sup> November, 2002 and in exercise of the powers conferred on him under section 9 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to authorize the Divisional Commissioner, Shimla/Mandi/Kangra, to exercise the powers and perform the functions under Section 9 of the said Act, in their respective jurisdiction, with immediate effect.

By Order  
(C.P. PANDEY)  
F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

Enst. No. As above. Dated: Shimla-2 the 18<sup>th</sup> March, 2004.

Copy forwarded for information and necessary action to:-

1. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
2. The Director, Land Records, H.P. Shimla-9.
3. All the Deputy Commissioners in H.P.
4. The Settlement officer, Shimla/Kangra at Dharamshala, H.P.
5. The Controller, Printing and Stationary, Shimla-5, for publication in the Himachal Pradesh Extra Ordinary Rajpatra.
6. The Sr. Law Officer, Law Deptt. Sectt. Shimla-2.
7. The COC to the F.D.(Appeal), Shimla-2.

-sd-  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

(Authoritative English Text of this Department's Notification No. Rev.B.A.(3)-2/2011 dated 28<sup>th</sup> October, 2011 as required under clause (3) of article 348 of the Constitution of India. )

Government of Himachal Pradesh  
Revenue Department

No. Rev.B.A.(3)-2/2011. Dated : Shimla-2, the 28<sup>th</sup> October, 2011

NOTIFICATION

In exercise of the powers conferred by section 8-A of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974), the Governor, Himachal Pradesh is pleased to authorize all the District Collectors to change pool of land vested in the State Government under the provisions of said Act, strictly in accordance with the provisions of section 8-A read with section 8 of the Act, *ibid*, in their respective jurisdiction.

By Order

Principal Secretary (Revenue)  
to the Government of H.P.

Endst. No. Rev.B.A.(3)-2/2011. Dated: Shimla-2, the 28<sup>th</sup> October, 2011.

1. Administrative Secretaries to the Government of H.P.
2. All the Divisional Commissioners in H.P.
3. All the Head of Departments in H.P.
4. All the Deputy Commissioners in H.P.
5. All the Sub-Divisional Officer (Civil) in H.P.
6. The D.L.R.-cum-Deputy Secretary (Law) to the Government of H.P.
7. All Tehsildars/ Naib-Tehsildars posted in Sub-Tehsils, in H.P.
8. Clerk of Court to the F.C.(Appeal), Govt. of H.P. Shimla-2.
9. The Controller, Printing and Stationary, H.P. Government Press, Shimla-5 for publication in the H.P. Government Gazette(Extraordinary). Five copies of the gazette may kindly be sent to this Department for record.

-sd-

Deputy Secretary (Revenue)  
to the Government of H.P.

No. Rev. B.A.(3)-8/2001  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Commissioner (Revenue ),  
 H.P., shimla-2
2. The Addl. Commr. (Appeal)-cum-Director,  
 Consolidation of Holdings, H.P. Shimla-9.
3. All the Deputy Commissioners  
 in Himachal Pradesh.
4. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
5. All the SDOs(C)  
 in Himachal Pradesh.
6. All the DROs,  
 in Himachal Pradesh.
7. All the Tehsildars in  
 Himachal Pradesh.

Dated : Shimla-171002, the 12<sup>th</sup> December, 2001

Subject: The H.P. village Common Lands Vesting and Utilization (Amendment) Act, 2001-  
 clarification thereof.

Sir,

I am directed to say that the H.P. Village Common Lands Vesting and utilization (Amendment ) Act, 2001 (Act No. 20 of 2001) has been published in the Rajpatra (Extra-Ordinary) dated 1<sup>st</sup> October, 2001, a copy of which is sent herewith for information and taking necessary action at your end.

In this regard, I am directed to clarify that in sub-section (b) of section 3 of the amendment Act the word “cultivating possession” should be understood in its natural meaning as the word “cultivation” has not been defined in the Act. The plants which have perennial roots trees, shrubs and grass are included in crop. If one raises such crop he naturally cultivates the land for the specified purpose. In *Corpur Jurls Secundum*, volume 25, the purposes of cultivation have been explained. In the present tense “cultivate” has been defined as “to improve the product of the earth by manual inducting; management and improvement in husbandry; to till, or husband the ground to forward the product of the earth by general industry; to till, prepare for crops, manure, plough, dress, sow and reap. The cultivation will include good management and care and usually, but not always implies the planting of annual crops. “The harvesting of such crops as perennial grass has also been held to be cultivation of land. One adopted any physical process even to safeguard, such crop he would be held to be cultivating it. If he proves that he has fenced the ground has watered the grass or has protected it from the animals he could have been stated to be in cultivating



possession of the same. The intention of the Government is that all the land which is recorded as “Shamlat tika Hasab Rasad Malguzari” or by any such other name in the ownership column of jamabandi and assessed to land revenue should be restored to the right holders up to their share except the land which has been allotted or utilized by the State Government after the enforcement of the Village Common Lands Vesting and Utilisation Act, 1914.

You are, therefore, requested to take immediate necessary action as per above clarification keeping in view that the land which has already been put to use by the government should not be disturbed. The land will be mutated back to the shamlat Hasab Rasad Zare Khewat and Malguzari on whatever term might have been used for owned shamlat accordingly.

The progress report regarding compliance of the same may kindly be sent monthly and acknowledge the receipt of this letter also.

Yours faithfully,

-Sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev. B.A. (3)-8/2001-II, Dated : Shimla-2      the      12<sup>th</sup> December, 2001

Copy forwarded to the F.C. (appeal) to the government of Himachal Pradesh,  
shimla-2 for information.

-Sd-

Under Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.A.(3)-8/2001  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The F.C. (Appeals) to the  
 Government of Himachal Pradesh.
2. The Divisional Commissioner,  
 Shimla/Mandi/Kangra, H.P.
3. All the Deputy Commissioners  
 in Himachal Pradesh.
4. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
5. All the SDOs(C)  
 in Himachal Pradesh.
6. All the DROs,  
 in Himachal Pradesh.
7. All the Tehsildars in  
 Himachal Pradesh.

Dated : Shimla-171002, the 10<sup>th</sup> September, 2004

Subject: the H.P. Village Common Lands Vesting and Utilization (Amendment) Act, 2001-  
 clarification thereof.

Sir,

In continuation of this Department letter of even number dated 12<sup>th</sup> December, 2001 on the above noted subject, I am directed to say that it has come to the notice of the Govt. that in some Districts the provisions of H.P. village Common Lands Vesting and Utilisation (Amendment) Act, 2001 are not being implemented in letter and spirit. It is clarified that the Amendment Act, is applicable to those lands which are recorded as "Shamlat Tika Hasab Rasad Malguzari" or by any such other name in the ownership column of jamabandi and assessed to land revenue and has been continuously recorded in cultivating possession of the co-sharers so recorded before 26<sup>th</sup> January, 1950 and only those lands which are in actual possession are to be reverted to such co-sharers. It is also reiterated that the provisions of this clause shall not be applicable to such lands which has already been put to use by the Government.

It has also come to the notice that in some cases even that land which is not assessed to land revenue is also reverted to the estate right holders in violation of the Amendment Act. The Collectors are directed to review all such cases under section 9-A of the Act and ensure that no violation of the Act takes Place.

Any Revenue Officer found to have transferred the land to any share holder in violation of the provisions of the aforesaid act will be liable for action against him.

The Deputy Commissioners are directed to make a detailed report as to wrong vestment of land in the share-holders and subsequent action initiated against the defaulting/erring officers/officials. Any lapses in this regard shall be viewed seriously.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(4)8/2004-Loose  
 Government of Himachal Pradesh  
 Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners  
 in Himachal Pradesh.
3. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
4. All SDO (Civil),  
 in Himachal Pradesh.
5. All the Tehsildars/Naib-Tehsildars,  
 in Himachal Pradesh.

Dated : Shimla-2 the 21-04-2006

Subject: Clarification regarding implementation of notification issued by the Forest Department in the year of 1952.

Sir,

I am directed to say that issue regarding applicability of provisions of notification issued in the year 1952, by the Forest Department under Indian Forest Act, 1927 was under consideration of the Government and a Committee under the Chairmanship of Chaudhary Dhani Ram, IAS (Retd.) was constituted by the Government to examine the implications arising out of notification issued by the Forest Department on 25.02.1952 and subsequent notifications and interim direction/orders issued by the Hon'ble Supreme Court dated 12.12.1996 in CWP (Civil)No. 202 of 1995 in case Shri T.N.Godavarman Thirumulkpad Vs Union of India and Ors.

The recommendations of the said Committee were also examined by a Sub-Committee constituted under the Chairmanship of the Director, Land Record in which the representatives of the Forest Department and Revenue Department were associated as members.

Thereafter, the matter has been examined at length at Government level in consultation with the Law Department and it has been concluded/decided that notification issued in the year 1952 by the Forest Department under the provisions of Indian Forest Act, 1927 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 as the land vested under these statutes was belonging to the people before vestment and has to be utilized by the Government for the benefit of weaker sanction of the society as per schemes framed under these statutes to achieve the objective behind the enactment of aforesaid enactments. However, if any land which was vested in the State Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment then even after vestment such land shall continue to be treated as Forest land and the provisions of Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 are applicable on such land and such land can be utilized for non-forest

purpose only with the prior approval of the Central Government. Further the forest law shall also apply to surplus area if any which has been demarcated by the Forest Department in consultation with the Revenue Department in terms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

In view of above decision, you are requested to direct the field agencies that despite the notification issued in the year 1952 by the Forest Department, the provisions of Indian Forest Act, 1929 and Forest Conservation Act, 1980 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 unless any land which vested in the State Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment or any land which has been demarcated by the Forest Department in consultation with the Revenue Department in Terms of Clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Copy forwarded for information and necessary action to:-

1. The Principal Secretary (Forest) to the Government of Himachal Pradesh, Shimla-2.
2. The Principal Chief Conservator of Forest, H.P.
3. The Director, Land Records, H.P. Shimla-9.
4. The ALR-cum-Under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-2.
5. The COC to the Financial Commissioner (Appeals) to the Government of H.P. Shimla.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

संख्या: रैव0बी0ए0(3)8 / 2000-IV  
हिमाचल प्रदेश सरकार,  
राजस्व विभाग।

प्रेषक

वित्तायुक्त एवं प्रधान सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

समस्त उपायुक्त,  
हिमाचल प्रदेश।

दिनांक: शिमला-2 03 / 10 / 08

विषय: शामलात भूमि को भू-मालिकों को वापिस लौटाने बारे।

महोदय,

उपरोक्त विषय के सन्दर्भ में मुझे यह कहने का निर्देश हुआ है कि भारतीय जनता पार्टी चुनाव घोषणा पत्र के कार्यान्वयन में की गई प्रगति हेतु माननीय लोक निर्माण एवं राजस्व मंत्री, हिमाचल प्रदेश की अध्यक्षता में दिनांक 26-08-2008 को प्रातः 11 बजे हुई बैठक में हि0प्र0 ग्राम शामलात भूमि निधान एवं उपयोग (संशोधन) अधिनियम 2001 के अन्तर्गत वापिस लौटाने बारे की गई प्रगति पर भी विचार किया गया जिसमें माननीय मंत्री महोदय द्वारा निर्देश दिए गए कि उक्त संशोधन अधिनियम के अन्तर्गत वापिस लौटाने हेतु शेष भूमि को तीन माह के भीतर वापिस लौटाया जाए तथा इस पर की गई प्रगति की मासिक सूचना इस विभाग को हर माह उपलब्ध करवाई जाए।

अतः आपसे अनुरोध है कि उक्त निर्देशों का समयवद्ध पालन कड़ाई से किया जाए तथा इस बारे वांछित सूचना इस विभाग को हर माह उपलब्ध करवाई जाए।

भवदीय,

—हस0—

संयुक्त सचिव(राजस्व),  
हिमालच प्रदेश सरकार।

प्रष्ठांकन संख्या: उपरोक्त

दिनांक :शिमला-2

03 / 10 / 2008

प्रतिलिपि वरिष्ठ निजी सचिव, लोक निर्माण मंत्री, हिमाचल प्रदेश को उनके अशा0 पत्र संख्या व0नि0लो0नि0 एवं रा0म0 / 2008-15429, दिनांक 29.07.2008 तथा इस विभाग के पृष्ठांकन संख्या रैव0बी0एफ0(2)-1 / 2008 दिनांक 19.09.2008 के संदर्भ में सूचनार्थ प्रेषित है।

—हस0—

संयुक्त सचिव(राजस्व),  
हिमालच प्रदेश सरकार।

No. Rev. B.A.(3)-8/2000-IV  
 Government of Himachal Pradesh  
 Department of Revenue

From

A.C.S.-cum-Financial Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Managing Director,  
 HP Power Corporation Limited, Shimla, H.P.

Dated : Shimla-171002, the 23<sup>rd</sup> June, 2009

Subject: Clarification regarding H.P. Village Common Lands Vesting and Utilization Act, 1974 vis-à-vis amendments carried out in year 2001 and 2005.

Sir,

I am directed to refer to your D.O. letter No. HPPCL/MD-Rev.1/08 dated 13.02.2009 and to say that matter regarding applicability or restriction/bar on transfer of land reverted to the co-sharer under the provisions of Himachal Pradesh Village Common Lands Vesting and Utilization (Amendment) Act, 2001, for a period of 25 years from the date of mutation of such land on compulsory acquisition by the State Government, has been examined in consultation with the Law Department. It is clarified that the restriction of 25 years on transfer of land reverted to co-sharers under the H.P. village Common Lands Vesting and Utilization (Amendment) Act, 2001 will not be applicable in cases where land is being acquired by the State Government under the provisions of Land Acquisition Act, 1894.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2, the 23<sup>rd</sup> June, 2009

Copy forwarded for information and necessary action to:-

1. The Principal Secretary (Power) to the Government of H.P.
2. The Divisional Commissioners Shimla/Mandi/Kangra, H.P.
3. All the Deputy Commissioners in H.P.

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

संख्या: रैव0बी0ए0(3)8 / 2000-IV  
हिमाचल प्रदेश सरकार,  
राजस्व विभाग।

प्रेषक

वित्तायुक्त एवं प्रधान सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त,  
शिमला / सोलन / सिरमौर / कांगड़ा / हमीरपुर / ऊना  
हिमाचल प्रदेश।

दिनांक: शिमला-2 10-09-2009

विषय: शामलात भूमि को भू-मालिकों को वापिस लौटाने बारे।

महोदय,

उपरोक्त विषय पर इस विभाग के समसंख्यक पत्र दिनांक 3.10.2008 तथा स्मरण पत्र दिनांक 9.01.2009 तथा दिनांक 13.03.2009 के क्रम को जारी रखते हुए मुझे यह कहने का निर्देश हुआ है कि हि0प्र0 ग्राम शामलात भूमि निधान एवं उपयोग (संशोधन) अधिनियम, 2001 की अनुपालना में मांगी गई मासिक प्रगति सूचना आपसे प्राप्त नहीं हो रही है।

उक्त के अतिरिक्त माननीय मुख्य मंत्री महोदय की अध्यक्षता में दिनांक 18.03.2009 को हुई विभागीय संवीक्षा बैठक में माननीय मुख्य मंत्री द्वारा आदेश दिए गए हैं कि जिन जिलों में उक्त अधिनियम के अंतर्गत भूमि वापिस करने हेतु शेष है, के कारण इस विभाग को प्रेषित किए जाए एवं अधिनियम के अन्तर्गत भूमि वापिस लौटाते समय हिमाचल प्रदेश भू-जोत अधिकतम सीमा अधिनियम, 1972 के प्रावधानों को भी मध्यनजर रखा जाए।

अतः आपसे पुनः अनुरोध है कि वांछित मासिक प्रगति सूचना भूमि को वापिस लौटाने में हो रहे विलम्ब के कारणों सहित इस विभाग को प्रत्येक माह उपलब्ध करवाई जाए ताकि संशोधन अधिनियम की अनुपालना में भूमि वापिस लौटाते समय हिमाचल प्रदेश भू-जोत अधिकतम सीमा अधिनियम, 1972 के प्रावधानों को मध्यनजर रखा जाए।

भवदीय,

—हस0—

संयुक्त सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

No. Rev. B.A.(3)8/2000-V  
Government of Himachal Pradesh  
Department of Revenue

To

The Deputy Commissioner,  
Sirmaur at Nahan, H.P.

Dated : Shimla-171002, the 29-05-2013

Subject: हिमाचल प्रदेश ग्राम शामिलत भूमि उपयोग एवं निधान (संशोधन) अधिनियम, 2001 के द्वारा भू-स्वामियों को वापिस हुई भूमि में कब्जा के हस्तांतरण संबंधी दिशा-निदेश/मार्गदर्शन।

Sir,

I am directed to refer to your letter No. SIR-S.Ka(1-C)& Shamlat/2012-720 dated 26<sup>th</sup> March, 2013, on the subject cited above and to clarify that as per amendment carried out in the H.P. Village Common Lands Vesting and Utilization Act, 1974 carried out in the year 2005 the land reverted back to co-sharers under clause (d) of sub-section (2) shall not be transferred by such co-sharers, by way of sale, gift, mortgage or otherwise, during a period of twenty five years from the date of mutation of such land. In view of aforesaid provisions the land cannot be transferred by the co-sharer during a period of twenty five years in any manner whatsoever.

Yours faithfully,

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



No. Rev. B.A.(3)-8/2000-V  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Sirmaur at Nahan, H.P.

Dated : Shimla-171002, the 17-12-15

Subject: Clarification regarding HP Village Common Lands Vesting and Utilization (Amendment) Act, 2001 vis-à-vis restriction of 25 years on transfer of shamlat land to the Govt. for various developmental works by the co-sharers to whom the land was reverted under the Act ibid.

Sir,

I am directed to refer to your office letter No. Peshi-11-8(19)-/2014-102034 dated 30<sup>th</sup> May, 2015 and letter No. Peshi-II-8-(6)Transfer/2015-103789 dated 4-8-2015 on the subject cited above and to say that as per your proposals, owners of erstwhile shamlat lands in question are willing to donate/gift their lands in favour of the State Government for construction of building of newly created Sub-Tehsil, Narag in Rajgarh Division at Village Narag and for the establishment of Degree College at Anj Bhoj, Tehsil Paonta Sahib. Due to restriction of 25 years in the remarks column of concerned jamabandis from the date of mutation, these lands can not be donated/gifted in favour of the State Government.

This matter is examined in this department in context of the provisions of the sub-section (2-a) of the section 3 of the HP Village Common Lands Vesting and Utilization (Amendment) Act, 2005 which bars the alienation of erstwhile shamlat lands upto a period of 25 years from the date of mutation in favour of co-sharers. From the perusal of the said provisions, it appears that intent of the legislatures behind implementing such provision to bar people/co-owners in a shamlat was to deprive them from deriving monetary benefits by alienating such lands. In the instant cases, such co-owners themselves are willing to donate/gift their shamlat lands in favour of the state government for public purposes and therefore, the intent of the legislatures of putting a bar of 25 years on alienation of land should not apply to such cases since the Act ibid also involves the utilization of such land for common purposes as specified in the Act ibid.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(5)11/2011  
Government of Himachal Pradesh  
Department of Revenue

From

The F.C.-cum-Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

Sh. Surender Sharma (Advocate)  
S/o late Ex Service man Inder Dat  
R/o Village Bahanar, P.O. Sarsu  
Tehsil Pachhad District Sirmaur, H.P.

Dated : Shimla-171002, the 01/07/2020

Subject: Request to issue clarification to all the revenue officer of State of H.P. on land reverted back to land owner under section 3,2 (d) of H.P. village Common Land Vesting and Utilization of amendment Act, 2002 and use of that land for the purpose of taking loan from the bank or for development through subsidized schemes of the Govt.

Sir,

I am directed to refer to your representation dated nil on the subject cited above. The matter was taken up with the Law Department who have given an opinion that sub-section (2-A) was added in section 3 by way of amendment of the H.P. Village Common Land Vesting and Utilization of amendment Act, 1974 in the year 2005 to restrict the transfer of land for a period of 25 years which was reverted back to co-sharers under clause (d) of sub-section (2) of section 3 of the Act. This is a special provision incorporated to protect the interests of the co-sharers and the provisions of the H.P. Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972 will not negate the same.

Yours faithfully,

-sd-

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

- **THE HIMACHAL PRADESH ABADI DEH (RECORD OF RIGHTS) ACT, 2021.**
- THE HIMACHAL PRADESH ABADI DEH (RECORD OF RIGHTS) RULES, 2022.

## **THE HIMACHAL PRADESH ABADI DEH (RECORD OF RIGHTS) ACT, 2021**

to provide for recording and resolving of proprietary rights of *abadi deh* area in the revenue estates and for matters connected therewith or incidental thereto.

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy second Year of the Republic of India, as follows:-

### **CHAPTER I PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Abadi deh (Record of Rights) Act, 2021.

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

(3) It shall come into force with immediate effect.

**2. Definitions.-** (1) In this Act, unless the context otherwise requires:-

(a) “*Abadi deh*” means the site recorded as such in the Record of Rights prepared and maintained under the Revenue Act, which is not assessed to land revenue;

(b) “Appointed day” means the twentieth day of April, 2020;

(c) “Assistant Recording and Resolution Officer” means a Revenue Officer not below the rank of Naib-Tehsildar, notified to perform functions under this Act;

(d) “Assistant Survey Officer” means an officer appointed by the Government to act and perform functions under this Act;

(e) “Chief Recording and Resolution Officer” means the Collector of the district under the Act, notified to perform functions under this Act;

(f) “Commissioner” means the Commissioner of the division under the Act, notified to perform functions under this Act;

(g) “Common area” means an area or building within the *abadi deh* used for any common need, convenience or benefit of the community and includes roads, paths, streets, public parks, drains, public toilets, ponds and tanks, wells, water courses, play grounds, bus stand or waiting places, places used for public sittings and gatherings or for any such other purposes used by the inhabitants, and any vacant site or plot not owned or possessed by any person; but does not include a building or area which houses an institution under the control of the Central or State Government;

(h) “Financial Commissioner” means the Financial Commissioner, Revenue in the Government notified to perform the functions under this Act;

(i) “Government” means the Government of Himachal Pradesh;

(j) “notification or notified” means a notification published by the Rajpatra (e-Gazette), Himachal Pradesh;

(k) “Panchayat” means a Panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1994 (Act No. 4 of 1994);

- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “proprietary right” means the right of ownership recorded in the name of a person, Panchayat, Urban Local Body, Central or State Government, juristic person or any other entity but does not include the rights of tenant, lessee, mortgagee or any other right which does not confer ownership;
- (n) “Recording and Resolution Officer” means a revenue officer not below the rank of Sub-Divisional Collector notified to perform functions under this Act:
- (o) “Revenue Act” means the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954)
- (p) “Revenue Officer” means a revenue officer exercising the powers under the Revenue Act;
- (q) “section” means section of this Act;
- (r) “Survey Officer” means an officer appointed by the Government to act and perform functions under this Act;
- (s) “Survey unit” means the area within the *abadi deh*, to which a survey number is assigned under this Act;
- (t) ‘Urban Local Body’ means a Municipal Corporation, Municipal Council or a Nagar Panchayat, constituted under the Himachal Pradesh Municipal Corporation Act, 1994. Himachal Pradesh Municipal Act, 1994 respectively ;
- (u) “Village Committee” means the committee nominated in the village or area under urban local body, as the case may be, by the Assistant Recording and Resolution Officer, with its composition as prescribed to identify the ownership of survey units and common areas set apart for common purposes with the *abadi deh*; and
- (2) Words and expressions used in this Act but not defined herein have the meanings assigned to them under the Revenue Act.

## CHAPTER II OFFICERS AND POWERS

3. **Officers.**- (1) Subject to the provisions of this Act, there shall be the following officers notified to perform the functions and exercise powers under this Act, namely:-

- (a) Financial Commissioner,
- (b) Commissioner,
- (c) Chief Recording and Resolution Officer,
- (d) Recording and Resolution Officer,
- (e) Assistant Recording and Resolution Officer,
- (f) Survey Officer, and
- (g) Assistant Survey Officer.

(2) Subject to the provision of this Act, the officers mentioned in clauses (a), (b), (d) and (e) of sub-section (1) shall have, for the purposes of discharging their functions under this Act, the

same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) the summoning and enforcing the attendance of any person and examining him;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) subject to the provisions of section 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office; and
- (e) issuing commissions for the examination of witnesses or documents.

**4. Superintendence and control of officers.-** (1) The superintendence and control over all officers in their administrative functioning under this Act shall vest in the Financial Commissioner, and all such officers shall be subordinate to him.

(2) Subject to the superintendence and control of the Financial Commissioner, the Commissioner shall control all other officers under this Act, in his jurisdiction.

(3) Subject to the superintendence and control of the Financial Commissioner, the Chief Recording and Resolution Officer shall control all other officers under this Act, in his district.

(4) Subject as aforesaid and to the control of the Chief Recording and Resolution Officer, the Recording and Resolution Officer shall control all other officers under this Act, in his sub-division.

### **CHAPTER III SURVEY, MAPPING AND IDENTIFICATION**

**5. Identification of *abadi deh* area.-** The Government may, by notification, specify any *abadi deh* in a district, sub-division of a district, Urban Local Body or a village as an area for the purpose of identifying, recording and resolving the rights in each survey unit.

**6. Survey and mapping.-** (1) The Government shall appoint Survey Officer and an Assistant Survey Officer to assist him, for each area notified under section 5 to conduct a survey in the manner as may be prescribed.

(2) The Government, upon notifying areas of which the standing record of rights within an *abadi deh* is to be prepared, shall itself or through a notified agency get a survey conducted and mapping done of such area to determine the boundary of the *abadi deh*, define the area and dimension of each survey unit, and assign a unique survey number to each such unit.

(3) The survey reports and maps prepared of the area shall be submitted to the Assistant Recording and Resolution Officer for the purpose of preparing the standing record of rights in the survey units.

### **CHAPTER IV STANDING RECORD OF RIGHTS AND ITS MAKING**

**7. Standing record of rights.-** (1) There shall be a standing record of rights for each *abadi deh* area, which shall comprise the following namely:-

- (a) the record of proprietary rights of each survey unit prepared under this Chapter;
- (b) the survey reports and maps prepared under Chapter III with dimensions;
- (c) the record of proceedings of the meetings of the village committee;

- (d) such other document as may be prescribed or notified; and
- (e) genealogical tree (Shajra Nasab).

**8. Inquiry by the Assistant Recording and Resolution Officer.**-(1) The Assistant Recording and Resolution Officer, on his being designated as such, shall constitute a village committee for identifying the proprietary rights of the proprietors in the survey units.

(2) The Assistant Recording and Resolution Officer, in respect of the *abadi deh* of which the standing record of rights is to be prepared, shall inform the inhabitants of the area, in the manner prescribed, about the proposal to prepare such record for each of the survey unit.

**9. Preparation of standing record of rights.**- (1) The Assistant Recording and Resolution Officer, after deliberations and consultations with the village committee and hearing the parties interested, shall, in a summary manner, and as may be prescribed, record the proposed entries of proprietors and their proprietary rights and of the boundaries of the survey unit in the standing record of rights, as on the appointed day.

(2) The entry of proprietor and his proprietary rights shall be recorded by the Assistant Recording and Resolution Officer in the name of:-

- (a) the owner of the built up dwelling and residential areas including its open or enclosed court yards, other vacant land and plots of owners not being a common area, shops and other establishment;
- (b) the Panchayat and the Urban Local Body for the common area, vacant land or plot not owned by any person; and
- (c) the Central, State Government, juristic person or other entity in respect of the land or institutions owned by it.

(3) In the conduct of exercise under sub-sections (1) and (2) if a survey unit is found to be sub-divided, which escaped the attention of the Survey Officer, the Assistant Recording and Resolution Officer shall assign a unique number to each such survey unit.

(4) The rights acquired under this Act, shall not entitle the owner to acquire status of an agriculturist or a schedule tribe for the purpose of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 or Himachal Pradesh Transfer of Land (Regulation) Act, 1968.

**10. Display of record.**- The survey map prepared under section 6 and the record of entries of proprietors in a survey unit prepared under section 9, shall be displayed at a conspicuous place in the village or within the area of Urban Local Body and a copy thereof supplied to the Panchayat through the Ward Member of the village or the elected representative of Urban Local Body or Secretary in the absence such elected members of the urban local body, as the case may be, in the manner, as may be prescribed.

**11. Raising of objections and decision.**- (1) A person aggrieved by the demarcation of any boundary in the survey record, or an entry regarding the proprietary rights in the standing record of rights in a survey unit, may, within thirty days from the date of display of record under section 10, file objections about the correctness thereof before the Assistant Recording and Resolution Officer.

(2) The Assistant Recording and Resolution Officer after hearing the parties and perusing the record, if any, shall make necessary correction of the boundaries in the survey map, and

ascertain the persons best entitled to be recorded as the proprietor in the survey unit, and within sixty days of the expiry of the period under sub-section (I), pass an order in this regard by recording reasons.

Explanation:- The recording of the proprietary rights of a person in a survey unit shall not be conclusive proof of ownership and shall be subject to corrections and alterations in appeal or revision under this Act as also the rights so determined by a judgment and order of a court of competent jurisdiction.

(3) An entry recorded in the standing record of rights under section 9, if no objection is filed within the period provided under sub-section (1), shall be treated as final.

(4) The Assistant Recording and Resolution Officer shall thereafter in the manner prescribed, publish the record as finalized, which shall incorporate an order that may be passed under sub-section (2).

(5) The standing record of rights finalized by the Assistant Recording and Resolution Officer shall be amended or modified in the event of an order passed under sub-section (2) is set aside, modified or reversed in appeal, review or revision.

## **CHAPTER V APPEAL, REVIEW AND REVISION**

**12. Appeals.-** (1) Any person aggrieved by an order passed by the Assistant Recording and Resolution Officer under section 11 may, within thirty days of the passing of such order, file an appeal before the Recording and Resolution Officer.

(2) The Recording and Resolution Officer after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(3) Any person aggrieved by an order passed by the Recording and Resolution Officer under sub-section (2) may, within thirty days of the passing of such order, appeal to the Commissioner, who shall after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(4) Appeals under sub-sections (2) and (3) shall be decided by the Recording and Resolution Officer and the Commissioner, as the case may be, within sixty days from the date the respondent puts in appearance after notice or is proceeded against ex-parte unless for reasons to be recorded in writing it is directed otherwise:

Provided that-

- (a) when an original order is confirmed on first appeal, a further appeal shall not lie;
- (b) when any such order is modified or reversed on appeal by the Recording and Resolution Officer, the order made by the Commissioner on further appeal, if any, to him shall be final.

(5) An appellate authority shall not remand a case except where it is established from the record that an adverse order has been passed against a necessary party who was not duly served.

**13. Review.-** (1) Where there is a mistake or error apparent on the face of record or where some new and important fact or evidence is discovered, the Assistant Recording and Resolution



Officer, the Recording and Resolution Officer and the Commissioner, may within sixty days of the order sought to be reviewed either on their own motion or on the application of a party interested, after notice to the party likely to be affected and giving reasonable hearing, review, and on so reviewing, modify, reverse or confirm any order passed by himself or his predecessor in office:

Provided that:-

- (a) when an Assistant Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Recording and Resolution Officer;
- (b) when a Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Chief Recording and Resolution Officer;
- (c) when any such order is modified or reversed on review by the Assistant Recording and Resolution Officer, or the Recording and Resolution Officer, an appeal shall lie against the order of the Assistant Recording and Resolution Officer to the Recording and Resolution Officer, and from the order of the Recording and Resolution Officer to the Commissioner, and the order on such appeal shall be final;
- (d) an order against which an appeal or revision has been preferred shall not be reviewed; and
- (e) an appeal shall not lie from an order refusing or granting permission to review or confirming on review a previous order.

(2) Save in the cases of clerical or arithmetical mistakes arising from any accidental slip or omission, no application for review shall lie under this section against an order passed by the Financial Commissioner under section 14.

**14. Revision by Financial Commissioner.-** The Financial Commissioner may, on an application of an aggrieved party, within sixty days of an order being passed, or on his own motion, call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying himself as to the legality or propriety of such order of proceedings and after hearing the affected parties, may pass such order in relation thereto as he may deem fit and modify, reverse or confirm any order passed under this Act.

## CHAPTER VI TRANSFER OF RECORD

**15. Transfer of record to the District Collector.-** After preparation and finalization of the standing record of rights of the *abadi deh* area, it shall be attested by the Assistant Recording and Resolution Officer and transferred to the District Collector for maintaining and revising it under the Revenue Act.

**16. Application of Chapter IV of Revenue Act.-** The provisions of Chapter IV of the Revenue Act after transfer of the record under section 16 shall apply *mutatis mutandis* to such record.

**17. Application of Chapter VIII of Revenue Act.-** The provisions of Chapter VIII of the Revenue Act, rules framed thereunder and instructions issued from time shall apply *mutatis mutandis* for demarcation of a survey unit or part thereof after transfer of the record under section 15 of this Act.

## CHAPTER VII PARTITION

**18. Partition of survey units.-** A partition of survey units comprised in *abadi deh* may be allowed by a Revenue Officer after the standing record-of-rights has been transferred, and only if the partition has been affirmed by all interested parties with a map showing the proposed partition signed by all persons having proprietary rights:

Provided that the Revenue Officer after examining such of the co-proprietors of the survey unit and other persons may, if he is of the opinion that the survey unit is impartible or the partition is impractical and there is good and sufficient cause why partition should be disallowed, refuse to partition the survey unit by recording the grounds of his refusal.

**19. Disputes as to partition.-** An application for the partition of a survey unit, in the event of a dispute, shall not lie before the Revenue Officer and the party aggrieved may approach the civil court for partition.

## CHAPTER VIII MISCELLANEOUS

**20. Summons.-** (1) A summon issued by an officer appointed under this Act shall be served personally, on the person to whom it is addressed, or failing him;

(a) His recognized agent; or

(b) An adult member of his family usually residing with him.

(2) A summons may also be served by pasting a copy thereof at the usual or last known place of residence of the person to whom it is addressed.

(3) A summons may, if an officer appointed under this Act so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Chapter VI of the Indian Post Office Act, 1898, or sent through a reputed courier agency notified by the Government in this regard.

(4) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the officer appointed under this Act may presume that the summons was served at the time when receipt of its delivery is furnished:

Provided that if the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, in the first instance and if the officer appointed under this Act so directs, be served by delivery of a copy thereof to such of those persons as the officer appointed under this Act nominates in this behalf, and by publications of the contents thereof in a daily newspaper having wide circulation, for the information of the other persons interested.

(6) The summons may also be served through Short Message Service, email, or through other electronic modes at the phone number or e-mail address otherwise known or made known, to the officer appointed under this Act:

Provided that if service is affected through any of the above modes, a printout of the delivery of summons shall be placed on the record.

(7) A notice, order of proclamation or copy of any such document, issued by an officer under this Act for service on any person shall be served in the manner provided in this section for the service of a summons.

(8) Any of the modes of service provided in sub-sections (2), (3), (5) or (6) may be adopted simultaneously in addition to the mode of service provided in sub-section (1).

**21. Presumption in favour of entries in the standing record of rights.-** Any entry made in a standing record-of-rights in accordance with the provisions of this Act shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefore.

**22. Suit for declaratory decree by persons aggrieved by an entry in a record.-** If any person considers himself aggrieved as to any right of which he is in possession by an entry in a standing record-of-rights, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1963.

**23. Correction of clerical errors.-** The clerical or arithmetical mistakes in any order passed by any officer under this Act may, at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties and an intimation of such correction shall be made to the parties free of any charges and also to the concerned officer for its implementation.

**24. Protection of action taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against any officer under this Act or any official acting under the directions of such officer, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

**25. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Rajpatra (e-Gazette), Himachal Pradesh, make such provision, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

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

**26. Exclusion of jurisdiction of civil courts.-** Except as otherwise provided in this Act, no civil court shall entertain any suit instituted or application made to obtain a decision or order in respect, of any matter which the Government or any officer is by this Act empowered to determine or dispose of.

**27. Powers of officers to enter upon land, dwelling and habitation areas, survey units for the purposes of survey and demarcation.-** The officers under this Act and any person acting under their orders may, in the discharge of any duty under this Act, enter upon and survey land in the manner prescribed, put and erect survey marks thereon and demarcate the boundaries thereof and do all other such acts necessary for the proper performance of that duty.

**28. Penalty for destruction, dismantling or removal of survey marks and demarcation.-** (1) If any person willfully destroy, dismantles or without lawful authority removes a survey or demarcation mark lawfully erected or put, he may be ordered by the Recording and Resolution

Officer to pay such fine not exceeding Rupees two thousand for each mark so destroyed, dismantled or removed, and in the case of repetition of such an act, a fine not exceeding Rupees five thousand for each survey mark, as may, in the opinion of that officer, be necessary to defray the expenses of restoring the same and rewarding the person, if any, who gave information of the destruction, dismantling or removal.

(2) The amount of fine levied under sub-section (1), if not paid in the manner prescribed, shall be recoverable as arrears of land revenue under the Revenue Act.

(3) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code, 1860 of 1860; or prosecution of the offender under any other law for the time being in force.

**29. Power to make rules.-** (1) The Government may, by notification, in the Rajpatra (e-Gazette), Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) 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 ten days which may be Comprised in one session or in two or more successive Sessions, and if, before the expiry of the session in which it is so laid or the Session immediately following, 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 amendment shall be without prejudice to the validity of anything previously done under that rule.

Authoritative English Text of this Department's notification number Rev-B-A(3)9/2021, Dated 31-05-2022 as required under article 348 (3) of the Constitution of India

**Government of Himachal Pradesh**  
**Department of Revenue**

No. Rev-B-A(3)9/2021      Dated: Shimla 171002, the      31-05-2022

NOTIFICATION

In exercise of the powers conferred by section 29 of the Himachal Pradesh Abadi Deh (Record of Rights) Act, 2021, the Governor of Himachal Pradesh is pleased to make the following rules for carrying out the purposes of the said Act, namely: –

**1. Short title and commencement.**– (1) These rules may be called the Himachal Pradesh Abadi Deh (Record of Rights) Rules, 2022,

(2) These rules shall come into force from the date of publication in the Rajpatra (e-Gazette), Himachal Pradesh.

**2. Definitions.**– (1) In these rules, unless the context otherwise requires, -

(d) "Act" means the Himachal Pradesh Abadi Deh (Record of Rights) Act, 2021;

(e) "Field book" means the book maintained in Form "A" and shall form part of the standing record of rights;

(f) "Form" means the Form appended to these rules;

(g) "section" means a section of the Act;

(h) "Sub-divided survey unit" means a part of a survey unit which forms a separate unit and has been numbered by a fraction of the principal number.

(2) Words and expressions, used herein and not defined, but defined in the Act shall carry the meanings respectively assigned to them in the Act.

**3. Appointment of Survey Officer and Assistant Survey Officer.**–(1) The Kanungo and Patwari serving under the Revenue Department shall be the Survey Officer and Assistant Survey Officer, respectively, to perform the functions of such officers under the Act.

(2) Where any of the acts and functions provided under sub-section (2) of Section 6 of the Act are performed by a notified agency, such agency shall be deemed to be the Survey Officer for the acts and functions so performed.

(3) The Chief Recording and Resolution Officer may appoint more than one Survey Officer and Assistant Survey Officer as may be required for each abadi deh.

(4) In case more than one Survey Officer and Assistant Survey Officer have been appointed for any abadi deh, the Chief Recording and Resolution Officer shall specify the area of the abadi deh for which the survey is to be conducted by each such Survey Officer and Assistant survey Officer.

**4. Village Committee.**– To identify the ownership of survey units and common areas set apart for common purposes within the abadi deh the Village Committee comprising of not more than seven members in the following manner shall be nominated by the Assistant Recording and Resolution Officer:-

(a) In case of a village, the Pradhan of the Gram Panchayat, or concerned ward member of the Panchayat as his nominee; and in case of a Urban Local Body, the Mayor or

Chairman of the Urban Local Body or concerned counselor or ward member of the Urban Local Body;

- (b) The Numbardar of the village or the municipal area of which the standing record of rights is to be prepared;
- (c) Any other respectable resident of the abadi deh of the village or municipal body considered proper.

Provided that atleast one woman and a person from scheduled caste category shall be included in Village Committee.

**5. Measurement.-** The base unit of measurement for the purposes of the Act and the rules shall be in meter system and the area of the survey unit shall also be mentioned in square meter.

**6. Entry upon land, dwelling and habitation areas of survey units for preparation of standing record of rights.-** (1) The officers under the Act and any person acting under their orders may, in the discharge of any duty under the Act enter upon land, dwelling and habitation areas of survey units with prior notice to the residents of the abadi deh area.

(2) The Survey Officer by,-

- (i) proclamation in the village;
- (ii) pasting a notice at conspicuous places in the abadi deh of a revenue estate or a urban local body; and
- (iii) informing the Pradhan of the Gram Panchayat or mayor/Chairman/President of Urban Local Body; give due intimation and publicity of the date of his visit to the abadi deh area for the purpose of identifying the boundaries, demarcation, taking measurements and numbering of the survey units.

(3) The Survey Officer shall for the purpose of survey,-

- (a) explain the procedure to be followed to the inhabitants in a general gathering;
- (b) take measurements, demarcate the boundary and record the area of each survey unit on the map prepared under sub-section (2) of section 6 of the Act and record these in the field book in Form "A";
- (c) number consecutively in serial order of the survey units in the abadi deh in numerals commencing from number 1; and
- (d) mention of type of the survey unit such as house, street, shop, institutional building, open area, common area and path.
- (e) In determining the area, boundary and type of survey unit, the Survey Officer may take into consideration such document or writing submitted by a person interested, which shows or determines boundary, area or type of the survey unit, and take measurements and prepare the record on its basis.

(5) The Survey Officer shall compile and submit the record prepared under this rule along-with the field book in Form "A" to the Assistant Recording and Resolution Officer for preparing the standing record of rights.

**7. Recording of rights of proprietors.-** The Assistant Recording and Resolution Officer with the assistance of the Village Committee and after hearing the interested parties shall,-

- (i) take into consideration such relevant and material document or writing, considered just and proper, submitted by a proprietor or person interested, in support of his claim in the survey unit;

- (ii) in case a survey unit is found to be sub-divided, mark the sub-divided part of the survey unit like 1/1, 1/2, 1/3, 1/4; 2/1, 2/2, 2/3, 2/4; 1/1/1, 1/1/2, 1/1/3, 1/1/4 and so on as may be considered suitable and proper, and record the area of each sub-divided survey unit; and
- (iii) proceed to record in a summary manner and display at the conspicuous place in the abadi deh area in Form "B" the proposed entries of the proprietors and their proprietary rights in the survey units and sub-divided survey units as on the appointed day.

**8. Resolution of objections.**- (1) The survey map with demarcation, boundary and area of the survey unit prepared under rule 6, and the record of entries of proprietors in a survey unit prepared under rule 7 in Form "B" shall for the purpose of inviting objections, if any, be displayed by the Assistant Recording and Resolution Officer at any one or more of the conspicuous places in the village like Panchayat Ghar, Village co-operative society, Patwar Khana, Dharamsala, community centre or common religious places in the village or Urban Local Bodies, as the case may be.

(2) Copies of the record under sub-rule (1) above shall be given to the Pradhan of the Gram Panchayat or the Mayor/Chairman/President of the Urban Local Body, through an official functionary against receipt.

(3) The objections, if any, filed under section 11 of the Act shall be filed before the Assistant Recording and Resolution Officer in Form "C".

(4) The objections received or filed shall be numbered in serial order in a separate register with the date of its receipt.

(5) The Assistant Recording and Resolution Officer on the expiry of thirty days of filing objections under sub-section (1) of Section 11 shall certify the number of objections received or filed and shall send a report in this regard to the Recording and Resolution Officer.

(6) The Assistant Recording and Resolution Officer shall consider the objections, conduct such inquiry as he thinks fit and pass a speaking order under sub-section (2) Section 11 in respect of each objection.

(7) Any correction or amendment made in the area, boundary or dimension of a survey unit while passing an order under sub-rule (6) above shall be incorporated by the Assistant Recording and Resolution Officer in red ink in the field book in Form "A".

**9. Finalisation of record of rights.**-(1) In case there is no objection to the entries recorded under rule 7 of these rules, the Assistant Recording and Resolution Officer shall incorporate them in the record of rights of the survey unit in Form "D".

(2) In case of objections to the entries under Rule 7 of these rules, the Assistant Recording and Resolution Officer after hearing the affected parties and disposing the objections regarding recording of proprietary rights, area, boundary, dimensions or sub-division, if any, shall incorporate them in the record of rights of the survey unit in Form "D" in accordance with the decision reached at.

(3) The heading of the standing record of rights shall contain the hadbast number of the revenue estate by suffixing to it the words, "abadi deh".

**10. Transfer and Consignment of standing record of rights.**-(1) The standing record of rights as finalized shall be displayed at conspicuous place in the abadi deh area under sub-section (4) of section 11.

(2) The record under sub-rule (1) shall be transferred to the District Collector under section 15 of the Act and shall be consigned to record in the district office.

(3) One set of the record of rights finalized under rule 9 in Form "D" shall be maintained with the patwari at the patwarkhana.

**11. Form for mutation of rights.**- The mutation of acquisition of rights in a survey unit by inheritance, succession, purchase, mortgage or otherwise on being reported to the revenue patwari shall be entered in Form "E".

**12. Correction of clerical errors and arithmetical mistakes.**-Clerical or arithmetical errors, in orders or proceedings may at any time be corrected by the Recording and Resolution Officer or the Assistant Recording and Resolution Officer who passed the order or by his successor either on his own motion or on the application of any party, and an intimation of such correction shall be made to the parties free of any charges and also to the officer concerned for its implementation.

**13. Supply of copies.**- The procedure as applicable for inspection of record of cases, and issuance of copies of documents in respect of proceedings under the Himachal Pradesh Land Revenue Act, 1954 (Act No.6 of 1954) shall apply mutatis mutandis to proceedings in respect of the standing record of rights under the Act and these rules.

**14. Validation.**-The survey conducted and the mapping done by an agency of the Central or the State Government for identifying the boundary of an abadi deh and demarcating the survey units within the abadi deh in accordance with the instructions, directions or orders issued by the Government from time to time shall be valid and no such act or proceeding shall be questioned merely on the ground that it had been carried out before the commencement of the Act or these rules.

By Order,

**(Onkar Sharma)**

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst.No.Rev.B.A.(3)-9/2021. Dated:Shimla-2, the 31-05-2022

Copy forwarded to:-

1. Administrative Secretaries to the Government of H.P.
2. All the Divisional Commissioners in H.P.
3. All the Heads of Departments in H.P.
4. All the Deputy Commissioners in H.P.
5. All the Sub-Divisional Officer(Civil) in H.P.
6. The A.L.R-cum-Under Secretary(Law)to the Government of H.P.
7. All Tehsildars/Naib Tehsildars posted in Tehsils and sub-Tehsils, in H.P.
8. Clerk of Court to the F.C.(Appeal), Govt. of H.P. Shimla-2.
9. The Controller, Printing and Stationary, H.P. Government Press, Shimla-5 for publication in the H.P. Government Gazette (Extraordinary).
10. Guard file.

**(Anil Chauhan)**

Joint Secretary(Revenue)to the  
Government of Himachal Pradesh.



**Form A**  
(See rule 6)  
(Field Book)

Name of Village \_\_\_\_\_, H.B. No. \_\_\_\_\_ Abadi Deh, Tehsil \_\_\_\_\_,  
District \_\_\_\_\_.

1	2	3	4	5	6
Sr. No.	Survey unit Number.	Dimensions in metres. Boundaries East: West: South: North:	Total Area in square metres.	Type of property.*	Remarks/Corrections and amendments, if any, made to columns 2 to 5 in appeal, revision etc. to be recorded in red ink.

Survey Officer

\* Type-whether house, street, shop, institutional building, open area, common area, path etc.

Note: The survey map of the abadi deh depicting the number of the survey unit shall be submitted with this Form.

**Form B**  
[See rules 7 (iii) and 8 (1)]

Name of Village \_\_\_\_\_ H.B. No. \_\_\_\_\_ Abadi Deh,  
Tehsil \_\_\_\_\_ District \_\_\_\_\_

1	2	3	4	5	6
Sr. No.	Name of Proprietor/Owner with father/grand- father's/husband/ husband's father name and extent of share.	Survey unit/Sub- Divided Survey Unit No.	Area in Square metres.	Type of property.	Remarks

Survey Officer

**Form C**  
(See rule 8)

Name of Village \_\_\_\_\_, H.B. No. \_\_\_\_\_ (Abadi Deh), Tehsil \_\_\_\_\_,  
District \_\_\_\_\_.

To

The Assistant Recording and Resolution Officer  
Tehsil \_\_\_\_\_, District \_\_\_\_\_.

Subject: - Objections with regard to Survey Unit No. \_\_\_\_\_.  
Sir/Madam,

The applicant in terms of section 11 of the Himachal Pradesh Abadi Deh (Record of Rights) Act, 2021 and rule 8 of the rules framed thereunder submits the following objection (s) in relation to (tick one): -

- (i) Dimensions, measurement, boundary or area;
- (ii) Ownership/Proprietary rights; or
- (iii) Both the above.

Brief description of the objections:

Place:

Date:

(Signature of the applicant/objector)

Name (with ID proof):

Father's/Husband's Name:

Complete Address:

**Form D**  
(See rule 9)

**[Record of Rights]**

Name of Village \_\_\_\_\_ H.B. No. \_\_\_\_\_ (Abadi Deh),  
Tehsil \_\_\_\_\_ District \_\_\_\_\_

1	2	3	4	5	6	7			8	9
Sr. No.	Property ID	Name of Proprietor/Owner with father/grand-father/husband/ husband's father name and extent of share.	Main Khasra Number	Survey unit/Sub Division Survey Unit No.	Dimensions in metres.	Area in Square metres			Type of Property.	Remarks
						Built up area	Open area	Total		

It is certified that all necessary corrections have been made and entries in the record of rights are complete and correct in all respects.

Place:

Date:

Assistant Recording and Resolution Officer



- **THE HIMACHAL PRADESH LEASE RULES, 2013.**
- **NOTIFICATIONS ISSUED UNDER THE H.P. LEASE RULES, 2013**
- **INSTRUCTIONS ISSUED UNDER THE H.P. LEASE RULES, 2013**
- **THE TIBETAN REHABILITATION POLICY 2014 OF GOVERNMENT OF INDIA (For Lease )**
- **TIBETAN REHABILITATION POLICY, HIMACHAL PRADESH, 2015 (For Lease)**

## THE HIMACHAL PRADESH LEASE RULES, 2013

(Authoritative English Text of this Department's Notification No. Rev. D. (G) 6-69/2011-Part-II dated 4-3-2014 as required under clause (3) of article 348 of the Constitution of India.)

### Government of Himachal Pradesh Department of Revenue

No. Rev. D. (G) 6-69/2011-Part-III.

Dated-Shimla-2.

4.3.2014.

### NOTIFICATION

Whereas, the draft Himachal Pradesh Lease Rules, 2013 were notified vide this department notification of even number, dated 2<sup>nd</sup> January, 2014 and published in the Official Gazette (e-Gazette) dated 3rd January, 2014, for inviting objections and suggestions from the person(s) likely to be effected thereby; and

Whereas, some objections and suggestions were received and necessary modifications have been made in the said rules, wherever required;

Now, therefore, in exercise of the powers vested in her under Section 26 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No.19 of 1973) and Section 13 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974), the Governor of Himachal Pradesh, is pleased to make the following rules, namely:-

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

- 1) These rules may be called the Himachal Pradesh Lease Rules, 2013.
- 2) They shall extend to whole of the State of Himachal Pradesh.
- 3) They shall come into force from the date of publication in the Official Gazette (e-Gazette), Himachal Pradesh.

#### 2. **Definitions.-** In these rules unless there is anything repugnant in the subject or context,-

- (a) "**Acts**" means the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No.19 of 1973) and the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974)
- (b) "**Collector**" means the collector of the district concerned.
- (c) "**competent authority**" means an authority competent to grant land on lease;
- (d) "**conspicuous place**" means Deputy Commissioner's office, Sub-Divisional Officer's (Civil) office, Tehsil office, Municipal Office/ Panchayat Ghar, Mahila Mandal and any other place of public gathering, as the case may be;
- (e) "**current circle rates**" means circle rates notified by the Collector of the district concerned for that year.
- (f) "**form**" means a form appended to these rules;
- (g) "**Planning Area**" means any area declared to be a planning area under the Himachal Pradesh Town and Country Planning Act, 1977; and
- (h) "**State Government**" means the Government of Himachal Pradesh.

**3. Grant of land on lease.**- 1) The land may be granted on lease for purposes and to persons as provided under these rules with the sanction of the competent authority, out of land vested with the State Government under Section 3 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974) or the land vested under section 11 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No.19 of 1973), in the interest of the development of the State, if the State Government is satisfied that there are sufficient reasons to do so:

Provided that it shall be ensured that while granting lease out of the land vested with the State Government under the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974), the land in reserve pool must remain to the extent of at least 50% of the land vested in the State Government. Further, sufficient land should also remain in the allotable pool for allotment to the landless and eligible persons.

(2) The land vested with the Government under the Acts, which is encroached, shall not be leased out to the encroacher. However, the encroached land can be leased out to any eligible person or institution or legal entity etc. after ejecting the encroacher.

(3) No land shall be granted on lease under these Rules where suitable private land is readily available for the purpose for which lease has been applied.

(4) Lands on lease shall not be granted in contravention of any statute regulating the transfer and use of land.

**4. Purposes for which the lease may be granted.** - The lease may be granted only in the interests of the development of State, if the State Government is satisfied that there are sufficient reasons to do so. The development of State shall include the following purposes, namely:-

- (i) educational Institutions;
- (ii) petrol Pumps and/or gas godowns;
- (iii) self employment of Ex-servicemen, war widows, freedom fighter and their wards<sup>1</sup>; Below Poverty Line families and differently abled persons.

**Explanation:** The preference shall be given among the Below Poverty Line (BPL) families, in the following manner:-

- i) SC families;
  - ii) ST families;
  - iii) OBC families; and
  - iv) Other families.
- (iv) construction of residential house by the landless Bonafide Himachali or for the rehabilitation of sufferers of natural calamities;
  - (v) location of the specific infrastructure projects.
  - (vi) any other common purpose in the interest of the development of the State and shall include the traditional cultural activities of the State of Himachal Pradesh.
  - (vii)<sup>2</sup>Political Parties, Social Organizations, Welfare Boards of different communities and Employees Associations/Organisations for the construction of Office Building to meet out their social obligations and other activities.

<sup>1</sup> Added vide H.P. Lease amendment Rules, 2016

<sup>2</sup> Added vide H.P. Lease amendment Rules, 2017

**5. Maximum limit of grant.**-Maximum limit to sanction lease shall be as certified by the Department concerned dealing with the subject under the Business of the Government of Himachal Pradesh (Allocation) Rules, 1971 in the shape of Essentiality Certificate on Form C and the same shall be subject to the provisions of Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No.19 of 1973).

<sup>1</sup>Provided that the Government land in respect of the National Political Parties recognised by the Election Commission of India and other organizations may be sanctioned on lease basis upto the maximum limit of 1-00 Bigha only on the basis of Project Report , Building Plan and map as per requirement and on actual need basis. The land may be allotted to such Political Parties on lease basis on fulfillment of prescribed conditions and requirements as stipulated in Appendix-A.

**6. Eligibility for the grant of land on lease-** Any person or legal entity registered under any statute shall be eligible for grant of lease.

**7. Sanction of lease.** - The lease under these rules shall be sanctioned for such period and on such terms as the State Government may deem fit.

<sup>2</sup>[Provided that the State Government shall not grant the lease of land in any case for a period exceeding 40 years.]

Provided further that the lease in case of diverted forest land may be sanctioned by the Government, on the basis of Essentiality Certificate, No Objection Certificate as per forms “C” and “D” appended to these rules and approval for diversion of forest land granted by the Central or State Forest Departments, only after calculation and assessment of lease rent/amount by the concerned Deputy Commissioner-cum-Collector, without observing other codal formalities<sup>3</sup>.

**8. Lease amount.**- The lease amount for fresh or renewal of existing lease shall be charged from the lessee per annum in the following manner, namely:-

- i) 10% of the current circle rate.

Provided that for the Hydro Electric Projects (HEPs) and Solar Power Projects<sup>4</sup> of the capacity of up to 5 MW, which are exclusively reserved for bonafide Himachalis/Co-operative Societies comprising of bonafide Himachalis, lease amount to be charged shall be 3% of the current circle rate.

Provided that for the Hydro Electric Projects (HEPs), Solar Power Projects and other Infrastructure Projects for which Government forest land has been diverted by the State or Central Government, the lease rent/ amount shall be charged @ Re. 1/- Per Sqmt., Per annum and for other Government land (non-forest land), the lease rent/amount shall be charged at the existing rate of 10% of the current circle rate:

Provided further that in respect of power and other infrastructure projects, where the lease of diverted Government forest land has been sanctioned or granted on annual lease rent basis on the existing rates as per prevailing rules prior to 31-12-2015, the lease

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<sup>1</sup> Added vide H.P. Lease amendment Rules, 2017

<sup>2</sup> Subs. vide H.P. Lease (Amendment) Rules, 2023.

<sup>3</sup> Added vide H.P. Lease amendment Rules, 2016

<sup>4</sup> Added vide H.P. Lease amendment Rules, 2016

rent/amount shall be charged on the revised lease rate of Re.1/- per sq. mt., per annum after 01-01-2016 on uniform rates without any further concessions:

<sup>1</sup>Provided further that the projects already executed or implemented or which are to be executed in the State under 100% funding from the State or Central Government Departments including the power projects of Himachal Pradesh State Electricity Board and Himachal Pradesh Power Corporation Limited, the Government or diverted forest land on lease shall be provided to such projects on taken lease rent of Re. 1/- per bigha per month for entire lease period.

ii) The lease amount shall be enhanced every 5 years at the rate of 5% of existing lease amount.

iii) The State Government may reduce the lease amount or provide lease on concessional terms and conditions in the following cases:-

- (a) Persons affected by natural calamities who have lost their agricultural land and dwellings.
- (b) landless/houseless persons.
- (c) Ex-servicemen, war widows, Below Poverty Line families and differently abled persons.
- (d) Projects aimed at development of Agriculture, Horticulture, Health infrastructure, educational institutions or for any such projects as are considered critically important for the development of State.

<sup>2</sup>Provided that the concessional lease rent/amount for categories (a) to (c) shall be charged @ Re 1/- per month as token lease rent and for category (d) shall be charged @ 20% of the current circle rates of the demised land in lumpsum and Re. 1/- per month as token lease money for the period for which the land is granted on lease.

<sup>3</sup>Provided further that the lease rent/amount in such cases shall be charged as per provision of clause (i) of this rule or as specified in proviso to sub-clause (d) of clause (iii) of this rule as the State Government may deem fit

**9. Permission to Manage, operate and maintain.-** Leaseholders, after getting approval of the State Government, may enter into agreement to manage, operate and maintain the leased property for the purpose for which it has been leased out.

**10. List of Government lands to be maintained.-**

- 1) The lists of Government lands classified in a manner as laid down by the State government in each district shall be maintained by the Collector.
- 2) The State Government shall determine from time to time as to which of the lands specified under sub-rule (1), shall be available for leasing.
- 3) An online lease register of leased land shall be maintained on District and Tehsil wise on a format laid down by the state government.

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<sup>1</sup> Added vide H.P. Lease amendment Rules, 2016

<sup>2</sup> Added vide H.P. Lease amendment Rules, 2016

<sup>3</sup> Added vide H.P. Lease amendment Rules, 2017



**11. Application for lease.** – 1) The application shall be made to the Collector on Form-A along with documents prescribed in Part-II of Form A. In case, the applicant is a non-agriculturist, he shall also apply for seeking permission under Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. He shall make such application on Form-LR-XIV. The documents prescribed in Rule 38-A of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 shall not be required to be attached. The Collector may recommend his case on application Form LR-XIV, on the basis of documents attached with the application for grant of lease.

2) The documents prescribed at Sl. No.4 and 5 of Part-II of Form-A attached to these Rules, shall be procured by the applicant as follows:-

- (a) For procuring Essentiality Certificate the applicant shall apply to the department under whose purview the proposed activity, for which grant of land on lease has been sought, falls.
- (b) The department concerned shall issue the Essentiality Certificate on the basis of departmental norms which assess eligibility of the lessee, the necessity of the proposed activity and the extent of land required for the same.
- (c) The applicant shall apply for a No Objection Certificate to the Sub Divisional Collector, who, when necessary, shall require the applicant to deposit the cost of demarcation, surveying and mapping the land and cause the land to be demarcated, surveyed and mapped. The Sub-Divisional Collector shall publish a proclamation stating that the land has been applied for grant on lease for claimed purpose, and all claims and objections shall be preferred within one month, including any offer to make suitable private land readily available for the said purpose.
  - i) A copy each of the proclamation shall be sent to the Tehsildar for comments and report within one month. The Tehsildar shall also record the statements of the right holders and note down their objections, if any. He shall make a report to the Sub-Divisional Officer (Civil) keeping in view their objections.
  - ii) The proclamation shall be published in two local newspapers (at least one of which is published in Hindi language) having wide circulation in the area and pasted at a conspicuous place in the vicinity of the land applied for on lease, and, after it has been so published, a copy each of the said proclamation shall also be pasted at the Sub Divisional Collector's office and at the office of the Tehsil/Sub-Tehsil in which the land is situated.
  - iii) In Scheduled areas the Sub-Divisional Officer (Civil) shall also refer the lease application to the concerned Gram Sabhas for consultation. He shall proceed further only after obtaining the Gram Sabha's resolution in this regard.
  - iv) If no claims or objections are preferred within one month of the pasting of the proclamation at the Collector's office, or in the event of any claim or objection being preferred, then the Sub Divisional Collector shall assess the report of the Tehsildar and if satisfied that there are no valid objections from local residents/right holders, shall issue the No Objection Certificate for the proposed land.

3) On receipt of the application, complete in all respect under sub-rule (1), the District Collector shall examine the same and if he is of the opinion that the application should be accepted, he shall recommend the same to the Divisional Commissioner, concerned within a period of 30 days

from the date of receipt. The District Collector shall ensure that all relevant information and documents, specified in Form A, are available and in order before making recommendation. If documents are not in order, he shall return the application to the person concerned with a specific order:

Provided that while making such recommendations for granting lease out of the land vested with the State Government under the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974), he shall keep in mind that while that the land in reserve pool must remain to the extent of at least 50% of the land vested in the State Government. Further, sufficient land should also remain in the allotable pool for allotment to the landless and eligible persons. This fact shall be mentioned by the Collector in his report.

Provided that if there is/are any objection(s) or shortcoming(s) in the application, the Collector shall convey such objection(s) or shortcoming(s) at one time only, to avoid unnecessary delay.

4) On receipt of the recommendations made by the Collector under sub rule 3) of this rule, the Divisional Commissioner, concerned shall consider the application and recommend the same for consideration of the State Government within a period of 20 days:

Provided that if there is/are any objection(s) or shortcoming(s) in the application, the Divisional Commissioner shall convey such objection(s) or shortcoming(s) at one time only, to the Collector concerned to avoid unnecessary delay.

**12. Orders on Recommendations of Divisional Commissioner.**- (1) On receipt of the recommendations made by the Divisional Commissioner under sub-rule (4) of rule 11, the State Government subject to the provisions of these rules, pass an order, in respect of sanctioning of the lease or the refusal, and, in the event of sanctioning the lease, in respect of the area, term, assessment and other conditions of the lease, as it shall think fit within a period of 30 days:

(2) The applicant shall be informed of every order passed by the State Government under sub-rule (1) of this rule.

Provided that in case the grant of lease is approved in favour of a non-agriculturist, a specific reference regarding permission under Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, shall be made in the sanction letter.

**13. Execution of lease deed and giving of possession.**-When a lease has been sanctioned by the competent authority, the Collector shall execute and cause to be executed a lease in Form-B within a period of six months from the sanction of lease by the Competent authority. Possession of the land shall not be given to the applicant until the lease has been registered.

**14. Rates and Cesses.**- A lessee, shall, in every case, covenant with Government to pay all rates and cesses chargeable on the lands.

**Explanation :-** The expressions 'rates' and 'cesses' in this rule shall have the same meanings as assigned to them in the Himachal Pradesh Land Revenue Act, 1954.

**15. Failure to take possession.** - If within six months of the execution of the lease having been communicated to the applicant, he fails to take possession of the land, or if at any time he fails

to comply with any of the conditions of the lease, the Collector may cancel the lease and shall report the fact to the competent authority.

**16. Reservation of certain rights of Government and settlement of disputes.** -1) There shall be reserved in every lease the right of Government over all rivers and streams, and the right of the public to use existing thoroughfares traversing the grant. These shall also be reserved in every lease, all mines, minerals, coals, gold-washings, earth-oil and quarries in or under the land leased, together with the right of entering of the said land and doing all acts and things that may be necessary or expedient for the purpose of searching for, working, getting or carrying away any such mines, minerals, coals, gold-washings and quarries.

2) The Government on its part shall, in every case, covenant with the lessee to make reasonable compensation to him for all damage occasioned by the exercise of the said rights.

3) The lessee on his part shall covenant with Government that, in case of a dispute arising between the lessee and Government as to the property and rights hereby reserved, or any matter incidental or in any way relating thereto, or as to any compensation as aforesaid, the decision thereon, in each case, of the Collector shall be considered final and binding on both parties.

**17. Non-utilization of land leased or breach of conditions of lease.**- 1) The lessee shall utilize the land leased to him for the purpose for which it is leased within a period of three years to be counted from the day on which the lease deed of land is registered. The State Government may extend the aforesaid period, for further such period as it may deem fit, for the reasons to be recorded in writing. However, the applicant shall have to apply through the Collector concerned for such extension at least three months before the expiry of such period. If the land leased is not used by him at any time for the purpose for which it has been leased out, the lease shall be terminated by the competent authority free from all encumbrances and the Government shall reenter the demised premises and the lease money, if paid to the Government shall be forfeited and no person shall be entitled to any compensation for any improvement made and for any building or structures constructed thereon.

(2) After the project is commissioned, the leased land rendered surplus shall immediately vest in the State Government.

(3) If the lessee commits any breach of any of the conditions of the lease deed at any time, his lease shall be terminated by the competent authority.

**18. Procedure on expiry of lease.** - Where government has not exercised its right of cancellation/termination of lease;

- (a) the Lessee may apply to the Collector for extension of lease period/renewal of lease specifying period of extension/ renewal three months before the date of expiry of lease term. The Collector on the receipt of such application shall cause to be issued through the concerned Sub Divisional Officer (Civil) proclamation required under rule 11 of these rules stating therein that the lessee has applied for the extension of the lease period. The Sub Divisional Officer (c) shall hear and decide the objections and issue no Objection certificate.
- (b) The Collector shall after issue of No Objection Certificate by the Sub Divisional - Officer (Civil) and Essentiality Certificate of the concerned Department send the

case to the competent authority through Divisional Commissioner concerned with his recommendations:

Provided that the conditions of No Objection Certificate from Sub Divisional Officer (Civil) and Essentiality Certificate shall not apply where the lease has been granted for self employment, construction of residential house and agriculture purposes.

- (c) The leases granted prior to implementation of the Himachal Pradesh Lease Rules 1993 shall also be renewed under these rules in the above manner.

<sup>1</sup>18-A **Penalty.**-The lessee shall be liable to pay additional amount as penalty for non execution of lease deed or non-payment of lease amount or non-renewal of lease within the stipulated period @ 10% of the existing lease rent/ amount and also in the event of non-compliance of the terms and conditions of lease deed or contravention of the provisions of Himachal Pradesh Lease Rules, 2013".

19. **Review.**- 1) The orders passed by the Collector, Divisional Commissioner, and the State Government shall be subject to review by the State Government which may pass such orders on it as it may deem fit :

Provided that such an order shall not be modified or reversed unless reasonable opportunity has been given to the party(ies) affected thereby, of being heard either in person or through his/their legal representative in support of his/ their claim.

2) An application for review shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the sanctioning authority that he had sufficient cause for not making the application within that period.

20. **Revision.**- The State Government may at any time call for the records of any case disposed of by the Collector or the Divisional Commissioner, as the case may be, and pass such orders as it may deem fit:

Provided that such an order shall not be modified or reversed unless reasonable opportunity has been given to the party(ies) affected thereby, to appear and be heard either in person or through his/their legal representative(s) in support of his/their claim (s).

21. **Repeal and Savings.**-1) The Himachal Pradesh Lease Rules, 2011 notified vide Government notification No. Rev D(G)9-4/2008 dated 23<sup>rd</sup> September, 2011 and published in the Official Gazette (e-Gazette), Himachal Pradesh on 26<sup>th</sup> September, 2011 and the Himachal Pradesh Lease (Amendment) Rules, 2012 notified vide notification number Rev. D(G)9-4/2008 dated 21<sup>st</sup> March, 2012 published in the Official Gazette (e-Gazette), Himachal Pradesh on 23<sup>rd</sup> March, 2012, are hereby repealed.

2) Notwithstanding such repeal, anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.

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<sup>1</sup> Added vide H.P. Lease amendment Rules, 2016

**APPENDIX  
PART-I OF FORM-A**

(See rule 11)

**APPLICATION FOR LEASE OF LAND IN HIMACHAL PRADESH**

1. Name of applicant ..... son of ..... resident of .....  
Tehsil ..... District ..... State .....
2. Object for which lease of land is required.
3. Particulars of land proposed for lease :
  - i. District.
  - ii. Tehsil.
  - iii. No. of estate (hadbast) with name of Estate.
  - iv. Khasra Nos. with areas and classification.

**Solemnly affirm and declare :-**

(i) That whatever has been stated above, is true to the best of my knowledge and belief and that nothing has been concealed or suppressed there from.

I hereby promise and undertake that if any grant of land on lease is made in my favour I shall abide by the terms and conditions of such grant.

Dated.....

**Signature of applicant**

**PART-II OF FORM A.**

**(DOCUMENTS TO BE ENCLOSED WITH THE APPLICATION FOR LEASE)**

(see Rule 11)

1. Latest jamabandi,
2. Tatima,
3. Value of the proposed land calculated on the basis of current circle rates notified by the Collector of the district (to be calculated by Patwari concerned and countersigned by the Kanungo),
4. Essentiality Certificates in Form-C from concerned department and
5. Certificate of No Objection of local residents/shareholders from the Sub Divisional Collector in Form D.
6. No Objection Certificates from:-
  - (i) Public Works Department;
  - (ii) Irrigation and Public Health;
  - (iii) Local bodies;
  - (iv) National Highways Authority;
  - (v) Town and Country Planning;
  - (vi) Forest departments
  - (vii) Pollution Control Board;
  - (viii) Himachal Pradesh State Electricity Board;
  - (ix) Any other department if necessary.

These no objection certificates shall be obtained depending upon location and classification of land.

**FORM-B**  
**(See rule 13)**

A lease made by the Governor of Himachal Pradesh (hereinafter called Government) of the one part to ..... and ..... Son/daughter of ..... resident of Village ..... Tehsil ..... District ..... of the ..... State (hereinafter called the lessee) of the other part.

In pursuance of the orders contained in letter No ..... dated the ..... from the ..... to the .....

Whereas the lessee has paid to Government the sum of ..... rupees, being the first installment of the rent hereinafter reserved, and

**Terms of the Lease :**

1. Government hereby demises to the lessee all that plot of land, containing ... bighas more or less, more particularly described in the schedule hereto and delineated and colored ..... in the plan here into annexed, subject to the exceptions and reservations and on the terms and conditions hereinafter appearing.

2. (a) The land is leased for purposes of ..... only.

(b) The lessee may take to himself all natural produce growing on the surface of the land, excluding trees and brushwood, subject to the payments and conditions hereinafter mentioned.

(c) The lessee may construct such water-courses, temporary buildings or similar improvements as may be necessary for the purpose of cultivating being the land as herein provided, subject to the conditions hereinafter provided, and to the condition that no claim shall be made against the Government for improvements of any kind, except as hereinafter specifically provided.

3. The period of the lease shall be for ..... years, and shall be deemed to have commenced with effect from the ..... the day of .....

4. (a) The lessee shall pay a yearly rent of ..... rupees in two equal half yearly installments of ..... rupees each or one installment yearly of ..... rupees.

(b) The amount shall be paid into the nearest Treasury.

(c) The lessee shall further pay all other rates, cesses, taxes, charges and other outgoings which are or may become payable by the owner of the land or the occupier thereof.

**Exceptions and reservations on behalf of Government:**

5. Government does not demise but accepts and reserves to itself all mines, minerals and quarries of whatsoever nature existing on, over or below the surface of the land with liberty to search for, work and remove the same, in as full and ample manner as if this lease had not been made.

6. Government does not demise but accepts and reserves to itself all rivers and streams, with their beds and banks, all water courses and drainage channels and all public thoroughfare now existing on the land or shown as proposed for construction in the plan annexed.

7. Government reserves the right to create a public right of way not exceeding in three meters in the width across the land whenever this may be considered desirable in the public interest by the Collector, without paying any compensation.

8. For the full discovery, enjoyment and use of the rights hereby reserved, or for the protection and maintenance of any property hereby excluded, it shall be lawful for Government through its authorized agents or for any officer of the Government to enter upon the land and make such use thereof as may be necessary for these purposes without making any compensation to the lessee for such use of occupation except as may be provided hereunder.

**Obligations of the lessee.**

9. The lessee hereby covenants with Government as follows :-

(a) To pay to or on behalf of Government the rent and any other payments which may become due under this lease at the proper time and place and in such manner as may be prescribed by law or by the order of any competent authority.

(b) To use the whole or any part of the land for the purpose for which it was granted and not to use it in any way likely to lessen its value or violation of land use as prescribed by the Town and Country Planning Department in TCP area. All construction on/use of the land will be in compliance of all applicable Laws, Rules, Statutes and other legal provisions enacted by the State or Central Government.

(c) At his own cost, when so required by the Collector, to erect permanent marks on the land hereby leased, demarcating correctly the boundaries and limits thereof, and at all times to maintain the same in good repair in accordance with any directions from time to time issued in that behalf by the Collector.

(d) To permit without let or hindrance all officers or servants of the Government or other persons duly authorized by Government in this behalf to enter the land at all times and do all acts and things necessary for or incidental to :-

(i) the purpose enforcing compliance with any of the terms of this lease, or of ascertaining whether these have been duly performed or observed; or

(ii) any purpose connected with the full enjoyment, discovery and use of the mineral or other rights hereinafter reserved to Government, without claim to compensation whether by reduction of rent or otherwise except as hereinafter specifically provided.

(e) Not to interfere with the lawful use by the public of any thoroughfare on the land or with the exercise by any third person of any existing rights and easements now existing thereon or which the tenant thereon is bound by the terms of this lease to create or allow.

(f) If the land or any portion thereof is required for any public purpose, to surrender the whole or so much of the land as may be required on demand by the Collector, without claiming compensation except as provided hereunder, and subject only to a proportionate remission of rent.

(g) To pay such amount towards the cost of the following works as the Collector acting under the general or special orders of Government may determine, whether the cost has already been incurred at the time of the grant or may be incurred thereafter-

- (a) the survey and demarcation of the land,
  - (b) the construction of any water -course on the estate in which the land is situated, and from which a supply of water is available for the land.
  - (c) the construction of any roads, paths, culverts or bridges necessary for the general convenience of the State in which the land is situated; and
  - (d) the maintenance and repair of any such roads, paths, culverts or bridges.
- (h) At the end or sooner termination of the lease to leave the land and surrender it peacefully to the Collector.

**10. In any of the following events.-**

- (a) if the lessee commits any breach or fails to perform any of the terms and conditions of this lease, or suffers or permits such breach or non-performance,
- (b) if the lessee is declared insolvent, or (c) if the lease is attached, Government may at any time thereafter re-enter upon the land and determine this demise, in which case the lessee, shall make all the payments due under these presents for the current season, provided that such termination of the lease shall not prejudice any right of action or remedy of Government in respect of any antecedent breach of this agreement by the lessee:

Provided further that before termination of the lease, an opportunity of being heard shall be given to the lessee and any concerned Financial Institution shall also be informed about the same.

**11.** No compensation shall be payable by Government to the lessee in respect of the exercise of any of the rights reserved in this lease or on the termination of the lease, except as provided here under :-

- (a) for damage caused to the surface of the land or to anything attached thereto, or to any property of the lessee by the act or negligent omission of any person duly authorized to enter the land in exercise of the minerals rights reserved to Government such compensation as may be assessed by the Collector;
- (b) for damage to standing crops caused in exercise of the right to construct or alter water courses, such compensation as may be assessed by the officer under whose orders such action is taken;
- (c) for any improvements existing on the land on the termination of the lease otherwise than through any default of the lessee such compensation as may be assessed by the Collector in accordance with the provisions of the Himachal Pradesh Tenancy Act, 1972 for the payment of compensation for improvements effected by occupancy lessee:

Provided that any compensation payable by Government to the lessee or any sum or sums otherwise due to Government from the lessee may either be deducted from or set off against any such compensation or may be recovered otherwise as and at such time as Government may deem fit.

**12.** The lessee shall purchase the stamp and within four months from the date of execution, shall present this instrument for registration at his own cost failing which, without prejudice to Government rights otherwise, such failure shall be regarded as a breach of the conditions thereof



and the Collector shall be entitled to rescind and cancel the same without any compensation whatsoever.

**13.** If any question, doubt or objection shall arise in any way connected with or arising out of these presents, or the meanings or operation of any part, thereof, or amount of compensation payable, or the rights, duties or obligations of either party then, save in so far as the decision of any such matter has been herein before, provided for and has been so decided every such matter shall be referred to the arbitration of the Commissioner.

**14. In these presents, unless context otherwise requires:-**

- (a) "the Collector" and the "Commissioner" means the Collector and the Commissioner for the time being of the District or Division in which the land is situated and include any other person duly authorized by general or special order to act on behalf of Government in this behalf;
- (b) "Government" includes the successors and assigns of Government;
- (c) "the land" means the land hereby demised, together with all rights appertaining thereto and not herein excepted;
- (d) "the lessee" includes the heirs, legal representatives and permitted assigns of the lessee and if the said term includes co-sharers, any liability imposed by this deed shall be the joint and several liability of each co-sharer;
- (e) "minerals" include all substances of a mineral nature which can be won from the earth such as coal, earth-oil, gold-washing, stones and forms of soil which can be used for a profitable purpose or removal. In witness whereof the parties have hereto set their hand on the dates hereinafter in each case specified.

**THE SCHEDULE ABOVE MENTIONED**

Description and boundaries of the land:

An area of ..... Hec ..... areas ..... cents. (equal to ..... Bigha) situated in mauza ..... Tehsil ..... District ..... the town shown in the revenue record.

Records of the local authority

No.....

And bounded as follows:-

On the North by:

On the East by:

On the South by:

On the West by:

**THE PLAN**

Signed for and on behalf of the Governor of the Himachal Pradesh by ..... officer of ..... acting under the orders of the Governor of the Himachal Pradesh in the presence of ..... (sd) (address) ..... (description) on the ..... day of ..... in the year two thousand ..... signed by the said ..... in the presence of ..... (address) ..... (description) on the ..... day of ..... in the year two thousand .....

- |    |                   |                   |
|----|-------------------|-------------------|
| 1. | Witness<br>(Sd/-) | Officer<br>(Sd/-) |
| 2. | Witness<br>(Sd/-) | Lessee<br>(Sd/-)  |

**FORM-C**  
(See rule 11)

**PROFORMA FOR ESSENTIALITY CERTIFICATE**

Government of Himachal Pradesh  
Department of .....

No..... Dated ..... Place.....

**ESSENTIALITY CERTIFICATE**

This is to certify that land measuring ..... (**units i.e. bighas/hects. etc.**) as detailed below situated in Mohal/Mauza..... tehsil ..... District .....is required by (complete name and address of applicant) ..... on lease for the purpose of ..... for a period of ..... years.

Location of proposed land	Khasra Nos.	Area

- i) This land is recommended for lease after ascertaining the eligibility of the applicant as per criteria laid down by the department.
- ii) This land is recommended for lease in favour of the applicant as the same is essentially required for the aforesaid activity. The aforesaid activity cannot be run in a lesser area.

Authority Concerned.

**FORM-D**  
(See rule 11)

**NO OBJECTION CERTIFICATE**

It is certified that the government land comprising of khasra numbers ..... Khata/khatauni no ..... Situated in mohal/mauza ..... Tehsil ..... District ..... is suitable for the purpose of ..... and there are no relevant objections from any quarter if the above land is given in lease in favour of ..... address ..... for purpose of ..... [(objection (if any) received in this regard have been disposed of with the attached speaking order)

It is also certified that no private landowner has agreed to make suitable land readily available for the purpose.

Sub Divisional Magistrate  
Sub Division.....  
District .....

By Order  
(Tarun Shridhar),  
Principal Secretary (Revenue)  
to the Government of H.P.

**Notifications, Instructions and Clarifications issued under Himachal Pradesh Lease Rules, 2013**

<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	The H.P. Govt. Department Notification No. Rev. D. (G) 6-69/2011-Part-III. Dated-Shimla-171002, 04.03.2014.	Notification	Applicability of Lease rules for lease of forest land.	562
2.	The H.P. Govt. Department Notification No. Rev-D (G) 10-6/2012 Dated Shimla – 171002, 07-11-2015	Notification	Applicability of Lease rules for lease of forest land.	563
3.	The H.P. Govt. Department Notification No. Rev-D(G)6-12/2016 Dated Shimla– 171002, 31.07.2023	Notification	Regarding amendment in Lease Rules, 2013	564
4.	The H.P. Govt. Letter No. Rev.D(G)6-2/2002 dated 30.11.2005	Instruction	Regarding Execution of Lease Deed by Power Projects.	566
5.	The H.P. Govt. Letter No. Rev.D(G)6-2/2004-VOL-VI-Loose dated 23.01.2007	Instruction	Regarding Execution of Lease Deed by Power Projects.	567
6.	The H.P. Govt. Letter No. Rev.D(G)6-4/2019 dated 05.07.2014	Instruction	Regarding Execution of Lease Deed by Hydro Projects.	569
7.	The H.P. Govt. Letter No. Rev.D(G)10-5/2013 dated 10.11.2014	Instruction/ Clarification	Regarding leasing out Govt. land to other Govt. Organizations autonomous body/statutory body.	571
8.	The H.P. Govt. Letter No. Rev.D(G)6-14/2013 dated 15.09.2015	Instruction	Regarding lease renewal.	572
9.	The H.P. Govt. Letter No. Rev.D(G)6-2/2022 dated 24.08.2023	Instruction/ Clarification	Regarding renewal of lease of Govt. land leased out to various lessee.	573

**Government of Himachal Pradesh  
Department of Revenue**

**No. Rev. D. (G) 6-69/2011-Part-III.      Dated-Shimla-171002,      04.03.2014.**

**NOTIFICATION**

The Governor of Himachal Pradesh is pleased to notify that the Government lands owned by the State Government outside the reserved and demarcated protected forests, other than that vested in the State Government under the provisions of Himachal Pradesh Ceiling on Land Holdings Act, 1972 and Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, may be allotted on lease to eligible persons under the provisions of Himachal Pradesh Lease Rules, 2013.

By Order

(Tarun Shridhar),  
Principal Secretary (Revenue)  
to the Government of H.P.

**Government of Himachal Pradesh  
Department of Revenue**

**No. Rev-D (G) 10-6/2012**

**Dated Shimla – 171002, 7-11-2015**

**NOTIFICATION**

In suppression of this Departments Notification No. Rev-D (G) 6-69/2011-Part-III dated 04-03-2014, the Governor of Himachal Pradesh is pleased to notify that the Government lands owned by the State Government including those vested in the State Government under the Provisions of Himachal Pradesh Ceiling on Land Holdings Act, 1972, Himachal Pradesh Village Common Lands Vesting & Utilization Act, 1974 and reserved and demarcated protected forest lands diverted by the Government of India or State Government under Forest Conservation Act, 1980 for specific purposes, shall be allotted on lease to eligible persons under the provisions of Himachal Pradesh Lease Rules, 2013.

This shall come into force w.e.f. 05-03-2014 from the date of publication of earlier Notification mentioned ibid.

By Order  
Tarun Shridhar  
Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev-D (G) 10-6/2012      Dated Shimla-2,      7-11-2015

1. All Administrative Secretaries to the Government of H.P.
2. All the Divisional Commissioners in H.P.
3. All the head of Departments in H.P.
4. All the Deputy Commissioners in H.P.
5. All the Sub-Divisional Officer (Civil) in H.P.
6. The A.L.R-cum-Under Secretary (Law) to the Govt. of H.P.
7. All Tehsildars/Naib-Tehsildars posted in Tehsils/Sub-Tehsils, in H.P.
8. Clerk of Court, F.C. (Appeal), Government of H.P. Shimla-2.
9. The Controller, Printing and Stationery, H.P. Government Press, Shimla-5 for publication in the H.P. Government Gazettee (Extraordinary). Five copies of the Gazettee may kindly be sent to this Department for record.

-sd-  
(Rakesh Mehta)  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

(Authoritative English Text of this Department's Notification No. Rev-D(G)6-12/2016, dated 31-07-2023 as required under clause (3) of Article 348 of the Constitution of India).

Government of Himachal Pradesh  
Department of Revenue

\*\*\*\*\*

No. Rev-D(G)6-12/2016

Dated Shimla-71002

31-07-2023

NOTIFICATION

Whereas, the draft Himachal Pradesh Lease (Amendment) Rules, 2023 were published in the Rajpatra (e-Gazette), Himachal Pradesh dated 26-04-2023 for inviting objections and suggestions from the general public vide this Department's notification of even number dated 25-04-2023 as required under sub-section (3) of section 13 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, (Act No. 18 of 1974) read with sub-section (2) of section 26 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973);

And whereas, the objection (s) and suggestions (s) so received in this behalf have been duly considered and rejected;

Now, therefore, in exercise of the powers conferred by section 13 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974) read with section 26 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973), the Governor of Himachal Pradesh is pleased to make the following rules further to amend the Himachal Pradesh lease rules, 2013 notified vide this Department's notification No. Rev-D(G)6-69/2011 Part-III, dated 04-03-2014 and published in Rajpatra, Himachal Pradesh dated 05-03-2014, namely:-

- |                                     |  |
|-------------------------------------|--|
| <b>Short title and commencement</b> | 1. (1) These rules may be called the Himachal Pradesh Lease (Amendment) Rules, 2023.<br>(2) These rules shall come into force from the date of publication in Rajpatra(e-Gazette), Himachal Pradesh.   |
| <b>Amendment of rule 7</b>          | 2. In rule 7 of the Himachal Pradesh Lease Rules, 2013, for the first proviso the following shall be substituted, namely:-<br><br>“Provided that the State Government shall not grant the lease of land in any case for a period exceeding 40 years.”: |

By Order,

Onkar Chand Sharma  
Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev-D(G)6-12/2016

Dated Shimla-2 the,

31-07-2023.

1. All the Administrative Secretary to the Government of Himachal Pradesh, Shimla-2.
2. The Principal Secretary to the Chief Minister, HP Shimla-2.
3. The LR-cum-Secretary(Law) to the Government of HP Shimla-2.
4. The Secretary to Governor, HP Shimla-2.
5. All the Head of Departments in H.P.
6. All the Divisional Commissioners in HP.
7. All the Deputy Commissioners in HP.
8. All the Sub-Divisional Officer (Civil) in HP.
9. All Tehsildars/Naib Tehsildars posted in Tehsils/Sub-Tehsils, in HP.
10. Clerk of Court to the F.C(Appeal), Govt. of HP. Shimla-2.
11. The Controller, Printing and Stationery, H.P. Government Press, Shimla-5 for publication in the HP Government Gazette (Extraordinary) Five copies of the gazette may kindly be sent to this Department for record.
12. Guard File.

-Sd-

(Balwan Chand)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.



No. Rev.D(G)6-2/2002/-III  
 Government of Himachal Pradesh  
 Department of Revenue.

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the  
 Government of Himachal Pradesh,  
 Shimla-171002.
2. Pr. Chief Conservator of Forests, H.P. Shimla-1.
3. All the Deputy Commissioners  
 in Himachal Pradesh.

Dated : Shimla-2 the 30<sup>th</sup> November, 2005.

Subject: Establishment of Power Projects in Himachal Pradesh-Diversion of land under FCA,  
 1980-Execution of Lease Deed irrespective of ownership.

Sir/Madam,

I am directed to refer to the subject cited above and to say that it has been come to the notice of the Government that in some of the power and other projects which are being executed in the State, the land is being handed over to the project authorities after getting clearance under the Forest Conservation Act, 1980 from the Government of India, Ministry of Environment. This run counter to the State Revenue Laws as State being the custodian of land which includes forest land. The title of land can only be changed/transferred through sale, gift or lease deeds. In view of this, it is, mandatory for the project authorities to get the land transferred in the name of the Company executing the project through a lease deed or other means of transfer from the State Government through Revenue Department after paying due consideration/ lease money failing which the land can be treated as encroached one as per the Revenue Laws.

You are, therefore, requested that before processing such cases and issuing final environmental clearance etc. it be ensured that the project authorities has completed this formality with the Revenue department.

Yours faithfully,

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated Shimla-171002, the 30<sup>th</sup> November, 2005

Copy to:-

1. All the Branch officers of Revenue Department, HP, Secretariat, Shimla-171002.
2. All the DAs of Revenue-D Section, HP, Secretariat, Shimla-171002.

-sd-

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh.

IMMEDIATE  
PERSONAL ATTENTION

No. Rev.D(G)6-2/2004-VOL-VI-Loose  
Government of Himachal Pradesh  
Department of Revenue.

From

Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the  
Government of Himachal Pradesh,  
Shimla-171002.
2. Pr. Chief Conservator of Forests, H.P. Shimla-1.
3. All the Deputy Commissioners  
in Himachal Pradesh.

Dated : Shimla-2 the 23<sup>rd</sup> January, 2007.

Subject: Establishment of Power Projects in Himachal Pradesh Diversion of land under FCA,  
1980-Execution of Lease Deed irrespective of ownership.

Sir/Madam,

In continuation of this Department letter of even number dated 30-11-2005 on the subject cited above and to say that the matter relating to the applicability of charging lease money from those Project Authorities who have got diversion of forest land under Forest (Conservation) Act, 1980 from the Govt. of India, Ministry of Environment & Forests, New Delhi for the establishment of Projects in the State prior to the instructions issued by this Department vide letter referred above was engaging the attention of the State Government, for some time past and it is clarified that the lease money shall be charged under the aforesaid instructions from the Project Authorities of the diverted Forest land from the date of possession of the land notwithstanding the fact whether the diversion of forest land has taken place/ CAT Plan/ Net Present Value money has been deposited with the concerned authority prior to the instructions dated 30-11-2005. You are, therefore, requested that Project Authorities may be asked to make the payment of lease money to the State Govt. in the Revenue Deptt. accordingly.

Yours faithfully,

-sd-

Deputy Secretary (Rev.) to the  
Govt. of Himachal Pradesh.

Endst. No. As above. Dated Shimla-171002, the 23<sup>rd</sup> January, 2007

Copy to:-

1. Pr. Secretary(Forests) to the Govt. of HP, Shimla-2 in continuation of this deptt. letter of even number dated 30.11.2005 and his letter No. FFE-B-F(2)-48/2004 dated 11-12-2006.

He is also requested that the implementation of the above instructions/decision be ensured by the field officers of the Forest Department accordingly under intimation to this deptt.

2. Additional Director, Govt. of India, Ministry of Environment & Forest, Northern Regional Office, Bays No. 24-25, Sector 31-A, Dakhin Marg Chandigarh-160030 w.r.t. letter No. F.No. 6-38/2000-RO(NZ)2525, dated 23.10.2006.
3. All the Branch officers of Revenue Department, HP, Secretariat, Shimla-171002.
4. All the DAs of Revenue-D Section, HP, Secretariat, Shimla-171002.
5. Guard File.

-sd-

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

संख्या:राजस्व-डी(जी)6-14/2013

हिमाचल प्रदेश सरकार

राजस्व विभाग-डी

प्रेषक

1. समस्त मण्डलायुक्त,  
हिमाचल प्रदेश।
2. समस्त उपायुक्त, हि0प्र0  
(विशेषकर जिला चम्बा, कांगड़ा, कुल्लू,  
किनौर, मण्डी, लाहौल स्पिति तथा शिमला)।

दिनांक शिमला -2, 05.07.2014

विषय: हिमाचल प्रदेश में विभिन्न निजी पन बिजली परियोजनाओं से सम्बन्धित कम्पनियों द्वारा सरकारी वन भूमि पर निर्मित/निर्माणाधीन जल विद्युत परियोजनाओं के पक्ष में भूमि की लीज (पट्टा) स्वीकृत करने बारे।

महोदय,

उपरोक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि प्रदेश सरकार ने दिनांक 25.06.2014 को हुई मन्त्रिमण्डल की बैठक में यह निर्णय लिया है कि प्रदेश में विभिन्न पन बिजली परियोजना कम्पनियों द्वारा ऐसी समस्त निर्मित/निर्माणाधीन जल विद्युत परियोजनाओं जिनके लिए भारत सरकार, वन पर्यावरण मन्त्रालय एवं प्रदेश वन विभाग द्वारा दिनांक 31-12-2012 से पूर्व सरकारी वन भूमि उपयोग की तबदीली (Diversion) बारे मंजूरी दी गई है तथा जिनके मामले सम्बन्धित कम्पनी द्वारा आवेदन करने उपरान्त लीज स्वीकृति हेतु सरकार एवं सम्बन्धित उपायुक्तों या किसी भी स्तर पर लम्बित हैं, के पक्ष में एक विशेष मामले के तौर समरूप निर्णय (uniform decision) लेकर एकमुश्त निपटान (one time settlement) के तहत सम्बन्धित उपायुक्तों को लीज स्वीकृति हेतु प्राधिकृत करते हुए प्रस्तावित वन भूमि हेतु एनपीवी एवं अन्य प्रभारों की धनराशि जमा करने उपरान्त भारत सरकार द्वारा सरकारी वन भूमि उपयोग की तबदीली (Diversion) की स्वीकृति व सरकारी भूमि पर सम्बन्धित कम्पनी द्वारा कब्जा/निर्माण कार्य शुरू करने की तिथि से उस समय विद्यमान हि0प्र0 लीज नियमों के प्रावधानों अनुसार लीज राशि का निर्धारण व लीज डीड निष्पादित करके तथा बकाया लीज राशि की बसूली 3 महीने की अवधि के भीतर सुनिश्चित करते हुए वन भूमि की लीज (पट्टा) की स्वीकृति 40 वर्षों की अवधि हेतु निम्नलिखित शर्तों पर प्रदान कर दी जाये:-

1. भूमि का उपयोग उसी उद्देश्य हेतु किया जाएगा जिसके लिए स्वीकृत की गई है।
2. भूमि की लीज, स्वीकृति दिये जाने की तिथि के समय विद्यमान हि0प्र0 पट्टा (लीज) नियमों तथा उसमें समय-समय पर किये गये संशोधनों/बदलावों के प्रावधानों के अनुसार निष्पादित होगी।
3. सम्बन्धित पक्षों के मध्य लीज डीड विद्यमान हि0प्र0 पट्टा नियमों के साथ सम्बद्ध फार्म-बी या सी अनुसार निष्पादित की जाएगी जिसमें सभी निबन्धन एवं शर्तें सम्मिलित की जाएगी तथा इस प्रकार निष्पादित लीज डीड की एक प्रति सरकार को अभिलेख हेतु प्रेषित की जाएगी।

अतः सम्बन्धित उपायुक्तों से निवेदन है कि वे ऐसी समस्त जल विद्युत परियोजनाओं जिनके लिए भारत सरकार, वन एवं पर्यावरण मन्त्रालय एवं प्रदेश वन विभाग द्वारा दिनांक 31-12-2012 से पूर्व सरकारी वन भूमि उपयोग की तबदीली (Diversion) की स्वीकृति दी गई है व लीज नियमों के तहत सभी औपचारिकताएं पूर्ण हैं, से सम्बन्धित सरकारी वन भूमि की लीज स्वीकृति हेतु सम्बन्धित कम्पनी के पक्ष में एक स्पष्ट आदेश (self speaking order) पारित करें तथा 3 महीने की अवधि के भीतर विद्यमान लीज नियमों के प्रावधानों अनुसार लीज राशि का निर्धारण व लीज डीड निष्पादित करके, बकाया लीज राशि की बसूली सुनिश्चित करें अन्यथा सम्बन्धित उपायुक्त एवं कर्मचारी निर्धारित समयावधि के भीतर ऐसे मामलों का निपटारा

न करने हेतू विभागीय कार्यवाही तथा सम्बन्धित कम्पनी 18 प्रतिशत वार्षिक दर से वसूली योग्य धनराशि पर अतिरिक्त पैनल्टी देने हेतू उत्तरदायी होंगे/होंगी। लम्बित लीज मामलों से सम्बन्धित कम्पनियों का विवरण/सूचना संलग्न है। इसके अतिरिक्त इस विभाग में प्राप्त लीज स्वीकृति सम्बन्धी राजस्व व अन्य दस्तावेज आपको मूलरूप में अलग से लौटाये जा रहे हैं। इस सूचि के अतिरिक्त यदि इस प्रकार के कोई अन्य मामले हैं, तो उन्हें भी इन्हीं दिशा-निर्देशों अनुसार निपटाया जाए। यहां यह भी स्पष्ट किया जाता है कि जो मामले इस नीति/निर्णय के तहत कवर नहीं होते, व सामान्य प्रक्रिया के तहत हि0प्र0 पट्टा नियम, 2013 के प्रावधानों अनुसार छानवीन करके समस्त वांछित दस्तावेजों सहित सरकार की स्वीकृति हेतु अलग से शीघ्र प्रेषित किये जायें, ताकि भविष्य में ऐसे मामलों में पहले की भान्ति अकारण विलम्ब न हों। सम्बन्धित उपायुक्त यह भी सुनिश्चित करें कि भविष्य में बिना सरकार की अनुमति/स्वीकृति से कोई भी कम्पनी सरकारी भूमि का अतिक्रमण न करें तथा ऐसी किसी भी अवहेलना की सूरत में वे दण्डात्मक कार्यवाही हेतु उत्तरदायी होंगी।

इस विषय को उच्चतम प्राथमिकता दी जाए।

—हस०—

(तरुण श्रीधर)

प्रधान सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

फोन न०: 0177-2622382

पृष्ठांकन सं०: उपरोक्त।

दिनांक 5-07-2014

प्रतिलिपि सूचनार्थ प्रेषित है:—

1. प्रधान सचिव (वन)/(विद्युत), हि0प्र0 शिमला-2।
2. निदेशक, ऊर्जा हिमाचल प्रदेश शिमला-2।
3. सम्बन्धित निजी पावर जनरेशन कम्पनियों को संलग्न सूची अनुसार।

—हस०—

प्रधान सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

No. Rev.D(G)10-5/13  
Government of Himachal Pradesh  
Department of Revenue-D Section.

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the  
Government of Himachal Pradesh,  
Shimla-171002.
2. All the Divisional Commissioners/ Deputy Commissioners  
in Himachal Pradesh.

Dated : Shimla-2 the 10-11-2014

Subject: Instruction/Clarification on leasing out Government land to other Government organizations autonomous body/statutory body.

Sir/Madam,

I am directed to refer to the subject cited above and to say that the leasing on the Government land to other Government organizations/ autonomous/ statutory body under the control of State/Central Government, the formalities as envisaged under Lease Rules, 2013, are to be completed before finalization. However, in such cases the spirit of Lease Rules, 2013, is required to be understood. The forms given in Annexures are relevant only when the Government land is being given on lease basis to a non-Government entity/ person. If Government is giving its land on lease to another Government, procedure relating to filling of such forms seems superfluous and serve no purpose. Therefore, these formalities are dispensed with for lease transactions between Government entities (both State and Central Government). However, the provision of the Lease Rules so far as the purposed eligibility, lease money utilization etc. of the lease is concerned, the same has to be kept in view and all leases should be granted after only due sanction of the competent authority in the State Government and the lease should not be detrimental of Government interest in an case.

You are, therefore, requested to take further necessary action accordingly.

Yours faithfully,

-sd-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Phone No. 0177-2621895

संख्या:राजस्व-डी(जी)6-14 / 2013  
हिमाचल प्रदेश सरकार  
राजस्व डी शाखा

प्रेषक

1. समस्त मण्डलायुक्त,  
हिमाचल प्रदेश।
2. समस्त उपायुक्त,  
हिमाचल प्रदेश।

दिनांक शिमला -2, 15-9-2015

विषय: सरकारी भूमि की लीज स्वीकृति एवं पट्टा नवीनीकरण बारे निर्देश।

महोदय,

उपरोक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि सरकारी भूमि के पट्टा स्वीकृति एवं नवीनीकरण के मामलों में अक्सर पाया गया है कि लीज पर दी गई भूमि की पट्टा अवधि बढ़ाये जाने एवं नवीनीकरण के मामलों में सम्बन्धित पट्टाधारक एवं समाहर्ता द्वारा नियमानुसार समय पर कोई कार्यवाही नहीं की जा रही है जिस कारण सरकार को भारी राजस्व की हानि हो रही है। ऐसा प्रतीत होता है कि सरकार के निर्देशानुसार न तो सम्बन्धित समाहर्ता एवं उपायुक्त स्तर पर अभी तक कोई लीज रजिस्टर या onlineरिकार्ड अपडेट किया गया है और न ही लीज अवधि एवं राशि के नवीनीकरण के मामलों नियमानुसार निर्धारित अवधि के भीतर सम्बन्धित समाहर्ता एवं पट्टाधारक द्वारा (process) निपटाये जा रहे हैं जिस कारण बहुमूल्य सरकारी भूमि का अनुपयोग हो रहा है, जोकि अत्यन्त चिंताजनक है।

अतः आपसे निवेदन है कि जिला से सम्बन्धित सभी लीज मामलों को अविलम्ब छानवीन करवाकर ऐसे सभी मामलों में एक निश्चित अवधि के भीतर अलग लीज रजिस्टर लगवा कर एवं आनलाईन रिकार्ड अपडेशन करके जिन मामलों में पट्टा अवधि समाप्त हो चुकी है, गुण-दोष एवं अनिवार्यता को ध्यान में रखते हुए नियमानुसार पट्टा अवधि बढ़ाने या निरस्त करके सरकार में निहित करने की कार्यवाही अमल में लाई जाए।

इन निर्देशों की भविष्य में अक्षरशः अनुपालना सुनिश्चित की जाये।

भवदीय,

-हस0-

(राकेश मैहता)

उप सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

फोन न0: 0177-2621895

**Through FAX/Immediate  
Time Bound**

From No. Rev. D (G) 6-2/2022  
Government of Himachal Pradesh  
Department of Revenue

To The Principal Secretary(Revenue) to the  
Government of Himachal Pradesh.

All Deputy Commissioners in  
Himachal Pradesh.

Dated Shimla-171002, the 24-08-2023

Subject:- **Regarding supply of the information/proposal with regard to renewal of lease of Govt. land leased out to various lessee.**

Sir,

I am directed to invite attention to this department letter of even number dated 06-03-2023 on the subject cited above and to say that it has been decided that where the government land has been granted on lease basis and initial period of lease and concerned lessee has passed away, but nobody applied for renewal of lease within stipulated period as per provisions of lease Rules, in such cases the District Collector may cancel the lease and vest the leased land in government immediately as per provisions of rules accordingly.

You are, therefore, requested to take necessary action in the matter accordingly under intimation to this department.

**This may be treated as most urgent and given you personal attention.**

Yours faithfully,

-sd-

(Balwan Chand)

Joint Secretary(Revenue) to the  
Government of Himachal Pradesh.

Endst. As above. dated Shimla 171002 the 24-08-2023

Copy forwarded to the Divisional Commissioners, Kangra, Shimla and Mandi, Himachal Pradesh for information and necessary action.

-sd-

Joint Secretary(Revenue) to the  
Government of Himachal Pradesh.



**MINISTRY OF HOME AFFAIRS**  
**(FFR DIVISION)**

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**Subject: - The Tibetan Rehabilitation Policy, 2014.**

After the occupation of Tibet by China, many Tibetans, under the leadership of His Holiness the Dalai Lama, came to India along with their families and have been living in India since the past 50 years. The issues relating to Tibetan Refugees are coordinated by His Holiness the Dalai Lama's central Tibetan Relief Committee (CTRC) located at Dharamshala. The Government of India consults CTRC on a regular basis to find out about the issues relating to Tibetan Refugees and the problems that they are confronted with. The Tibetan Refugees are approximately numbering 1,10,095 as per the 2009 figure. These Tibetan Refugees are located in 45 number of settlements spread out mainly in 10 States of India. Many Tibetans are also living outside these settlements.

2. The Government of India has been having a series of discussions with the representatives of the CTRC to address the problems of the Tibetan Refugees. It was found that the level of assistance/facilities extended by the various State Governments are not uniform. Therefore, it was thought appropriate to provide a uniform Guideline clearly/demarcating the facilities to be extended to the Tibetan Refugees living within the jurisdiction of each State Government.

3. As such, after due consultations with the concerned State Governments and the inter-Ministerial consultations at the Government of India level, the following Guidelines are laid down in order to bring a uniformity across all the States and to improve the general satisfaction level of the Tibetan Refugees.

4. **Lease Agreement:-**

It was felt that some State Governments are not signing any lease agreement or giving any legal document to the Tibetans making it difficult for them to access various facilities associated with such documentations. Some other State Governments, who are signing the Lease Agreement, are signing in different formats and for different durations. Therefore, the Government of India found it necessary to streamline the process of giving the land documents to the Tibetan Refugees. In this connection, the following is hereby laid down:-

- (a) All State Governments must necessarily sign a lease document for the land occupied by the Tibetan Refugees as per the Standard Lease Document annexed here to as Annexure-A. The State Governments may make such changes in the Standard Lease Document as per their Revenue Laws.
- (b) The Lease Document should not be signed with individual Tibetans but with the duly authorized representative of the CTRC. From the State Government's side, the local District Magistrate may sign the lease deed.
- (c) The CTRC should be allowed to decide which portion of the land can be used for residential, agricultural, commercial, religious activity or any such activity so that the Tibetan families can follow their culture and religion unhindered and yet are able to make an economic living out of the land.

- (d) The lease should be signed for a period of 20 years or till it is revoked/cancelled (by an order of the Government of India or till the rehabilitation facilities provided to Tibetan Refugees are cancelled or withdrawn by the Government of India) whichever is earlier.
- (e) A Rent Tenancy Certificate must be issued by the concerned State Governments as per the applicable law and the State Government shall collect the dues, Revenue, Fees from the Local Settlement Officer/Welfare officer of the Tibetan Settlement. The Rent Tenancy Certificate should clearly mention the following:-
- Owner – Government
  - Lessee – CTRC
  - Cultivated by – ( Name of Tibetan Refugee who is cultivating the land)
- (f) The land under occupation by the Tibetan Refugee should not be disturbed. However, in case of any court order by which they need to be dispossessed, then the State Government should relocate them by giving them a fresh piece of land of equal or larger size.
- (g) Proper demarcation, preferably with boundary fencing etc., of land allotted for Tibetan Refugee (TR) use, should be ensured by the District Administration to avoid confrontation/dispute between locals and TRs.
- (h) The Settlement/Welfare Officers of the Tibetan Settlements shall maintain a register and update the same annually, giving the details of individual/family members of the Settlements to the Local District Magistrate. The local District Magistrate shall be competent to inspect the register and ensure that it is annually updated.
- (i) The State Government may consider allotting extra land depending upon the need and the population increase of the Tibetan Refugees.

##### **5. Extending the benefit of the Central Government Schemes:-**

It has been observed that there is no uniformity in extension of benefits of Central/State Developmental Schemes to the Tibetan Refugees. The Government of India categorically wishes to clarify that the Tibetan Refugees may be extended the benefits of various **development schemes of the Government of India.**

More particularly, the benefits of the following Schemes may be extended to the Tibetan Refugees:-

- (a) Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS):- The Scheme is a demand based scheme and is open to all the Tibetan refugees. Efforts may be initiated to sensitize such refugee habitations in different States and prepare locally appropriate plans.
- (b) Public Distribution System:- The Tibetans in India are considered Refugees and they are staying temporarily in India on humanitarian considerations. For relief and rehabilitation of these Refugees, the Govt. of India has provided land and other facilities with the objective of providing them with means of their survival. Although the National Food Security Act (NFSA) 2013 or the existing Targeted Public Distribution System (TPDS) are applicable to Indian citizens only, the State Government may consider extending the benefits of TPDS

and NFSA to the Tibetan Refugee families as a welfare measure on humanitarian basis, subject to the availability of food grains.

- (c) Indira Awas Yojana (IAY):- This Scheme can be extended to Tibetan Refugees also.
- (d) National Rural Livelihood Mission (NRLM):- Those identified through a participatory process are brought into the Self Help Group (SHG) network through women. Special efforts can be made in the Tibetan Refugee areas to organize the women and promote livelihood activities as appropriate to them.
- (e) Rajiv Awas Yojna (RAY).
- (f) National Rural Health Mission (NRHM).
- (g) Extension of loan facilities by the Nationalized Banks.

*The above is just an illustration. Any developmental scheme in the social sector, whether of the Central Government or of the State Government, should be considered for extending it to all the Tibetan Refugees on the basis of the Registration Certificate (RC) held by them.*

#### **6. Extension of other benefits by the State Governments:-**

The State Governments are requested to extend all the benefits of the Government of India Schemes as well as their own Schemes.

The State Governments may particularly undertake the following:-

- (a) The State Governments may extend all the infrastructural facilities and basic amenities like Roads, Electrification, Drinking Water Schemes in or around the Tibetan Settlements. Special projects may be taken specific to these area.
- (b) The State Government should also consider extending educational subsidies for education of Tibetans children in schools and Universities.
- (c) Special Subsidy may be extended for education of Tibetan students, who are pursuing professional courses like Engineering, Medicine etc.
- (d) Special programmes may be undertaken to provide skill upgradation and training to develop local talent among the Tibetan population and encourage their own local handicrafts and such other skills.
- (e) Special permission may be given and separate land be allocated to the Tibetan Refugees to run Tibetan Bazaars where they can trade in Tibetan artefacts, handlooms and handicrafts.
- (f) The local Tibetan Cooperative Societies, wherever they are existing, may be duly registered by the State Government and be extended all the benefits. The State Government can extend a financial Grant-in-Aid to the Tibetan Cooperative Societies and make them self-sustainable.
- (g) The Tibetans may be allowed to undertake such economic activity as they may desire and to that extent such relevant papers/trade licenses/trade permission may be issued to them on the basis of the Registration Certificate (RC) held by them.

- (h) The State Governments may issue necessary directives to the District authorities/Municipal Authorities to issue such certificates that may enable the Tibetan Refugees to undertake educational/employment/commercial activities. These may, inter alia, include issuance of Domicile Certificates, Shop licenses, driving licenses, business permits, other permits etc. on the basis of their Registration Certificates (RCs).
- (i) The State Governments may also provide ration facilities through PDS channels on the basis of their Registration Certificates (RCs). The Tibetans in India are considered Refugees and they are staying temporarily in India on humanitarian considerations. For relief and rehabilitation of these Refugees, the Govt. of India has provided land and other facilities with the objective of providing them with the means of their survival. Although the National Food Security Act (NFSA) 2013 or the existing Targeted Public Distribution System (TPDS) are applicable to Indian citizens only, the State Governments may consider extending the benefits of TPDS and NFSA to the Tibetan Refugee families as a welfare measure on humanitarian basis, subject to the availability of food grains.
- (j) They may be extended bank loans from the local Cooperative Banks. They may also be provided with the facilities of Crop Loans and Crop Insurance.
- (k) They should be entitled for flood/famine relief as is extended to an Indian citizen.
- (l) Due efforts should be made by the State Government to provide employment to the Tibetan Refugees, who are eligible as per their qualifications, for various State Government jobs in the Health and Education fields.
- (m) Qualified professionals from amongst the Tibetan Refugees may also be permitted to pursue/take jobs in provide and non-government sector in any field for which they are professionally qualified. These could be fields like nursing, teaching, Chartered Accountancy, medicine, engineering and such other skill-based occupations.
- (n) Tibetan Monasteries, wherever existing, may be given such financial and infrastructural support as possible. Financial support may also be considered for the old age homes being run by the CTRC in their respective States.
- (o) Tibetan youth may be provided all such vocational training as extended to any Indian youth.

(All the above benefits / facilities should be extended to the Tibetan Refugees on the basis of their Registration Certificate (RC)).

#### **7. Census of Tibetan Population:-**

The CTRC should conduct a Census of the Tibetan Population every 5 years. Such census shall include counting the population living both inside and outside the settlements. The CTRC shall share the census figures with the Government of the India and the State Governments concerned.

- 8. This issues with the approval of the Competent Authority.

(Shyam Sunder)  
Deputy Secretary to the Government of India

**Annexure-A****STANDARD LEASE DOCUMENT**

This lease, made on this ..... day of ..... Two Thousand and ....., between the Governor of ..... (hereinafter called the Lessor) of the one part and His Holiness. The Dalai Lama's Central Tibetan Relief Committee (CTRC) at ....., the other part (hereinafter called "The Lessee" which expression shall, unless the context requires another different meaning, includes his heirs, executors, representatives and permitted assigns),;

Whereas the Lessor has agreed to transfer to the Lessee the land described in the schedule below on lease for 20 years, or till it is revoked / cancelled by an order of the Central Government / Lessor, upon the terms and conditions hereinafter appearing and contained.

Now this deed witnessed that in consideration of the rent hereinafter reserved and of the covenants by the Lessee hereinafter contained, the LESSOR doth demise unto the LESSEE all that piece of land described in the schedule hereunder for a term of 20 years subject to the following terms and conditions viz.,

1. The lease is liable to cancellation if it is found that it was grossly inequitable or was made under a mistake of fact or owing to misrepresentation or fraud or that there was an irregularity in the procedure. In the event of such cancellation of the lease the Lessee shall not be entitled to any compensation for any loss or damage.
2. The Lessee shall pay a sum of Rs. 100/- as security Deposit for the due fulfillment and observance by him of the conditions contained in the lease. The sum so deposited shall be liable to be forfeited by the Lessor in the event of failure by the lessee to fulfil any of the conditions of lease.
3. The Lessee shall, so long as the lease is in force, pay clear of all deductions, a sum of Rs. .... (to be decided by the Collector) per annum for credit to the general revenues of the State. The first of such payment should be made on the ..... day of ..... and the subsequent annual payments on the corresponding day of the succeeding years.
4. If the lessee falls to pay the Lessor any sums payable under the lease on the respective dates on which they are made payable, he shall pay interest at 12% per annum on such amounts from the dates on which they were so payable until the date of payment or recovery.
5. The lessee shall use the land for the purpose of agriculture/residential/commercial/religious activity, in keeping with the Tibetan culture, religion and livelihood.
6. The legally authorized resident shall not do any act which is destructive or permanently injurious to the land.
7. The land shall be in possession of the Lessee who in turn may decide the usage as per the Tibetan Rehabilitation Policy notified by the Government of India.

8. The Lessee shall not sub-let mortgage or otherwise transfer his leasehold right. The lessee may offer such leased lands as security for raising loans from cooperative society/Scheduled Bank for undertaking any agricultural/economic/ commercial or social/educational activity.
9. The lease shall be terminated when the rehabilitation facilities provided to the Tibetan Refugees are cancelled or withdrawn by the Government of India.
10. The land shall not be used for political meetings.
11. The lessee shall permit the Officers of the Lessor with or without workmen at all times to enter upon the lands aforesaid to view the conditions and state thereof.
12. The lessee shall not assign or sublet the benefits arising under this lease or any part thereof without the previous written permission of the Lessor.
13. (a) The Lessor reserves to themselves the right of all trees including sandalwood trees, their branches and roots which exist at the time of lease (which are described in the schedule attached) as well as those which may grow subsequently on the lands leased and the Lessor shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land in question and dispose them of at their leisure without any compensation/Bonus to the lessee. The Lessee shall not be entitled to cut and remove them without the previous written permission of the Lessor.  
  
(b) The lessee shall take all reasonable measures to the satisfaction of the Deputy Commissioner/ Administrator/Districts Collector/Forest Authorities for the protection of the trees/sandalwood trees/any other trees preexisting from theft or damage and for the careful protection of the immature trees growing on the lands.  
  
(c) The Lessee shall take steps to see that marks made by the officers of the Lessor on the trees/sandalwood trees/any other trees are preserved and are not tampered with.  
  
(d) In the event of the infringement, or failure to observe any of the conditions mentioned in (a), (b) or (c) above, the Lessee shall pay the Lessor such compensation as determined by the Deputy Commissioner/Administrator/Districts Collector/Forest Authorities. The State Government shall also be at liberty to cancel the lease and enter on the land and the entire land shall thereupon vest absolutely in the State Government. In that case the Lessee shall not be entitled to any compensation whatsoever.
14. The Lessee/legally authorized resident shall not erect any new buildings, or structures of a permanent character on the lessor land without the previous written sanction of the Lessor. Upgradation/improvement of existing structure may be done by the Lessee under information to the Lessor.
15. The lessee shall not cut any live trees without the previous permission of the Deputy Commissioner/Administrator/District Collector/Forest Authorities. The withered and wind fallen trees shall also be the property of the Lessor and shall be handed over to the nearby forest authority or other authorities appointed by the Lessor to look after the lands leased to the Tibetan Refugees.

16. The sale proceeds of the withered and wind fallen trees and those cut under condition (15) shall be credited to the Lessor.
17. The Lessee shall have no rights whatsoever to any trees standing on the land or to their usufruct.
18. The Usufruct of the trees may be leased out in auction by the officers of the Lessor according to the practice in vogue in the district and the Lessee shall allow a right of passage to persons to whom the usufruct of the trees is so granted by the Lessor.
19. The Lessee shall not, without the previous written sanction of the Deputy Commissioner/ Administrator/ any authorities nominated by the Lessor, permit any person to use the land or any structure thereon or any portion of the land or structure except as provided in conditions (5).
20. The Lessee shall on the termination or revocation of this lease , restore the said land to the Lessor in as good a condition as is consistent with the foregoing conditions.
21. The Lessee shall be answerable to the Lessor for all or any injury or damage done to the said land and other Government property thereon except as is permitted by the foregoing conditions.
22. The Lessor may revoke the lease wholly or partly, if the sums specified condition (3) above or any part thereof shall remain unpaid for 15 days after they have become payable whether formally demanded or not, OR- if the Lessee shall have contravened any of the conditions of the lease herein contained; and assume control or otherwise dispose of all or any part of the land, any buildings, fences and structures thereon and the Lessee shall not be entitled to any compensation therefore.
23. If the amount specified in condition (3) or (4) above or any part thereof is in arrears, it shall also be competent for the Lessor to recover the same from the Lessee as an arrear of land revenue.
24. The Lessor may terminate the lease without prejudice to any right of action or remedy of the Government in respect of any breach of any of the foregoing conditions. The Lessee shall not, in the case of such revocation or termination, be entitled to bay compensation in respect of any structures on the land or any improvements effected by him to the land or for the loss caused by the interrupted of his occupation.
25. In the event of termination of the Lease under condition 22 or 24, the Lessor shall be at liberty to leavy proportions rental upto the date of such termination.
26. The Lessee shall protect and maintain, at all times, the contour Bunds and other structures constructed at the cost of Lessor at the time of leasing the land.
27. The lease includes all rights, easements, appurtenances belonging to the land or reported to belong to it or usually held or enjoyed with it. The existing and customary rights of Lessor and the public, in roads and paths and rivers streams and channels running through or bounding the land and the right of Government to the mines and quarries adjacent to the land are however reserved and are in no way affected by the lease.

- 28. If the land or any portion of land is required for any public purpose or for any administrative purpose, the Lessor shall, at the expiry of a notice of fifteen days to that effect that the said land is required for such purpose, be at a liberty to take possession of the land with structures.
- 29. The Lessee, on the determination of the lease, shall handover the demised premises with all structures erected thereon. The Lessee, on the determination of the lease, shall handover the demised premises with all structures erected thereon.
- 30. Notwithstanding anything contained above, the Central Government / Lessor may, at any time, cancel the lease, without assigning any reason thereof. However, a prior notice of 3 months shall be given before revoking the lease.
- 31. The lease is subject to the provisions of Land Acts of (of the respective State Government) as amended from time to time.

SCHEDULE

District	Taluk	Town or Village	Sr. No. or	Boundaries			
				Block No. _____			
					Dry	Wet	N.S.E.W
1	2	3	4	5	6	7	

In witness thereof, Administrator/ District Collector acting for the land, on behalf of the Governor of (name of the State) and the Lessee aforesaid have hereunto set their signature on this .....day of .....

Signed by Lessee

Signed by the Lessor

In the Presence of

Date  
Station

- 1.
- 2.



## FOREST DEPARTMENT

### NOTIFICATION

*Shimla-2, the 23th February, 2015*

**No. FFE-B-E(3)14/2012-I.-** In pursuance of the orders dated 21.11.2013 passed by Hon'ble National Green Tribunal in application No. 249(THC) of 2013- Pawan Kumar Vs State of H.P the Governor of Himachal Pradesh is pleased to frame the Tibetan Rehabilitation Policy, Himachal Pradesh annexed to this notification with immediate effect.

By order  
Sd/-  
Addl. Chief Secretary (Forests).

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### TIBETAN REHABILITATION POLICY, HIMACHAL PRADESH

When China occupied Tibet, many Tibetans under the leadership of His Holiness the Dalia Lama, came to India alongwith their families and have been living in India since the past 50 years. His Holiness Dalia Lama heading the Central Tibetan Relief Committee is stationed at Mcleodganj Dharamshala. There are many Tibetan Refugee families living in Dharamshala, Riwalsar (Mandi) and other parts of the State and families were allowed to occupy the Govt. land. During 2012, Shri. Pawan Kumar S/o Sh. Partap Singh R/o Village Dhangu, P.O. Ratti, Tehsil Sadar, District Mandi, H.P. filed CWP No. 2228/2012 in the Hon'ble High Court alleging large scale encroachment of forest land by Tibetans in Mandi, Kullu and Kangra Districts. The Forest Department took cognigence and started eviction proceedings against 210 Tibetan Refugee families at Mcleodganj Dharamshala and 5 families at Riwalsar (Mandi). The matter was subsequently considered by Hon'ble National Green Tribunal as application No. 249(THC) 2013 who vide its order dated 21.11.2013 directed State Government to frame a common policy for removal of encroachment including disposal of muck in consultation with Archaeological Survey of India.

2. During February, 2014, the Ministry of Home Affairs, Govt. of India advised State Government to keep the eviction process held in abeyance and wait for further advisory on the issue as the settlement of Tibetan Refugees is a commitment of Govt. of India and eviction may have international ramification. Hon'ble Green Tribunal vide its order dated 09.01.2015 ordered to formulate policy in the matter.

3. The land in question is forest land but the unauthorised occupation by Tibetan Refugees is prior to the enactment of Forest Conservation Act. At the time, the State Govt. was empowered to allow occupation on Govt. land to these refugees as the rehabilitation of Tibetan Refugees is commitment of Govt. of India and the issue has international ramification. Hence, now the State Govt. does not want to conclude the eviction proceedings initiated by DFO-cum-Collector Dharamshala. The culmination of eviction orders may create law and order problem as multistorey structures are involved and the disposal of muck will be a big problem instead, the State is framing Tibetan Rehabilitation Policy to settle the issue which is based on The Tibetan Rehabilitation Policy, 2014 of Govt. of India.

4. The Tibetan Refugees are settled in different part of the State occupying Govt. land and have constructed houses. The following guidelines are laid down for the rehabilitation of Tibetan Refugees in the State:-

- i. The land under occupation by the Tibetan Refugees should not be disturbed. However, in case of any court order by which they need to be dispossessed than they should be relocated by giving afresh piece of land of equal of larger size.
- ii. The revenue and forest department will jointly identify the Tibetan Refugees being bonafide settlers and those who are deliberate encroachers. The bonafide settlers under this policy and the deliberate encroachers evicted under existing law.
- iii. In case of occupation on non-forest land, long terms lease agreement should be signed with individual Tibetan but with the duly authorised representative of the Central Tibetan Relief Committee. The local Magistrate may sign the lease deed on behalf of State Govt., Copy of the Standard Lease Document is annexed as **Annexure-A**. The lease agreement should be renewed periodically. The Tibetan Refugee families should be authorized to retain possession of land and houses on a temporary basis.
- iv. The Central Tibetan Relief Committee (CTRC) should be allowed to decide which portion of the land can be used for residential, agricultural, commercial, religious activity or any such activity so that the Tibetan families can follow their culture and religion unhindered and yet are able to make an economic living out of the land.
- v. The lease should be signed for a period of 20 years or till it is revoked/cancelled (by an order of the government of HP or till the rehabilitation facilities provided to Tibetan Refugees are cancelled or withdrawn by the government of HP on the advice of Government of India) whichever is earlier.
- vi. A rent Tenancy Certificate must be issued and the State government shall collect the dues, Revenue, Fees from the Local Settlement Officer/Welfare Officer of the Tibetan Settlement. The Rent Tenancy Certificate should clearly mentioned the following:-
  - Owner – Government
  - Lessee – CTRC
  - Cultivated by – (name of the Tibetan Refugee who is cultivating the land)
- vii. Proper demarcation, preferably with boundary fencing etc., of land allotted for Tibetan refugee use, should be ensured by the District Administration to avoid confrontation/dispute between locals and Tibetan Refugees.
- viii. The Settlement/ Welfare Officers of the Tibetan Settlements shall maintain a register and update the same annually, giving the details of individuals/family members of the settlements to inspect the register to ensure that it is annually updated.
- ix. The State Government may consider allotting extra land depending upon the need and the population increase of the Tibetan Refugees.
- x. In case of Forest Land, prior approval from Ministry of Environment, Forests & Climate Change, Govt. of India will be taken under Forest Conservation Act, 1980 as per provisions under Annexure IV of the guidelines with the intervention of Ministry

of Home Affairs and Ministry of External Affairs. After the approval, the long term lease agreement may be signed as per procedure mentioned above for non-forest land.

- xi. The Tibetan Refugees shall continue to get the benefits of various development schemes of Govt. of India and Govt. of HP as allowed from time to time.

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ANNEXURE-A

### STANDARD LEASE DOCUMENT

This lease, made on this ..... Day of ..... Two Thousand and ..... between the Governor of Himachal Pradesh (hereafter called the lessor) of the one part and His Holiness The Dalai Lama's Central Tibetan Relief Committee (CTRC) at ....., the other part (hereinafter called "The Lessee" which expression shall, unless the context required another different meaning, includes his heirs, executors, representatives and permitted assigns)."

Whereas the Lessor has agreed to transfer to the Lessee the land described in the schedule below on lease for 20 years, or till it is revoked/cancelled by an order of the Central government/Lessor, upon the terms and conditions hereinafter appearing and contained.

Now this deed witnesseth that in consideration of the rent herein after reserved and of the covenants by the lessee hereinafter contained, the LESSOR both demise into the LESSEE all that piece of land described in the schedule hereunder for a term of 20 years subject to the following terms and conditions viz.,

1. The lease is liable to cancellation if it is found that it was grossly inequitable or was made under a mistake of fact or owing to misrepresentation or fraud or that there was an irregularity in the procedure. In the event of such cancellation of the lease the lessee shall not be entitled to any compensation for any loss or damage.
2. The Lessee shall pay a sum of Rs. 100/- as security deposit for the due fulfilment and observance by him of the conditions contained in the lease. The sum of deposited shall be liable to be forfeited by the lessor in the event of failure by the lessee to fulfil any of the conditions of lease.
3. The Lessee shall, so long as the lease is in force, pay clear of all deductions, a sum of Rs. .... (to be decided by the Collector) per annum for credit to the General revenues of the State. The first of such payments should be made on the ..... day of ..... and the subsequent annual payments on the corresponding day of the succeeding years.
4. If the Lessee fails to pay the Lessor any sums payable under the lease on the respective dates on which they are made payable, he shall pay interest at 12% per annum on such amounts from the dates on which they were so payable until the date of payment or recovery.
5. The Lessee shall use the land for the purpose of agriculture/residential/commercial/ religious activity, in keeping with the Tibetan culture, religious and livelihood.

6. The legally authorized resident shall not do any act which is destructive or permanently injurious to the land.
7. The land shall be in possession of the Lessee who in turn may decide the usage as per the Tibetan Rehabilitation Policy notified by the government of India/Govt. of HP.
8. The Lessee shall not sub-let mortgage or otherwise transfer his leasehold right. The Lessee may offer such leased lands as security for raising loans from cooperative society/Scheduled bank for undertaking any agricultural/ economic/commercial or social/ educational activity.
9. The lease shall be terminated when the rehabilitation facilities provided to the Tibetan Refugees are cancelled or withdrawn by the Government of India.
10. The land shall not be used for political meetings.
11. The Lessee shall permit the Officers of the Lessor with or without workmen at all times to enter upon the lands aforesaid to view the conditions and state thereof.
12. The Lessee shall not assign or sublet the benefits arising under this lease or any part thereof without the previous written permission of the Lessor.
13. (a) The Lessor reserves to themselves the right of all trees their branches and roots which exist at the time of lease (which are described in the schedule attached) as well as those which may grow subsequently on the lands leased and the Lessor shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land in question and dispose them of at their leisure without any compensation/Bonus to the lessee. The lessee shall not be entitled to cut and remove them without the previous written permission of the lessor.  
(b) The Lessee shall take all reasonable measures to the satisfaction of the Deputy Commissioner/Administrator/Districts Collector/Forest Authorities for the protection of the trees pre-existing from theft or damage and for the careful protection of the immature trees growing on the lands.  
(c) The Lessee shall take steps to see that marks made by the officers of the Lessor on the trees are preserved and are not tampered with.  
(d) In the event of the infringement, or failure to observe any of the conditions mentioned in (a), (b) or (c) above, the Lessee shall pay the Lessor such compensation as determined by the Deputy Commissioner/Administrator/Districts Collector/forest Authorities. The State government shall also be at liberty to cancel the lease and enter on the land and the entire land shall thereupon vest absolutely in the State Government in that case the lessee shall not be entitled to any compensation whatsoever.
14. The lessee/legally authorized resident shall not erect any new buildings or structures of a permanent character on the lessor land without the previous written sanction of the Lessor. Up-gradation/improvement of existing structures may be done by the lessee under information to the Lessor.
15. The Lessee shall not cut any live trees without the previous permission of the Deputy Commissioner/Administrator/District Collector/Forest Authorities. The withered and wind

fallen trees shall also be the property of the Lessor and shall be handed over to the nearby forest authority or other authorities appointed by the Lessor to look after the lands leased to the Tibetan Refugees.

16. The sale proceeds of withered and wind fallen trees and those cut under condition (15) shall be credited to the Lessor.
17. The Lessee shall have no rights whatsoever to, any trees standing on the land or to their usufruct.
18. The Usufruct of the trees may be leased out in auction by the officers of the Lessor according to the practice in vogue in the district and the Lessee shall allow a right of passage to persons to whom the usufruct of the trees is so granted by the Lessor.
19. The lessee shall not, without the previous written sanction of the Deputy Commissioner/Administrator/any authorities nominated by the Lessor, permit any person to use the land or any structure thereon or any portion of the land or structure except as provided in conditions (5).
20. The Lessee shall on the termination or revocation of this lease, restore the said land to the lessor in as good a condition as is consistent with the foregoing condition.
21. The Lessee shall be answerable to the Lessor for all or any injury or damage done to the said land and other government property thereon except as is permitted by the foregoing conditions.
22. The Lessor may revoke the lease wholly or partly, if the sums specified in condition (3) above or any part thereof shall remain unpaid for 15 days after they have become payable whether formally demanded or not, OR if the Lessee shall have contravened any of the conditions of the lease herein contained; and assume control or otherwise dispose of all or any part of the land, any buildings, fences and structures thereon and the Lessee shall not be entitled to any compensation therefor.
23. If the amount specified in condition (3) or (4) above or any part thereof is in arrears, it shall also be competent for the lessor to recover the same from the Lessee as an arrear of land revenue.
24. The Lessor may terminate the lease without prejudice to any right of action or remedy of the Government in respect of any breach of any of the foregoing conditions. The Lessee shall not, in the case of such revocation or termination, be entitled to any compensation in respect of any structures on the land or any improvements effected by him to the land or for the loss caused by the interruption of his occupation.
25. In the event of termination of the lease under condition 22 or 24, the Lessor shall be at liberty to levy proportionate rental upto the date of such termination.
26. The Lessee shall protect and maintain, at all times, the contour bunds and other structures constructed at the cost of Lessor at the time of leasing the land.
27. The lease includes all rights, easements, appurtenances belonging to the land or reported to belong to it or usually held or enjoyed with it. The existing and customary rights of Lessor

and the public, in roads and paths and rivers streams and channels running through or bounding the land and the right of Government to the mines and quarries adjacent to the land are however reserved and are in no way affected by the lease.

28. If the land or any portion of land is required for any public purpose or for any administrative purpose, the Lessor shall, at the expiry of a notice of fifteen days to that effect that the said land is required for such purpose, be at a liberty to take possession of the land with structures.
29. The Lessee, on the determination of the lease, shall handover the demised premises with all structures erected thereon.
30. Notwithstanding anything contained above, the Central government/Lessor may, at any time, cancel the lease, without assigning any reason thereof. However, a prior notice of 3 months shall be given before revoking the lease.
31. The lease is subject to the provisions of Land Acts of Himachal Pradesh and Rules made there under as amended from time to time.

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SCHEDULE

District	Sub Division	Tehsil	Revenue Village	Khasra No.	Forest Boundaries N.S.E.W.	
1	2	3	4	5	6	7

In witness thereof, Administrator/District Collector acting for the land, on behalf of the Governor of (name of the State) and the lessee aforesaid have hereinto set their signature on this ..... day of .....

Signed by Lessee

Signed by the Lessor

In the Presence of

Date:  
Station

- 1.
- 2.

- **THE HIMACHAL PRADESH LAND REVENUE (SURCHARGE) ACT, 1974.**
- **THE HIMACHAL PRADESH LAND REVENUE (SURCHARGE) RULES, 1974.**





	on next rupees ten	75 percent
(iii)	on land revenue up to rupees fifty—	
	on first rupees fifteen	50 percent
	on next rupees ten	75 percent
	on next rupees twenty-five	100 percent
(iv)	on land revenue exceeding rupees fifty—	
	on first rupees fifteen	50 percent
	on next rupees ten	75 percent
	on next rupees twenty-five	100 percent
	on the remaining amount	125 percent

(b) In the areas where land settlements have been conducted during the last 40 years—

(i)	on land revenue up to rupees fifteen	25 percent
(ii)	on land revenue up to rupees twenty-five—	
	on first rupees fifteen	25 percent
	on next rupees ten	50 percent
(iii)	on land revenue up to rupees fifty—	
	on first rupees fifteen	25 percent
	on next rupees ten	50 percent
	on next rupees twenty-five	75 percent
(iv)	on land revenue exceeding rupees fifty—	
	on first rupees fifteen	25 percent
	on next rupees ten	50 percent
	on next rupees twenty-five	75 percent
	on the remaining amount	100 percent

(2) If in a district or any part thereof, the land revenue is re-assessed as a result of settlement in such a district or a part thereof after the commencement of this Act, then the rates of surcharge prescribed in clause (b) of sub-section (1) of this section shall apply to such a district or any part thereof as the case may be, from such harvest of the agricultural years as may be notified that the State Government in this behalf in the Official Gazette.

Provided that the levy of surcharge shall not have the effect of adding to the value of any jagir or any assignment of land revenue.

(3) Where the land revenue is remitted or suspended, the surcharge payable under this Act, shall be remitted or remain suspended, as the case may be.

4. **Submission of returns**—(1) A landowner who is liable to pay surcharge under this Act and whose land is situated within the jurisdiction of more than one Kanungo, shall within such time as may be prescribed, give written information of the details of the total land revenue payable by him to the Patwari in whose jurisdiction he holds land with the largest land revenue and shall also submit a copy thereof to the Tehsildar having jurisdiction.

(2) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to a land owner who becomes liable to pay surcharge under this Act as a result of acquisition of land by purchase or inheritance or by bequest or by gift or by exchange or by mortgage or in any other

manner whatsoever (under any law for the time being in force in the State of Himachal Pradesh) after the commencement of this Act and in his case, the period of return shall be thirty days from the date of such acquisition.

**5. Failure to submit information—**

- (1) If a land owner fails to furnish the information required under section 4 or furnishes the information which is wrong in material particulars, the Tehsildar of the Tehsil shall make assessment of the surcharge payable by the land owner after collecting the required information in the manner to be prescribed.
- (2) A land owner who fails to furnish the information required under section 4 or furnishes the information which is wrong in material particulars, he may be charged a penalty up to twelve times the amount of surcharge recoverable from him under this Act, by the Tehsildar.

**6. Recovery of surcharge—**The surcharge and the amount of penalty, if any, shall be recoverable as arrears of land revenue.

**7. Power to make rules—**

- (1) The State Government may, by notification in the Official Gazette subject to previous publication, make rules for carrying out the purposes of this Act.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of seven days which may be comprised in one session or two successive sessions and if before the expiry of the session in which it is so laid or the sessions immediately following, the Legislature requires any modification in the rule or desires 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.

## THE HIMACHAL PRADESH LAND REVENUE (SURCHARGE) RULES, 1974<sup>1</sup>

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

- (1) These rules may be called the Himachal Pradesh Land Revenue (Surcharge) Rules, 1974.
- (2) They shall extend to the whole of Himachal Pradesh.
- (3) They shall come into force at once.

### 2. Definition—In these rules, unless there is anything repugnant of the subject or context—

- (a) “Act” means the Himachal Pradesh Land Revenue (Surcharge) Act, 1974.
- (b) “Form” means the form appended to these rules; and
- (c) “section or sub-section” means the section or sub-section of the Act.

**3. Period for giving information under section 4(1)**—The time under sub-section (1) of section 4 of the Act or giving written information of the details of total land revenue payable by a land-owner shall be 30 days from the commencement of these rules.

**4. Manner in which information required from land-owners, to be given**—The information under rule 3 shall be given in Form ‘A’. The land-owner shall, at the same time furnish it on as many additional copies of the form, one copy each for each Patwari, as there are patwar circles in which his land is situated and shall also submit a copy thereof to the Tehsildar having jurisdiction.

**5. Assessment of surcharge.**- (1) The Tehsildar or the Naib-Tehsildar, as the case may be, on receipt of the copies of the particulars of land revenue, shall send copies of the form to the concerned patwari for verification of the particulars furnished by the land-owner with instructions to return the same within 15 days through the Field Kanungo who shall also satisfy himself about the correctness of the particulars of the land/land revenue. The Tehsildar or the Naib Tehsildar on receipt of the copies from the concerned patwaris shall make assessment of the surcharge payable by the respective land-owners and send the same to the patwari in whose jurisdiction, the land owner holds the largest area of land.

(2) If the land-owner owns land in more than one patwar circle and within the same Kanungo Circle, then Tehsildar or the Naib-Tehsildar shall get the surcharge calculated by the Field Kanungo of the Circle in accordance with the provisions of section 3 of the Act. Thereafter, he shall make the assessment and intimate the same to the patwari in whose jurisdiction, the landowner owns the largest area.

(3) In cases, other than those covered under sub-rules (1) and (2) above the calculation of the surcharge shall be made by Patwari of the circle in which the land is situated in accordance with the provisions of section 3 of the Act.

**6. Collection of surcharge.**- (1) After making the assessment of surcharge at his own level or after the receipt of assessment made by the Tehsildar or the Naib-Tehsildar, the Patwari shall prepare a demand statement and hand over the same to the Lambardar in whose jurisdiction, the land-owner holds largest area of land.

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<sup>1</sup> Published in R.H.P. Extra Ordinary dated 02.11.1974 pages 1491 to 1494.

(2) The recovery of surcharge shall be made in the same manner as is described for the collection of land revenue in rules 52 to 58 and 64 to 70 of the Punjab Land Revenue Rules.

**7. Collection charges**—For collection charges for which the Lambardar shall be entitled on account of recovery of surcharge, the rules under the Punjab Land Revenue Act, 1887 shall apply *mutatis mutandis*.

**8. Manner in which Tehsildars to collect information.**- (1) Where any person liable to pay surcharge under the Act fails to furnish the details of the land revenue payable on the prescribed form provided in rule 4, the Tehsildar or the Naib-Tehsildar shall cause the written information to be prepared in the said form from all the patwaris in whose jurisdiction the land of land-owner is situated with the instructions to send the information within 15 days through the respective Field Kanungo.

(2) On receipt of the information from the Patwaris, the Field Kanungo shall, after examination attest the entries made by the patwari in Form 'A' and forward it to the Tehsildar or the Naib-Tehsildar concerned, as the case may be.

(3) After satisfying himself as to the correctness of the particulars mentioned in the form, the Tehsildar or the Naib-Tehsildar, shall make assessment of the surcharge payable by the land-owner in accordance with the provisions of section 3 of the Act and intimate the same to the patwari of the circle in which the land-owner holds the largest area of land.

### FORM 'A'

(See Rule 4)

Information to be furnished by the landowner under sub-section (1) of section 4

Name of the land owner	Percentage	Address of the land owner	Name of Tehsil and District in which the land is situated	Village and Patwar circle in which land is situated	Kanungo Circle in which land is situated	Area of land held by land owner in hectares	Amount of land revenue payable	Total Land revenue payable
1	2	3	4	5	6	7	8	9

Date.....

Place.....

Signature of landowner

(Thumb impression)

By order

L. HMINGLIANA TOCHHAWNG

SECRETARY

**THE HIMACHAL PRADESH ABOLITION OF LAND REVENUE ON UN-ECONOMIC HOLDINGS ACT, 1978.**

**THE HIMACHAL PRADESH ABOLITION OF LAND REVENUE ON UN-ECONOMIC HOLDINGS ACT, 1978<sup>1</sup>**

**Arrangement of sections**

**Sections**

1. Short title and commencement
2. Definitions
3. Abolition of land revenue on un-economic holdings
4. Bar on certain transfers
5. Powers to remove difficulty
6. Repeal and savings

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**THE HIMACHAL PRADESH ABOLITION OF LAND REVENUE ON UN-ECONOMIC HOLDINGS ACT, 1978  
(Act No. 2 of 1978)<sup>2</sup>**

*An Act to provide for abolition of land revenue on un-economic holdings in Himachal Pradesh*

*Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows—*

**1. Short title and commencement—** (1) This Act may be called the Himachal Pradesh Abolition of Land Revenue on Uneconomic Holdings Act, 1977.

(2) It shall come into force at once.

**2. Definitions—** In this Act, unless the context otherwise requires—

(a) “Land holding” means the total land in the State in possession of a person whether as owner, mortgagee, lessee, tenant or in any other lawful capacity and if such a person holds land jointly with others, his share in such holding;

(b) “Uneconomic holding” means a land holding which does not exceed two and a half acres and comprises of un-irrigated cultivated land or of such land which has been recorded as “banjar kadim”, “banjar jadid” or grass lands, by whatever name called i.e. “ghasnis”, “kharetars”, “rutas” etc., but does not include land under orchards or built up areas assessed to land revenue;

(c) All other terms and expressions used herein, but not defined in this Act, shall have the same meanings as assigned to them in the Himachal Pradesh Land Revenue Act, 1953, (6 of 1954).

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<sup>1</sup> The Himachal Pradesh Abolition of Uneconomic Holdings Ordinance, 1977 (4 of 1977) was published in H.P. Government Gazettee (Ex.Ord.), dated 25.10.1977. thereafter it was replaced by this Act which received the assent of the Governor on the 7<sup>th</sup> February, 1978. Thereafter the Act was published in the H.P. Government Extra Ordinary dated 13.02.1978.

<sup>2</sup> Fot Statement of objects and reasons, see R.H.P. Extra, dated 31.12.1977 p. 1209. For its Authoritative Hindi Text see R.H.P. Extra dated 29.06.1991, p. 1507.

3. **Abolition of land revenue on un-economic holdings**—Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954), the land revenue on un-economic holdings shall stand abolished from Rabi 1977; and, the land-owner who at the commencement of this Act holds un-economic holding shall not be liable to pay any land revenue in respect of his land holding to the State.

4. **Bar on certain transfers**— (1) All transfers of land made after the 4<sup>th</sup> day of July, 1977, except the transfer of land made to the Union Government or to the State Government or a bonafide transfer by a land holder or any transfer of land by operation of law, to defeat the purpose of the Act, shall not affect the liability of the land holder to pay the land revenue to the State

(2) The Collector of the District in which such transfer or transfers take place, shall determine whether a transfer is bonafide or not and his decision shall be final.

5. **Power to remove difficulty**—If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette, or otherwise, make such provisions, or give such directions, not inconsistent with this Act, as may appear to it to be necessary or expedient for the removal of such difficulty.

6. **Repeal and savings**—(1) The Himachal Pradesh Abolition of Land Revenue on Un-economic Holdings Ordinance, 1977(4 of 1977) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the aforesaid Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force on the day on which such thing was done or action was taken.

- **THE HIMACHAL PRADESH KIASN PASS BOOK ACT, 1996.**
- **THE HIMACHAL PRADESH KIASN PASS BOOK RULES, 2000.**



## THE HIMACHAL PRADESH KISSAN PASS BOOK ACT, 1996

### ARRANGEMENT OF SECTIONS

Sections:

1. Short Title, Extent and Commencement.
2. Definition.
3. Act to over ride other law.
4. Issue of Kissan Pass Book.
5. Contents of Kissan Pass Book.
6. Presentation of truth as to entries.
7. Transfer not to be registered except on production of Kissan Pass Book.
8. Alteration not to be made in the Revenue Record except on production of Kissan Pass Book.
9. Grant of financial assistance by financial institutions.
10. Priority of charge.
11. Periodicity of Kissan Pass Book.
12. Cost of Kissan Pass Book.
13. Protection of action taken in good faith.
14. Penalty for disobedience of orders of Revenue Officer and for interpolation etc. in Kissan Pass Book.
15. Power to make rules.
16. Continuation of rules and validation of action taken thereunder.

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## THE HIMACHAL PRADESH KISSAN PASS BOOK ACT, 1996

(Act No. 6 of 1998)<sup>1</sup>

(As assented to by the President on 26<sup>th</sup> March, 1998)

*An Act to provide for the issue of Kissan Pass Books to Kissan containing record-of-rights and liabilities of their agricultural holdings in a revenue estate and to enable them to have credit facilities and for other matters connected or incidental thereto.*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-seventh Year of the Republic of India as follows—

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Kissan Pass Book Act, 1996.

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

(3) It shall come into force on such date, as the State Government may, by notification, appoint.

**2. Definition.- In this Act, unless the context otherwise requires**

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<sup>1</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7<sup>th</sup> March, 1996, pp. 918 and 925.

- (a) “Agriculture” includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, soil conservation and land development measures, raising and harvesting of crops, horticulture, forestry, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, sericulture, bee-keeping, piggery, poultry farming and other activities including transportation of agricultural produce etc., as are generally carried on by agriculturists, dairy-farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities and the words ‘agricultural purposes’ shall be construed accordingly;
- (b) “Financial assistance” means an assistance rendered by way of loans, advances or otherwise for the purposes of agriculture by a financial institution or Governments;
- (c) “Financial institution” means and includes—
- (i) a banking company as defined in clause (e) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
  - (ii) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
  - (iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
  - (iv) A corresponding new bank as specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 (5 of 1970);
  - (v) <sup>1</sup>[a corresponding new bank as specified in the First schedule to the Banking companies (Acquisition and Transfer of Understandings) Act 1980 (40 of 1980)];
  - (vi) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (1 of 1956);
  - (vii) the Regional Rural Bank established under the Regional Rural Banks Act, 1976 (21 of 1976);
  - (viii) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);
  - (ix) the Co-operative Bank and a Co-operative Society registered or deemed to be registered under the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969) the object of which is to provide financial assistance as defined in clause (b) of this section to its members;
  - (x) the Himachal Pradesh State Co-operative Agricultural and Rural Development Bank, and the Primary Agricultural and Rural Development Bank established under the Himachal Pradesh Co-operative Agriculture and Rural Development Bank-Act, 1979 (23 of 1979);
  - (xi) any other financial institution notified by the State Government in the Official Gazette, as a financial institution for the purpose of this Act;

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<sup>1</sup> Sub Clause (V) subs. Vide H.P. Act No. 20 of 1998.

- (d) “Kissan” means a person having an interest in a holding whether as land owner, tenant, mortgagee, pattadar, including lessee of Panchayat and Government land, except holder of a plot allotted for residential purposes;
- (e) “Kissan Pass Book” means a Pass Book containing certified extracts from record-of-rights maintained under section 32 (2) (a) of the Himachal Pradesh Land Revenue Act, 1954(6 of 1954) showing the nature and extent of interest of a Kissan in his agricultural holding or holdings in a revenue estate and other particulars as may be prescribed;
- (f) “land” means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structure on such land;
- (g) “Prescribed” means prescribed by rules made under this Act;
- (h) “Public servant” means the public servant as defined in section 21 of the Indian Penal Code, 1860 (*45 of 1860*);
- (i) “Revenue Officer” means the circle Revenue Officer or any other officer appointed by the State Government for the purposes of this Act;
- (j) “Sub-Registrar” shall have the same meaning as is assigned to it in the Registration Act, 1908 (*16 of 1908*) and
- (k) the word and expressions used to denote the holder of any right, title or interest shall be deemed to include the predecessors and successors of any right, title or interest of such person; and all the words and expressions defined in the Himachal Pradesh Tenancy and Land Reforms Act, 1972(8 of 1974) and Himachal Pradesh Land Revenue Act, 1954, but not defined in this Act shall wherever used herein be construed to have the meanings assigned to them by the said Act.

**3. Act to override other law.-** The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in the Registration Act, 1908(*16 of 1908*), or in any other law for the time being in force.

**4. Issue of Kissan Pass Book.-** As soon as may be after the commencement of this Act, there shall be issued by each Patwari, a Kissan Pass Book to every Kissan in his revenue estate:

Provided that in respect of co-shares an entry shall be made showing the extent and nature of their interest in the joint holding:

Provided further that in the revenue estate where settlement or consolidation operations are being conducted, a fresh Kissan Pass Book shall be issued as soon as operations are concluded and record-of-right is prepared.

**5. Contents of Kissan Pass Book.-** (1) The Kisan Pass Book shall be in such form containing such particulars of the Kissan and valid for such period as may be prescribed.

(2) The Kissan Pass Book shall be completed by such persons and in such manner as may be prescribed.

(3) On the presentation of the Kissan Pass Book at the time of attestation of mutation or otherwise with regard to any changes in the interest of the holding of the Kissan, the Revenue Officer, after being satisfied of the correctness of the changes on the basis of the mutation, proceedings and other relevant evidence, shall make an entry with respect to such changes in the Kissan Pass Book in such form and manner as may be prescribed.

(4) It will be obligatory on the part of the Kissan Pass Book holder to get it updated after the expiry date mentioned on title page of the Pass Book, otherwise it will not be entertained as legal document whenever presented. Soon after the consignment of the next jamabandi of the revenue estate in the Sadar Office but not later than 30<sup>th</sup> April, the holder of the Kissan Pass Book shall hand it over to the Patwari for updating the entries according to the new jamabandi against receipt as may be prescribed. However, pending updation of the Kissan Pass Book, the entries therein for the period of the preceding jamabandi would continue to remain valid for that period only.

**6. Presumption of truth as to entries.-** (1) Every entry made, in the manner prescribed in section 5, in the Kissan Pass Book issued under section 4 shall be presumed to be true until the contrary is proved.

(2) The entries in the Kissan Pass Book shall carry the same evidentiary value as if these were certified copies of the record-of-rights and other public record, for all intents and purposes, before the public servant or courts or financial institutions.

(3) If there is any mistake in the Kissan Pass Book, the same can be challenged by making an application to the Assistant Collector Grade-II who shall make such appropriate orders to rectify it as he deems fit.

**7. Transfer not to be registered except on production of Kissan Pass Book.-** (1) No transfer made by the holder of a Kissan Pass Book in respect of any land specified in such Kissan Pass Book or any interest in such land or any crop standing thereon shall be registered by the Sub-Registrar unless the Kissan Pass Book is produced before him, and on the production thereof, he shall incorporate the particular of the transfer registered by him in such form and manner as may be prescribed.

(2) Any transfer effected in contravention of this section shall be void.

**8. Alteration not to be made in the revenue record except on production of Kissan Pass Book.-** (1) No alteration in the revenue record shall be made by the Revenue Officer as a consequence of any transfer of land or any interest therein except on the production of the Kissan Pass Book.

(2) It shall be lawful for the Revenue Officer to direct the transferor or transferee of any right or interest in the land to produce the Kissan Pass Book on demand within fifteen days by issuing him a notice and it shall be incumbent upon such transferor or transferee to produce the Kissan Pass Book either personally or through an authorized agent for making an entry indicating the change.

(3) Any alteration made in contravention of this section shall be void.

**9. Grant of financial assistance by financial institution.-** (1) Financial assistance <sup>1</sup>[may] be granted by a financial institution to a Kissan on production of Kissan Pass Book. However, production of Kissan Pass Book <sup>2</sup>[may] not be necessary for crop loan advanced by the financial institution.

(2) A financial institution granting any financial assistance to the holder of the Kissan Pass Book shall incorporate in the Kissan Pass Book the factum of such financial assistance and where such financial assistance has been given on the security of any holding, the financial institution shall also make an entry against the holding, on the security of which the financial assistance has been granted by it, and the entry so made shall have the effect of creating a charge in favour of the financial institution on the holding against which the entry has been made and the holder of the Kissan Pass Book shall be debarred from alienating the said holding until the outstanding amount of the financial assistance granted by the financial institution has been repaid together with interest due thereon.

Provided that where any charge on any land or interest therein was created by a Kissan in favour of a financial institution before the commencement of this Act, it shall not debar him from creating, after such commencement, a subsequent charge on such land or interest therein in favour of a financial institution as security for any financial assistance given to him by such institution:

Provided further that the financial institution which sanctions the first loan after the issue of the Kissan Pass Book shall ascertain and verify within fifteen days all outstanding loans (except crop loan) advanced by financial institutions and encumbrances created by the Kissan, as the case may be by procuring an affidavit to that effect and shall enter and authenticate the details thereof in the Kissan Pass Book.

(3) The financial institution shall endorse a copy of the relevant entries incorporated in the Kissan Pass Book to the Revenue Officer as well as the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property which has been so charged is situated and on receipt of the same the Revenue Officer shall cause necessary entry to be made in the record-of rights maintained under the Himachal Pradesh Land Revenue Act, 1954.

*10. Omitted vide Act No. 20 of 1998*

**11. Periodicity of Kissan Pass Book.-** A Kissan Pass Book issued under section 4 and made upto date shall remain in force until the next jamabandi and shall be valid thereafter only if it has been made up-to-date and so certified in the manner as may be prescribed.

**12. Cost of Kissan Pass Book.-** The Kissan Pass Book shall be issued to a Kissan on payment of such amount as may be prescribed.

**13. Protection of action taken in good faith.-** No suit or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made there under.

**14. Penalty for disobedience of orders of Revenue Officer and for interpolation etc. in the Kissan Pass Book.-** (1) If any person fails or refuses to produce a Kissan Pass Book demanded by a Revenue Officer or interpolate or erase anything in the Kissan Pass Book with an intent to

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<sup>1</sup> Substituted for the word "will" vide H.P. Act No. 20 of 1998.

<sup>2</sup> Substituted for the word "will" vide H.P. Act No. 20 of 1998.

defraud any authority under this Act or makes any false statement knowingly or having reasons to believe the same to be false or which he does not believe to be true with a view to gain wrongfully, shall be liable to be punished with an imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the Revenue Officer. However, financial institutions may inform the Revenue Officer about any tampering with in the Kissan Pass Book coming to their notice. Each page of the Kissan Pass Book will be serially numbered and name of the Kissan be written on each page to avoid tampering with.

**15. Power to make rules.-** (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the form, particulars and period of validity of the Kissan Pass Book under sub-section (2) of section 5;
- (b) person and the manner for the completion of the Kissan Pass Book under sub-section (2) of section 5;
- (c) the form and manner in which the entry shall be made in the Kissan Pass Book under sub-section (3) of section 5;
- (d) the form and manner in which the particulars of the transfer shall be incorporated in the Kissan Pass Book under subsection (1) of section 7;
- (e) the manner in which the Kissan Pass Book shall be made upto date and certified under section 11;
- (f) the cost of Kissan Pass Book under section 12; and
- (g) any other matter for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) Every rule made under this section or any other provision of this Act shall be laid as soon as may be after it is made before the State Legislative Assembly while it is in session for a total period of ten 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 successive sessions aforesaid, the Assembly agrees in making any modification in the rule or the Assembly agrees 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.

**16. Continuation of rules and validation of action taken thereunder.-** The Himachal Pradesh Kissan Pass Book Rules, 1982 framed under section 168 of the Himachal Pradesh Land Revenue Act, 1954, and in force immediately before the commencement of this Act, shall continue to be in force after that date until amended, varied or rescinded, as if such rules were made under this Act, and any action taken (including Kissan Pass Books issued) in pursuance of those rules shall be as valid and operative as if it has been taken in accordance with the provisions of this Act.

## THE HIMACHAL PRADESH KISSAN PASS BOOK RULES 2000

*(Authoritative English text of Government Notification No. Rev. 2 F (I)3/82-VI, dated 1<sup>st</sup> July, 2000 as required under clause (3) of article 348 of Constitution of India).*

### REVENUE DEPARTMENT NOTIFICATION

*(Shimla-2, the 1<sup>st</sup> July, 2000)*

**No. Rev. 2F (1)-3/82-VI**—Whereas the draft Himachal Pradesh Kissan Pass Book Rules, 2000 were published, as required under section 15 of the Himachal Pradesh Kissan Pass Book Act, 1996 (Act No. 6 of 1998), in Himachal Pradesh Rajpatra (Extra-ordinary), vide notification of even number, dated 11-5-2000 for inviting objections and suggestions from the persons likely to be affected thereby within a period of 15 days from the date of publication;

And whereas no objection (s)/suggestion (s) have been received within the stipulated period in respect of the said draft rules.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 15 of the Himachal Pradesh Kissan Pass Book Act, 1996 (Act No. 6 of 1998) the Governor of Himachal Pradesh is pleased to make the following rules, namely—

1. **Short title**—These rules may be called the Himachal Pradesh Kissan Pass Book Rules, 2000.

2. **Definitions**—In these rules, unless the context otherwise requires—

- (i) “Act” means the Himachal Pradesh Kissan Pass Book Act, 1996; (Act No. 6 of 1998) (ii) “Form” means form appended to these rules;
- (ii) “Kanungo” means the In charge of a Kanungo circle or any other Kanungo authorized by the Tehsildar or Naib-Tehsildar of the Tehsil or Sub-Tehsil.
- (iii) “Patwari” means the Incharge of a patwar circle concerned or any other Patwari authorized by the Tehsildar or Naib-Tehsildar of the Tehsil or Sub-Tehsil;
- (iv) “Registrar” means the Registrar of the District as defined under the Indian Registration Act, 1908 (Central Act 16 of 1908) and include Sub-Registrar and Joint sub-Registrar; and
- (v) Words and expressions not defined in these rules, but are defined in the Act, shall have the same meaning as have been assigned to them in the Act.

3. **Issue and validity of the Kissan Pass Book**—(1) Every Kissan shall be issued a Kissan Pass Book duly Paged in Form-1 and it shall remain valid up to the period till new record-of-rights is made or specially revised.

(2) The Kissan Pass Book shall be a complete record of the land holding of a Kissan as contained in Part I to IV of the Kissan Pass Book in a concerned patwar circle and shall be valid for getting various facilities and assistance from the State Government in accordance with any rules and procedure laid down by the State Government.

(3) Each Kissan Pass Book shall be prepared in the following manner—

- Part-I- It shall contain the details of Kissan, his name, father's name and other particulars including the Passport size photo which shall be attested by the Patwari concerned under his stamp duly checked by Kanungo, Kissan Pass Book shall also bear the serial number.
- Part-II- It shall be a copy of the "Shajra Nasab" which shall also mention the caste/sub-caste/tribe as given in the record-of-rights.
- Part-III- It shall contain the particulars of 'Jamabandi'.
- Part-IV- It shall contain the average price of sale transactions of concerned revenue estate in a year preceding the date of issue of Kissan Pass Book or as per requirement of the Kissan.
- Part-V- It shall contain transactions made by the Kissan for alienation or acquisition of land and shall be filled up by the Registrar at the time of the registration of the documents.
- Part-VI- It shall contain the details of transactions made by the Kissan for alienation of any land in any form which shall be filled up by the Revenue Officer at the time of attestation of mutation.
- Part-VII- It shall contain the particulars of loans and financial assistance to the Kissan and it shall be filled up by the authority of the Financial Institution or the authority which have given such financial assistance.
- Part-VIII- It shall contain the particular of the grant/benefits on sale or otherwise at subsidized rates of the agriculture, horticulture inputs/plant protection material, agriculture/horticulture tools etc. which may be filled up by the agency which had supplied such benefits to the Kissan.
- Part-IX- It shall contain the details of the timber granted to the Kissan by the Forest Department under the rights of timber distribution.
- Part-X- It shall contain the particulars of the benefits taken under the Land Development Schemes floated by the Soil Conservation Wing of the Agriculture Department or Forest Department like irrigation schemes and other Land Development Scheme.
- Part-XI- It shall contain the particulars of the Kissan having been identified as a beneficiary under the Integrated Rural Development Programme. It shall be obligatory on the Gram Vikas and Panchayat Adhikari or the Secretary of the Panchayat to call for the Kissan Pass Book from the concerned person to make an entry therein. Any authority giving any benefit to the Kissan shall be mentioned in this part duly authenticated by the authority concerned.
- Part-XII- It shall contain the names of the family members of the Kissan and their relationship with him to be filled up by the Gram Vikas and Panchayat Adhikari or Secretary of the Panchayat on the basis of the Panchayat Parivar Register. The Kissan shall get it updated regarding new birth, deaths and marriages in the family. The Patwari shall enter the mutation of inheritance interstate or testate when entry of death of the Kissan has been made in the Kissan Pass Book.



**4. Particulars of Kissan Pass Book and entries thereof.-** (1) The Patwari shall prepare a list of all Kissan of the Patwar Circle in Form-II. The dates of the preparation delivery and the receipt of the cost of the Kissan Pass Book shall be recorded by the patwari under his own signatures. The date of receipt of Kissan Pass Book shall be acknowledged by the Kissan under his signatures or thumb mark.

(2) The Patwari shall copy entries in the Kissan Pass Book from the latest “Jamabandis” and other relevant record. The entries so made shall be verified by the Kanungo within a period of fifteen, days of the submission of the Kissan Pass Book. The Patwari shall affix his stamp, signature and date. All the entries shall be got attested by the Patwari from Revenue Officer. The Kissan Pass Book thereafter shall be issued to the concerned Kissan.

(3) Separate Kissan Pass Books with photographs shall be issued to all co-sharers in a joint holding. The extent of share of each Kissan shall be duly entered in the Kissan Pass Book.

(4) A new Kissan Pass Book shall be issued in favour of a person who becomes a Kissan by virtue of any acquisition of land by him under any law, for the time being enforced. The name of such person shall be entered in the list of Kissan in form II. Thereafter the Kissan Pass Book shall be prepared in the manner prescribed in these rules. The person who acquires land for residential purposes under the provisions of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act shall not be entitled to get a Pass Book.

**5. Production and completion of the Kissan Pass Book—**It shall be mandatory on a Kissan holding a Kissan Pass Book to produce the Kissan Pass Book to complete the same by the concerned authority and his failure to do so may make him ineligible for getting any benefit or for registration of documents under the Indian Registration Act, and for attestation of a mutations by the Revenue Officer under Chapter IV of the Act.

**6. Transfer not to be registered without production of Kissan Pass Book under Section—**It shall be obligatory for the Kissan to present the Kissan shall Pass Book before the Registrar along-with the documents presented for registration of any transfer of interest in respect of the land described in Part-III of the Kissan Pass Book. The Registrar may register the document only on production of the Kissan Pass Book and shall in-terminate the particulars of the transfer so registered in Part-III of the Kissan Pass Book.

**7. Periodicity of Kissan Pass Book under section 11.-** (1) A Kissan Pass Book shall be prepared on the basis of the latest ‘Jamabandi’ of the revenue estate and shall be kept up to date which shall be made in it by the Registrars, the Revenue Officer and the Financial Institutions, as the case may be.

(2) As soon as the new ‘jamabandi’, is prepared patwari shall inform all concerned about it by displaying a notice on the notice board of the Patwarkhana, Panchayat Ghar and at some other conspicuous place also in the locality and it shall be incumbent on the holder of each Kissan Pass Book to deposit his Kissan Pass Book with the Patwari within two weeks of such information against proper receipt, in Form-III for the updating of its entries. The Patwari shall update the Kissan Pass Book within one month from the date of receipt of the Kissan Pass Book from the Kissan. Any updating or new entries made in the Kissan pass Book during the aforesaid period shall be verified by the Kanungo as per provisions of rule 4 of these rules.

**8. Cost of Kissan Pass Book.**— (1) The cost of Kissan Pass Book payable by the Kissan shall be Rs. 50 for land holding up to 1 acre, Rs. 100 up to 3 acre and Rs. 150 above 3 acres. Out of the cost of the Kissan Pass Book, the Patwari will retain Rs. 30, Rs. 40 and Rs. 50 respectively as “Mehntana”. The photograph of the Kissan shall be provided by the Kissan himself.

(2) The cost of Kissan Pass Book after retaining “Mehntana” as specified in sub-rule (1) supra, by the Patwari, shall be deposited by him in the Treasury/Sub-Treasury within a week and the challan form shall be submitted to the Revenue Officer concerned.

(3) The Kissan shall be required to take all precautions for the safe custody of the Kissan Pass Book and shall guard it from damage, destruction and loss. If, inspite of all precautions, the Kissan Pass Book is lost or completely destroyed, the Kissan may make an application for issue of a duplicate Kissan Pass Book which shall be entertained by the Revenue Officer. If the Kissan Pass Book gets damaged or mutilated to an extent that it cannot be used, then the Kissan may make an application on simple paper to the Patwari concerned for the issue of a duplicate Kissan Pass Book. In the later case the application so made be accompanied by the damaged or mutilated Kissan Pass Book.

**9. Repeal.**— (1) The Himachal Pradesh Kissan Pass Book Rules, 1982 framed under section 168 of the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954) are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the rules so repealed under sub-rule (1) supra shall be deemed to have been taken or done under these rules.

- **THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 1971.**
- **THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) RULES, 1973.**

**THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF  
FRAGMENTATION) ACT, 1971**

(Act No. 20 of 1971)

AN

ACT

*to provide for the consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Himachal Pradesh and for the assignment or reservation of land for common purposes of the village.*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-Second Year of the Republic of India as follows—

**CHAPTER-I  
PRELIMINARY**

1. **Short title, extent and commencement.**— (1) This Act may be called the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

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

(3) This section shall come into force at once and the remaining provisions of the Act shall come into force in such areas and from such date as the State Government may by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for the coming into force of different provisions of the Act for different parts of the State.

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context-

- (1) ‘Assistant Consolidation Officer’ means an officer appointed by the State Government to perform the duties of the Assistant Consolidation Officer under this Act;
- (2) ‘common purpose’ means any purpose in relation to any common need, convenience or benefit of the village and includes the following purposes—
  - (i) extension of the village abadi;
  - (ii) providing income for the Panchayat of the village concerned for the benefit of the village community;
  - (iii) village roads and paths, village drains, village wells, ponds or tanks, village water courses or water-channels, village bus stands and waiting places, manure pits, hada rori, public latrines, cremation and burial grounds, Panchayat ghar, janjghar, grazing grounds, tanning places, mela grounds, public places of religious or charitable nature; and
  - (iv) schools and playgrounds, dispensaries, hospitals, and institutions of like nature, water work or tube well whether such schools/ playgrounds, dispensaries, hospitals, institutions, water-works or tube wells, may be managed and controlled by the State Government or not;
- (3) ‘consolidation’ means the re-distribution of all or any of the lands in any area between the several tenure holders entitled thereto in such a way as would make the areas for the time being held as such more compact;

- (4) 'Consolidation Officer' means an officer appointed by the State Government under section 51 to perform the duties of a Consolidation Officer under this Act;
- (5) 'Director of Consolidation' means an officer appointed by the State Government under section 51 to perform the duties and exercise the functions of a Director of Consolidation under this Act;
- (6) 'Official Gazette' means the Rajpatra, Himachal Pradesh;
- (7) 'land' means the land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—
  - (a) the sites of buildings and other structures on such land;
  - (b) orchards; and
  - (c) ghasnis;
- (8) 'legal representative' has the meaning assigned to it in the Code of Civil Procedure, 1908 (5 of 1908);
- (9) 'prescribed' means prescribed by rules made under this Act;
- (10) 'Settlement Officer (Consolidation)' means an officer appointed by the State Government under Section 51 to perform the duties of a Settlement Officer (Consolidation) under this Act and includes any person authorised by the State Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act;
- (11) 'State Government' means the Government of Himachal Pradesh, (6 of 1954);
- (12) 'Sub-division' means a part of an estate recorded as a sub-division, patti or tariff in a record-of-rights as prepared under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as applicable to the areas which formed part of Himachal Pradesh immediately before the 1<sup>st</sup> day of November, 1966 provided it forms a compact block and in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) sub-division means a part of an estate recorded as a sub-division, patti, taraf or pana in a record-of rights prepared under the Punjab Land Revenue Act, 1887 (17 of 1887) provided it forms a compact block;
- (13) 'tenure holder' means a land-owner of a tenant of the land concerned;
- (14) 'fragment' means a plot of land of less extent than the appropriate standard area determined under this act;

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

- (15) 'notified area' means any area notified as such under section 3;
- (16) 'owner' means in the case of unalienated land, the lawful occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land, owner means the superior holder;
- (17) 'standard area' in respect of any class of land means the area which the State government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area and includes a standard area revised under the said section;
- (18) Words and expression-

- (a) Not defined in this Act but defined in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or
- (b) Not defined in this Act or in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) but defined in the Himachal Pradesh abolition of Big Landed Estates and Land Reforms Act, 1953 (15 of 1954) shall have the meaning assigned to them in the Act in which they are so defined.

## CHAPTER-II

### DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS

3. **Determination of notified area** – The State Government may, after such inquiry as it deems fit, specify any estate or sub-division of an estate as notified area for the purposes of this chapter of this Act.

4. **Settlement of standard.**– (1) The State Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

(2) The State Government shall by notification and in such other manner as may be prescribed, publish the minimum areas provisionally settled by it under sub-section (1) and invite objection thereto.

5. **Determination and revision of standard areas.**– (1) The State Government shall after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for such class of land in such notified area.

(2) The State Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1) of section 5.

(3) The State Government shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. **Entry in the record-of-rights.**— (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record-of-rights.

(2) Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

7. **Transfer and lease of fragments.**— (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(2) Notwithstanding anything contained in any law for the time being in force no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

**8. Fragmentation prohibited** – No land in any notified area shall be transferred or partitioned so as to create a fragment.

**9. Penalty for transfer or partition contrary to provisions of Act**—The transfer or partition of any land contrary to the provisions of this Act shall be void.

**10. Valuation of fragment**— Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey numbers or recognized sub-divisions of survey numbers, determine the market price, and such determination shall be final and conclusive for the purposes of this chapter.

**11. Transfer of fragment**—The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey numbers or recognised sub-divisions of survey numbers, and in case of their refusal to purchase for the price as determined under the last preceding section, may transfer it to the State Government for the purpose of the State on payment by the State Government of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the State Government for the purpose of the State free from all encumbrances.

**12. Partition of estate assessed to payment of revenue to Government or separation of share thereof**— When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908 (5 of 1908), for the partition of an undivided estate assessed to the payment of revenue to the State Government in any notified area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

**13. State Government or local authority not to acquire land so as to leave fragment**—  
(1) Notwithstanding anything contained in any law for the time being in force, no land shall be acquired by the State Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

(2) If any land acquired by the State Government or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers of recognised sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

### **CHAPTER-III**

#### **REVISION AND CORRECTION OF MAPS AND RECORDS AND CONSOLIDATION OF HOLDINGS**

**14. Declaration regarding consolidation**— (1) The State Government may declare that in the interests of the general public and for the purposes of better cultivation of land it has decided to make a scheme of consolidation for any estate or a group of estates or a sub-division of an estate.

(2) Every such declaration shall be published in the Official Gazette and in the estate or estates concerned in the prescribed manner.

**15. Effect of declaration—** (1) On the publication of the declaration under section 14, an estate, group of estates or a sub-division of an estate, as the case may be shall be deemed to be under consolidation operations from the date of such publication until the publication of the notification that the consolidation operations have been closed.

(2) Where an estate, group of estates or a sub-division of an estate is under consolidations operations, the duty of maintaining the maps, field book and preparing the annual record under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as applicable to the areas which formed part of the Himachal Pradesh immediately before the 1<sup>st</sup> day of November, 1966, and the Punjab Land Revenue Act, 1887 (17 of 1887) as applicable in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), and the rules framed there under, shall stand transferred to the Settlement Officer (Consolidation), and there upon all the powers conferred on the Collector and Assistant Collector under the said Acts and rules, shall, so long as an estate, group of estates or a sub-division of an estate remains under consolidation operations, be exercised by the following officers—

1. The Director of Consolidation of Holdings.
2. Settlement Officer (Consolidation).
3. Consolidation Officer.
4. Assistant Consolidation Officer.

(3) The State Government may by notification confer on any officer mentioned in sub-section (2) the powers of Collector, all or any of the powers with which an Assistant Collector, may be invested under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887) as the case may be.

**16. Cancellation of declaration under section 14—**(1) The State Government may at any time cancel the declaration made under section 14 in respect of the whole or any part of the area specified therein.

(2) Where a declaration has been cancelled in respect of any area under sub-section (1) such area shall, with effect from the date of cancellation cease to be under consolidation operations.

**17. Revision and correction of records—** (1) Where on an examination of the village map, field book and the record-of-rights, the Consolidation Officer or the Assistant Consolidation Officer is of the opinion that a revision of maps or records is necessary before proceeding further with the preparation of provisional consolidation scheme, he shall recommend to the State Government accordingly.

(2) Where he is of the opinion that a revision of maps and record is not necessary, he shall proceed to carry out in the manner prescribed a field to field partial with the help of the village map and field book and shall correct the entries in the revenue records in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be, and the rules framed there under.

**18. Publication of correct records—**The records prepared or corrected under sub-section (2) of section 17 shall be published in the village in the prescribed manner and a copy shall be sent to the Collector.



**19. Declaration regarding revision of records—** On receipt of the recommendations under sub-section (1) of section 17, the State Government shall publish a notification to that effect and thereupon a revised map and a field book and the record-of-rights shall be prepared for the village or villages concerned in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be and rules framed there under, as if a notification had been issued in respect thereof under the said Acts and rules.

**20. Preparation of statement of plots and tenure holders—** (1) The Assistant Consolidation Officer, as soon as may be after the publication of the records under section 18 or preparation of records under section 19 prepare—

- (a) a list of all plots comprised in the holdings of each tenure holder, showing—
  - (i) the area of each plot;
  - (ii) the soil classes of the plots according to the last settlement;
  - (iii) the hereditary rent rates sanctioned for the soil classes at the last settlement or revision operations, whichever is the latest;
  - (iv) the rental value of the plot;
  - (v) the revenue or the rent, as the case may be, of the plot calculated in the manner prescribed;
  - (vi) such other particulars as may be prescribed;
- (b) a list of each tenure holder, showing—
  - (i) total area held by the tenure holder in all classes of tenures;
  - (ii) the revenue or the rent, as the case may be, for his share;
  - (iii) the rental value of the area held by the tenure holder; and
  - (iv) such other particulars as may be prescribed.

(2) The statement shall be published in the village in the prescribed manner.

**21. Objection on the statement—** (1) Any person may within thirty days of the publication of the statement prepared under section 20 file before the Assistant Consolidation Officer an objection disputing the correctness or nature of any entry in the statement or pointing out any omission there from.

(2) The Assistant Consolidation Officer shall, after hearing the parties, if necessary, on the objections filed under sub-section (1) submit his report on those objections to the Consolidation Officer who shall except as provided in sub-section (4) dispose of the objections in the manner prescribed.

(3) The decision of the Consolidation Officer shall, except as otherwise provided by or under this Act, be final.

(4) Where the objection filed under sub-section (1) involves a question of title and such question has not already been determined by a competent court, the Consolidation Officer shall refer the question for determination to the Arbitrator whose decision shall be final.

**22. Consolidation Scheme—** (1) The Consolidation Officer shall, after publication of the statement under sub-section (2) of section 20 and decision of objections, if any, under section 21 obtain in prescribed manner the advice of the land-owners and tenants of the estate or estates

concerned and thereafter prepare a scheme for the consolidation of holdings in such estate or estates or part thereof, as the case may be.

(2) In preparation of the scheme under sub-section (1), the Consolidation Officer shall have regard to the following principles, namely--

- (a) the land in each village may be divided and grouped under the following blocks, namely—
  - (i) block of land producing rice only;
  - (ii) block of land producing mainly Ekfasli crops, other than rice;
  - (iii) block of land which is mainly Dofasli;
  - (iv) block of land subject to fluvial action of any river; and
  - (v) classification and valuation of land for the purpose of consolidation and the exchange ratio for conversion of one class into other;
- (b) every tenure-holder is, as far as may be, allotted land in the block in which he holds the largest part of the holdings;
- (c) only those tenure-holders shall get land in any particular block who already hold land therein;
- (d) the number of chaks to be allotted to each tenure-holder excluding areas earmarked for abadi and shall not exceed the number of blocks unless there is only one block and the land is more or less of a uniform quality;
- (e) the number of plots should not exceed the number of plots held by a land-lord or tenant before the consolidation proceedings; and
- (f) such other principles as may be prescribed.

**23. Scheme to provide for compensation—**(1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any person who is allotted a holding of a market value less than that of his original holding and for the recovery of compensation from any person who is allotted a holding of a market value greater than that of his original holding.

(2) The amount of compensation shall be assessed by the Consolidation Officer, so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894).

**24. Occupancy tenancies—**(1) The scheme prepared by the Consolidation Officer may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his land-lord in such proportion as may be agreed upon between the parties.

(2) When the scheme is confirmed under section 29, the land so allotted to the occupancy tenant and the landlord shall, notwithstanding anything to the contrary contained in any enactment that may, for the time being, be in force in any part of the State of Himachal Pradesh, be held by each of them respectively in full right of ownership and the right of occupancy in the land allotted to the land-lord shall be deemed to be extinguished.

**25. Power to make provision in the scheme to partition joint lands and joint occupancy tenancies—**(1) Notwithstanding anything contained in chapter IX of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as applicable to areas which formed part of Himachal Pradesh before the 1<sup>st</sup> day of November, 1966, except section 129 thereof or in Chapter IX of

Punjab Land Revenue Act, 1887 (17 of 1887), as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), except section 117 thereof, the scheme prepared by the Consolidation Officer may provide for partition of land between the joint owners of land or between joint tenants of a tenancy in which a right of occupancy subsists in accordance with the share of each owner or tenant in the land or tenancy, as the case may be if,-

- (a) such share is recorded under chapter IV of any of the Acts mentioned above, or
- (b) the right of such owner or tenant to such share has been established by a decree which is still subsisting at the time of preparing the scheme, or
- (c) a written acknowledgment of such right has been executed by all persons interested in the admission or denial thereof.

(2) When the scheme is confirmed under section 29, the land so partitioned shall, notwithstanding anything to the contrary in any law for the time being in force, be held by each such owner or tenant in full right of ownership or tenancy, as the case may be and the rights of other joint owners or joint tenants, in the land shall be deemed to be extinguished.

**26. Amalgamation of public roads etc., within the scheme for consolidation of holdings—**(1) Whenever in preparing a scheme for the consolidation of holdings it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, channel, path, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that is proposed that the rights of the public as well as of the individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes shall be extinguished or, as the case may be, transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid down in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 28.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claims to compensation for such interest or right.

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amount of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the person by whom such compensation, if any, is payable, shall be final.

27. **Land reserved for common purposes**— Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer—

- (a) to direct that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place;
- (b) to direct that any land under the bed of a stream or torrent flowing within the State shall be assigned for any common purpose; and
- (c) if in any area under consolidation no land is reserved for any common purpose including extension of village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

28. **Publication of draft scheme**—(1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, or committee, appointed in accordance with the rules framed under the Act, shall within thirty days of date of such publication, communicate in writing to the Consolidation Officer objections, if any, relating to the scheme. The Consolidation Officer shall after considering the objection, if any, received submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation).

(2) The Consolidation Officer shall also publish in the prescribed manner the scheme as amended by him.

29. **Confirmation of scheme**—(1) If no objections are received under sub-section (1) of section 28 or within thirty days of the publication of the amended draft scheme published under sub-section (2) of section 28, as the case may be, the Settlement Officer (Consolidation) shall confirm the scheme submitted by the Consolidation Officer.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 28, the Settlement Officer (Consolidation) shall, after taking objections into consideration, either confirm the scheme with or without modification or refuse to confirm it. In case of such refusal, the Settlement Officer (Consolidation) shall return the draft scheme with such directions as may be necessary to the Consolidation Officer for re-consideration and re-submission.

(3) On the confirmation of the scheme under sub-section (1) or (2), the scheme as confirmed shall be published in the prescribed manner in the estate or estates concerned.

30. **Repartition**—(1) The Consolidation Officer shall after consultation with the land-owners and tenants of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 29, and the boundaries of the holdings as demarcated shall be shown on the shajra which shall be published in the prescribed manner in the estate or estates concerned.

(2) Any person aggrieved by the repartition may file a written objection within thirty days of the publication before the Consolidation Officer who shall after hearing the object or pass such orders, as he considers necessary, confirming or modifying the repartition.

(3) Any person aggrieved by the order of the Consolidation Officer under sub-section (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such orders as he considers proper.

(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under sub-section (3) may within sixty days of that order appeal to the Director of Consolidation of Holdings. The order of the Director of Consolidation of Holdings on such appeal and subject only to such order, the order of the Settlement Officer (Consolidation) under sub-section (3) or, if the order of the Consolidation Officer under sub-section (2) was not appealed against, such order of the Consolidation Officer, shall be final and shall not be liable to be called in question in any court.

**31. Preparation of record-of-rights**—(1) The Consolidation Officer shall cause to be prepared a new record-of-rights in accordance with the provisions contained in chapter IV of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as applicable to the areas which formed part of Himachal Pradesh immediately before the 1<sup>st</sup> day of November, 1966 or in Chapter IV of the Punjab Land Revenue Act, 1887 (17 of 1887), as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), as the case may be, in so far as these provisions may be applicable, for the areas under consolidation, giving effect to the repartition and orders in respect thereof made under the preceding section.

(2) Such record-of-rights shall be deemed to have been prepared under section 35 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as applicable to the areas which formed part of Himachal Pradesh immediately before the 1<sup>st</sup> day of November, 1966 or section 34 of the Punjab Land Revenue Act, 1887 (17 of 1887), as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), as the case may be.

**32. Right to possession of new holdings**—(1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition, as finally confirmed agree to enter into possession of the holdings allotted to them there under, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (3) of section 29, or as the case may be, of the preparation of the new record-of-rights under sub-section (1) of section 31 and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled, and in doing so, may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be:

Provided that if there are standing crops on the holdings, physical possession of the holdings shall be delivered after the aforesaid standing crops have been harvested.

(3) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realized after deducting the expenses shall be paid to any person having interest in the holding.

**33. Management and control of lands for common purposes to vest in Panchayats or State Government**—As soon as the scheme comes into force, the management and control of all the lands assigned or reserved for common purposes of the village under section 27—

- (a) in the case of the common purposes specified in clause (2) of section 2, in respect of which the management and control are to be exercised by the State Government shall vest in the State Government; and
- (b) in the case of any other common purpose, shall vest in the Panchayat of that village; and the State Government or the Panchayat, as the case may be, shall be entitled to appropriate the income accruing there from for the benefit of the village community and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly:

Provided that in the case of land assigned or reserved for the extension of village abadi or manure pits for the proprietors and non-proprietors of the village, such land shall vest in the proprietors to whom it is given under the scheme of consolidation.

**34. Coming into force of such scheme**—As soon as the persons entitled to possession of holdings under this Act have entered into possession of holdings respectively allotted to them, the scheme shall be deemed to have come into force.

**35. Rights after consolidation**—Subject to the provisions of section 24 and 25, and with effect from the date on which a tenure holder, in pursuance of the provisions of section 32 enters into possession of the plots allotted to him, his rights, title and interest in his original holdings shall be extinguished and he shall have the same rights, title and interest subject to modification if any, specified in the final consolidation scheme in the plots allotted to him thereunder.

**36. Encumbrances of land-owners and tenants**—(1) If the holding of a land owner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer subject to any rules that may be made under section 59, may have determined in preparing the scheme and thereupon the lessee, mortgagee, or other encumbrance, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) If the holding or tenancy to which a lease, mortgage or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrance, as the case may be shall subject to the provision of section 45 be entitled to the payment of such compensation by the owner of the holding, or as the case may be the tenant as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 32, the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrance entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

**37. Effect of consolidation of holdings on evacuee property**—If in pursuance of a scheme for consolidation of holdings any land which is evacuee property within the meaning of the Administration of Evacuee Property Act, 1950 (31 of 1950), is or has been exchanged for any other land which is not evacuee property, then such other land shall, as from the date of the coming into force of the scheme, be deemed to be evacuee property declared as such within the meaning of the

said Act and the original evacuee land shall, as from such date be deemed to have ceased to be evacuee property.

**38. Transfer of rights of land owners in holdings and of tenants in tenancies—**Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) (15 of 1954), <sup>1</sup>[Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953] the Punjab Land Revenue Act, 1887 (17 of 1887), the Punjab Tenancy Act, 1887(16 of 1887), or any other enactment that may, for the time being, or being force in any part of the State of Himachal Pradesh, the rights and liabilities of land-owners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor the tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

**39. Decrees for possession of land to be executed against land allotted on repartition—**Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, no decree for possession of land against a judgement-debtor, whose land has been included in a scheme for consolidation of holdings, shall be executed except after repartition and orders in respect thereof under section 30 and against land allotted to him in pursuance of such repartition and orders.

**40. Costs—**The Assistant Consolidation Officer shall, in the manner prescribed assess the cost of consolidation and distribute such cost between the persons affected by the order of consolidation, and recover it from them.

**41. Recovery of compensation or costs or other sums payable under this Act—**Compensation under section 23 or costs under section 40 or any other sums payable under this Act shall be recoverable as an arrear of land revenue.

**42. Transfer of property during consolidation proceedings—**(1) After a notification under sub-section (1) of section 14 has been published and during the pendency of the consolidation proceedings, no land-owner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of any other land-owner or tenant having a right of occupancy therein under the scheme of consolidation.

(2) After a notification under sub-section (1) of section 14 has been published and during the pendency of the consolidation proceedings no person, whose land has been notified under section 14 aforesaid and which is the subject matter of pending consolidation proceedings, shall cut any tree or demolish any building or structure or water course or water channel or well standing on such land, or remove or appropriate such trees or materials of such buildings, structure, water course, water channel or well or commit any act which is detrimental to or which may diminish the utility or market value of any such land or tree, building, structure, water course, water channel or well.

**Explanation—**The word 'person' mentioned in sub-section (2) includes his family member, servant, or agent or any person who commits the acts mentioned in sub-section (2) at the instigation or desire, express or implied, of such person.

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<sup>1</sup> Substituted in 1974 by Himachal Pradesh Tenancy & Land Reforms Act. 1972.

(3) Whoever contravenes the provisions of sub-section (2) shall be liable to pay an amount which may extend up to twice the amount of loss or damage caused by such contravention.

(4) The quantum of loss or damage shall be assessed by the Settlement Officer (Consolidation) and an assessment so made shall be final.

(5) The amount assessed, if not paid within the period fixed by the Settlement Officer (Consolidation), shall become recoverable as an arrear of land revenue as provided for in section 41.

**43. Suspension of partition proceedings during currency of consolidation proceedings**—After notification under sub-section (1) of section 14 has been published no proceedings under chapter IX of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be, in respect of any estate or a sub-division of an estate which will be effected by the scheme of consolidation shall be commenced, and such proceedings pending shall remain in abeyance during the pendency of the consolidation proceedings.

**44. No instrument necessary to effect transfer**—Notwithstanding anything contained in any law for the time being in force—

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and
- (b) no instrument, if executed, shall require registration.

**45. Apportionment of compensation or net value in case of dispute**—(1) The amount of compensation payable under this Act shall be assessed, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894).

(2) Where there is dispute in respect of the apportionment of—

- (a) the amount of compensation determined under sub-section (2) of section 23, or sub-section (4) of section 26;
- (b) the net value realised under sub-section (3) of section 32; and
- (c) the total amount of compensation determined under subsection (2) of section 36;

the Consolidation Officer shall refer the dispute to the decision of the civil court and deposit the amount of compensation or net value, as the case may be, in the court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894 (1 of 1894), shall, so far as may be, apply.

**46. Power to vary or revoke scheme**—A scheme for the consolidation of holdings confirmed under this Act may, at any time be varied or revoked by the authority which confirms it subject to any order of the State Government, that may be made in relation thereto and a subsequent scheme may be prepared, published and confirmed in accordance with the provisions of this Act.

#### **CHAPTER-IV**

#### **OTHER POWERS OF CONSOLIDATION OFFICERS**

**47. Powers of officers to enter upon land for purposes of survey and demarcation**—The Consolidation Officer and any person acting under his orders may, in the discharge of any duty



under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

**48. Penalty for destruction, injury or removal of survey marks**—If any person willfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such compensation not exceeding rupees fifty for each mark so destroyed, injured or removed, as may, in the opinion of that officer, be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gives information of the destruction, injury or removal.

**49. Report of destruction, removal or injury of survey marks.**— Every village officer of an estate shall be legally bound to furnish a Consolidation Officer, with information respecting the destruction or removal of, or any injury done, to any survey mark lawfully erected in the estate.

**50. Powers to enforce attendance of witnesses in certain matters and application of Code of Civil Procedure**—(1) The Settlement Officer, (Consolidation), Consolidation Officer and the Assistant Consolidation Officer shall have all such powers and rights and privileges as are vested in a civil court on the occasion of any action in respect of the following matters—

- (a) the enforcing of the attendance of witnesses and examining them on oath, affirmation or otherwise and the issue of a commission or request to examine witness abroad;
- (b) compelling any one for the production of any document;
- (c) the punishing of persons guilty of contempt, and a summons signed by such officer may be substituted for and shall be equivalent to any formal process capable of being issued in any action by a civil court for enforcing the attendance of witnesses and compelling the production of any document.

(2) Subject to any conditions or restrictions that may be prescribed, the Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer may, by written order, require any person to produce such documents, papers and registers or to furnish such information as the Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer, as the case may be, may deem necessary for the proper exercise of his powers or the proper discharge of his duties under this Act.

(3) Every person required to produce any document, paper or register to furnish an information under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code, 1860 (45 of 1860).

(4) A proceeding before a Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860 (45 of 1860).

(5) Unless otherwise expressly provided by or under this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to all proceedings including appeal and application under this Act.

(6) The Assistant Consolidation Officer shall, for delivering possession to the person or persons to whom land has been allotted, have all the powers as regards contempt, resistance and the

like as are exercisable by a civil court in execution of a decree for delivering possession of immovable property.

**CHAPTER-V**  
**MISCELLANEOUS**

**51. Officers and authorities**—(1) The State Government may for the purposes of this Act appoint—

- (a) Director of Consolidation;
- (b) Settlement Officer (Consolidation);
- (c) Consolidation Officer;
- (d) Assistant Consolidation Officer; and
- (e) such other persons as it thinks proper.

(2) The Director of Consolidation shall perform such duties and exercise such powers of supervision and superintendence over the work of the Settlement Officer (Consolidation), Consolidation Officer and Assistant Consolidation Officer as may be prescribed.

(3) The Settlement Officer (Consolidation), the Consolidation Officer and the Assistant Consolidation Officer shall exercise the powers and perform the duties conferred or imposed upon them by or under this Act or the rules framed there under.

**52. Delegation of Powers**—(1) The State Government may, by notification in the Official Gazette, delegate to any officer or authority any of the powers conferred upon it by this Act to be exercised subject to such restrictions and conditions as may be specified in the notification.

(2) The Director of Consolidation, the Consolidation Officer or the Settlement Officer (Consolidation) may, with the sanction of the State Government delegate any of his powers or functions under this Act to any person in the service of the State Government.

**53. Arbitrator**—(1) Where any matter is, by or under this Act, directed to be referred to an arbitrator for determination, the arbitrator shall be appointed by the State Government from amongst Civil Judicial Officers of not less than three years' standing and in all other respects the matter shall be determined in accordance with the provisions of the Arbitration Act, 1940 (10 of 1940).

(2) The appointment of an arbitrator under sub-section (1) may be made either generally or in respect of any particular case or class of cases or in respect of any specified area or areas.

**54. Power of the State Government to call for proceedings**—The State Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed, scheme prepared or confirmed or repartition made by any officer under this Act call for and examine the record of any case pending before or disposed off by such officer and may pass such orders in reference thereto as it thinks fit:

Provided that no order, scheme or repartition shall be varied or reversed without giving the parties interested notice to appear and opportunity to be heard except in cases where the State Government is satisfied that the proceedings have been vitiated by unlawful consideration.

**55. Appeal and Revision**—No appeal and no application for review, reference or revision shall lie from any order passed under the provisions of this Act except as provided by or under this Act.

**56. Correction of clerical errors**—Clerical or arithmetical mistakes in a scheme made, or an order passed by any officer, under this Act arising from any accidental slip or omission may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties.

**57. Jurisdiction of civil court barred as regards matters arising under this Act**—No person shall institute any suit or other proceedings in any civil court with respect to any matter arising out of the consolidation proceedings or with respect to any other matter in regard to which a suit or application can be filed under the provisions of this Act.

**58. Public servants indemnified for acts done under this Act.**- No suit or other legal proceedings shall lie in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made there under.

**59. Rule making power**—(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the manner of publication under sub-section (2) of section 14, sub-section (1) and (2) of section 28, sub-section (3) of section 29 and sub-section (1) of section 30;
- (b) the matters pertaining to the cancellation of the declaration regarding consolidation under section 16 and the consequences thereof;
- (c) the procedure and proceedings relating to the examination of revenue records under sub-section (1) of section 17;
- (d) the principle and procedure to be followed in the preparation of the scheme under section 22 and the classes of tenants whose holdings are to be consolidated and appointment of a committee in connection with the scheme;
- (e) the manner in which the area is to be reserved under section 27, in which it is to be dealt with and also in which the village abadi is to be given to proprietors and non-proprietors on payment of compensation or otherwise;
- (f) the procedure for entering into possession;
- (g) the manner in which the compensation recoverable from any person under sub-section (3) of section 32 shall be deposited by him;
- (h) the guidance of the Consolidation Officer in respect of the transfer of lease, mortgage, or other encumbrance under section 36;
- (i) the manner in which the area and assessment (including water rate, if any) of each re-constituted holding and tenancy shall be determined;
- (j) appointment and the procedure for reference to the Arbitrator;

- (k) the matters relating to the mode of service of notice or the production of document under this Act;
- (l) the manner of publication of any declaration or notification in the village;
- (m) the procedure to be followed in proceedings including applications, filing and disposal of objections and appeals under this Act, in cases for which no specific provision has been made therein;
- (n) the duties of any officer, or authority having jurisdiction under this Act, and the procedure to be followed by such officer and authority;
- (o) the time within which applications and appeals may be presented under this Act, in cases for which no specific provisions in that behalf has been made therein;
- (p) the application of the provisions of the Indian Limitation Act, 1963 (36 of 1963), to applications, appeals and proceedings under this Act;
- (q) the delegation of powers conferred by this Act on the State Government or any other authority, officer or person;
- (r) the transfer of proceedings from one authority or officer to another;
- (s) limits within which the area of a tenure-holder can be adjusted in allotment by compensation or otherwise;
- (t) the appointment of guardians ad *litem* for minors;
- (u) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act; and
- (v) any other matter which is to be or may be prescribed.

(3) Rules made under this section shall be subject to the conditions of previous publication.

(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 to 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.

**60. Repeal and savings**—The Himachal Pradesh Consolidation of Holdings Act, 1953 (10 of 1954), and the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (50 of 1948) in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), are hereby repealed, but notwithstanding such repeal, any order made, anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Act, shall be deemed to have been made, issued, done, taken or commenced in the exercise of the powers conferred by or under this Act.

## NOTIFICATIONS

*Shimla-2, the 2<sup>nd</sup> March, 2009*

**No. Rev. 2 F(8)-7/88.**—In supersession of all previous notification issued in this behalf and in exercise of the powers conferred upon him under section 52 of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971, the Governor, Himachal Pradesh is pleased to delegate the powers of State Government to Divisional Commissioner, Shimla/Kangra/Mandi, Himachal Pradesh, in their respective jurisdiction to carry out the provisions of Section 54 of the said Act, with immediate effect.

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*Shimla-2, the 2<sup>nd</sup> March, 2009*

**No. Rev. 2 F(8)-7/88.**—In supersession of all previous notification issued in this behalf and in exercise of the powers conferred upon him under section 52 of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971, the Governor, Himachal Pradesh is pleased to delegate the powers of Consolidation Officer upon Tehsildars concerned in their respective jurisdiction for disposal of cases pending for disposal with the Consolidation Officer under the provisions Act, *ibid*, with immediate effect.

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*Shimla-2, the 2<sup>nd</sup> March, 2009*

**No. Rev.2 F(8)-7/88**—In supersession of all previous notification issued in this behalf and in exercise of the powers conferred upon him under section 52 of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971, the Governor, Himachal Pradesh is pleased to delegate the powers of Settlement Officer (Consolidation) upon all the Sub-Divisional Officers (Civil) in their respective jurisdiction to carry out the provisions of Section 30 (3) of the Act, *ibid*, with immediate effect.

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*Shimla-2, the 2<sup>nd</sup> March, 2009*

**No. Rev.2 F(8)-7/88**—In supersession of all previous notification issued in this behalf and in exercise of the powers conferred upon him under section 52 of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971, the Governor, Himachal Pradesh is pleased to delegate the powers of Additional Director, Consolidation upon all the Deputy Commissioners in their respective jurisdiction to carryout the provisions of Section 30(4) of the Act, *ibid*, with immediate effect.

By order,  
PREM KUMAR,  
F.C.-cum- Principal Secretary.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF  
FRAGMENTATION) RULES, 1973**

**(The Rule Published;**

**6<sup>th</sup> Feb. 1973)**

ARRANGEMENT OF RULES

RULES—

1. Short title.
2. Extent and commencement.
3. Definitions.
4. Mode of publications.
5. Matters pertaining to cancellation of declaration under section 14.
6. Consequences of cancellation of declaration made under section 14.
7. Procedure and proceedings relating to the examination of revenue records.
8. Determination of revenue or rent of the plot under section 20(1) (a) (V).
9. List of tenure holders under section 20 (1) (b).
10. Disposal of objections under sub-section (2) of section 21.
11. Preparation of Scheme of Consolidation.
12. Particulars of the scheme.
13. Draft scheme of consolidation to be explained to the persons affected thereby.
14. Reservation of land for common purpose.
15. Re-partition.
16. Matters to be kept in view in preparing re-partition papers.
17. Re-partition papers to be explained to the persons affected thereby.
18. Procedure for eviction and entering into possession.
19. Deposit of compensation.
20. Re-distribution of assessment.
21. Transfer of encumbrance.
22. Putting the encumbrance in possession.
23. Assessment, collection, refund etc. of consolidation.
24. Appointment of and procedure for reference to the Arbitrator.
25. Appointment of guardians to minors.
26. Reservation of area for common purposes.
27. Form of application and documents which shall accompany it.
28. Limitation for application under section 54.
29. Fees on application.
30. Repeal and savings.

Form C.H.I.

FORM I

FORM II

**THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND  
PREVENTION OF FRAGMENTATION) RULES, 1973**

1. **Short title** –These rules may be called the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973.

2. **Extent and commencement** – They shall come into force in the areas in which the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, other than section 1 is made applicable.

3. **Definitions**—(1) In these rules unless there is anything repugnant in the subject or context,-

(a) "Act" means the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, (20 of 1971).

(b) "Committee" means a village committee specially appointed by the consolidation officer in respect of any estate or group of estates for consolidation of holdings; and

(c) "section" means a section of the said Act.

(2) All other words and expressions used in these rules and defined in the act, shall have the meanings assigned to them in the Act.

4. **Mode of publication** – Any matter required to be published, or of which public notice is to be given, under the Act, shall be published by exhibiting copies thereof in the estate or estates concerned in Hindi or in English as may be deemed proper and shall also, so far as possible, be announced in such estate or estates by beat of drum.

5. **Matters pertaining to cancellation of declaration made under section 14** – Without prejudice to the generality of the power of the State Government to cancel the declaration mentioned in section 14, it may cancel the same on one or more of the following grounds, namely, that—

(a) the area is under a development scheme of such a nature which, when completed, would render the consolidation inequitable to a section of the peasantry;

(b) the area has suffered from some calamity from which it will take some time to recover;

(c) the village is so much torn up by factions as to make any consolidation work very difficult;

(d) cultivation in any village is scattered coupled with interspersal of uncultivated patches and consolidation of holdings is likely to serve no useful purpose; and

(e) the tract is liable to very quick and violent changes due to fluvial action of any river or due to quick erosion of soil.

6. **Consequences of cancellation of declaration made under section 14** – On cancellation of the notification under section 14, the following consequences shall ensue as from the date of cancellation, namely:-

(a) the area shall become subject to the normal revenue administration of the district; and

(b) matters which may have been referred to arbitration under sub-section (4) of section 21 shall be transferred to the Court of competent jurisdiction, who shall dispose them of in accordance with the normal law and procedure.

7. **Procedure and proceedings relating to the examination of revenue records** – (1) The Assistant Consolidation Officer or the Consolidation Officer shall in taking action under section 17, direct the Inspector (Kanungo) to make a field to field partial of the village and submit a report to him showing,-

- (a) the total number of plots in the village;
- (b) the number of plots which have changed their shapes by division and accertion;
- (c) the number of fields and their area created as a result of extension of cultivation;
- (d) the number of fields and their area which have remained out of cultivation for more than four years and the reasons therefore;
- (e) a list of mistakes detected by him in—
  - (i) the map,
  - (ii) the khasra in respect of area and possession, and
  - (iii) the last jamabandi as a result of checking and test thereof in accordance with the provisions of the Himachal Pradesh Land Records Manual; and
- (f) the number and particulars of scattered trees and wells standing in the different plots.

(2) On receipt of the report of the Inspector (Kanungo) mentioned in sub-rule (1), the Assistant Consolidation Officer or the Consolidation Officer shall check it by making a field to field partial. He shall try to effect during the course of his checking as may reconciliations between tenure-holders (which shall be reduced to writing) as possible, and shall then prepare a report on his findings.

(3) The report submitted by the Inspector (Kanungo) as amended by the Assistant Consolidation Officer or the Consolidation Officer shall be forwarded to the State Government accompanied with the opinion of the Assistant Consolidation Officer, giving reasons therefore as to whether revision of maps and records is necessary in that village and a statement showing the number of errors in maps, khasras and jamabandis he has been able to correct by mutual agreements.

(4) On receipt of the report under sub-rule (3); the State Government shall publish a notification regarding revision of records and thereupon a revised map and a field book and the records of rights shall be prepared for the village or villages concerned in accordance with the provision of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, and rules framed thereunder as if a notification had been issued in respect thereof under the said Act and rules.

(5) Where the Assistant Consolidation Officer or the Consolidation Officer is of the opinion that a revision of maps and records is not necessary and only corrections are required to be made in revenue records he shall proceed to correct the entries in the revenue records in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, and the rules framed thereunder.

**8. Determination of revenue or rent of the plot under section 20(1)(a)(v)** – The rent or revenue of a plot if it is a part of large holding mentioned in section 20(1)(a)(v) shall be calculated in accordance with the following formula—

$$R = \frac{R1 \times R2}{R3}$$

R is the rent or revenue of the plot as the case may be;

R 1 is the rental value of the plot;

R 2 is the rent or revenue of the holdings to which the plot belongs; and



R 3 is the rental value of holding if the plot constitutes a separate holding, assessed to rent or revenue payable in cash the said rent or revenue as the case may be shall be entered in the statement.

**9. List of tenure holders under section 20(1) (b)**—The list of tenure-holders mentioned in section 20(1) (b) shall contain the following additional particulars:-

- (1) the number of masonry wells belonging to tenure-holders and an estimated value of each;
- (2) the number of trees and their estimated value standing on the holding of the tenure-holder; and
- (3) the proportionate value of trees standing on the boundaries of the holdings.

**10. Disposal of objections under sub-section (2) of section 21--** The Consolidation Officer on receipt of report from the Assistant Consolidation Officer on the objections under section 21(2) may, except as provided in sub-section (4) of section 21 reject or accept the objection and order corrections and additions to be made in the statement:

Provided, however, that before giving his decision the Consolidation Officer shall consult the committee in regard to the objection and the recommendations of the Assistant Consolidation Officer.

**11. Preparation of scheme of consolidation** —The Consolidation Officer shall after publication of declaration under sub-section (1) of section 14, publication of statement under sub-section (2) of section 20 and decision of objections if any, under section 21, visit each of the estates concerned after giving reasonable notice of his forthcoming visit to the land-owners and tenants thereof and shall appoint a village committee consisting of not less than 5 and not more than 15 members from among the landowners and tenants of the estate or estates concerned who must be—

- (1) permanent residents of the village; and
- (2) 21 years or more in age and preferably literate.

The village Lambardar or members of the Gram Panchayat of the village may be one of the members of that committee. Proportionate representation may also be given to the Harijan right holders and landless agrarian labourers of the village. He shall then record the statements of the landowners, tenants and landless agrarian labourers of the estate or estates concerned and shall put up a scheme for the consolidation of holdings in consultation with the village committee mentioned above.

**12. Particulars of the scheme** – (1) Every such scheme of consolidation shall contain the following particulars—

- (i) a statement of classification of land for the purpose of consolidation and the exchange ratio for conversion of one class into another;
- (ii) a statement of valuation of lands, trees, etc. to be exchanged showing the compensation to be given to or received by the holders concerned,
- (iii) a brief statement as to the action, if any, taken in pursuance of section 26 and 27 of the act, and
- (iv) such other particulars as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

(2) The scheme of consolidation in respect of the area for which a notification has been issued under section 14 shall include the holdings of all tenants whether they be occupancy or non-occupancy tenants.

**13. Draft scheme of consolidation to be explained to the persons affected thereby** –The draft scheme of consolidation shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose. If any right-holder desires to have a copy of the proposed scheme of consolidation, it shall be supplied to him or her, as the case may be, on payment of the prescribed fee i.e. one rupee for the first 200 words or less and fifty paise for every additional 100 words or fraction thereof:

Provided that a copy of consolidation scheme may be supplied on request to the Gram Panchayat concerned free of cost.

**14. Reservation of land for common purpose** – In the matter of assigning land for any common purpose, the Consolidation Officer shall be guided by the requirements of the land-holders. The criterion shall be that the residents are provided with a reasonable area for their common purposes and healthy recreation, *i.e.*, the village roads, drains are so provided as to secure good sanitation and in such matters the Consolidation Officer shall take the persons affected into confidence and as far as possible, this part of the scheme shall be based on unanimous opinion of the members of the Committee.

**15. Re-partition** – The Consolidation Officer shall, after obtaining the advice of the committee, carry out re-partition in accordance with the scheme of consolidation of the holdings confirmed under section 29 and shall prepare the following re-partition papers—

- (i) a map of the village showing all the existing field numbers, recognised roads and irrigation channels and areas assigned for public purposes, such as burial grounds, places for disposal of animal carcasses, ponds, or grazing areas, etc., with new field numbers super-imposed upon it in red lines or other markings;
- (ii) another similar village map exhibiting the position emerging as a result of re-partition;
- (iii) a statement showing the names of the owners of holdings with particulars of field numbers, shares, class of land, tenure area, assessment and encumbrances, if any, after getting the record-of-rights up-to-date;
- (iv) a statement showing the names of owners of holdings with particulars of all different rights possessed by each individual;
- (v) a statement showing the compensation payable by or to an owner in order to adjust deference in the value of land exchanged under section 38 of the Act or due to the existence of wells, trees etc. under sub-section (4) of section 26;
- (vi) a statement showing the names of occupants or holders to whom the new consolidation holdings are allotted with particulars of field numbers, shares, class of land, tenure area, assessment and encumbrances, if any; and
- (vii) such other papers as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

**16. Matters to be kept in view in preparing re-partition papers** – The following shall also be kept in view in preparing the re-partition papers mentioned in the preceding rule—

- (i) in allotting land to a tenure-holder, consideration shall be made of—

- (a) the improvement affected by him in his holding;
- (b) the situation of any grove held by him; and-
- (c) the situation of the land held by him as sub-tenant of any other tenure-holder;
- (ii) where a tenure-holder has to be allotted land in more than one block, he shall except for special reasons, be allotted land on the boundary of the two blocks so as to form a single chak;
- (iii) where a tenure-holder holds land in more than one village he shall, so far as it is possible, be allotted land on the boundary of the villages so as to form a single chak.

17. **Re-partition papers to be explained to the persons affected thereby** – The contents of the statement mentioned in term (iv) to (vii) of rule 15 shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose.

18. **Procedure for eviction and entering into possession**—The Consolidation Officer shall serve a notice on that person or persons liable to eviction under sub-section (2) of section 32 requiring him within 15 days of the receipt of the notice to vacate the land. If such notice is not complied within the time specified therein, the Consolidation Officer may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887 as the case may be, for the purpose of putting in physical possession of the holdings the person entitled thereto.

19. **Deposit of compensation** – The amount of compensation payable by an owner/tenant under section 23 shall be deposited by him in the nearest Government treasury and a copy of the receipt obtained by him in token of credit shall be produced by him before the Consolidation Officer.

20. **Re-distribution of assessment** – After re-partition has been confirmed and appeal against him if any, has been finally decided, the Collector of the district shall take necessary steps for the redistribution of the assessment of the estate concerned in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887 as the case may be.

21. **Transfer of encumbrance**—In transferring a lease, mortgage, debt, or other encumbrances under sub-section (2) of section 36, the Consolidation Officer shall—

- (i) if the new holding is of the same market value as the original one, transfer to the former the entire encumbrance attaching to the latter; and
- (ii) if the new holdings of a substantially greater market value than the original one, transfer to the former holding the encumbrance attaching to the latter subject in the case of a lease, to the condition that the lessee shall pay to the owner such reasonable rent in addition to the rent already payable under the lease as may be fixed by the Consolidation Officer and in the case of any other encumbrance, subject to such reasonable reduction in the area or in the rate of interest as may be fixed by the Consolidation Officer having regard to the substantially better security provided by the owner of the new holding.

22. **Putting the encumbrancer in possession**—If the lessee mortgagee or other encumbrancer appears to the Consolidation Officer to be entitled to possession of holding under

section 36, the Consolidation Officer shall issue a notice to the owner to show cause within fifteen days of the receipt of notice why the lessee, mortgagee or other encumbrance, as the case may be, should not be put in possession of such holding. If the owner fails to show cause, or if the Consolidation Officer is satisfied that the cause shown by the owner is not adequate, he shall put the lessee, mortgagee or other encumbrance, as the case may be, into possession of the holdings and the record of rights in respect of the holding shall be corrected accordingly.

**23. Assessment, collection, refund, etc. of cost of consolidation** – (1) The cost of consolidation proceedings shall be assessed (village-wise) at Rs. 5 per acre or portion of an acre of land, other than *gair mumkin*, *ban sarkar* and *banjar qadim* land, if the wattbandi is carried out by the persons whose holdings are affected and at Rs 7.50 per acre if the wattbandi is carried out by or on behalf of the Consolidation Officer, at the option or default of the persons whose holdings are affected.

(2) The cost of consolidation shall be payable by the persons whose, holdings are affected by the scheme of consolidation except that the case of evacuee land, it shall be payable by an allottee in respect of land, which has been allotted to him on a *quasi* permanent basis and the custodian in the case of un-allotted lands.

(3) The cost of consolidation shall be collected in two half-yearly installments along with the land revenue demand for Kharif and Rabi harvests (except when the Government directs otherwise by written order to collect this in more than two half-yearly installments in hard and deserving cases.) After a notification under section 14(1) of the Act the patwaris shall prepare in Form C.H.I., a list of assesses from whom the cost of consolidation is to be recovered. This list will be arranged lambardari-wise.

(4) All entries in the list mentioned in sub-rule (3) above shall be checked by the Girdawar Kanungo and read over and explained to the persons, whose holdings are affected by the scheme of consolidation. The Assistant Consolidation Officer shall check the entries in the List and the List duly signed on every page by the Patwari Girdawar, Kanungo and the Assistant Consolidation Officer in token of its correctness shall be forwarded to the Consolidation Officer, who after countersigning it, shall return it to the Patwari after the Wasil Baqi Nawis has noted the consolidated demand in a register in such form as may be prescribed by the Government from time to time. The Patwari shall copy out the list nambardari-wise and deliver the relevant papers to the Lambardars concerned for collection.

(5) Before the second installment falls due the village Patwari shall immediately after the preparation of preliminary record of the village particularly the Naqsha Haqdar-war draw up the list of second installment of cost of consolidation incorporating the changes if any, in the first list of the cost of consolidation payable by the persons, whose holdings are affected by the scheme of consolidation. This List shall also be prepared, checked and authenticated and disposed off as laid down in sub-rule (4) above.

(6) The excess cost of consolidation recovered from a person, whose holdings are affected by the scheme of consolidation, shall be refunded under orders of the Settlement Officer to whom an application may be made for the purpose through the Patwari of the village who shall forward it through the proper channel after verification and report. The refund however, shall be prepared in

the office of the Settlement Officer and sent to the applicant through the Girdawar Kanungo, who shall obtain a receipt for it and return it to the Settlement Officer for record.

(7) The demand on account of cost of consolidation will be due as soon as the list is in the hands of the Lambardars or other persons entrusted with the collection and must be paid into treasury not later than the dates of depositing the land revenue of the estate concerned. After this the cost of consolidation if remained un-recovered then it shall be recovered as arrears of land revenue.

(8) The allowance to the Lambardars or other persons collecting the cost of consolidation shall be two per cent of the amount collected. Unless otherwise expressly ordered by the Government, Lambardar or other person concerned while depositing the cost of consolidation into the treasury shall be entitled to retain the allowance due to him and deposit the balance into the treasury. The allowance will be conditional on the demand being paid in full for each estate by the date fixed in sub-rule (7). The Collector of the district may deduct any sum out of the allowance for delay in payment of the demand into the treasury. In case full amount recovered is deposited in the treasury by the Lambardar or other person without retaining the allowance due to him the Collector of the district may refund such amount of allowance to the person concerned to which he is entitled. The Collector may also recover, as arrears of land revenue the amount of allowance withheld in excess, if any by Lambardars or other persons entrusted with the collection of cost of consolidation while depositing it into the treasury, without fulfilling conditions set out above.

(9) A monthly return in such form as may be prescribed by Government from time to time, shall be forwarded by the Collector to the Divisional Commissioner Himachal Pradesh, with a copy of it to the Director, Consolidation of Holdings, by the seventh of the month following that to which it relates. In this return there shall be entered the demand for the harvest, arrears, if any, and payment received during month.

**24. Appointment of and procedure for reference to the Arbitrator**—(1) An arbitrator for any local area for district or as a whole shall be appointed by the State Government on a reference made by the Director, Consolidation of Holdings. For this purpose, the Director, Consolidation of Holding shall in variably given a panel of three names with merits of each candidate for consideration of State Governments.

(2) All cases meant for arbitration shall be referred to the Arbitrator through the Director, Consolidation of Holdings.

(3) The time limit for reference of a dispute to an Arbitrator shall be two months from the date of the last order passed in the case by a competent authority.

**25. Appointment of guardians to minors** – Where any of the land-holders is a minor, the Consolidation Officer may after such enquiries as may be necessary, and by an order in writing appoint a suitable person, whose interest is not adverse to that of the minor, as guardian-ad-litem. Similar action may be taken in case of widows, absentees, soldiers or others, if considered necessary.

**26. Reservation of area for common purposes** – (1) The area to be reserved for the common purpose of extension of abadi for proprietors and non-proprietors under section 27 (c) of the Act shall be reserved after scrutinizing the demand of proprietors desirous of building houses and of non-proprietors including harijan families working as agrarian labourers who are in need of a site for house. For the land allotted to proprietors for extension of abadi the land that has to be

deducted from their holdings will be indicated in the scheme for the village in case of non proprietors including harijan families, these shall be allotted without payment of compensation and they shall be deemed to be full owners of the plots allotted to them.

(2) In an estate or estates where during consolidation proceedings there is no *Shamlat Deh* land or such land is considered inadequate, land shall be reserved for the village panchayat and for other common purposes, under section 27 (c) of the Act, out of the common pool of the village at a scale prescribed by Government from time to time. Proprietary rights in respect of land so reserved, except the area reserved for the extension of abadi of proprietors and non-proprietors shall vest in the proprietary body of estate or estates concerned and it shall be entered in the column of ownership of record-of-rights as *Jumla Malkan wa digar Haqdaran Arazi Hasab Rasad Raqba*. The management of such land shall be done by the panchayat of the estate or estates concerned on behalf of the village proprietary body and the panchayat shall have the right to *utilize* the income derived from the land so reserved for the common needs and benefits of the estate or estates concerned.

**27. Form of application and documents which shall accompany it** – Every application under section 54 shall be signed and verified by the applicant, shall contain the following particulars and shall be accompanied by a certified copy each of the orders, if any, passed under sub-sections (2), (3) and (4) of section 30, a rough plan of the path or paths, if any, in dispute and certified copy of the grounds of the last appeal, if any, filed under sub-section (3) or sub-section (4) of section 30--

- (a) name of the authority to whom application is made;
- (b) name and description of place of residence, tehsil and district of the applicant;
- (c) name, description and addresses of the persons, who are likely to be affected if the application accepted;
- (d) name of the village, tehsil and district in which the land which is subject matter of the application is situated;
- (e) the date of publication of the repartition shajra under sub-section (1) of section 30 of the Act if it is known to the applicant;
- (f) whether any objection was lodged with the Consolidation Officer;
- (g) whether any appeal was preferred under sub-section (3) and under sub-section (4) of section 30 and if so with what result;
- (h) whether any application was previously filed under section 54 of the Act and, if so with what result;
- (i) a statement of facts in concise form on which the party applying relies; and
- (j) relief prayed for.

**28. Limitation for application under section 54**—An application under section 54 shall be made within Six months of the date of the order against which it is filed:

Provided that in computing the period of limitation the time spent in obtaining certified copies of the orders and the grounds of appeal, if any, filed under sub-section (3) or sub-section (4) of section 30 required to accompany the application shall be excluded:

Provided further that an application may be admitted after the periods of limitation prescribed therefore if the applicant satisfies the authority competent to take action under section 54 that he had sufficient cause for not making the application within such period.

29. **Fees on application** – The following fees shall be payable in court fee stamps in respect of applications, under section 54:-

- |  |   |
|--|---|
| (i) on the application   | Rs. 10/-  |
| (ii) on the copy of the order against which application is made  | Rs. 1.25/-  |
| (iii) certified copy of the grounds of last appeal, if any, filed under sub-section (3) or sub-section (4) of section 30 | Rs. 1.25/-  |
| (iv) process fee   | Rs. 2/- upto four respondents and 50 paise, for each additional respondents subject to a maximum of Rs. 5/- |

Provided that the process fee shall not be payable unless the application is admitted and the respondents are ordered to be summoned.

30. **Repeal and savings** –The Himachal Pradesh Consolidation of Holdings Rules, 1954, as in force, in the areas comprised in Himachal Pradesh immediately before the 1<sup>st</sup> November, 1966 and the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganization Act, 1966, are hereby repealed:

Provided notwithstanding such repeal of the said rules anything done or any action taken in exercise of powers conferred by rules so repealed, shall be deemed to have been done or taken under these rules.

### FORM C.H. I

Recovery Fard of Consolidation fee of Village.....  
 Hadbast No.....Tehsil.....  
 District.....

Sr. No.	Names of persons whose holdings are affected	No. of Khewats Khataunis	Area on which consolidation fee has been assessed in acres	Rate of consolidation fee per acre	Demand	Remarks
1	2	3	4	5	6	7

**Notes—**

(i) **Column Nos. 2 and 4—** Names of persons whose holdings are affected, their parentage with details of rights (owners, occupancy tenants, sanjhidars) and area should be entered according to the entries of the last jamabandi, khasra girdawari and mutations of the village.

(ii) **Column No. 3—**Khewats and Khataunies should be written in respect of each person whose holdings are affected.

(iii) **Column No. 5—**Rate of consolidation fee per acre should be entered.

(iv) **Column No. 6—**The demand of consolidation fee due from the persons whose holdings are affected should be entered in this column. In case there is any change under the orders for mutation etc. after the preparation of the lists, a mention should be made in the remarks column.



**FORM- I**

Register of Consolidation Fee of Village.....HB. No.....Tehsil.....  
District.....

Total Demand of consolidation fee

Total area cultivated/ Uncultivated	Area on which fee assessed	Rate of consolidation fee	1 <sup>st</sup>	2 <sup>nd</sup>	Total of Recovery	Signature of Settlement Officer/consolidation officer
			Installment Rabi	Installment Kharif		
			Amount last date of recovery	Amount last date of recovery		

**1<sup>st</sup> installment**      **2<sup>nd</sup> Installment**

- |   |     |
|---|-----|
| 1. Nambardari allowance payable on the total amount recoverable by the Lambardar. | --- |
| 2. Amount actually recovered by the Lambardar.                                    | --- |
| 3. Nambardari allowance actually paid   | --- |
| 4. Retrenchment of the allowance, if any  | --- |

**RECORD OF RECOVERY OF CONSOLIDATION FEE**

Challan No.	Date of deposit	Name of the depositor	Amount deposited	Balance to be recovered	Remarks

**FORM – II**

**INDEX OF CONSOLIDATION FEE OF VILLAGES OF TEHSIL.....**

**DISTRICT.....**

1. Serial No.
2. Name of Village
3. Hadbast No.
4. Total demand of fee
5. Monthly recovery of fee
6. April
7. May
8. June
9. July
10. August
11. September
12. October
13. November
14. December
15. January
16. February
17. March
18. Remarks

- **THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) ACT, 1971.**
- **THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) RULES, 1972.**

## THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) ACT, 1971

### (ARRANGEMENT OF SECTIONS)

#### SECTIONS

1. Short title, extent, commencement and limitation of scope of Act to certain mortgages.
2. Definitions.
3. Application of certain sections of the Punjab Tenancy Act, 1887 and the Himachal Pradesh Act No. 15 of 1954.
4. Petition for redemption, verification, deposit and particulars to be contained in petition.
5. Mortgagee to be summoned.
6. Procedure when petitioner is absent and mortgagee present.
7. Procedure when petitioner is present and mortgagee absent.
8. Procedure when both parties are in attendance, order for redemption.
9. Procedure in contentious cases.
10. Inquiry into objection raised by mortgagee.
11. Inquiry regarding sum due.
12. Saving of suits to establish rights and setting aside ex-parte orders or orders of dismissal.
13. No second petition.
14. Return of deposit.
15. Deposit not to be attached.
16. Cessation of interest.
17. Power to make rules.
18. Repeal and savings.

### THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) ACT, 1971(ACT NO. 13 OF 1971)<sup>1</sup>

Received the assent of the Governor on the 20<sup>th</sup> October, 1971.

*An Act to provide a summary procedure for the redemption of certain mortgages of land in Himachal Pradesh.*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:-

**1. Short title, extent, commencement and limitation of scope of Act to certain mortgages.**—(1) This Act may be called the Redemption of Mortgages (Himachal Pradesh) Act, 1971.

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

(3) It shall come into force at once.

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<sup>1</sup> Published in R.H.P Extraordinary, dated 5<sup>th</sup> Nov., 1971 at page 1335-1342

(4) It shall apply only to mortgages of land-

- (a) In which, whatever the mortgages money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area of 50 acres; or
- (b) In which, whatever the area the principal money secured under the mortgage does not exceed 5,000 rupees.

**2. Definitions.**—In this Act, unless there is something repugnant in the subject or context:-

(1) The expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land;
- (b) a share in the profits of an estate or holding;
- (c) any dues or any fixed percentage of the land revenue payable to land-owner;
- (d) a right to receive rent;
- (e) any right to water enjoyed by the owner, or the occupier of land as such; and
- (f) any right of occupancy;

(2) The expression “Collector” shall mean the Collector of the District in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1<sup>st</sup> grade;

(3) “prescribed” shall mean prescribed by rules made under this Act.

**3. Application of certain sections of the Punjab Tenancy Act, 1887 and the Himachal Pradesh Act No. 15 of 1954.**—Subject to the provisions of this Act and the rules thereunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 and sections 113, 119, 120, 121, 123, 124, 125, 126 and 135 of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, as in force in the areas comprised in Himachal Pradesh immediately before 1<sup>st</sup> November 1966, shall, so far as may be, apply to all proceedings of a Collector under this Act in the respective areas.

**4. Petition for redemption, verification, deposit and particulars to be contained in petition.**—The mortgager or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of complaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector.

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

**5. Mortgagee to be summoned.**—When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be

therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

**6. Procedure when petitioner is absent and mortgagee present.**—Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order—

- (a) that the mortgage be redeemed;
- (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee;
- (c) that the mortgagee deposits with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner;
- (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him:

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

**7. Procedure when petitioner is present and mortgagee absent.**—When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, inquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the Collector is satisfied that petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

**8. Procedure when both parties are in attendance, order for redemption.**—Where both parties appears when the petition is called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum large than that in deposit, the Collector shall inquire from the petitioner whether he is willing to pay such larger sum; and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

**9. Procedure in contentious cases.**—If the mortgagee raises objection on any ground other than the amount of the deposit or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary inquiry regarding the objection raised by the mortgagee or regarding the sum due.

**10. Inquiry into objection raised by mortgagee.**—If on inquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11 make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

**11. Inquiry regarding sum due.**—If on inquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

**12. Saving of suits to establish rights and setting aside ex-parte orders or orders of dismissal.**—Any party aggrieved by an order made under sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Notwithstanding anything in this section a mortgagee against whom an ex-parte order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside, and the Collector may in his discretion set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit:

Provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

13. **No second petition.**—The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

14. **Return of deposit.**—If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

15. **Deposit not to be attached.**—No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.

16. **Cessation of interest.**—When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

Provided further that where a suit is instituted under section 12, the court may pass such order as to interest as it deems fit.

17. **Power to make rules.**—(1) The State Government may, by notification in the Rajpatra, Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) 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.

18. **Repeal and savings.**—The Redemption of Mortgages (Punjab) Act, 1913 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Redemption of Mortgages (Punjab) Act, 1913 in its application to the areas added to Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

## THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) RULES, 1972

### ARRANGEMENT OF RULES

#### RULES:

1. Short title, extent and commencement.
2. Definitions.
3. Form of petition and court-fees thereon.
4. Number of Mortgagors to join a petition.
5. Registering of petition and issue of notice.
6. Procedure.
7. Verification of written statement.
8. Appearance in the proceedings.
9. Production of evidence and further enquiries.
10. Deposit of sum due under mortgage.
11. Payment of sum deposited.

Form A

## THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) RULES, 1972

### REVENUE DEPARTMENT

#### NOTIFICATION

Shimla-2, the 30<sup>th</sup> October, 1972

**No. 10-23/71-Rev.A.**—In exercise of the powers vested in it under section 17 of the Redemption of Mortgages (Himachal Pradesh) Act, 1971 (Act No. 12 of 1971), the Government of Himachal Pradesh is pleased to make the following rules:-

**1. Short title, extent and commencement.**-(1) These rules shall be called the Redemption of Mortgages (Himachal Pradesh) Rules, 1972.

(2) They extend to the whole of Himachal Pradesh.

(3) They shall come into force at once.

**2. Definitions.**-In these rules unless there be anything repugnant in the context,-

(a) “Act” means the Redemption of Mortgages (Himachal Pradesh) Act, 1971; and

(b) “petition” means a petition under section 4 of the Act.

**3. Form of Petition and Court-fees thereon.**-(1) A petition shall be made in the Form ‘A’ attached to these rules, signed and verified as laid down in Order VI, rules 14 and 15 respectively, of the Code of Civil Procedure, 1908.

“(2) A petition shall bear the court-fee prescribed by Article 1(b) of Schedule II to the Himachal Pradesh Court-fees Act, 1968 (No. 8 of 1968) and be accompanied by an attested copy of the latest Jamabandi entry relating to the land, and a copy of the mutation creating the mortgage. These shall be also filed as many copies of the petition as is the number of persons mentioned in column (2) and (3) of the petition;



Provided that if the petitioner is unable to supply the copies of the latest Jamabandi and the mutation creating the mortgage he shall pay a fee of Rs. 2 and the Collector shall get those copies from his office within 30 days of the date of the deposit of the fee.”

(3) A petition shall be presented to the Collector by the petitioner personally or through a duly authorized agent. In the case of two or more petitioners, it may be presented by any one of them.

**4. Number of <sup>1</sup>[Mortgagors] to join a petition.**-When there are more mortgagors than one and all of them do not join in making a petition, it may be made by one or more of them, the names of the others being set out in column (2) of the petition, and the other mortgagors may subsequently be allowed to join as petitioners on such terms as may be decided by the Collector.

**5. Registering of petition and issue of notice.**-On receipt of a petition, or if it is not in order after getting the necessary corrections made, the Collector shall order it to be registered, fix a date for hearing the petition and cause notice thereof, together with a copy of the petition, to be served on the persons mentioned in columns (2) and (3) of the petition.

**6. Procedure.**- Except as otherwise provided by these rules the Collector dealing with a petition shall be guided by the procedure prescribed for the Revenue Officers in the enactments mentioned in section 3 of the Act, in so far as it may be applicable.

**7. Verification of <sup>2</sup>[written] statement.**—The persons mentioned in column (2) and (3) of the petition may at the first hearing and shall if required by the Collector at any time, present a written statement of their defence, which shall also be signed and verified as laid down in order VI, rules 14 and 15, respectively, of the Code of Civil Procedure, 1908.

**8. Appearance in the proceedings.**-(1) Parties to the proceedings under the Act may appear in person or through a legal practitioner holding a power-of-attorney or other duly authorized agent.

(2) If any one of the petitioners or respondents is a minor or of unsound mind, the provisions of order XXXII, Code of Civil Procedure, 1908, shall so far as these may be applicable, apply to proceedings under the Act.

**9. Production of evidence and further enquires.**-The Collector shall then hear the evidence produced by the parties and make such further enquiries as he may deem fit.

**10. Deposit of sum due under mortgage.**- The petitioner shall deposit the sum due under the mortgage as required under section 4 of the Act.

**11. Payment of sum deposited.**- (1) The sum deposited by the petitioner under rule 10 shall be paid to the person or persons entitled to receive it in accordance with the procedure laid down in sections, 6, 7, 8, 9, 10 and 11 of the Act as the case may be.

(2) If there is any dispute between persons claiming to be entitled to receive the sum deposited by the petitioner under rule 10, the Collector may either decide the dispute himself, or order the sum deposited by the petitioner not to be paid to any one till the contesting persons have their rights decided by a competent Court of law.

<sup>1</sup> Subs. for the word “Mortgagor” by Not. No. 10-23/71-Rev.-A. dt. 4<sup>th</sup> Feb. 1974, published in R.H.P. dated 8-2-1974, P. 150-51.

<sup>2</sup> Sub. For the word “defence” by *ibid*.

## FORM A

## APPLICATION UNDER SECTION 4 OF THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) ACT, 1971

In the District _____		Tehsil _____		Year _____			
1	2	3	4	5	6	7	8
Name, parentage <sup>1</sup> [****] and residence of the applicant	Name, parentage, [****] and residence of other mortgagors not joining the application	Name, parentage, [****] and residence of the mortgagee and (b) if he is not impossession of the person in possession of the land	<sup>2</sup> [The area, date and description of the land mortgaged to be redeemed]	The name, parentage, <sup>3</sup> [****] and residence of the original mortgagor and mortgagee	The amount for which mortgage affected	Payment if any, the made towards the mortgage debt was	Period for which the mortgagee has been in possession.
9	10	11	11				
How does the applicant claim the right of redemption	In case the respondent was not the original mortgagee, the manner in which he came to possess the mortgagee rights.	Remarks					

- Note.— (1) Attested copies of the latest jamabandi entry relating to the land and the mutation of the mortgage in question should be attached to the petition.
- (2) The facts in columns 5 to 11 should be given as are known to the petitioner and any mistake therein will not effect the petition.
- (3) If the petitioner is unable secure copies of the latest jamabandi entry and the mortgage mutation or to give the fact required in column numbers 5 to 11, he should pay a fee of Rs. 2 and the Collector shall get the necessary documents and facts from his office.

Signature of the petitioner.

## VERIFICATION

Verified that the facts set out in columns .....are true to my knowledge while facts set out in column No. .... are true to my belief and information.

Verified at .....on.

Signature of the person making  
the Verification.

(R.H.P. Extra, dated the 1<sup>st</sup> of November, 1972, p. 1034-1036).

<sup>1</sup> The word "Caste" del. by Not. No. 10-23/71-Rev.-A, dt. The 4<sup>th</sup> Feb. 1974, published in R.H.P. dt. 8-2-1974.p. 150-51.

<sup>2</sup> Subs. for the words "The area, and the date of description of the land mortgaged to be redeemed" by ibid.

<sup>3</sup> The word "Caste" del. by Not. No. 10-23/71-Rev.-A, dated 4<sup>th</sup> Feb. 1974, published in R.H.P., dated 8-2-1974, p. 150-51.

- **THE HIMACHAL PRADESH RESTITUTION OF MORTGAGED LANDS ACT, 1976.**
- **THE HIMACHAL PRADESH RESTITUTION OF MORTGAGED LANDS RULES, 1977.**

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**Act No. 20 of 1976**

**THE HIMACHAL PRADESH RESTITUTION OF MORTGAGED LANDS ACT, 1976**

An

Act

*to provide for the restitution of lands on which a mortgage subsists.*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Restitution of Mortgaged Lands Act, 1976.

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

(3) It shall come into force at once.

**2. Application of Act to subsisting mortgages.-** Notwithstanding anything contained in any enactment for the time being in force, this Act shall apply to any subsisting mortgages of land which were effected more than 20 years prior to the date on which an application for the restitution of the possession of the mortgaged land under section 4 of this Act is made.

*Explanation.*—A mortgage shall be deemed to subsist notwithstanding a decree or order for its redemption having been passed provided redemption has not taken place before the commencement of this Act.

**3. Definitions.-** (1) The expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land;
- (b) a share in the profit of an estate or holding;
- (c) any dues or any fixed percentage of the land revenue payable by an inferior land-owner to a superior land owner;
- (d) a right to receive rent;
- (e) any right to water enjoyed by the owner or occupier of land as such;
- (f) any right of occupancy; and
- (g) all trees standing on such land.

(2) The expression “Collector” means the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1<sup>st</sup> grade specially empowered by the State Government to perform the duties of the Collector for the purposes of this Act.

(3) The expression “Commissioner” means the Commissioner of the area in which the mortgaged property or any part thereof is situated, and shall include any officer specially empowered by the State Government to perform the duties of a Commissioner for the purposes of this Act by a notification to be published in the Official Gazette.

(4) “Prescribed” means prescribed by rules made under this Act.

(5) “Mortgagor” or “Mortgagee” respectively shall include the assignee and the representative-in-interest of such ‘mortgagor’ or ‘mortgagee’ as the case may be.

4. **Petition for restitution.**— A mortgagor to whose land the provisions of this Act apply, may at any time present a petition to the collector praying for restitution of possession of the land mortgaged. The petition shall be duly verified in the manner prescribed for such petitions.

5. **Procedure for dealing with petition for restitution.**— On receipt of such petition the Collector, after such enquiries as may be prescribed, shall record an order in writing with reasons stating whether the mortgage in question is one to which this Act applies.

6. **Petition when to be dismissed.**— If the Collector finds that the mortgage is one to which this Act does not apply, he shall dismiss the petition.

7. **Power of the Collector to declare and enforce orders in favour of mortgagor and to grant compensation to mortgagee in certain cases.**— (1) If the Collector finds that the mortgage is one to which this Act applies, he shall, notwithstanding anything contained in any other enactment for the time being in force, in cases where he finds that the value of the benefits enjoyed by the mortgagee, while in possession, equal or exceed twice the amount of the principal sum originally advanced under the mortgage, order in writing –

(a) that the mortgage be extinguished; and

(b) where the mortgagee is still in possession, that the mortgagor be put into possession of the mortgaged land as against the mortgagee and that the title deeds, if any, be restored to the mortgagor.

(2) If, in cases to which this Act applies, the Collector finds that the value of the benefits enjoyed by the mortgagee while in possession, is less than twice the amount of the principal sum originally advanced and some payment is still due to the mortgagee according to the terms of the mortgage, the Collector shall, by order in writing, and notwithstanding anything contained in any other enactment for the time being in force, direct that the land be restored to the mortgagor and he be put into possession subject, however, to the payment of compensation by the mortgagor to the mortgagee at rates not exceeding the following scale :-

(i) thirty times the land revenue assessed on the land at the time when it was mortgaged if the mortgagee has been in possession for a period exceeding twenty years but not exceeding twenty-five years;

(ii) fifteen times the land revenue assessed on the land at the time when it was mortgaged if the mortgagee has been in possession for a period exceeding twenty five years.

*Explanation:*— The Collector shall for the purposes of this section, compute the period of possession from the date on which the mortgagee entered into possession, to the date of presentation of the petition under section 4.

8. **Effect of order of restitution when compensation is payable.**— If the Collector finds that any sum is due to the mortgagee by way of compensation under sub-section (2) of section 7, he shall require the mortgagor to deposit the amount, in such manner as shall be prescribed; and on deposit of the amount, he shall declare the rights of the mortgagee extinguished and require the

mortgagee to deliver possession of the land to the mortgagor together with all documents of title relating to the land.

**9. Power of the Collector to eject mortgagee.**— The Collector may, after declaring the rights of the mortgagee extinguished, eject the mortgagee and order delivery of possession of the mortgaged land to the mortgagor. In case of resistance the Collector may exercise all the powers conferred on a civil code by rules 97 and 98 of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908).

**10. Appeal.**— An appeal shall lie from an original or appellate order made under this Act, as follows, namely :-

- (a) to the Commissioner when the order is made by a Collector;
- (b) to the Financial Commissioner when the order is made by the Commissioner:

Provided that when an original order is confirmed on first appeal a further appeal shall not lie.

**11. Revision.**— The Financial Commissioner may, at any time, of his own motion or on application made, call for the record of any case pending or decided under this Act and may in any such case pass such order as he thinks fit:

Provided that he shall not under this section pass any order reversing or modifying any proceedings or order without giving the person concerned an opportunity of being heard.

**12. Limitation of appeal.**— (1) The period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows:-

- (a) when the appeal lies to the Commissioner—Sixty days;
- (b) when the appeal lies to the Financial Commissioner—Ninety days.

(2) In computing the period of limitation for an appeal under this section the period requisite for obtaining copies of the order appealed against shall be excluded.

(3) The provisions of section 5 of the Limitation Act, 1963 (36 of 1963) shall apply to the appeals under this Act.

**13. Jurisdiction of civil courts barred.**— No civil court shall have jurisdiction to entertain any claim to enforce any right under a mortgage declared extinguished under this Act, or to question the validity of any proceedings under this Act.

**14. Rule making power.**— (1) The State Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government shall make rules regulating or determining the following matters, namely:-

- (a) the presentation and verification of petitions under section 4 of this Act;
- (b) the procedure by which the Collector shall deal with such petitions under section 5, 6 and 7 of the Act and assess compensation, if any;
- (c) the procedure and principles by which the Collector shall assess the amount due under the mortgage, and the value of the benefits accruing to the mortgagee while in possession;

- (d) the procedure for making the deposit prescribed by section 8 of this Act; and
- (e) the procedure for enforcing ejectment of the mortgagee and delivery of possession to the mortgagor under section 9 of this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, the legislature requires any modification in the rules or desires 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.

**15. Repeal and savings.**— The Punjab Restitution of Mortgaged Land Act, 1938 (4 of 1938) as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 (4 of 1938) and the Punjab Restitution of Mortgaged Lands Act, 1938 in its application to the territories added to Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966, (31 of 1966) are hereby repealed:

Provided that anything done or any action taken, rule made or notification issued in exercise of the power conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which thing was done, action taken, rules made or notification issued.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH RESTITUTION OF MORTGAGED LANDS RULES, 1977**

**1. Short title and commencement**— (1) These rules may be called the Himachal Pradesh Restitution of Mortgaged Lands Rules, 1977.

(2) They shall come into force at once.

**2. Definition** – (1) In these rules, unless there is anything repugnant in context,-

(i) "Act" means the Himachal Pradesh Restitution of Mortgaged Lands Act, 1976 (Act No 20 of 1976)

(ii) "compensation" means the amount assessed by the Collector under section 7 of the Act as payable to a mortgagee prior to the restitution of any mortgaged land to the mortgagor; and

(iii) "section" means section of the Act;

(2) All other words and expressions used, but not defined, in these rules, shall have the meanings respectively assigned to them in the Act

**3. Form, stamp duty and manner of presentation of the petition under section 4**—(1) The petition under section 4 shall be in form 'A' attached to these rules, signed and verified as laid down in Order VI, rules 14 and 15, respectively of the Code of Civil Procedure (5 of 1908)

(2) The petition shall bear the court-fee prescribed by Article 1(b) of Schedule II to the Court-Fees Act 1870 as amended in its application to Himachal Pradesh and shall be accompanied by an attested copy of the latest jamabandi entry relating to the land, and a copy of the original mutation of the mortgage. There shall also be filed along with the petition as many copies thereof as is the number of persons mentioned in columns (2) and (3) of the petition.

Provided that if the petitioner is unable to supply copies of the latest jamabandi and the original mutation of the mortgage he shall pay a fee of Rs. 2 and the Collector shall get those copies from his office.

(3) A petition shall be presented to the Collector by the petitioner personally or through a duly authorized agent in the case of two or more petitioners, it may be presented by any one of them.

**4. Procedure to be followed when there are more than one mortgagers** – When there are more mortgagers than one and all of them do not join in making a petition, it may be made by any one or more of them the names of the others being set out in column (2) of the petition, and the other mortgagers may subsequently be allowed as petitioners on such terms as may be decided by the Officer hearing the petition.

**5. Receipt registration of the petition and fixing the date of hearing** – On receipt of a petition, and after getting the necessary corrections made if any, the Collector shall order it to be entered in a register and shall, fix a date for hearing and cause notice thereof together with a copy of the petition, to be served on the persons mentioned in columns (2) and (3) of the petition.



**6. Procedure for dealing with the petition**—Except as otherwise provided by these rules an Officer dealing with a petition shall be guided by the procedure prescribed for revenue officers under the Himachal Pradesh Tenancy and Land Reforms Act, 1972 in so far as it may be applicable. (Act No. 8 of 1974).

**7. Written statement of defense** –The person's mentioned in columns (2) and (3) of the petition shall present a written statement of their defense, which shall also be assigned and verified as laid down in Order VI, rules 14 and 15, respectively, of the Code of Civil Procedure (5 of 1908).

**8. Appearance by parties to the proceedings**— (1) Parties to proceedings under the Act may appear in person or through a legal practitioner holding a power of attorney or other duly authorised agent.

(2) If any one of the petitioners or respondents is a minor or of unsound mind, the provisions of Order XXXII, Code of Civil Procedure (5 of 1908), shall, so far as these may be applicable, apply to proceedings under the Act.

**9. Hearings**—The Collector shall then hear the evidence produced by the parties and make such further enquiries as he may deem fit.

**10. Assessment of benefits received by mortgagee while in possession under section 7**— In assessing the benefits received by a mortgagee while in possession, the Collector shall, in the absence of any satisfactory evidence to the contrary, presume that they were equal to the net assets of the land as defined in clause (12) of section 4 of the Himachal Pradesh Land Revenue Act, 1953. To avoid difficulty, where cash or rents are rare and to secure uniformity, the estimate of net assets based on rents in kind prescribed by rule 1 of the Land Revenue Assessment Rules, 1929, as in force in Himachal Pradesh shall be used. (Act No. 6 of 1954).

**11. Amount of compensation** – The compensation under sub-section (2) of section 7 shall be the balance left after deduction of the sum assessed under the provisions of the foregoing rules from twice the amount of the principal sum originally advanced under the mortgage:

Provided that the compensation shall in no case exceed the scale laid down in the said section.

**12. Time limit for depositing the amount of compensation** –After determining the amount of compensation under section 7, the Collector shall fix a date within which the petitioner shall deposit the amount in the Government treasury for disbursement to the mortgagee.

**13. Payment of the amount of compensation to the mortgagee** – When the mortgagee has deposited with the Collector the mortgage deed and other documents, if any, evidencing the mortgage or title-to the land, or satisfied him that the documents though at one time existing had been lost, he shall be entitled to receive the amount of compensation in accordance with the rules of the treasury, and the documents of title shall be made over to the petitioner.

**14. Procedure to be followed in restitution of the possession to the mortgager**— (1) On application by a petitioner in whose favour an order has been made under section (8) of the Act, the Collector may issue a warrant directing the petitioner to be put into possession of the land.

(2) If any co-mortgager fails to apply under rule 4 to be made a petitioner, or being a petitioner fails to pay his share of the compensation assessed, possession shall be given to the mortgager by whom such compensation has been paid in full; and such co-mortgager shall continue to be shown in the revenue records as mortgager until such time as he has paid his share, to the person who has made payment being shown as mortgagee of his share.

(3) The warrant shall after execution and with necessary endorsement be returned to the Collector.

(4) Possession shall normally be delivered between the first day of May and the fifteenth day of June, unless the land is lying vacant, but the petitioner may, subject to the payment by him of compensation for standing crops, as may be determined by the Collector, be allowed possession at any other time.

**15. Jurisdiction as to the Collector, when any mortgage transaction affects more than one District and the manner to be adopted in dealing with such transactions—** (1) When any mortgage transaction affects land situated in more districts than one a petition, may be made to the Collector of the district where major portion of land is.

(2) In a petition covered by sub-rule (1) the Collector receiving the application shall transmit a copy of the same to the Collector of each district where any part of the rest of the land is situated.

(3) The Collector hearing the case may have the statement as contemplated under rule 10, so far as these relate to the areas situated in other districts, prepared through the Collectors thereof.

(4) Every final order passed under sections 6 to 9 of the Act by the Collector enquiring into the petition shall, so far as it relates to the land lying in the other district, be similarly communicated to the Collectors thereof.

**16. Procedure for dealing further petition –** If after the receipt by any Collector of an intimation under sub-rule (2) of rule 15 above, any fresh petition is made to him in respect of the mortgage covered by the first petition; he shall forward the same to the Collector of the district where the first petition is pending and advise the petitioner to seek his remedy there.

**17. Issue of warrant of possession and its execution –** In cases covered by rule 15 the Collector issuing warrant of possession under rule 14 shall issue a separate warrant for the area lying in each other district and transmit the same for execution to the Collector thereof, who shall execute the warrant as if it had been issued by himself.

**18. Dismissal of a petition not to bar fresh petition –**The dismissal of any petition for default shall not bar a fresh petition on similar facts, nor shall the failure of a petitioner to pay the amount of compensation have such a result.

**19. Procedure to be followed in case of dispute among claimants of compensation—**If there is any dispute between persons claiming to be entitled to compensation, the Collector may either decide the dispute himself, or order the sum deposited by the petitioner, not to be paid to any one till the contesting persons have had their rights decided by a competent court of law.

**20. Filing of appeals—** (1) An appeal against an order by a Collector or a Commissioner under the Act shall be preferred by submitting a memorandum, accompanied by an attested copy of the order appealed against.

(2) Each such memorandum shall bear the court-fee prescribed by Article II of Schedule II of the Court-fee Act 1870, as amended in its application to Himachal Pradesh.

**21. Procedure for hearing appeals**—Appeals shall be heard, after proper notice to the parties, on a date fixed for the purpose, and the procedure in force for the redemption, hearing and disposal of appeals by Revenue Officers under the Himachal Pradesh Tenancy and Land Reforms Act, 1972, shall apply so far as it is applicable. (Act No. 8 of 1974).

**22. Repeal and Savings**— (1) The Himachal Pradesh Restitution of Mortgaged Lands Rules, 1960, are hereby repealed.

(2) Notwithstanding the repeal of the rules under sub-rule (1), anything done, or any action taken in the exercise of the powers conferred by or under the said rules shall be deemed to have been, done or taken in exercise of the powers conferred by or under these rules, as if these rules were in force on the day on which such thing was done or action was taken.

**Form 'A'**  
**(See rule 3)**

Application under section 4 of the restitution of Mortgaged Lands Act, 1976 (Act, No. 20, 1976)

In the District of .....

Tehsil .....

Year .....

Name, parentage and residence of the applicant	Name, parentage and residence of other mortgagers not joining the application	(a) Name, parentage and residence of mortgagee and (b) if he be not in possession of the persons in possession of the land	The area and description of the land to be restored	The date of the mortgage	The name, parentage and residence of the original mortgager and mortgagee
1	2	3	4	5	6
The amount for which the mortgage was effected	Payment, if any made towards the mortgage debt	Period for which the mortgagee has been in possession	How does the applicant claim the right of restitution	In case the respondent was not the original mortgagee the manner in which he came to possess the mortgagee rights	Remarks
7	8	9	10	11	12

Signature of the applicant.....

**Verification**

Verified that the facts set out in columns.....true to my knowledge,

Verified at .....on

*Signature of the person making the verification.*

**Notes—**

- (1) *Attested copies of the latest jamabandi entry relating to the land and the mutation of the mortgage in question be attached to the petition.*
- (2) *The facts in columns (5) to (12) should be given as are known to the petitioner, and any mistake therein will not affect the petition.*
- (3) *If the petitioner is unable to secure copies of the latest jamabandi entry and the mortgage mutation or to give the facts required in column Nos. (5) to (12) he should pay a fee of Rs. 2 and the Collector shall get the necessary documents and facts from his office.*

- **THE HIMACHAL PRADESH UTILIZATION OF LANDS ACT,  
1973**
- **THE HIMACHAL PRADESH UTILIZATION OF LANDS RULES, 1973**

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH UTILIZATION OF LANDS ACT, 1973<sup>1</sup>  
(ACT NO. 17 OF 1973)**

ARRANGMENT OF CLAUSES

SECTIONS:

1. Short title, extent and commencement.
2. Definitions.
3. Powers of Collector to cause land to be cultivated.
4. Payment of compensation to owner.
5. Lease by Collector.
6. Power of Collector to determine lease in certain cases.
7. Delivery of possession on determination of lease.
8. Penalty for failure of the tenant to grow food or fodder crops.
9. Sums due recoverable as arrears of land revenue.
10. Steps for securing compliance with Collector's order.
11. Delegation of functions.
12. Instrument of lease not to be stamped, attested or registered.
13. Appeal and revision.
14. Bar to suits or legal proceeding.
15. Power to make rules.
16. Saving of tenanciers under the Act from the provisions of Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953
17. Repeal and savings.

**THE HIMACHAL PRADESH UTILIZATION OF LAND ACT, 1973  
Act No. 17 of 1973.**

AN  
ACT

to provide for the utilization of lands in Himachal Pradesh

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows: -

1. **Short title, extent and commencement.** - (1) This Act may be called the Himachal Pradesh Utilization of Lands Act, 1973.

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

(3) It shall come into force at once.

2. **Definitions.** - In this Act, unless there is anything repugnant in the subject or context, -

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<sup>1</sup> The bill was passed by the Vidhan Sabha on 19.04.73, it was assented by the Governor (H.P.) on 4.6.73 and thereafter it was published as Act No. 17 of 1973, in the Rajpatra, (Ex. Ordinary) dated 9.7.1973.

- (a) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the State Government may by notification appoint for any local area;
- (b) "Collector" means Collector of the district where the land is situated;
- (c) "land" means land which is not urban land and is not occupied as the site of any building in a town or village, but does not include land which is leased by Government under any law other than this Act;
- (d) "owner" means a person having a proprietary right in the land and includes a usufructuary mortgagee or a lessee;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "tenant" means a person to whom land is leased by the Collector under the provisions of this Act;
- (g) "urban land" means all land included within the limits of a Municipal Corporation, Municipal Committee, Notified Area Committee and Cantonment.

**3. Powers of Collector to cause land to be cultivated.** - (1) Notwithstanding any law to the contrary, the Collector may issue notice to the owner of any land which has not been cultivated for the last two agricultural years to show cause, within thirty days of the date of the service of such notice on him, why the land has not been cultivated and in case the Collector does not find the explanation to be satisfactory, he may take possession of the land forthwith for the purposes of this Act:

Provided that the Collector shall not issue such notice in respect of any land-

- (a) which is used and maintained as grass land and is classified as such in the revenue records; and
- (b) which has been continuously used as grass land for a period of not less than four years immediately preceding the date of the notice, whether or not it was recorded as such, in the revenue records:

Provided further that the Collector shall not issue such notice in respect of any land which, under any law for the time being in force, is reserved in the year immediately preceding the date of the notice for any of the following purposes, namely: -,

- (a) pasture land;
- (b) threshing floor;
- (c) irrigation tank;
- (d) orchard;
- (e) private forest;
- (f) land which forms part of any home-stead, burial or cremation-ground; and
- (g) any other public purpose.

Explanation. - For the purposes of this section "grass land" means any land in the private ownership of any individual in which grass or fodder trees, or both are grown.

(2) The notice required by sub-section (1) shall be deemed to be duly served if delivered at, or sent by Registered Acknowledgement Due post to, the usual or last known place of residence of the owner.

**4. Payment of compensation to owner.** - Where possession of any land has been taken under section 3, one-half of the lease money shall be paid as compensation to the owner of the land.

**5. Lease by Collector.** - (1) Where the Collector has taken possession of any land under section 3, he may lease it to any person on such terms and conditions as he may deem fit for the purpose of growing food and fodder crops.

(2) Every such lease shall ordinarily be for a period of three years.

(3) When the term of lease under sub-section (1) has expired or the lease has been determined under sub-section (1) of section 6, the Collector may lease it to any person as provided in sub-section (1) but the total period of lease shall not be more than twenty years.

**6. Power of Collector to determine lease in certain cases.** - (1) If a person to whom land has been leased under section 5 commits a breach of any of the terms and conditions thereof, the Collector, shall without prejudice to any right or remedy against him, have the power to determine the lease and take possession of the land.

(2) Where lease has been determined by the Collector, the tenant shall not be entitled to any compensation.

**7. Delivery of Possession on determination of lease.** - (1) Where any land taken possession of by the Collector under section 3, is to be returned to the owner, the Collector may after making such inquiry, if any, as he considers necessary, specify by order in writing the person to whom possession of the land shall be given.

(2) The delivery of possession of the land to the person specified in any order made under sub-section (1) shall be a full discharge of the Collector from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Collector shall cause a notice declaring that the land is released to be affixed on some conspicuous part of the land.

(4) On issue of the notice referred to in sub-section (3) the land specified in the notice shall be deemed to have been delivered to the person entitled to the possession thereof, and the Government or the Collector shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(5) On the expiry of lease a tenant will be entitled to get compensation for the improvements made by him on the land leased out to him under the provisions of this Act provided that the lease is not determined under sub-section (1) of section 6.

**8. Penalty for failure of the tenant to grow food or fodder crops.** - Where the tenant fails to grow food or fodder crops on the land leased to him, he shall, besides the payment of rent fixed under section 5, be also liable to pay a penalty not exceeding twice such rent.

**9. Sums due recoverable as arrears of land revenue.** - All sums due under this Act from the owner or tenant shall be recoverable as arrears of land revenue.



**10. Steps for securing compliance with Collector's order.** - The Collector may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with any order made by him under this Act.

**11. Delegation of functions.** - The Collector may delegate all or any of his powers and functions under this Act to any officer of the Revenue or Rehabilitation Department in his district either by name or designation.

**12. Instrument of lease not to be stamped, attested or registered.** - Notwithstanding anything contained in any law for the time being in force, no instrument in writing to give effect to a lease by the Collector under this Act shall require stamp, attesting or registration.

**13. Appeal and revision.** - (1) Any person aggrieved by an order passed by the Collector may, within fifteen days from the date of such order, or such longer period as the Commissioner may allow for reasons to be recorded in writing, prefer an appeal in writing to the Commissioner appointed in this behalf by the State Government.

Explanation. - In computing the period of fifteen days, the time taken in obtaining a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.

(3) The Commissioner shall decide the appeal after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector and after making such inquiry as he thinks fit either personally or through the Collector.

(4) The State Government or the Commissioner authorised by it in this behalf, may, at any time, for the purpose of satisfying itself or himself as to the legality or propriety of any order passed by any officer under this Act, call for and examine the records of any case pending before or disposed of by any such officer and may, after giving the parties a reasonable opportunity of being heard, pass such order in reference thereto as it or he may deems fit.

(5) Except as provided in this Act no order made or action taken in exercise of any power conferred by this Act shall be called into question in any court or before any officer or authority.

**14. Bar to suit or legal proceedings.** - (1) No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is, in good faith, done or intended to be done under this Act.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused by anything which is, in good faith, done or intended to be done under this Act.

**15. Power to make rules.** - (1) The State Government may, by notification in the official Gazette, make rule for carrying out the provision of this Act.

(2) 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 decide 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.

**16. Savings of tenancies under the Act from the provisions of Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953.** - The provisions of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 shall not apply to the tenancies created under this Act.

**17. Repeal and savings.** - The East Punjab Utilization of Lands Act, 1949, as in force the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed.

Notwithstanding such repeal anything done or any action taken including any orders, notifications or rules made or issued in exercise of the power conferred by or under the repealed Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH UTILIZATION OF LANDS RULES, 1973**

1. **Short title and commencement.** - (1) These rules may be called the Himachal Pradesh Utilization of Lands Rules, 1973.

(2) They shall come into force at once.

2. **Definitions.** - In these rules, unless there is anything repugnant in the subject or context, -

(a) 'Act' means the Himachal Pradesh Utilization of Lands Act, 1973 (Act No. 17 of 1973).

(b) 'section' means the section of the Act; and

(c) all other words and expressions used in these rules but not defined in these rules shall have the meanings assigned to them in the Act.

3. **Payment of compensation to landowners and utilization of lease money.** - (1) These shall be paid to the landowner whose land has been taken over under section 3, compensation equal to one half of the lease money shall be deposited into the Government treasury and shall be utilized for the following purposes: -

(a) on the total cost of any additional staff (including contingencies) employed for the purposes of the Act;

(b) on the cost, if any of the stationery and survey material etc. used in connection with the utilization of land during the year under the Act; and

(c) any other cost specifically incurred in connection with the utilization of the land under the Act.

(2) Where compensation is payable to more than one landowner under sub-rule (1), the Collector shall apportion the compensation among them in such manner as he may deem fit.

4. **Leases.** - The leases granted by the Collector under section 5 and their termination under section 7 shall be duly recorded in the revenue papers.

5. **Delegation of powers.** - The delegations of powers and functions under the Act by the Collector shall be made in writing and addressed to the officer concerned either by name designation under his seal and signature.

6. **lessee to be afforded an opportunity before determination of lease.** - The Collector shall, before making an order determining a lease and taking possession of the land under section 6, afford a reasonable opportunity to the lessee to show cause why his lease should not be determined and possession of land should not be taken.

7. **Repeal and savings.** - The Punjab Utilization of Lands Rules, 1950 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 and the Arable Land (Utilization for Food Crops) Order, 1963 issued by the Government of India, Ministry of Food (Department of Agriculture) New Delhi vide their notification No. 20-6/62-MY, dated 21-2-1963 are hereby repealed:

Provided notwithstanding such repeal of the said rules and order anything done or any action taken in exercise of the powers conferred by the rules and order so repealed, shall be deemed to have been done or taken under these rules.

By order,  
L. Hmingliana Tochhawng,  
Financial Commissioner cum-Secretary

- **THE HIMACHAL PRADESH REGISTRATION OF MONEY-LENDERS' ACT, 1976.**
- **THE HIMACHAL PRADESH REGISTRATION OF MONEY-LENDERS' RULES, 1976.**

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH REGISTRATION OF MONEY-LENDERS' ACT, 1976**

**Arrangement of Sections**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Suits and applications by money-lenders barred, unless money-lender is registered and licensed.
4. Registration of money-lenders.
5. Licensing of money-lenders.
6. Cancellation of license.
7. When collector may act.
8. Effect of cancellation of license.
9. Further registration and licensing of money-lender after expiry of period for which license was cancelled.
10. Appeals, reviews and certificates.
11. Exemptions.
12. Rule making power.
13. Repeal and Savings.

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**THE HIMACHAL PRADESH, REGISTARION OF MONEY-LENDERS' ACT, 1976**

**(Act No. 19 of 1976)<sup>1</sup>**

(Received the assent of the Governor on the 30<sup>th</sup> April, 1976 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 4<sup>th</sup> May, 1976, pp. 1204-1209).

**An Act to register money-lenders and to regulate their business in Himachal Pradesh. Amended by H.P. Act No. 13 of 2020<sup>2</sup> assented to by the Governor on 5<sup>th</sup> November, 2020. Published in Hindi in Rajpatra, H.P. dated 10<sup>th</sup> Novermber, 2020 pages 5140-5141.**

**Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-Seventh Year of the Republic of India as follows:-**

**1. Short title, extent and commencement:-** (1) This act may be called the Himachal Pradesh Registration of Money-lenders' Act, 1976.

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

(3) It shall come into force at once.

<sup>1</sup> Passed by HP Vidhan Sabha on 02.3.1976. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 17<sup>th</sup> March 1976, p. 908.

<sup>2</sup> Passed by HP Vidhan Sabha on 16.09.2020. For statement of objects & reasons see Rajpatra Himachal Pradesh, dated 16.09.2020, pages 3577-3580.

**2. Definitions-** In this Act, unless the context otherwise requires, -

- (1) “bank” means a banking company as defined in Section 5 of the Banking Regulation Act, 1949, (10 of 1949) and includes the Reserve Bank of India, the State Bank of India and its subsidiary banks, any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970, (5 of 1970) and nay other banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949; (10 of 1949).
- (2) “Collector” means a Collector of the district or such other officer not below the rank of an Assistant Collector first grades as may be specially empowered by the State Government to discharge the functions of a Collector for the purposes of this Act;
- (3) “Commissioner” means the Commissioner appointed by the State Government for the purposes of this Act;
- (4) “Company” means a company as defined in section 3 of the Companies Act, 1956 (10 of 1956);
- (5) “Co-operative Society” means a society registered or deemed to be registered under the provisions of the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969);
- (6) “Court” includes a Court acting in the exercise of its insolvency jurisdiction;
- (7) “Interest” includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specially by way of interest or otherwise;
- (8) “loan” means an advance whether secured or unsecured of money or in kind at interest and shall include any transaction which the Court funds to be in substance a loan, but shall not include-

- (a) an advance in kind made by a landlord to his tenant for the purposes of husbandry;

Provided that the market value of the return does not exceed the market value of the advance as estimated at the time of advance;

- (b) a deposit of money or other property in a Post Office Savings Bank, or any other Bank, or with a company, or with a co-operative society, or with any employer, as security from his employees;
- (c) a loan to or by, or a deposit with, any society or association registered under the Societies Registration Act, 1860 (21 of 1860) or under any other enactment;
- (d) a loan advanced by or to the Central Government or any State Government or by or to any local body or panchayat under the authority of the Central Government or any State Government;
- (e) a loan advanced by a bank, a co-operative society or a company, whose account are subject to audit by a certified auditor under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;

- (f) a loan advanced by a trader to a trader, in the regular course of business, in accordance with trade usage;
- (g) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instrument Act, 1881, (26 of 1881) other than a promissory note;
- (9) “money-lender” means a person, or a firm carrying on the business of advancing loans and includes the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise, of such person or firm, provided that nothing in this definition shall apply to-
  - (a) a person who is the legal representative or is by inheritance, the successor-in-interest of the estate of a deceased money-lender together with all his rights and liabilities is such person-
    - (i) winds up the estate of such money-lender;
    - (ii) realises outstanding loans;
    - (iii) does not renew any existing loan, or advance any fresh loan;
  - (b) a bonafide assignment by a money-lender of a single loan to any one other than the wife or husband of such assignor, as the case may be, or any person, who is descended from a common grandfather of the assignor;
- (10) “notification” means a notification published under proper authority in the Rajpatra, Himachal Pradesh;
- (11) “Prescribed” means prescribed by rules made under this Act;
- (12) “State Government” means the Government of Himachal Pradesh;
- (13) “Trader” means a person who, in the regular course of business, buys and sells goods or other property, whether movable, or immovable and shall include;-
  - (a) A wholesale or retail merchant,
  - (b) A commission agent,
  - (c) A broker,
  - (d) A manufacturer,
  - (e) A contractor, and
  - (f) A factory owner,

But shall not include a person who sells only his own agricultural produce or cattle; or buys agricultural produce or cattle for his own use.

**3. Suits and applications by money-lenders barred, unless money-lender is registered and licenced.-** Notwithstanding anything contained in any other enactment for the time being in force, a suit by a money-lender for the recovery of a loan, or an application by a money-lender, for the execution of a decree relating to a loan, shall, after the commencement of this Act, be dismissed, unless the money-lender, at the time of the institution of the suit or presentation of the application for execution, or at the time of decreeing the suit or deciding the application for execution:-

- (a) Is registered; and



- (i) holds a valid license, in such form and in such manner as may be prescribed; or
- (ii) holds a certificate from a Commissioner granted under section 10, specifying the loan in respect of which the suit is instituted, or the decree in respect of which the application for execution is presented; or
- (b) if he is not already a registered and licensed money-lender, satisfies the Court that he has applied to the Collector to be registered and licensed and that such application is pending:

Provided that in such a case, the suit or application shall not be finally disposed of until the application of the money-lender for registration and grant of license pending before the Collector is finally disposed of.

**4. Registration of money-lenders-** Every money-lender may apply for registration of his name at the office of the Collector and his name shall be registered on furnishing such particulars as may be prescribed and an payment of a fee of Rs. 10/-

**5. Licencing of money-lenders** – Every money-lender may apply to the Collector for a licence which shall be granted for such period, in such form and on such conditions, and on payment of such fee, as may be prescribed.

Explanation.- When an application for the renewal of a licence has been received from a licenced money-lender before the expiry of his licence, the existing license shall be deemed to continue in force until orders on the application have been issued.

<sup>1</sup>**5A. Mode of Transactions.**—No money lender registered under section 4 of this Act, shall advance any loan or take or accept any refund of loan from any person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if, the amount of loan advanced or the amount of refund accepted, is twenty thousand rupees or more.

**6. Cancellation of license.-** A license may be cancelled by the Collector and shall not be renewed for such period as may be specified by him, if after the commencement of this Act, a money-lender commits an act or is guilty of an omission with reference to which he-

- (i) has been found guilty by a Court in recording in any document the sum advance to be in excess of that actually advanced;
- (ii) has been found guilty of non-compliance with the provisions relating to the maintenance of account under the Himachal Pradesh Debt Reduction Act, 1953; (10 of 1953);
- (iii) has/had his suit dismissed with a finding that he has made dishonestly or fraudulently a material alternation in any document relating to a loan;
- (iv) has/had his suit dismissed with a finding that it is fraudulent;
- (v) has been found by a court to have charged higher rates of interest than those prescribed under the Himachal Pradesh Debt Reduction Act, 1953 (10 of 1953). in more than one suit;

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<sup>1</sup> Inserted vide Act No. 13 of 2020 dated 5<sup>th</sup> November, 2020

(vi) has been found guilty by a court of forgery or cheating in respect of money transaction:

Provided that the Collector shall not cancel a licence until the prescribed period of appeal, or review, as the case may be has expired; or in the case of appeal or review the appeal or review has been finally decided.

**7. When Collector may act-** (1) The Collector may, either of his own motion or on the application of any person interested take proceedings for the cancellation of a money-lender's license:

Provided that no such license shall be cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(2) The Collector may during the period of limitation for an appeal, either of his own motion or on the application of a party interested, review his own order, provided no appeal is pending with the Commissioner.

**8. Effect of cancellation of license.-** The name of money-lender whose license has been cancelled under section 6, shall be struck off the register maintained at the Office of the Collector for the registration of money-lenders;

Provided that a license shall not be deemed to be cancelled nor the name of the money-lender deemed to be struck off the register during the period an appeal, or an application for review, or an application under section 10, is pending.

**9. Further registration and licencing of money-lender after expiry of period for which licence was cancelled.** – A money-lender may, after the termination of the period for which his licence has been cancelled, apply for registration and for the grant of a licence, to the Collector who shall, on his furnishing such particulars as may be prescribed, register his name on payment of a fee of Rs. 10/-; and shall grant him a license for such period, in such form and subject to such conditions and on payment of such fees, as may be prescribed.

**10. Appeals, review and certificates.-** (1) An appeal shall lie to the Commissioner against the order of the Collector under section 6 cancelling a licence provided that the appeal is instituted within 30 days from the order appealed against, not including the period requisite for obtaining copies of such order.

(2) If the money-lender of the appellant is not present at the time of announcement of the original or the appellate order, the order shall be communicated to him in such manner as may be prescribed.

(3) The Commissioner may, in dismissing an appeal, grant to the money-lender a certificate specifying the loans in respect of which a suit may be instituted by him or the decrees in respect of which an application for execution may be presented.

(4) A money-lender without appealing against an order of the Collector under section 6, may within 30 days from the Collector's order cancelling his licence, apply to the Commissioner for a certificate of the nature specified in Sub-Section(3)

(5) The Commissioner may, either on his own motion, or on the application of party-interested, review his own order at any time within 30 days from the communication of his appellate order to the money-lender concerned.

**11. Exemption.-** The State Government may, by notification, exempt any person or class of persons from the operation of this act or from any of the provisions thereof.

**12. Rule making power.-** (1) The State Government may, subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter namely:-

- (a) the place where money-lender shall apply for registration for obtaining a license, the district in which a money-lender who operates in more than one district shall be required to register, and the area in which a license shall be valid;
- (b) the scale of fees payable for the issue or renewal of a licence of a money-lender;
- (c) the form of a licence, and the conditions under which a licence shall be issued;
- (d) the particulars which a money-lender shall supply at the time of being registered; and
- (e) any other matter required to be prescribed by this act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislatures requires any modification in the rule desires 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.

**13. Repeal and savings.-** (1) The Punjab Registration of Money-lenders' Act, 1968, (3 of 1968) 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.

(2) Notwithstanding such repeal anything done or any action taken, rule or notification issued under the Act hereby repealed and in force immediately before the commencement of this Act shall be deemed to have been taken, made or issued under this Act and shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and accordingly any appointment made, license granted or direction issued under the Act hereby repealed and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, license granted or direction issued under this Act.

**GOVERNMENT OF HIMACHAL PRADESH  
REVENUE DEPARTMENT**

**THE HIMACHAL PRADESH REGISTRATION OF MONEY-LENDERS' RULES 1976<sup>1</sup>**

**1. Short title, extent and commencement-** (1) These rules may be called the Himachal Pradesh Registration of Money-lenders' Rules, 1976.

(2) They extended to the whole of Himachal Pradesh.

(3) They shall come into force at once.

**2. Definitions.-** In these rules, unless there is anything repugnant in the subject or context,-

(a) "ACT" means the Himachal Pradesh Registration of Money-lenders' Act, 1976 (19 of 1976);

(b) "Form" means a form appended to these rules;

(c) "Section" means the section of the Act; and

(d) All other word and expression used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

**3. Application for registration under section 4.-** Application for registration under section 4 shall be made, in form "A" to the Collector of the district where the applicant has his residence, or, if he has no residence in Himachal Pradesh, where he has his principal place of business in the Pradesh.

**4. Stamp duty on application.-** Application for registration shall bear the Court fee prescribed in article 1(b) of Second Schedule of the Himachal Pradesh Court Fees Act 1968, (8 of 1961) and shall be signed and verified by the applicant in the manner provided in order 6, rule 14 and 15 of the 1<sup>st</sup> Schedule to the Code of Civil Procedure, for plaints in suits.

**5. Application for registration by a firm or a minor.-** An application for registration on behalf of a firm shall be signed by all the person constituting the firm or their representative dully empowered, or in the case of a minor by the person representing him in the business:

Provided that no application shall be entertained which does not bear the personal signature of at least one member of the applicant firm.

**6. Presentation of application.-** Every application for registration shall be presented by the Applicant personally or through a duly authorised agent:

Provided that where there are more applicants than one anyone of them may present it.

**7. Procedure for dealing with applications for registration.-** (1) The Collector shall, if the application for registration in order (or if it is not in order after getting the necessary corrections made therein), and if he finds after making such inquiries as he consider necessary that the grant of the application will not offend against any order made under Section 6, direct the applicant to

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<sup>1</sup> These Rules were published in the H.P. Govt. Gazette (Extraordinary) dated the 19<sup>th</sup> November, 1976, vide Revenue Department notification No. Rev. 2-A(3)-3/76, dated the 9<sup>th</sup> November, 1976.

deposit within a period of one month in the Government treasury a sum representing the fee prescribed in section 4.

(2) After the applicant has deposited in the fee in the Government treasury and produced the receipt thereof, the Collector shall direct the money-lender's name to be registered.

(3) If the applicant does not deposit the fee within the prescribed period, his application shall be consigned to the General Record Room, and he shall submit a fresh application for registration if any.

**8. Issuing of Certificates.-** On registration of the applicant's name under the preceding rule the Collector shall issue a certificate to him in Form 'B'

**9. Grant of License-** No license shall be granted under Section 5 unless the applicant has been registered under section 4.

**10. Application for renewal of license.-** (1) Application for the grant of renewal of license shall be made to the Collector mentioned in rule 3 in form 'C'

(2) The provisions of rule 4 in regard to verification and to the payment of court fee shall be equally applicable to applications for the grant of renewal of license under the preceding sub-rule.

(3) in the case of a firm any adult member, or the guardian or a minor member, may make an application for a license on behalf of the firm.

**11. Affidavit in support of application.-** Every application for the issue or renewal of a license shall be accompanied by an affidavit stating whether any court has since the making of the last application(if any) made any order in relation to the applicant in regard to any of the matters mentioned in section 6.

**12. Inquiry before issue of licence-** After making such inquiries, as he thinks necessary, the Collector shall, if he finds that there is nothing to debar the grant or renewal of the licence, direct the applicant to deposit within a period of one month in the Government treasury a sum representing the fee prescribed in rule 13.

**13. Fee for grant/Renewal of licence.-** (1) The fee for grant or renewal of licenses shall be as under:-

(a) For the grant of license for the district in which the money-lender is first registered-

(i) If the application is submitted within one month from the date of registration of his name. Ten rupees a year.

(ii) If the application is submitted thereafter. Fifteen rupees a Year

(b) For the renewal of licence for the district in which the money-lender is first registered. Ten rupees a year.

(c) For the grant of licence for every other district to which validity of the licence may be extended. Five rupees a year subject to a

maximum of twenty five rupees a year (including the initial fee) for whole of Himachal Pradesh.

(2) The fee for the issue of a duplicate copy of a registration certificate or of a license, in the event of the loss of the original document, shall be five rupees for each duplicate copy.

**14. Grant of license on production of Treasury receipt.**-(1) After the applicant has deposited the prescribed fee in the Government Treasury and has produced the treasury receipt thereof, the Collector shall issue a licence in form 'D'

(2) if the applicant does not deposit the fee within the prescribed period his application shall be consigned to the General Record Room, and he shall submit a fresh application for the grant of a licence.

**15. Limitation for application for renewal of licences.**- An application for the renewal of a licence shall be made not less than one month before its expiry:

Provided that the Collector may for sufficient reasons condone a delay not exceeding one month on payment of a penalty of five rupees.

**16. Period of Validity of a licence.**- A license may be issued or renewed for a period not exceeding three years at one time, on pre-payment by the applicant of the full fees for the period.

**17. Territorial jurisdiction of the licence.**- Licence shall ordinary be made valid for the district of issue only, but it shall be open to the Collector, after making such inquiries as he considers necessary from the Collector of any other district, to extend the validity of a licence so as to include the area of that district.

**18. Show cause notice under Section 7.**- Notices issued under the provision to sub-section(1) of section 7 shall be in form 'E' and shall be served in accordance with the procedure laid down in order V of the First Schedule to the Code of Civil Procedure for the service of summons.

**19. Cancellation and surrender of licence.**- As soon as any order is made by the Collector for the cancellation of a license, the money-lender shall surrender the same and the Collector shall endorse thereon the word "Cancelled" in red ink under his signature, with the date of so doing.

**20. Publication of order of cancellation of licence.**- (1) The cancellation of a licence by a Collector under section 6 shall be published in the Rajpatra, Himachal Pradesh and any order made in appeal or review for the restoration of a licence shall be published in the same way.

(2) Intimation of all orders referred to in the preceding sub-rule shall also be given by the authority making the order to the District judge of every district in which the licence is operative, with the request that the substance of the order be communicated to all the subordinate civil courts.

**21. Appeal under section 10.**- (1) Every appeal against an order of the Collector under section 6 shall be preferred in the form of a memorandum stamped as required under Article 1(c) of Second Schedule to the Himachal Pradesh Court Fees Act, 1968 (8 of 1968) and shall be accompanied by an attested copy of the order appealed against.

(2) As soon as an appeal is filed the Commissioner shall cause notice of the same to be given to the Collector against whose order it is directed and shall invite him to make such comments as he may consider necessary in connection with the grounds of appeal.

(3) Notice of the appeal shall also be served on any other person who may have moved the Collector under Sub-section(1) of the section 7 or who may have otherwise appeared as a party before him.

(4) In all other respects the procedure in appeals under the Act shall be governed by the provisions of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, (8 of 1974) and the rules made thereunder for the hearing of appeals against the orders of Revenue Officers, so far as they can be made applicable.

**22. Stamp duty on applications made under section 7 and 10** – Every application under sub-section (2) of section 7 or sub-section (4) or sub-section (5) of section 10 shall bear a Court fee stamp as laid down in Article 1(d) or 1(c), as the case may be in second schedule of the Himachal Pradesh Court Fees Act, 1968. (8 of 1974).

**23. Communication of orders to money-lender passed in his absence under sections 7 and 10.-** If an original order under section 6 or sub-section(2) of section 7 or an appellate order under section 10 is announced in the absence of the money-lender, shall be communicated to him by registered post(acknowledgement due).

**24. Form of certificate to be issued under section10.-** When a certificate is granted by a Commissioner to a money-lender, under the sub-section(3) of section 10, it shall be in form ‘F’ to these rules.

**25. Repeal and savings.-**(1) The Punjab Registration of Money Lender Rule, 1939 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed.

(2) Notwithstanding such repeal anything done or action taken under the rules hereby repealed in so far it is not inconsistent with the provisions of rules, shall be deemed to have been done or taken under these rules.

FORM ‘A’

(See rule 3)

#### APPLICATION FOR REGISTRATION OF A MONEY-LENDER

In the office of the Collector...../Tehsil.....(here give the name of the tehsil containing the town or village where the money-lender resides or has his principal place of business.) Town/Village.....(Here given the names of the town or the village where the money-lender resides or has his principal place of business).

(a) Name of the applicant, with parentage, caste, residence land address in full

(b) In cases where the applicant is a firm, the names of all persons constituting it, with parentage, caste, residence and address in full of each

- (c) In cases where the applicant is a firm whether it is a Hindu joint family firm or otherwise constituted, and whether it has been registered under the Indian Partnership Act, 1932.
- (d) Name of style under which the applicant carries on his money-lending business
- (e) Names of the districts within which the applicant has his business on the date of the application.
- (f) Names of the districts to which the applicant wishes in future to extend his business.
- (g) Location of the applicant's Principal place of business, with full particulars thereof and the name, parentage, caste and address of the person in charge
- (h) Has the applicant any office at any other station? If so, give complete particulars with the name, parentage, caste and address of the person in charge of each office.
- (i) What is the extent of the total business of the applicant on the date of application?
- (j) For how long has the applicant carried on the business of money-lending?
- (k) Whether any application for registration had previously been made by the applicant; or where the applicant is firm, by any one or more of its members singly or jointly inter se or with any other person under any name. if so, when, where and with what result?
- (l) (i) in case the applicant had previously been registered and licensed, give full particulars of the license  
  - (ii) State whether any license granted previously to the applicant (or where the applicant is a firm, to any one or more of its members singly or jointly inter se or with any other person) has been cancelled. If so, full particulars should be given, including the name of the officer and terms of the order cancelling the license.
- (m) Whether money-lending is the sole business of the applicant or whether he is engaged in any other business, profession or calling.

Certified that all the facts set out in the application are true to my knowledge except paragraphs..... are true to my belief being based on information supplied by.....

(Signature of the person making the verification with (Signature of the applicant with date and place of so doing).



FORM 'B'  
(See rule 8)  
MONEY-LENDE'S REGISTRATION CERTIFICATE

District.....  
Tehsil.....  
Register No.....

Certified that ..... son/ daughter/ wife of ..... caste  
..... of the firm .....

his/her

with ..... /its principal place of business at ..... has been registered as a money-lender  
under section 4 of the Himachal Pradesh Money Lender' Act 1976, on the ..... day of  
..... 20

- 1 .....son of.....caste.....resident of.....
- 2 .....son of.....caste.....resident of.....
- 3 .....son of.....caste.....resident of.....
- 4.....son of.....caste.....resident of.....
- 5.....son of.....caste.....resident of.....
- 6.....son of.....caste.....resident of.....

(Seal of the Collector)

Signed.....

Collector

District.....

FORM 'C'  
(See rule 10)  
FOR THE GRANT/RENEWAL OF A MONEY-LENDER'S LICENCE.

In the office of the Collector ..... Tehsil ..... Town/ Village .....  
Post Office/ Police Station.....

The applicant submits as follows:-

- (1) That he is registered money-lender in the district, necessary particulars being.

Tehsil ..... Town/Village ..... Post Office/Police Station .....  
Register No .....

- (2) That since the Commencement of the Act/application for grant of the previous License date ..... no court has given any finding against the applicant with regard to acts or omissions of the kind referred to in section ..... of the Act, with the following exceptions:-

(1).....

(2).....

- (3) That on the date of his application his total business does not exceed Rs.....as principal.

- (4) That he prays that he may be granted a license for the <sup>1</sup>year/his license which expires on .....may be renewed for three <sup>1</sup>year.....to..... on the prescribed terms in regard to fee and otherwise.

Verified that all the facts set out in the application are true to my knowledge except paragraphs..... which are true to

.....

.....

(Signature of the person making  
the verification, with date and place)

Signed.....

Dated.....

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<sup>1</sup> Where the money-lender is a singly individual cross out this portion.

FORM 'D'

(See rule 14)

MONEY LENDER'S LICENCE.

District ..... Post Office/ Police Station ..... Tehsil ..... License No. ....  
Town/Village .....

This license has been granted to.....to practice as a money-lender on the following terms:-

- (a) This licence will be valid up to.....
- (b) It shall entitle the licensee to carry on the business of money-lending within the area of....
- (c) The licensee shall report to the Collector issuing this licence any finding which any court may during its currency give against him regarding acts or omissions of the kind described in section 6 of the Act.
- (d) The licensee shall surrender the license when ordered to do so by the Collector granting it or by the commissioner or any Court.

Signed.....  
Collector.....  
Dated.....

Renewal

This license has, on payment of the roper fees, been renewed as under:-  
From ..... to .....

(Signature of the officer granting renewal)

Dated.....

FORM 'E'  
(See Rule 18)

NOTICE TO MONEY-LENDER

In the office of the Collector.....District

(Notice under section 7 of the Himachal Pradesh Registration of Money-lenders' Act, 1976)

To

.....

(Here give the name and full particulars of the money-lender, whether an individual or a firm, and in case of a firm, give the name, and full particulars of the manger in addition).

Whereas it has come to my notice that in the case/cases noted overleaf a finding/findings adverse to you has/have been given by the court/courts therein mentioned, you are hereby called upon to appear before me personally or through a duly authorised agent or lawyer on.....at..... and show cause why your license should not be cancelled for such period as may be considered proper by me.

Further take notice that if you fail to appear at the appointed time and place, the case will be heard and disposed of in your absence.

(Seal of Collector's office)

Signed.....  
Collector.....  
Dated.....

Reverse

PARTICULARS OF CASE/CASES

Name of the Court                      Name of parties                      Date of decision

Nature of the

FORM 'F'  
(See rule 24)

COMMISSIONER'S CERTIFICATE

Certified that ....., <sup>1</sup>son of ..... Caste ..... resident of ..... Tehsil ..... District ..... whose appeal No ..... of 19 ..... against the order of the Collector ..... dated ..... has today been dismissed, has been allowed to prosecute if already, filed, or to file and prosecute, suits for the recovery of the under mentioned loans and application for the execution of the under mentioned decrees:-

Loans

1. Loan of Rs ..... dated ..... raised by<sup>1</sup> ..... son of ..... Town/Village ..... Tehsil ..... District
2. ....
3. ...., etc.

Decrees

1. Decrees No ..... dated ..... from Court of ..... for Rs ..... against<sup>1</sup> ..... son of ..... of village/Town ..... Tehsil ..... District .....
2. ....
3. ...., etc.

Signed.....

Commissioner.

(Seal of the Commissioner)

Dated.....

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<sup>1</sup> In case of a Firm give its name and cross out blanks not relevant.

- **THE HIMACHAL PRADESH DEBT REDUCTION ACT, 1976**
- **THE HIMACHAL PRADESH DEBT REDUCTION RULES, 1982**
- **THE HIMACHAL PRADESH DISTRESSED PERSONS (FACILITIES FOR LOANS) ACT, 1976**
- **THE HIMACHAL PRADESH DISTRESSED PERSONS (FACILITIES FOR LOANS) RULES, 1984**
- **THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL INDEBTEDNESS ACT, 1976**
- **THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL INDEBTEDNESS RULES, 1978**
- **THE HIMACHAL PRADESH (RESTRICTION TO CONTEST ALIENATION OR ADOPTION UNDER CUSTOM) ACT, 1976**

**THE HIMACHAL PRADESH DEBT REDUCTION ACT, 1976**

**ARRANGEMENT OF SECTIONS**

Sections:

**CHAPTER I  
PRELIMINARY**

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II  
INSOLVENCY PROCEDURE**

3. Amendment of section 10 of the Provincial Insolvency Act, 1920.
4. Amendment of section 74 of the Provincial Insolvency Act, 1920.

**CHAPTER III  
SUITS AND DECREES**

5. Forum of suits.
6. Debtor's right to sue.
7. Amendment of decree.
8. Accounting and determination of the amount due.
9. Rate of interest on decrees.

**CHAPTER IV  
EXECUTION OF DECREES**

10. Attachment of agricultural produce restricted.
11. Protection of agricultural land of debtor from sale or transfer.
12. Procedure where several decrees are executed simultaneously.
13. Trees protected from sale.
14. Application of the Code of Civil Procedure, 1908.
15. Collector deemed to be acting judicially.
16. Appeal to the Commissioner who shall be deemed to be acting judicially.
17. Powers to the Financial Commissioner to examine legality or propriety of the orders passed by the Collector or Commissioner.
18. Limitation for appeals.
19. Exemption from attachment or sale.
20. Immunity from arrest.
21. Amendment of section 60 of the Code of Civil Procedure, 1908.

**CHAPTER V  
MISCELLANEOUS**

22. Suit for account of money lent.
23. Deposit in court.
24. Duty of creditor to maintain and furnish accounts.
25. Penalty for non-compliance with the provisions of section 24.
26. Penalty for entering in books of accounts a sum larger than actually lent and for not giving receipts.
27. Saving in cases of previous loans.
28. Burden of proof of consideration.
29. Power to make rules.
30. Repeal and savings.

**SCHEDULE**

## THE HIMACHAL PRADESH DEBT REDUCTION ACT, 1976

(ACT NO. 31 OF 1976)<sup>1</sup>

(Received the assent of the President on the 2<sup>nd</sup> August, 1976 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 13<sup>th</sup> August, 1976, pp. 1544-1554.)

### **An Act to provide for the Reduction of Debt in Himachal Pradesh.**

*Amended, repealed or otherwise affected by:-*

Act No. 25 of 1978<sup>2</sup> assented to by the Governor on 9<sup>th</sup> May, 1978, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 18<sup>th</sup> May, 1978, pp. 563-564.

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

### CHAPTER I PRELIMINARY

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Debt Reduction Act, 1976.

(2) This Chapter and Chapters III to V shall extend to the whole of Himachal Pradesh and Chapter II to such areas as the State Government may, from time to time by notification, direct.

(3) This Act shall come into force on such date<sup>3</sup> as the State Government may, by notification, appoint in this behalf.

**2. Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-  
<sup>4</sup>(i) “bank” means,-

- (a) a banking company as defined in the Banking Regulation Act, 1949 (10 of 1949);
- (b) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
- (c) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
- (d) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (21 of 1976);
- (e) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);
- (f) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (10 of 1949);

<sup>1</sup> For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 17<sup>th</sup> March 1976, p. 896. For its Authoritative Hindi Text see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 18<sup>th</sup> March, 1994 pp. 325-337.

<sup>2</sup> For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 8<sup>th</sup> April, 1978, p. 332.

<sup>3</sup> Act came into force w.e.f. 1<sup>st</sup> April, 1979 vide Notification No. 10-17/69- Rev.- B, dated 3<sup>rd</sup> February, 1979 published in the Rajpatra, Himachal Pradesh, dated 12<sup>th</sup> May, 1979, p. 330.

<sup>4</sup> Substituted vide H.P. Act No. 25 of 1978.



- (g) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963);
- (h) the Agro-Industries Corporation as defined in sub-section (c) of section 2 of the Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972 (7 of 1973);
- (i) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956 (1 of 1956); and
- (j) any other financial institution notified by the State Government in the Official Gazette as a bank for the purpose of this Act;]
- (ii) "Collector" means the Collector of the District or any officer specially empowered by the State Government to discharge the functions of a Collector for the purposes of this Act;
- (iii) "co-operative society" means a society registered or deemed to be registered under the provisions of the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969);
- (iv) "court" means a civil court;
- (v) "creditor" in Chapter V means a person who, in the regular course of business, advances a loan as defined in this Act and includes the legal representatives and the successors in interests whether by inheritance, assignment or otherwise, of a creditor;
- (vi) "decree to which this Act applies" means a decree passed either before or after the commencement of this Act in a suit to which this Act applies;
- (vii) "interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specially by way of interest or usufruct or services to be rendered or otherwise;
- (viii) "Financial Commissioner" means the Financial Commissioner of Himachal Pradesh for the time being and includes any officer specially empowered by the State Government to exercise the powers of the Financial Commissioner under this Act;
- (ix) "loan" means an advance in cash or kind and includes any transaction which in substance amounts to such advance but does not include an advance by the Central or State Government or by a local authority authorised by the State Government to make advance, by a co-operative society or by a bank or by the Life Insurance Corporation of India or a loan taken or used for the purposes of trade;
- (x) "prescribed" means prescribed by rules made under this Act;
- (xi) "principal" means the amount originally advanced;
- (xii) "State Government" means the Government of Himachal Pradesh;
- (xiii) "suit to which this Act applies" means any suit or proceedings relating to a loan;
- (xiv) "debtor" means a person who receives a loan as defined under this Act;
- (xv) "Commissioner" means the Commissioner Revenue of Himachal Pradesh or any officer specially empowered by the State Government to exercise the powers of the Commissioner under this Act;
- (xvi) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh.

## CHAPTER II

### INSOLVENCY PROCEDURE

3. **Amendment of section 10 of the Provincial Insolvency Act, 1920.**- In sub-section (1) of section 10 of the Provincial Insolvency Act, 1920 (5 of 1920), after the existing clause (a) the following clause shall be inserted:-

"(aa) his debts amount to two hundred and fifty rupees and he satisfies the court that he is entitled to summary administration of his estate under section 74 of this Act; or".

4. **Amendment of section 74 of the Provincial Insolvency Act, 1920.**- In section 74 of the Provincial Insolvency Act, 1920 (5 of 1920) for the words "five hundred rupees" the words "two thousand rupees" shall be substituted.

### **CHAPTER III SUITS AND DECREES**

5. **Forum of suits.**- Notwithstanding anything contained in any other law for the time being in force, every suit to which this Act applies, shall be instituted in a court within the local limits of the jurisdiction of which,-

- (a) the defendant or, if there are more than one, any of the defendants resides; or
- (b) in case the defendant or, if there are more than one, all the defendants, reside outside the limits of Himachal Pradesh,-
  - (i) the holding or the land of the defendant or, if there are more than one, or any of the defendants is situate, or
  - (ii) the defendant or, if there are more than one, any of the defendants carries on trade or profession.

6. **Debtor's right to sue.**- Notwithstanding the terms of any contract regarding the date or dates on which a debt shall become due, a suit to which this Act applies for the redemption of a mortgage or for accounts may be instituted by a debtor at any time after the commencement of this Act.

7. **Amendment of decree.**- (1) Notwithstanding the provisions of any decree or of any law for the time being in force, a person liable to pay the amount due under a decree to which this Act applies, may apply to civil court, which passed the decree or to which the execution of the decree has been transferred, for the amendment of the decree by reduction, according to the provisions of this Act, of the amount due under it, and on receipt of such application the court shall after notice to the opposite party, calculate the amount due from the applicant in accordance with the provisions of sections 8 and 9 and shall amend the decree accordingly.

(2) A decree amended under the provisions of sub-section (1) shall be deemed to bear the date of the original decree.

(3) In amending a decree under the provisions of this Act the court shall accept the findings of which the decree was passed except in so far as they are inconsistent with the provisions of sections 8 and 9.

8. **Accounting and determination of the amount due.**- (1) In a suit to which this Act applies or in an application made in a suit to which this Act applies or in amending a decree under the provisions of section 7, the court shall, notwithstanding anything to the contrary in any law, decree or contract in any agreement purporting to close past transactions, determine the principal and take into account all sums paid by or on behalf of the debtor and in the case of a mortgage with possession, the net profits realised by the mortgagee or which with the exercise of ordinary diligence might have been realised by him and shall determine the amount, if any, due by the debtor in accordance with the provisions of sub-sections (2) and (3);

Provided that for the purpose of determining the principal, the court shall treat as principal any accumulated interest which has been converted in to principal at any statement, settlement of account or any contract in the course of transaction made before the first day of January, 1917 but shall treat as interest any accumulated interest which has been converted as aforesaid at any such statement, settlement, or contract made on or after that date.

(2) The amount due by the debtor shall not exceed the amount that could have been due if the rate of interest had been, in the case of a secured loan 6 per cent per annum simple interest, and in the case of unsecured loan 12 per cent per annum simple interest.

(3) The total amount due by the debtor as interest and principal shall not in any case, exceed-

- (a) in respect of a loan advanced before the commencement of this Act, twice the amount of the principal less any amount already received by the creditor in excess of the amount due under sub-section (2);
- (b) in respect of loan advanced after the commencement of this Act, twice the amount of principal less any amount already received by the creditor.

(4) Nothing in this section shall entitle the debtor to a refund of any sum already paid by him.

**9. Rate of interest on decrees.-** (1) Notwithstanding anything contained in section 34 of the Code of Civil Procedure, 1908 (5 of 1908), the court shall not order further interest on the aggregate sum adjudged in a decree to which this Act applies or any decree amended under the provisions of this Act, at a rate exceeding three percent per annum simple interest:

Provided that where future interest has not been allowed in the original decree it shall not be allowed in the decree amended under the provisions of this Act.

(2) If in a decree to be amended under the provisions of this Act, a higher rate of future interest has been allowed by the court passing the decree, such rate shall, with effect from the date of the decree, be reduced to a rate permitted by the provisions of sub-section (1) and the decree shall be amended accordingly.

(3) When a decree is executed by the grant of mortgage under the second proviso to sub-section (1) of section 11 then, notwithstanding a different rate in the decree, the rate of interest shall, from the date when such mortgage is granted, be deemed to be three per cent per annum.

#### **CHAPTER IV EXECUTION OF DECREES**

**10. Attachment of agricultural produce restricted.-** Notwithstanding anything in the Code of Civil Procedure, 1908 (5 of 1908), not more than one-fourth of the agricultural produce of a judgment debtor shall be liable to attachment in execution of a decree to which this Act applies.

**11. Protection of agricultural land of debtor from sale or transfer.-** (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, a final decree for fore-closure shall not be passed in respect of the agricultural land of a debtor in a suit to which

this Act applies. Nor shall such land be sold or otherwise transferred in execution of a decree to which this Act applies:

Provided that the court may execute a decree to which this Act applies by granting to the decree-holder a self-liquidating usufructary mortgage of such land for such period as the Collector may decide under sub-section (4), subject to the provisions of sections 16 and 17:

Provided also that when a mortgage has been granted under the provisions of this section, the same land shall not be mortgaged in execution of any other decree to which this Act applies against the same debtor or his heir or successor if the term of the mortgage together with the term or terms of the previous mortgage or mortgages exceed twenty years.

(2) The form, terms and conditions of a mortgage granted under the first proviso to sub-section (1) and the amount to be paid by the debtor at anytime for the redemption of such mortgage shall be such as may be prescribed.

(3) Notwithstanding anything contained in the Code of Civil procedure, 1908 or any other law for the time being in force, whenever a civil court orders that the land be attached and alienated temporarily in the execution of a decree for the payment of money, the proceedings of such attachment and alienation shall be transferred to the Collector.

(4) On the proceedings being transferred to him by the civil court the Collector shall decide the period of alienation, which shall not exceed twenty years and shall inform the civil court of his decision as well as of the decision or order under sections 16 and 17.

**12. Procedure where several decrees are executed simultaneously.-** (1) Where several persons holding decrees to which this Act applies, move the court before it has granted mortgage under section 11 for execution of their decrees by grant of a mortgage of agricultural land, the court shall, subject to the provisions of that section, observe the following principles in executing the decrees:-

- (a) when any such decree is based on a loan, the payment of which is already secured by a mortgage of the whole or part of the agricultural land (hereinafter described as secured decree), the holder of such decree shall first be granted a mortgage of the agricultural land already mortgaged to him, and the holder of decree based on an unsecured loan (hereinafter described as an unsecured decree) shall be granted a mortgage of the remaining agricultural land, if any;
- (b) when there are more than one secured decrees and also unsecured decrees-
  - (i) if different portions of the agricultural land are mortgaged in the secured decrees, the holder of each such decree shall be granted a mortgage of the portion which is already mortgaged to him;
  - (ii) if the same agricultural land is mortgaged in more than one decree, mortgages shall be granted to the holder of such decree in order of their priority; and
  - (iii) if after the grant of mortgages under sub- clauses (i) and (ii) there remains any agricultural land free from such mortgages, the holders of the unsecured decree shall be granted mortgage, thereof;
- (c) as among persons holding unsecured decrees, such persons shall subject to the provisions of clause (b) each be granted simultaneously mortgages of rateable shares of the agricultural land in such manner as may be prescribed.

(2) Where a decree is executed by the grant of a mortgage under the provisions of the first proviso to sub-section (1) of section 11, the court shall grant a certificate of mortgage with such particulars as may be prescribed and shall follow the procedure laid down in sub-section (2) of section 89 of the Indian Registration Act, 1908 (16 of 1908), as if such certificate was a certificate of the sale of immovable property and the registering officer shall file the copy of the certificate in his book No. 1. Such certificate of mortgage shall be exempted from stamp duty.

**13. Trees protected from sale.-** No decree to which this Act applies shall be executed by the transfer of trees on agricultural land unless the land on which such trees stand is also transferred.

**14. Application of the Code of Civil Procedure, 1908.-** The provisions of the Code of Civil Procedure, 1908 (5 of 1908), save in so far as they are not inconsistent with the provisions of this Act, shall apply to all proceedings under this Act.

**15. Collector deemed to be acting judicially.-** The Collector when acting under section 11, shall be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to the civil courts.

**16. Appeal to the commissioner who shall be deemed to be acting judicially.-** Any party aggrieved by an order of the Collector made under the provisions of this Act, shall have a right of appeal to the Commissioner who shall, when hearing appeals under this section, be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to a civil court of appeal.

**17. Powers to the Financial Commissioner to examine legality or propriety of the orders passed by the Collector or Commissioner.-** The Financial Commissioner may at any time, call for and examine the record of any order passed or proceedings taken by the Collector or the Commissioner under this Act, for the purpose of satisfying himself as to the legality or propriety of such order or such proceedings and may pass such order thereon as he may think fit.

**18. Limitation for appeals.-** The period of limitation for an appeal under section 16 shall run from the date of the order appealed against and shall be sixty days.

**19. Exemption from attachment or sale.-** Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), no decree for the payment of money shall be executed by the sale without attachment, or by the appointment of a receiver of land or the produce of land or an interest in land, which under any law for the time being in force, is exempted for attachment or sale.

**20. Immunity from arrest.-** No debtor as defined in section 2 of this Act shall be arrested or imprisoned in execution of a decree for money, whether passed before or after the commencement of this Act.

**21. Amendment of section 60 of the Code of Civil Procedure, 1908.-** In section 60 of the Code of Civil Procedure, 1908 (5 of 1908),-

(a) in sub-section (1) in the proviso,-

(i) in clause (c), for the words "occupied by him" the following words shall be deemed to be substituted, namely:-

"not proved by the decree-holder to have been let out on rent or lent to persons other than his father, mother, wife, son, daughter, daughter-in-law, brother, sister, or other dependants or left vacant for a period of a year or more".

(ii) after clause (c), the following clauses shall be deemed to be inserted, namely:-

"(cc) milch animals whether in milk or in-calf, kids, animals used for the purposes of transport or draught cart and open spaces or enclosures belonging to an agriculturist and required for use in case of need for tying cattle, parking carts or stacking fodder or manure;

(ccc) one main residential house and other buildings attached to it (with the material and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to a judgement-debtor other than an agriculturist and occupied by him :

Provided that the protection afforded by this clause shall not extend to any property specifically charged with the debt sought to be recovered."

(b) after sub-section (2) the following sub-sections shall be deemed to be inserted, namely:-

"(3) Notwithstanding any other law for the time being in force, an agreement by which a debtor agrees to waive any benefit of any exemption under this section shall be void.

(4) For the purposes of this section the word "agriculturist" shall include every person whether as owner, tenant, partner or agricultural labourer who depends for his livelihood mainly on income from agricultural land.

(5) No order for attachment shall be made unless the court is satisfied that the property sought to be attached is not exempted from attachment or sale."

## CHAPTER V MISCELLANEOUS

**22. Suit for account of money lent.-** (1) A debtor may sue for an account of a loan.

(2) In such suit, the court shall allow only such interest as may be permissible under this Act. It shall after taking necessary accounts, declare the account which is still payable by the plaintiff to the defendant and shall on the application of the defendant, if the money is payable, pass a decree in favour of the defendant:

Provided that the court shall determine the value of the service rendered in lieu of interest in the prescribed manner.

(3) Notwithstanding anything in the Himachal Pradesh Court Fees Act, 1968, the court fee payable on a plaint in a suit under sub-section (1) shall be that prescribed by schedule and the fee payable on an application under sub-section (2) shall be the amount, if any, by which the fee payable on a plaint in suit for the recovery of the amount declared under that sub-section exceeds, the fee already paid by the plaintiff on the plaint.

**23. Deposit in Court.-** (1) Any person who owes money may at anytime deposit in court a sum of money in full or part payment to his creditor.

(2) The court on receipt of this deposit shall give notice thereof to the creditor and shall on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

**24. Duty of creditor to maintain and furnish accounts.-** (1) A creditor shall, after the date on which this Act comes into force,-

- (a) regularly record and maintain a correct account for each debtor of all transactions relating to each loan advanced to that debtor, in the prescribed manner, and
- (b) supply each debtor every six months with a full and correct statement of account signed by the creditor or his agent in such form and on such date as may be prescribed.

(2) A person to whom a statement of account has been submitted under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of the correctness of the account.

(3) The account prescribed in clause (a) of sub-section (1) shall be deemed to be regularly kept in the course of business for the purpose of section 34 of the Indian Evidence Act, 1872 (1 of 1872) and copies of entries in such accounts certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

**25. Penalty for non-compliance with the provisions of section 24.-** Notwithstanding anything contained in any other enactment for the time being in force-

- (a) in any suit or proceeding relating to a loan if the debtor objects that the creditor has not complied with the provisions of section 24, the court shall determine such objections before deciding the claim on the merits;
- (b) if the court finds that the provisions of clause (a) of subsection (1) of section 24 have not been complied with by the creditor, it may, if the creditor's claim has been established in whole or in part, disallow the whole or a portion of the interest found due, as it may deem reasonable in the circumstances of the case, and shall disallow the cost;
- (c) if the court finds that the provisions of clause (b) of subsection (1) of section 24 have not been complied with by the creditor the court shall, in computing the amount of interest due on the loan, exclude every period for which the creditor has failed to comply with such provisions :

Provided that if the creditor has, after the time prescribed in the said clause, furnished the account and satisfied the court that he had sufficient cause for not furnishing it earlier, the court, notwithstanding such omission, shall include any such period or periods for the purpose of computing the interest:

Provided further that if the creditor has submitted an account which is not full and correct, and satisfies the court that the omission or error was bonafide and due to inadvertence, the court shall, notwithstanding such omission or error, include any such period or periods for purpose of computing interest.

*Explanation.*- A person who has kept his accounts and submitted his six monthly statement of accounts in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 24, he shall be held to have complied with the provisions of these clauses in respect of any errors or omissions if the court finds that the errors or omissions were accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

**26. Penalty for entering in books of accounts a sum larger than actually lent and for not giving receipts.**- Any creditor who, after the commencement of this Act, records in his book of accounts or in the statement of account submitted to the debtor as lent to a debtor a sum larger than actually lent, whether by way of charges for expenses, inquiries, fines, bonus, premia, renewals, or otherwise, shall be punished for the first offence with fine which may extend to one hundred rupees, and for a second or subsequent offence with regard to the same or any other debtor with fine which may extend to five hundred rupees.

(2) Where in any suit concerning a loan taken by a debtor, the court finds that the creditor has, without reasonable cause, refused or neglected to deliver to the debtor a receipt for any payment by him on account of such loan or to credit such payment on the written instrument securing such loan, it may award the debtor such compensation not exceeding double the amount of such payment as it may consider proper.

**27. Saving in cases of previous loans.**- The provisions of sections 24 to 26 shall not, in the case of a loan advanced before the commencement of this Act, apply to the period prior to the commencement of this Act.

**28. Burden of proof of considerations.**- Notwithstanding anything to the contrary contained in other enactment for the time being in force the burden of proving that any consideration alleged to have been paid by a money lender has actually passed, shall be on him, unless the consideration is acknowledged by a debtor in his own handwriting or has been endorsed by the registering officer acting under clause (c) of sub-section (1) of section 58 of the Indian Registration Act, 1908 (16 of 1908), as having been paid in his presence.

**29. Power to make rules.**- (1) The State Government may make rules consistent with this Act for carrying out the purposes of this Act.

(2) 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.



**30. Repeal and savings.-** The Himachal Pradesh Debt Reduction Act, 1953 as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, the Punjab Relief of Indebtedness Act, 1934 and the Punjab Debtors' Protection Act, 1936 (2 of 1936), in their application to the territories added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), are hereby repealed:

Provided that anything done or any action taken, notification issued or rules made under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act shall be deemed to have been done or taken, issued or made in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, notification issued or rules made.

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**SCHEDULE**  
**SCHEDULE OF COURT FEE PAYBLE ON PLAINT UNDER SECTION 22**

		Rs.
If the principal amount of loan is less than Rs. 100	..	5.00
If the principal amount of loan is not less than Rs. 100 but less than Rs. 250	..	7.50
If the principal amount of loan is not less than Rs. 250 but less than Rs. 500	..	15.00
If the principal amount is not less than Rs. 500 but less Than Rs. 1,000	..	30.00
If the principal amount of loan is Rs. 1,000 or above	..	50.00

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## THE HIMACHAL PRADESH DEBT REDUCTION RULES, 1982<sup>1</sup>

**1. Short title and commencement extent.** - (1) These rules may be called the Himachal Pradesh Debt Reduction Rules, 1982.

(2) They shall come into force at once.

**2. Definitions.** - In these rules, unless the context otherwise requires:

- (1) "Act" means the Himachal Pradesh Debt Reduction Act, 1976.
- (2) "form" means a form appended to these rules.
- (3) "section" means a section(s) of the Act.
- (4) "tenant" means a tenant as defined in the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

**3. Grant of Self Liquidating Mortgage.** - (1) A self-liquidating usufructuary mortgage under section 11 shall be granted in the form DRI on the terms and conditions indicated therein.

(2) In granting a mortgage under section 11 of the Act the Court shall take care that the amount on account of the value of one fourth of the produce does not exceed the total amount of the mortgage and if it does, the period of the mortgage shall be reduced accordingly.

**4. Redemption of Mortgage.** - When the debtor applies for redemption of mortgage granted under section 11 the Collector shall determine the number of years which the mortgage still to run, on the 30th day of June next following date on which the application is made. The Collector shall then determine the proportion of the mortgage money that must be repaid by the debtor for the redemption of his land.

**5. Unsecured Decrees.** - The mortgages under section 12(1)(c) shall be granted to the holders of unsecured decrees in the ratio of the amounts of the respective decrees.

Explanation. - For the purposes of this rule, if three persons have unsecured decrees amounting to Rs. 200/500 and Rs. 800 respectively one-fourth share of the produce shall be divided among the decree holders in the ratio of 2, 5, and 8.

**6. Certificate of Mortgage.** - The certificate of mortgage referred to in section 12(2) shall be granted by the Court in Form DR-II.

**7. Maintenance of Accounts.** - A creditor shall maintain accounts in respect of each debtor in the proforma in Form DR-III and shall give receipts in form DR-IV for all sums received by him in full payment or part payment of the loan, as the case may be, by the debtor.

**8. Despatch of Statement of Account.** - The statement of account in Form DR-III, for the half year's ending June and December each year, shall be supplied by the creditor to each debtor under a covering letter in proforma DR-V. The accounts shall be supplied before the 31st July and 31st January each year.

**9. Repeal and Savings.** - The Himachal Pradesh Debt Reduction Rules, 1954, are hereby repealed:

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<sup>1</sup> Published in R.H.P. Extraordinary dated 19/7/1982, Pages 696-700, vide Rev. Deptt. Notification No. Rev.2-A(3) 5/76 dated 21-5-1982.

Provided that the repeal of the aforesaid rules shall not affect the validity of any action taken or done under the said rules.

### Form DR-I

In the Court of Shri ..... at .....

Whereas Shri ..... of Village ..... Tehsil ..... District ..... has applied for payment to him outstanding against Shri ..... of Village ..... Tehsil ..... District .....

And Whereas after giving an adequate opportunity the parties concerned and examining the evidence produced before me, I am of the opinion that Shri, ..... really owes an amount of Rs. .... to the said Shri ..... on account of the outstanding debt and interest admissible under the law;

Now Therefore, I, ..... Sub-Judge ..... class at ..... (Place) under the provisions of the Himachal Pradesh Debt Reduction Act, 1976 do hereby grant a self liquidating usufructuary mortgage of land lying under Khasra Nos ..... situated in village Tehsil, District .... as entered in the Jamabandi for the year in the ownership of Shri. .... (Debtor) in favour of Shri ..... (Creditor) for a period of ..... years commencing from Rabi/Kharif of the year.

This mortgage shall be subject to the following terms and conditions:

- (1) That the debtor, during the period of mortgage, shall be entitled to receive from the creditor only  $\frac{1}{4}$ th of the produce of the land.
- (2) In case the land under the mortgage is under the cultivation of a person other than the debtor, then that person or a tenant as the case may be shall pay  $\frac{1}{4}$ th share or such portion of the produce as he may be paying as rent to the debtor in terms of the tenancy as the case may be.
- (3) The creditor or the tenant of the land under the mortgage if he be other than the debtor, shall not be entitled to any compensation for improvements made by him/them during the period of mortgage:

Provided, however, that the necessary compensation as may be assessed by the competent authority shall be granted in case the improvements were made by the Government or under an order in writing of the Government or any other officer authorised by it.

Given under my hand and seal of the Court this ..... day of .....

Sub-Judge ..... Class.

**FORM DR-II**

In The Court Of Shri ..... Sub-Judge at .....

Whereas Shri ..... of Village ..... Tehsil ..... of District ..... has applied for payment to him of an amount of Rs ..... on account of the debt outstanding against Shri ..... of Village ..... Tehsil ..... District .....

And Whereas after giving an adequate opportunity to the parties concerned and examining the evidence produced before me, I am of the opinion that Shri ..... really owes an amount of Rs. .... to the said Shri ..... on account of the outstanding debt and interest as admissible under the law.

Now Therefore I, ..... Sub-Judge ..... Class at ..... (Place) under the provisions of the Himachal Pradesh Debt Reduction Act, 1976, do hereby grant a self liquidating usufructuary mortgage of land comprised in Khasra Nos and situated in Village ..... Tehsil ..... District ..... as entered in the Jamabandi for the year ..... in the ownership of Shri ..... (Debtor) in favour of Shri ..... (Creditor) for a period of ..... years commencing from Rabi/Kharif of the year .....

During the period of mortgage the creditor shall be entitled to receive from the debtor, if the debtor is himself cultivating land under the mortgage or from such other persons as may be cultivating the land as a tenant of the debtor,  $\frac{1}{4}$ th of the produce and in the case of the tenant, such amount of produce which he has been paying to the debtor as a rent if it is less than the  $\frac{1}{4}$ th of the produce.

Given under my hand and seal of the Court, this ..... day of .....

Sub-Judge.....Class.

Seal of the Court.

**FORM DR-III**

Debt Account of Shri ..... of Village ..... Tehsil ..... District.

Date 1	Debits 2	Date 3	Credits 4
	(1) Debt outstanding on 1 <sup>st</sup> of January/1 <sup>st</sup> July, ..... (a) Principal..... (b) Interest.....		(1) Amount received in kind/ cash or any other form of payment (if in lieu of service indicating, how the amount has been arrived at) (reference to receipt book. Rozanamach or Rokar etc.)
	(2) Amount advanced in cash/in kind/any other forms of payment (reference to Rozanamcha/Rokar etc.)		(2) Total amount received upto 30 <sup>th</sup> June/31 <sup>st</sup> December, .....
	(3) Total amount advanced until 30 <sup>th</sup> June/31 <sup>st</sup> December, .....		(3) Balance payable on 1 <sup>st</sup> July/1 <sup>st</sup> January, .....
Place.....			
Date			Signature of the Creditor.

**FORM DR-IV**

No.....  
RECEIPT

Received a sum of Rs. .... (in words) from Shri on Account of part/full payment  
of outstanding loan of Rs. ....

Signature of Creditor

**FORM DR-V**

To  
Shri .....  
.....

As required under clause(b) of sub-section (I) of Section 24 of the Himachal Pradesh Debt  
Reduction Act, 1976, I enclose for necessary action a statement of accounts of the debt you owe to  
me for the half year's ending on 30<sup>th</sup> June/31<sup>st</sup> December, .....

Date .....  
Place .....

Signature of the Creditor.

**THE HIMACHAL PRADESH DISTRESSED PERSONS (FACILITIES FOR LOANS) ACT,  
1976**

**ARRANGEMENT OF SECTIONS**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Power of State Government to make rules for grant of loans and their recovery.
4. Recovery of loans as arrears of land revenue.
5. Liability of joint-borrowers as among themselves.
6. Rule making power.
7. Repeal and savings.

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**THE HIMACHAL PRADESH DISTRESSED PERSONS (FACILITIES FOR LOANS) ACT,  
1976**

**(ACT NO. 18 OF 1976)<sup>1</sup>**

(Received the assent of the Governor on the 30th April, 1976 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 4th May, 1976, pp. 1201-1204).

**An Act to provide for extension of loan facilities to distressed person in certain cases.**

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India, as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh Distressed Persons (Facilities for Loans) Act, 1976.

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

(3) It shall come into force at once.

**2. Definitions.-** In this Act, unless the context otherwise requires,-

- (a) "Official Gazette" means the Rajpatra, Himachal Pradesh; and
- (b) "State Government" means the Government of Himachal Pradesh.

**3. Power of State Government to make rules for grant of loans and their recovery.-** The State Government may, from time to time, by notification in the Official Gazette, make rules as to the grant of loans and their recovery to be made, to persons affected by distress caused by calamities, such as floods, epidemics, famine, earthquakes, land-slides, avalanches, snow-storms, hail-storms, fire, severe drought, excessive rains, wind storm, lightening and electric shock and locusts.

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<sup>1</sup> For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 8<sup>th</sup> March, 1976, p. 833. For its Authoritative Hindi Text see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 25<sup>th</sup> March, 1994, pp. 442-444.

**4. Recovery of loans as arrears of land revenue.-** Every loan made in accordance with rules made under this Act, all interest chargeable thereon, and costs, if any, incurred in making or recovering the same, shall when they become due, be recoverable from the person to whom the loan was made or from any person, who has become surety for the repayment thereof as if they were arrears of land revenue.

**5. Liability of joint borrowers as among themselves.-** When a loan is made under this Act to two or more persons on such terms and conditions that all of them are jointly and severally bound to the State Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute, is entered upon the order granting the loan and is signed, marked, or sealed by each of them or his agent duly authorised in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of these persons is bound to contribute.

**6. Rule making power.-** (1) The State Government may subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) Every rule made under this section 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.

**7. Repeal and savings.-** The Punjab Distressed Persons (Facilities for Loans) Act, 1958, (11 of 1958), in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, (31 of 1966), is hereby repealed:

Provided that anything done, action taken, rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act shall be deemed to have been done, taken, made or exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

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**THE HIMACHAL PRADESH DISTRESSED PERSONS (FACILITIES FOR LOANS)  
RULES, 1984<sup>1</sup>**

**CHAPTER I**

Preliminary

1. **Short title and commencement.** - (1) These rules may be called the Himachal Pradesh Distressed Persons (Facilities for Loans) Rules, 1984.

(2) These shall come into force at once.

2. **Definitions.** - In these rules, unless the context otherwise requires:-

- (a) "Act" means the Himachal Pradesh Distressed Persons (Facilities for Loans) Act, 1976 (18 of 1976);
- (b) "section" means a section of the Act;
- (c) "competent authority" or "authority competent" means an authority empowered to grant loans under rule 3 to a distressed person, to the extent shown against each;
- (d) "distressed (s)" means a person affected by distress caused by natural or other calamities mentioned in section 3 of the Act;
- (e) "form" means a form appended to these rules; and
- (f) "Tehsildar" means an officer appointed as such by the Government for the time being and includes a Naib-Tehsildar of a Sub-Tehsil.

**CHAPTER II**

Grant of Loan to Distressed Person

3. **Grant of loan.** - The State Government or other authority (hereinafter referred to as the competent authority) mentioned hereunder, may grant loan to a distressed person to the extent specified against each.

(1) In The Case of Distress Caused By Floods, Earthquakes, Landslides, Avalanches, Fire and Excessive Rains: -

(a) For construction of house or a shop: -

- |                              |  |
|------------------------------|--|
| (i) Deputy Commissioner      | Upto Rs. 10,000.   |
| (ii) Div. Commissioner       | Upto an amount exceeding Rs. 10,000 but not exceeding Rs 15,000. |
| (iii) Financial Commissioner | An amount exceeding Rs. 15,000 but not exceeding Rs 20,000.      |
| (iv) State Government        | Any amount exceeding Rs. 20,000.                                 |

(b) For repair of a house or a shop: -

- |                         |   |
|-------------------------|---|
| (i) SD.O. (C)           | Upto Rs. 1,000  |
| (ii) D.C                | Upto Rs. 5,000.   |
| (iii) Div. Commissioner | An amount exceeding Rs. 5,000 but not exceeding Rs. 10,000. |

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<sup>1</sup> Published vide Notification R.H.P. Ex-Ordinary dated 20-10-84, Pages 1724-1729.



- (iv) Financial Commissioner Any amount exceeding Rs. 10,000.
- (c) For improvement of purchase of land: -
- (i) Deputy Commissioner Upto Rs. 5,000
- (ii) Div. Commissioner An amount exceeding Rs. 5,000 but not exceeding Rs. 15,000.
- (iii) Financial Commissioner An amount exceeding Rs. 15,000 but not exceeding Rs 25,000.
- (d) For any other purpose: -
- (i) S.D.O.(C) Upto Rs. 1,000
- (ii) Deputy Commissioner An amount exceeding Rs. 1,000 but not exceeding Rs 5,000.

(2) In The Case Of Distress Caused By Famine, Snow Storm, Hail Storm Severe Drought, Wind Storm Or Locust -

- (a) For purchase of cattle: -
- (i) S.D O. (C) Upto Rs. 1,000
- (ii) Deputy Commissioner An amount exceeding Rs 1,000 but not exceeding Rs. 3,000.
- (b) Any other purpose: -
- (i) Tehsildar Upto Rs. 200.
- (ii) S.D O. (C) An amount exceeding Rs. 200 but not exceeding Rs. 500
- (iii) Deputy Commissioner An amount exceeding Rs 500 but not exceeding Rs. 1,000

(3) In The Case Of Distress Caused By Lightning Or Electric Shock:-

- (a) For purchase of cattle: -
- (i) S.D O. (C) Upto Rs 1,000.
- (ii) Deputy Commissioner An amount exceeding Rs. 1,000 but not exceeding Rs. 3,000
- (b) For any other purpose:-
- (i) S.D O. (C) Upto Rs. 1,000
- (ii) Deputy Commissioner An amount exceeding Rs. 1,000 but not exceeding Rs. 5,000.
- (iii) Div. Commissioner An amount Rs 5,000 but not exceeding Rs. 15,000

(4) In Case Of Distress Caused By An Epidemic

As prescribed by department concerned.

4. **Form of Application.** - An application for the grant of loans under these rules shall be submitted to the Tehsildar concerned in duplicate, in Form-1 duly signed and marked as "Original" and "Duplicate"

5. **Verification.** - The Tehsildar on receipt of application shall make appropriate enquiries and forward one copy of the form, with a report and his recommendations (to be recorded on a separate sheet and marked confidential) for orders, to the competent authority direct and where the authority competent to sanction the loan applied for is the Divisional Commissioner, Financial Commissioner or the State Government, through the Deputy Commissioner concerned.

6. **Orders of the Competent Authority.** - (1) The competent authority to whom the application has been forwarded under rule 5, shall consider whether the amount of loan applied for represents the minimum requirement for the purpose of rehabilitation as indicated in the form, and whether the request is genuine and, after satisfying itself about all such factors, may:-

- (a) reject the application: or
- (b) reduce the amount of loan to the extent which it considers sufficient for the purpose indicated in the application if it is satisfied that the amount of the loan applied for is excessive for the declared purpose, and return the application with all relevant papers to the authority competent to sanction the reduced amount of loan with suitable directions. In such a case, a reference to the lower authority shall be deemed to be a reference made under rule 5; or
- (c) sanction the loan applied for:

Provided that no application shall be rejected or the amount of loan shall be reduced without affording the applicant an opportunity to explain his case either in writing or orally and the competent authority shall record the reasons for rejection or reduction of amount in writing:

Provided further that the competent authority shall record the orders on the form itself, which shall be returned to the Tehsildar, with or without the amount of loan, as the case may be. In case the competent authority decides to sanction the loan, it shall clearly, pass orders as to the number of instalments in which the loan shall be refundable, the rate of interest chargeable on the loan and the due date(s) for the repayment of instalments of loan.

(2) The competent authority shall, for the purposes of section 5, also prepare a statement showing the portion of the amount of loan which as among themselves each of the distressed person is bound to contribute, in case the loan is granted to two or more distressed persons on a joint application.

7. **Disbursement of loan.** - (1) After sanctioning the loan under rule 6, the competent authority shall send the amount of loan sanctioned to the Tehsildar for payment to the distressed person.

(2) On the receipt of orders or the amount of the loan, the Tehsildar shall record on appropriate note on the other copy of the form retained by him under rule 5; and -

- (a) inform the distress person of the orders of the competent authority; or
- (b) make payment of the amount received under sub-rule (1), to the distressed person after obtaining proper hypothecation or if the loanee has nothing to hypothecate, surety as mentioned in the form of application, as the case may be.

**8. Joint application by two or more distressed persons.** - (1) Where two or more distressed persons apply for a loan under these rules jointly, the application shall be made jointly in Form-1 indicating therein the names of all such persons and it may be presented to the Tehsildar by all or any of the applicants, in duplicate.

(2) The application shall be processed in the same manner as prescribed for the other cases in the preceding rules:

Provided that where a loan is sanctioned under this rule, the amount shall be paid to the applicants jointly, when all of them are present and all of them shall be jointly and severally bound to the State Government for the repayment of the whole amount payable in respect thereof.

### CHAPTER III

#### Rate of Interest to be Charged and Security of Loans

**9. Rates of Interest.** - (1) The interest to be charged on the loans granted under these rules shall be simple interest at the rates prescribed by the State Co-operative Bank for loans granted by it.

(2) The interest shall be chargeable with effect from the date of disbursement of the loan.

**10. Sureties.** - (1) Before the loan is disbursed to the distress persons or persons as the case may be, the Tehsildar shall obtain proper hypothecation or the signatures and other particulars of the sureties on the application form as the case may be, in term of rule 7 and forward it to the competent authority for safe custody after making a detailed note of it on the other copy of the form retained by him in his office.

(2) The Tehsildar shall ensure that the persons offering themselves as sureties possess immovable property sufficient to make good the amount of loan sanctioned together with the interest chargeable thereon, before he accepts their offer.

(3) The persons offering themselves as sureties shall be jointly and severally bound to the State Government for the repayment of the amount of loan and the interest thereon.

### CHAPTER IV

#### Recovery of Loans

**11. Date from which the recovery shall become due and the number of instalments.** - (1) Every loan granted under these rules shall be recoverable in half-yearly instalments, not exceeding twenty the first of such instalments commencing after a period of 18 months from the date of payment under rule 7(2)(b).

(2) After the loan has been recovered in full, the amount of interest recoverable from the loanee, shall be calculated at the rate prescribed under rule 9 and recovered in monthly instalments not exceeding six, commencing from the month following the month in which the last instalment of loan was recovered.

**12. Loanees and sureties to be informed of their liability in case of joint application.** - Where loan is granted to two or more distressed persons on a joint application, the Tehsildar shall explain to each such person and surety the portion of the amount which each of them is bound to

contribute as amount themselves as a loanee in terms of the orders passed by the competent authority under second proviso to rule 6, and, as a surety.

## CHAPTER V

### Miscellaneous

**13. Verification as to the utilisation of loan on the bonafide purpose.** - As soon as may be after the recovery of the loan commences, the competent authority shall make or cause to be made enquiries to find out as to whether the amount of loan paid to a distressed person, has been utilised for the purpose for which it has been sanctioned and intimate the result to the Tehsildar concerned.

**14. Amount of loan to be recovered in lumpsum if amount of loan is mis-utilised.-** Where an enquiry conducted under rule 13 reveals that the amount of loan granted to a distressed person has not been used for the purpose for which it has been sanctioned, the competent authority shall, after giving adequate opportunity to the person concerned to explain his position, pass orders that the remaining amount of the loan with interest calculated under rule 9, and a penal interest at the rate of 5% on the loan and costs, if any, shall be recovered at once in lump sum as arrears of land revenue.

**15. Record of loanees.** - A register showing particulars of every loan granted under these rules, shall be maintained by the Tehsildar in Form II and shall be produced for inspection by the audit on demand.

**Form I**

(See rule 4)

1. Name of applicant(s) with parentage and full address.
2. Nature of distress by which affected.
3. Extent of loss.
4. Exact location where the loss has occurred.
5. Amount of loan applied for.
6. Purpose for which the loan is required i.e. the measures which the applicant proposes to take for his rehabilitation with the help of the loan.
7. Exact location where the applicant proposes to utilise the loan on the measures stated in col. 6.
8. Details of the immovable property of the applicant(s) together with its location in revenue records, which is proposed to be mortgaged.

Signature of the Applicant(s).

Orders of the Competent Authority.

Signature with Seal of Office of the Competent Authority.

(For Use of The Office of The Tehsildar After The Loan Has Been Sanctioned)

Received payment. I/We have gone through/been explained the implications of the Himachal Pradesh Distressed Persons (Facilities for Loan) Rules, 1983 and undertake hereby to abide by these rules.

Signature(s) of the loanee(s).

I/We have gone through/been explained the implications of the above rules and after fully understanding my/our responsibilities and liabilities, undertake to pay to the Government the amount of loan together with the interest thereon, and costs, if any, in case the above loanee fails to refund the loan.

Surety No. ....

Surety No. 2.....

(Full particulars of the sureties to be given here)

**Form-II**  
(See rule 15)

1. Name of applicant(s) with parentage and address.
2. Nature of distress by which affected.
3. Extent of loss.
4. Exact location where the loss occurred.
5. Amount of loan sanctioned and reference to orders (No. and date).
6. Purpose for which loan has been sanctioned, i.e. the measures, which the applicant proposes to take for his rehabilitation with the help of the loan.
7. Details of the immovable property mortgaged with the Government in security of the loan granted to the applicant.
8. (a) Date on which the recovery of the loan is to commence in term of second proviso to rule 6.  
(c) No. of instalments fixed;  
(d) Amount of each instalment; and  
(e) Rate of interest.
9. Progress of recovery i.e. dates on which the instalments have been recovered and Challan No. and date under which the amount of instalment has been deposited.
10. The result of inspection under rule 13.
11. Orders under rule 14, if any, and the result thereof (i.e. action taken thereon).
12. Date on which the last instalment of the loan and the interest has been received.
13. Signature of the Tehsildar.

By order,  
Sd/-  
Secretary (Revenue).

**THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL INDEBTEDNESS ACT, 1976****ARRANGEMENT OF SECTIONS**

Sections:

**CHAPTER I  
PRELIMINARY**

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II  
LIQUIDATION OF CERTAIN DEBTS**

3. Consequences of commencement of this Act.
4. Agreement for labour in lieu of debt to become void.

**CHAPTER III  
MORATORIUM ON EXECUTION OF DECREES AGAINST SMALL FARMERS**

5. Stay of proceedings in case of certain decrees.
6. Release of persons in detention in civil prison.
7. Relief against default in payment of instalments.
8. Powers of State Government to extend the period of moratorium.
9. Computation of time for execution.
10. Payment of certain decrees.
11. Transfer by small farmer to be voidable.
12. Restriction on amount of claim and interest in certain cases.

**CHAPTER IV  
EXEMPTIONS**

13. Savings.

**CHAPTER V  
SCALING DOWN OF DEBTS OF SMALL FARMERS**

14. Application for determination of debt.
15. Determination of amount.
16. Relief to small farmers.
17. Prohibition regarding rate and amount of interest.
18. Bar to suits and proceedings and execution of decrees in civil or revenue courts.
19. Transfer of application from one authority to another.
20. Appeals.

**CHAPTER VI  
GENERAL**

21. Power to make rules.
22. Declaration as to giving effect to certain directive principles of the State Policy.
23. Penalties.
24. Power to remove difficulty.
25. Repeal and savings.

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# THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL INDEBTEDNESS ACT, 1976

(ACT No. 17 OF 1976)<sup>1</sup>

(Received the assent of the President of India on the 22<sup>nd</sup> April, 1976, and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 30th April, 1976, pp. 1187-1197).

## **An Act to provide for relief from indebtedness to certain farmers, landless agricultural labourers and rural artisans in the State of Himachal Pradesh.**

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

### **CHAPTER I PRELIMINARY**

1. **Short title, extent and commencement.**- (1) This Act may be called the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976.

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

(3) It shall come into force at once.

2. **Definitions.**- (1) In this Act, unless the context otherwise requires,-

- (a) “agriculturist” means a person who cultivates land personally;
- (b) “appointed day” means the 13<sup>th</sup> November, 1975;
- (c) “appellate officer” means an officer appointed under sub-section (1) of section 19;
- (d) “authority” means one or more persons to be appointed by the State Government as authorities by a notification for carrying out the purposes of this Act, in respect of areas to be specified in such notification;
- (e) “civil court” includes,-
  - (i) any court exercising jurisdiction under the Provincial Insolvency Act, 1920 (5 of 1920);
  - (ii) a Nyaya Panchayat established under the Himachal Pradesh Panchayati Raj Act, 1968 (19 of 1970);
  - (iii) a court exercising powers under the Provincial Small Cause Courts Act, 1887 (9 of 1887);
- (f) “debt” with its grammatical variations and cognate expressions means any liability in cash or kind, whether secured or unsecured, due from a debtor whether payable under a decree or order of any civil court or otherwise;
- (g) “debtor” means a marginal farmer, a landless agricultural labourer or a rural artisan who is in debt; but does not include a small farmer;
- (h) “to hold land” with its grammatical variations and cognate expressions means to be lawfully in actual possession of land as owner, tenant or Government lessee and the expression “holding” shall be construed, accordingly;
- (i) “landless agricultural labourer” means a person who does not hold any land and whose principal means of livelihood is manual labour on agricultural land and includes a person who follows anyone or more of the following agricultural

<sup>1</sup> For Statement of Objects and Reasons, see Rajpatra, Himachal Pradesh (Extraordinary) dated. 21st February, 1976, p. 634.



occupations in the capacity of labourer on hire or exchange, whether paid in cash, in kind or partly in cash and partly in kind:-

- (a) farming including cultivation and tillage of soil etc;
- (b) dairy farming;
- (c) production, cultivation, growing and harvesting of horticultural commodity;
- (d) raising of livestock, bees or poultry; and
- (e) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

- (j) “Local authority” means a Municipal Corporation or Municipal Committee, a Notified Area Committee or a Cantonment Board, as the case may be, constituted or deemed to have been constituted under any law relating to local authority for the time being in force;
- (k) “marginal farmer” means an agriculturist who earns his livelihood mainly by agriculture and who holds land not exceeding one hectare of unirrigated or half hectare of irrigated land:

Provided that if a marginal farmer holds both classes of land then the area for the purpose of this clause shall be determined on the basis of half hectare of irrigated land counting as one hectare of unirrigated land and on the basis of this conversion ratio the total area of such farmer shall not exceed one hectare;

- (l) “member of a family” means father, mother, spouse, brother, unmarried dependant sister, divorced and dependent sister, son, son’s wife, or unmarried daughter, divorced and dependent daughter, son’s son, sons’ unmarried daughter, son’s divorced and dependent daughter and includes any relation residing with and actually dependant for his maintenance on the debtor;
- (m) “rural artisan” means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and articles or things used for agriculture purposes or purposes ancillary thereto and also person who normally earns his livelihood by practising a craft either by his own labour or by the help of the labour of the members of his family in the rural area and whose annual house-hold income does not exceed two thousand and four hundred rupees;
- (n) “rural area” means an area outside the jurisdiction of a local authority;
- (o) “small farmer” means an agriculturist who earns his livelihood mainly by agriculture and who holds more than one hectare and less than two hectares of unirrigated or more than half hectare and less than one hectare of irrigated land:

Provided that if a small farmer holds both classes of land then the area for the purpose of this clause shall be determined on the basis of one hectare of irrigated land counting as two hectares of unirrigated land and on the basis of this conversion ratio the total area of such farmer shall not exceed two hectares;

- (p) words and expressions used in this Act but not defined therein shall have the meanings, respectively assigned to them in the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (19 of 1973).

(2) If a question arises whether a person is a marginal or small farmer, or a landless agricultural labourer or a rural artisan, the question shall be referred to an officer not below the rank

of a Tehsildar duly appointed by the State Government in that behalf and the decision of such officer on the question shall be final and conclusive and shall not be called in question in any civil court:

Provided that no such question shall be decided unless an opportunity has been given to the interested parties to be heard.

## CHAPTER II LIQUIDATION OF CERTAIN DEBTS

**3. Consequences or commencement of this Act.-** Notwithstanding anything contained in any other law for the time being in force or in any contract, decree or other instrument having force by virtue of any such law, and save as otherwise expressly provided in this Act, every debt outstanding on the appointed day, including the amount of interest, if any payable by a debtor to creditor shall be deemed to be wholly discharged, and the consequences as hereinafter set forth shall, with effect from the appointed day, ensure, namely:-

- (a) no such debt due from a debtor on the appointed day shall be recoverable from him or from or against any movable or immovable property belonging to him, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such debt against him;
- (b) no civil court shall entertain any suit or proceeding against such debtor for the recovery of any amount of such debt, including interest, if any:

Provided that where a suit or proceeding is instituted jointly against such debtor or any other person nothing in this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person;

- (c) all suits and proceedings (including appeals, revisions, attachment or execution proceedings) pending on the appointed day for the recovery of any such debt against such debtor shall abate:

Provided that nothing in this clause shall apply to the sale of-

- (i) any movable property held and concluded before the appointed day;
- (ii) any immovable property confirmed before such day;
- (d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a civil court in respect of any such debt shall be released forthwith;
- (e) every property pledged or mortgaged by such debtor shall stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith. If the debtor is opposed or impeded in taking possession of the property, then he may request the District Magistrate, or any executive magistrate authorized by him to enforce delivery of possession of such property. The District Magistrate, or as the case may be, the executive magistrate shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the property to the debtor.

*Explanation.-* Nothing in this section shall be construed to entitle any such debtor to the refund of any part of a debt already repaid by him or recovered from him before the appointed day.

4. **Agreement for labour in lieu of debt to become void.-** Any custom or tradition or any agreement (whether made before or after the appointed day), whereunder or by virtue of which a debtor or any member of his family is required to work as labourer or otherwise for the creditor shall be void and of no effect and shall not be enforceable in any court.

### CHAPTER III

#### MORATORIUM ON EXECUTION OF DECREES AGAINST SMALL FARMERS

5. **Stay or proceedings in case or certain decrees.-** (1) No debt or part thereof including any interest thereon due from a small farmer as on the appointed day shall be recoverable from him for a period of one year commencing from the appointed day.

(2) All proceedings in execution of any decree for money, or proceedings for making final, any preliminary decree for foreclosure or sale, or proceedings in execution of any final decree for sale, passed by a civil court on the basis of a liability incurred before the appointed day in which the judgment debtor or defendant, as the case may be, is, on the appointed day, a small farmer, shall be stayed against such judgment debtor or defendant, on an application made by him in this behalf for a period of one year from the appointed day.

(3) All attachments of growing crops, agricultural produce, livestock and other movable property of a perishable nature made in execution of decrees for money the execution of which has been stayed under sub-section (1) and existing on the date on which the stay order is passed shall be withdrawn.

(4) Every stay order passed by the court under this section shall relate back to the date of the application for stay filed by the judgment debtor or defendant, as the case may be, and the proceedings shall for all purposes of this Act be deemed to have been stayed with effect from such date.

6. **Release of persons in detention in civil prison.-** (1) On the appointed day, every small farmer undergoing detention in a civil prison in execution of any decree for money passed by civil court in respect of his debt shall be released.

(2) No small farmer shall in any case be liable to arrest or detention in a civil prison in execution of any such decree as is referred to in sub-section (1) for a period of one year from the appointed day.

7. **Relief against default in payment or instalments.-** (1) Where a decree for payment of the decretal amount by instalments contains a provision that in default of one or more instalments, the whole amount shall become due at once, then, notwithstanding anything in such provision, non-payment of any instalment falling due during the period in which the proceedings in execution remain stayed under this Act shall not be deemed to be a default for the purposes of such provision.

(2) If the judgment debtor pays the instalment so falling due within a period of twelve months after the expiry of period prescribed in sub-section (1) then such instalment shall be deemed to have been paid on the due date.

8. **Powers of State Government to extend the period of moratorium.-** The State Government may by notification in the Official Gazette extend the period of one year referred to in

sub-sections (1) and (2) of section 5 and sub-section (2) of section 6 by a further period not exceeding one year.

**9. Computation of time for execution.-** In computing the period of twelve years prescribed by the Limitation Act, 1963 (3 of 1963) the period during which proceedings are stayed under this Act shall be excluded.

**10. Payment of certain decrees.-** Nothing contained in this Chapter shall-

- (a) apply to a decree for money arising out of claims relating to trusts or for maintenance or for profits in favour of a cotenant, or co-owner, or for mesne profits or for damages for tort, or for contribution between co-tenants of agricultural lands ; or
- (b) apply to a mortgage decree against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage subject to the mortgage on the basis of which such decree has been obtained; or
- (c) apply to decisions, orders of any authority, made under the provisions of the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969).

**11. Transfer by small farmer to be voidable.-** Every transfer of property made by a small farmer against whom proceedings in execution have been stayed under this Act shall be voidable at the option of the creditor whose claim against such small farmer is defeated or delayed.

**12. Restriction on amount of claim and interest in certain cases.-** (1) On the expiry of one year or such extended period as may be notified under section 8 from the appointed day, no claim arising out of any proceeding,; which are stayed under sub-section (1) of section 5 or out of any decree described in sub-section (1) of that section in respect of which no execution proceedings have been taken shall ever exceed the amount of the principal by more than one hundred fifty percent, of such amount.

(2) No interest shall accrue on any amount included in any claim referred to in sub-section (1) during the period this Chapter is in operation.

#### **CHAPTER IV EXEMPTIONS**

**13. Savings.-** Subject to the provisions of section 9, nothing in this Act shall affect the debts and other liabilities of any debtor or small farmer falling under any of the following matters, namely:-

- (a) any rent due in respect of any property let out to such debtor;
- (b) any liability arising out of breach of trust or any tortious liability;
- (c) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;
- (d) any liability in respect of maintenance, whether under a decree of court or otherwise ; and
- (e) debt due to:-
  - (i) the Central Government or State Government;
  - (ii) any local authority;

- (iii) a bank as defined in the Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provision (Bank) Act, 1972 (7 of 1973) ;
- (iv) a body corporate established under any law for the time being in force;
- (v) any co-operative society, registered or deemed to be registered under the provision of the Himachal Pradesh Co-operative Societies Act, 1968 (3 of 1969) ;
- (f) any Government Company within the meaning of the Companies Act, 1956 (1 of 1956);
- (g) any sum due to Government; and
- (h) any amount recoverable as arrears of land revenue.

## CHAPTER V

### SCALING DOWN OF DEBTS OF SMALL FARMERS

**14. Application for determination of debt.-** (1) A small farmer may, within such time and in such manner as may be prescribed, make an application to an authority for the local area within which such small farmer ordinarily resides, for determination of this debt.

(2) Unless the small farmer has already made an application under sub-section (1) any of his creditors may also make an application to the same authority to which, and in the same manner in which, the small farmer might have applied under that sub-section for determination of the debt in question.

(3) If application are made to more than one authority in respect or the same debt, such applications shall, subject to such rules as may be made in this behalf be transferred to and deal with by one authority.

(4) An application under sub-section (1) or under sub-section (2) shall be in writing in the prescribed form and shall be accompanied by such fee as may be prescribed.

**15. Determination of amount.-** (1) On receipt of application under section 14 the authority, after giving an opportunity to the parties concerned to appear and be heard, shall determine in respect of the debt in question the amount of the principal and the amount of interest at the rate of six per centum per annum due thereon, upto the date of such determination.

(2) When the authority has determined under sub-section (1) the amount of the debt together with interest the decision of the authority to be embodied in an order, shall subject to the provisions of section 20 relating to appeal, be final and shall not be called in question in any civil court.

(3) The procedure to be followed by an authority in any proceeding before it shall, subject to the provisions of this Chapter be in accordance with such rules as may be prescribed.

(4) An order made under sub-section (2) shall be in the prescribed form and shall include such particulars as may be prescribed.

(5) The debt in excess of the debt determined under the provision of this section shall not be recoverable from the small farmer and shall stand discharged.

**16. Relief to small farmers.-** Notwithstanding anything contained elsewhere in this Act in every case, the authority shall, subjects to such rules as may be made in this behalf by an order, reduce the debt to such amount as does not exceed twenty per cent of the estimated gross value of

the agricultural produce earned by the small farmer in the year preceding the year in which the determination takes place, multiplied by seven and shall make a further order that the amount of the debt to be repaid in such monthly or annual instalments covering a period not exceeding seven years either with or without interest, as the authority may determine.

**17. Prohibition regarding rate and amount of interest.-** Notwithstanding anything contained in any law for the time being in force or in any agreement, no small farmer shall be liable to pay after the commencement of this Act-

- (a) any sum in respect of principal and interest which together exceeds the principal;
- (b) on account of interest outstanding on the date, upto which such liability is computed a sum greater than the principal outstanding on such date; and
- (c) any interest other than simple interest at a rate of six per cent per annum or the rate stipulated between the parties, whichever is less:

**18. Bar to suits and proceedings and execution of decrees in civil or revenue courts.-** (1) No civil or revenue court shall entertain a suit, application or proceeding against a small farmer in respect of any debt to which the provisions of this Chapter apply and any suit, application or proceeding pending before such court after the commencement of this Act shall abate.

(2) Notwithstanding anything contained in any law for the time being in force, no decree of a civil court in relation to the debt to which this Chapter apply, shall be executed.

**19. Transfer of application from one authority to another.-** (1) The State Government may authorise the Collector to transfer from one authority to another, for disposal, an application made under section 14.

(2) An authority to which an application is transferred under subsection (1) may continue the proceeding in connection with the application from the stage which has been reached when the application is transferred.

**20. Appeals.-** (1) An appeal may be made in the prescribed manner to an Appellate Officer to be appointed by the State Government, against any decision or order of an authority, made under this Chapter.

(2) An appeal under sub-section (1) shall be made within thirty days from the date of the decision or order referred to in that sub-section:

Provided that the Appellate Officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The State Government may make rules regarding the procedure to be followed by an Appellate Officer and the fees to be paid by an appellant for preferring the appeal.

(4) The Appellate Officer may, after giving the appellant an opportunity of being heard, either confirm or modify the decision or order made by the authority or direct the authority to take such action as the Appellate Officer thinks fit.

(5) An order passed by an Appellate Officer under this section shall be final.

**CHAPTER VI  
GENERAL**

**21. Power to make rules.-** (1) The State Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the matters which may be or have to be prescribed.

(3) The power to make any rule under sub-sections (1) and (2) is subject to the condition of the rule being made after previous publication.

(4) Every rule made under this Act shall be laid, as soon as maybe after it is made, before the State Legislature while it is in session for a total period of not less than seven days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is laid or the session immediately following, the legislature requires any modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be 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.

**22. Declaration as to giving effect to certain directive principles of the State Policy.-** It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution.

**23. Penalties.-** Whoever-

- (a) after the appointed day, recovers any debt or part thereof including interest thereon from a debtor or a small farmer in contravention of the provisions of section 3 (a), section 5 (1) or Chapter V of this Act;
- (b) intentionally makes any false statement before any authority or an Appellate Officer in any proceeding under this Act;
- (c) intentionally produces before an authority or an Appellate Officer any false document; or
- (d) abets any such act; shall, on conviction, be liable to imprisonment for a term which may extend to three years or fine which may extend to two thousand rupees or with both.

**24. Power to remove difficulty.-** If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such direction not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

**25. Repeal and savings.-** With effect from the commencement of this Act, the Himachal Pradesh Relief of Agricultural Indebtedness Ordinance, 1975 (7 of 1975), shall stand repealed:

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

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**THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL INDEBTEDNESS RULES,  
1978<sup>1</sup>**

**1. Short title and commencement.** - (1) These rules may be called the Himachal Pradesh Relief of Agricultural Indebtedness Rules, 1978.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definition.** - In these rules, unless there is anything repugnant to the subject or context.

(a) “the Act” means the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (No. 17 Act of 1976).

(b) “Form” means a form appended to these rules.

(c) “Section” means a section of the Act.

**3. Determination of debt.** - (1) A small farmer may within three years from the date of incurring the debt, apply under sub-section (1) of section 14 to the authority for the local areas within which such small farmer ordinarily resides.

(2) Any of the creditors of a small farmer may unless the small farmer has already made an application under sub-section (1) of section 14, apply under sub-section (2) of that section in the manner and to the authority referred to in sub-rule (1) for such determination of debt. The application of the creditor shall not be entertained if the small farmer makes an application under sub-rule (1) within the period referred therein.

(3) Where application are made to more than one authority, the authority to whom an application in respect of the same debt is first made shall be an authority to determine the debt. If application in respect of the same debt are pending before any other authority the said application shall be transferred to whom the first application was made.

(4) An application by a small farmer or a creditor shall be in form I and shall be accompanied by a court-fee stamp of fifty paise only.

(5) An application by a small farmer or a creditor may be presented before the authority personally or through an authorised representative with the permission of the authority.

**4. The procedure to be followed by an authority in a proceeding.** - (1) As soon as an application is received by an authority, he shall issue notice to both the parties inform II, fixing a date of appearance and hearing. At the time, of hearing the authority shall record the evidence, if any, of both sides, first of the applicant and then of the opposite party and while recording evidence, cross-examination of the parties and their witnesses by the opposite parties or their representatives, if permitted by the authority shall be allowed. The evidence shall be recorded in the narrative form. After hearing the parties, the authority shall determine the actual debt in question showing the principal and interest upto the date of such order and he shall record the reasons of such determination;

(2) When an application made to an authority is transferred to another authority under sub-section (3) of section 14, the authority before whom the application has been transferred shall follow the procedure laid down in sub-rule (1).

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<sup>1</sup> These rules were published in Himachal Pradesh Govt. Gezette (Extra.) dated 28<sup>th</sup> June, 1978.



(3) The parties shall be entitled to certified copies of the final order on payment of a fee of rupee one and such fee shall be payable in court fee stamps.

5. **Order of determination of debt and interest.** - The order showing determination of the debt and the interest shall be in form III.

6. **Order of the authority under section 16.** - In every case, the authority shall make an order under section 16.

7. **Appeal.** - (1) A Memorandum of Appeal may be presented to the Appellate Officer by the appellant personally or through an authorised representative with the permission of the Appellate officer.

(2) The Memorandum of Appeal shall be in form IV and shall be accompanied by a certified copy of the order appealed against together with a court-fee stamp of five rupees.

(3) On receipt of a Memorandum of Appeal the Appellate officer shall fix a date for hearing and shall issue notice to the parties intimating the date of hearing and shall dispose of the appeal as expeditiously as possible giving reasons for his decision.

(4) A certified copy of the order of the Appellate Officer, may on application, be granted on payment of a fee of rupees 2 in court-fee stamps.

8. **Maintenance of Register.** - Every authority and Appellate Officer shall maintain a register showing the particulars of all application under section 14 and all appeals under section 20 and the register shall contain the following particulars: -

- (a) Serial No.
- (b) Date of filing.
- (c) Name(s) of applicant.
- (d) Name(s) of opposite party/respondent.
- (e) Date when final order is passed.
- (f) Final order in brief.
- (g) Amount of Court-fees realised.

**Form I**  
(See Rule 3)

To

The.....

(Authority)

Naib Tehsildar, Tehsil/Sub-Tehsil.

Sir,

I beg to make an application under section 14( 1)/14(2) of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 and the particulars are given below: -

1. Name and address of the creditor(s).
2. Name and address of the small farmer(s).
3. Date of incurring debt or debts.
4. Amount of principal with respect of each creditor.
5. Amount and rate of interest with respect of each creditor.
6. Extent of small farmers, land holding for the whole family specifying how much is irrigated and non-irrigated land and how much owned and how much occupied as tenant.
7. Any other family income through profession or service in the preceding year of filing the petition.
8. Total income of the small farmers family in the preceding year.
9. Relief sought with reasons.

I now pray for an order under section 15 of the Act.

Yours faithfully,

Small Farmer/Creditor.

**Form II**  
(See Rule 4(1))

To

.....

Small farmer/Creditors

Sir,

Shri.....of .....has submitted an application under section 14(1) or 14(2) (as may be applicable) before me on..... (date:) and the said application has been set down for hearing before me on.....at AM/PM. You are directed to attend and show cause why the application shall not be allowed. In case you fail to appear and/or show cause in writing without any reasonable excuse, the application shall be heard ex-parte, in case you are physically or mentally infirm or you cannot read and write (which fact you have to prove to my satisfaction), you may send your authorised representative.

Yours faithfully,

.....Authority  
Official Designation.

**Form III**  
(See Rule 5)

Order

Name.....Designation

Present.....

Authority for.....Tehsil.....

1. Name and address of the applicant small farmer/creditor.
2. Name and address of the opposite party/parties.
3. Amount of debt determined with principal and interest.
4. Reasons for coming to such finding on the basis of evidence.
5. Order of the authority.

Authority

Seal and official designation  
of authority.

**Form IV**  
(See Rule 7(a))

To

.....

(Name and designation of the Appellate Officer)

Appellate Officer ..... Sub-Division/District.

Sir,

I beg to prefer an appeal under section 20(1) of Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 against the decision/order of the authority ..... and the particulars are given below: -

1. Name and address of the applicant small farmer/creditor/debtor.
2. Name and address of opposite party/creditor/small former.
3. Amount of debt (Principal and interest involved).
4. Date of disposal of the case before the authority.
5. If a certified copy has been enclosed.
6. Brief reasons for preferring the appeal, against the order of the authority.

I pray for an order under section 20(4) of the Act modifying or setting aside the order of the authority.

Yours faithfully,

Appellant/Small Farmer/Creditor

## **Appointments And Delegation**

### **Government of Himachal Pradesh**

#### **Revenue Department**

*Simla-2, the 5<sup>th</sup> August, 1976*

No. Revenue 2-A(2)2/76. - In exercise of the powers vested in him under section 20 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (Act No. 17 of 1976) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to appoint all the Collectors in Himachal Pradesh as Appellate Officer within their respective Districts with immediate effect.

(R.H.P. dated 21.8.1976, pages 1232)

*Simla-2, the 5<sup>th</sup> August, 1976*

No. Revenue 2-A(2)2/76. - In exercise of the powers vested in him under sub section (1) of section 19 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (Act No. 17 of 1976) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to authorise all the Collectors in Himachal Pradesh to transfer within their respective Districts, any application made under section 14 of the said Act, from one authority to another for disposal.

(R.H.P. dated 21.8.1976, p 1232)

*Simla-2, the 5<sup>th</sup> August, 1976*

No. Revenue 2-A(2)2/76. - In exercise of the powers vested in him under sub section (2) of section 2 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (Act No. 17 of 1976) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to appoint all the Tehsildars being Assistant Collectors of the first grade, as officers for deciding the question whether a person is a marginal farmer or a small farmer or a landless agricultural labourer or a rural artisan as and when any such question arises, within their respective tehsils, with immediate effect.

(R.H.P. dated 21.8 1976, p. 1232)

*Simla-2, the 16<sup>th</sup> January, 1978*

No. Revenue 2-A(3)-2/76. - In exercise of the powers conferred by sub-section (2) of section 2 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976, the Governor, Himachal Pradesh is pleased to appoint all Tehsildars in Himachal Pradesh as officers to whom question arising under the said sub-section shall be referred for decision.

(R.H.P. dated 4.2.1978, pages 118)

*Simla-2, the 16<sup>th</sup> January, 1978*

No. Revenue 2-A(3)-2/76. - In exercise of the powers conferred by sub-section (1) of section 20 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (Act No. 17 of 1976), the Governor, Himachal Pradesh is pleased to appoint all Sub-Divisional Magistrates to be Appellate Officers to hear appeals against any decision or order of the authorities within their respective jurisdictions.

(R H P. dated 4.2.1978, pages 118)

*Simla-2, the 16<sup>th</sup> January, 1978*

No. Revenue 2-A(3)-2/76. - In exercise of the powers conferred by clause (d) of sub-section (1) of section 20 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 (Act No. 17 of 1976), the Governor, Himachal Pradesh is pleased to appoint all Naib-Tehsildars working in Tehsils as authorities for carrying out purposes of the said Act in respect of local areas within their respective jurisdictions.

(R.H.P. dated 25.2.1978, p 208)

*Simla-2, the 23<sup>rd</sup> June, 1978*

No. Revenue 2-A(3)-2/76. - In continuation of this Department's notification No Revenue 2-A(3)-2/76 dated the 16th January, 1978 the Governor, Himachal Pradesh in exercise of the powers conferred by sub-section (2) of section 2 of the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976, is pleased to appoint Sub-Divisional Magistrate, Ani, as officer to whom question arising under the said sub-section in cases pertaining to Ani Sub-division shall be referred for decision.

(R.H.P. dated 1.7.1978. pages 618)

**THE HIMACHAL PRADESH (RESTRICTION TO CONTEST ALIENATION OR  
ADOPTION UNDER CUSTOM) ACT, 1976.**

**ARRANGEMENT OF SECTIONS**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Scope of Act.
4. Limitation on the right to contest alienations and appointments of heirs.
5. Alienation of non-ancestral property.
6. Repeal.
7. Savings.

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**THE HIMACHAL PRADESH (RESTRICTION TO CONTEST ALIENATION OR  
ADOPTION UNDER CUSTOM) ACT, 1976**

**(ACT NO. 27 OF 1976)<sup>1</sup>**

(Received the assent of the President of India, on the 1<sup>st</sup> July, 1976 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 13<sup>th</sup> July, 1976, pp. 1401-1402).

**An Act to amend and consolidate the law relating to imposition of restrictions on the power of descendants or collateral to contest an alienation of immovable property or the appointment of an heir on the ground that such alienation or appointment is contrary to custom.**

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh year of the Republic of India as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh (Restriction to Contest Alienation or Adoption under Custom) Act, 1976.

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

(3) It shall come into force at once.

**2. Definitions.-** In this Act,-

(a) "alienation" includes any testamentary disposition of property; and

(b) "appointment of an heir" include any adoption made or purporting to be made according to custom.

**3. Scope of the Act.-** This Act shall apply only in respect of alienations of immovable property or appointments or heirs made by persons who in regard to such alienations or appointments are governed by custom.

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<sup>1</sup> For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extraordinary), dated 8th March, 1976, p. 841.

4. **Limitation on the right to contest alienations and appointment of heirs.-** Subject to the provisions contained in section 7 and notwithstanding anything to the contrary contained in section 5 of the Punjab Laws Act, 1872 (4 of 1872), as in force in Himachal Pradesh, no person shall contest any alienation of ancestral immovable property or any appointment of an heir to such property on the ground that such alienation or appointment is contrary to custom, unless such person is descended in male lineal descent from the greatgrand father of the person making the alienation or appointment.

5. **Alienation of non-ancestral property.-** Notwithstanding anything to the contrary contained in section 5 of the Punjab Laws Act, 1872 (4 of 1872), as in force in Himachal Pradesh, no person shall contest any alienation of non-ancestral immovable property or any appointment of an heir to such property on the grounds that such alienation or appointment is contrary to custom.

6. **Repeal.-** The Punjab Custom (Power to Contest) Act, 1920 (2 of 1920), as applied to Bilaspur district of Himachal Pradesh by an Bilaspur (Application of Laws) Order, 1949 and the Punjab Custom (Power to Contest) Act, 1920 (2 of 1920), in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), are hereby repealed.

7. **Savings.-** This Act shall not affect any right to contest any alienation or appointment of an heir made before the date on which this Act comes into force and every proceeding contesting an alienation or appointment of an heir made before the commencement of this Act shall be disposed of as if the Acts mentioned in section 6 had not been repealed and this Act had not come into force.

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- **THE HIMACHAL PRADESH NEW MANDI TOWNSHIPS (DEVELOPMENT AND REGULATIONS) ACT, 1973**
- **THE HIMACHAL PRADESH NEW MANDI TOWNSHIPS (DEVELOPMENT AND REGULATION) RULES, 1980**



**THE HIMACHAL PRADESH NEW MANDI TOWNSHIPS (DEVELOPMENT AND  
REGULATIONS) ACT, 1973**

**ARRANGMENT OF SECTIONS**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Power of State Government to declare new mandi townships and to transfer land and buildings therein.
4. Bar to purchase plots.
5. Bar to erection or alteration of buildings in contravention of building rules.
6. Administrator's powers to sanction or refuse erection, re-erection or modification of plan of buildings and presumption sanction.
7. Power of Administrator to stop unauthorized building operations and penalty for breach and disobedience.
8. Power of Administrator to direct modification of sanctioned plan of a building before its completion.
9. Lapse of sanction after one year from the date of such sanction.
10. Power to require proper maintenance of site or building.
11. Levy of fees for amenities.
12. Imposition of penalty.
13. Mode of Recovery of arrears.
14. Forfeiture for breach of conditions of transfer.
15. Penalty for breach of the provisions of the Act or rules thereunder.
16. Appeal and revision.
17. Powers of entry into buildings or land.
18. Partial exclusion of jurisdiction of Municipal Committees, Panchayats and Town Improvement Trusts in new mandi townships.
19. Procedure for prosecution.
20. Bar of jurisdiction of Court.
21. Protection of Action taken in good faith.
22. Delegation.
23. Power to exclude application of Act to certain new mandi townships.
24. Power to include fully developed new mandi townships within limits of local authorities.
25. Certain sales to be deemed to be sales under this Act.
26. Power to make rules.
27. Repeal and Savings.

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**THE HIMACHAL PRADESH NEW MANDI TOWNSHIPS (DEVELOPMENT AND REGULATIONS) ACT, 1973**

(ACT NO. 18 OF 1973)<sup>1</sup>

(Received the assent of the Governor on the 28th June, 1973 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary) dated 20th July, 1973, pp. 1185-1194).

**An Act to provide for the development and regulation of new mandi townships in Himachal Pradesh.**

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

**1. Short title, extent and commencement.-** (1) This Act may be called the Himachal Pradesh New Mandi Townships (Development and Regulation) Act 1973.

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

(3) It shall come into force at once.

**2. Definitions.-** In this Act, unless the context otherwise requires,-

- (a) "Administrator" means any person designated by the State Government by notification in the Official Gazette for performing the functions of an Administrator under this Act;
- (b) "amenity" includes roads, water supply, street lighting, drainage, sewerage, cattle-sheds, warehouse, public laboratories, bathrooms, public buildings, horticulture, landscaping, children parks, lawns and play grounds, and any other public utility as may be prescribed;
- (c) "building" means any construction or part of construction which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not and includes any out-house, structure, stable, cattle-shed, garage, hut, platform and plinth;
- (d) "erect or re-erect any building" includes-
  - (i) any material alteration or enlargement of building,
  - (ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation,
  - (iii) the conversion into more than one place for human habitation of a building originally constructed as one such place,
  - (iv) the conversion of two or more places of human habitation into a greater number of such places,
  - (v) such alterations of a building as affect an alteration of its drainage or sanitary arrangements, or materially affects security,
  - (vi) the addition of any rooms, buildings, out-houses or other structures to any building,

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<sup>1</sup> For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extraordinary) dated 6th January, 1973, p. 33.

- (vii) the construction in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land,
  - (viii) the construction of any overhanging structure over any street or public place or the enclosing of any space intended to be kept open, and
  - (ix) digging of earth and construction of foundation for erection or re-erection of any structure;
- (e) “family” includes husband, wife and their children;
  - (f) “new mandi township” means any area declared to be a new mandi township by the State Government under sub-section (1) of section 3;
  - (g) “occupier” means a person, including firm or other body of individuals, whether incorporated or not, who occupies site or building transferred under this Act, and includes his successors and assigns;
  - (h) “prescribed” means prescribed by rules made under this Act;
  - (i) “site” means any land which is transferred by the State Government under section 3; and
  - (j) “transferee” means a person (including a firm or other body of individuals whether incorporated or not) to whom a site or building is sold, leased or transferred in any manner whatsoever, under this Act, and includes his successors and assigns.

**3. Power of State Government to declare new mandi townships and to transfer land and buildings therein.-** (1) The State Government may, from time to time, by notification in the Official Gazette, declare any area to be a new mandi township for the purposes of this Act, to be known by such name as may be specified in the notification.

(2) The State Government may, sell, lease or otherwise transfer, by auction, allotment or otherwise, any land or building belonging to or vested in the State Government in any new mandi township on such terms and conditions as it may, subject to any rules that may be made under this Act, deem fit to impose.

(3) Any amount due to the State Government on account of the sale, lease or transfer of any site or building under sub-section(2) shall be a first charge on that site or building, and notwithstanding anything contained in any other law for the time being in force, no transferee shall be entitled to sell, mortgage or otherwise transfer any right, title or interest in the site or building transferred to him under sub-section (2) except by way of a lease from month to month (by the plot holders) until the amount mentioned as first charge under this sub-section has been paid in full.

**4. Bar to purchase plots.-** Not more than two plots will be sold, leased or otherwise transferred to one family.

**5. Bar to erection or alteration of buildings in contravention of building rules.-** (1) No person shall erect or re-erect or occupy wholly or partly any building or use or develop any site or building in contravention of any rules made under sub-section (2) and without the previous permission in writing of the Administrator.

(2) The State Government, shall by notification, in the Official Gazette make rules to regulate the erection or re-erection of buildings and use of sites, and such rules may provide for all or any of the following matters:-

- (a) notice to build and procedure for submission of building applications with building and site plans;
- (b) use of site and .the type and character of building and the number of self-contained units that may be erected on any site;
- (c) extent of site coverage and space about buildings and the prescription of a building line;
- (d) the minimum dimensions and superficial area required for various parts of the building designed for different purposes and the minimum provision of doors and windows for securing ventilation and circulation of air;
- (e) the maximum height of any building and the total number and height of storeys in a building;
- (f) the means to be provided for ingress and egress to any building for prevention of fire;
- (g) the extents of architectural control on the various units of the building and the portions of such architectural units, including compulsory building line along which, and compulsory height upto which, building shall be completed within a specified and reasonable time;
- (h) the specification of materials and dimensions for any building to ensure structural stability:
- (i) the materials and methods of construction for drains and sewers and for the provision and use of connection between private and public drains and sewers, and the procedure for submission of plans;
- (j) supervisors and architects for designs and erection of any buildings and the qualifications which such person shall possess;
- (k) notice and certificate of completion of buildings or part thereof;
- (l) any other matters for the proper use and development of sites and the use, alteration .and erection of buildings thereon.

**6. Administrator's powers to sanction or refuse erection, re-erection or modification of plan of buildings and presumption sanction.-** (1) The Administrator shall refuse to sanction the erection, re-erection or modification of plan of any building in contravention of any rules made under sub-section (2) of section 5.

(2) The Administrator shall, in every case, communicate the sanction or modification or rejection of a building application within sixty days of its receipt.

(3) Where no communication is received by the applicant from the Administrator within the period specified in sub-section (2), the application shall be deemed to have been sanctioned and the applicant may, after giving fifteen days notice to the Administrator, erect or re-erect the building in accordance with the building application submitted by him to the Administrator for sanction notwithstanding that such erection or re-erection contravenes the rules made under section 5:

Provided that when the Administrator modifies the building application within such fifteen days and communicates the modification to the applicant; the applicant shall erect or re-erect the building in accordance with such modifications.

**7. Power of Administrator to stop unauthorized building operations and penalty for breach and disobedience.-** Where the erection or re-erection of a building has been commenced

without sanction or is being carried on as such or in contravention of the terms of any sanction, the Administrator may, by a notice to be served on the owner, or by affixing it at the site or on the building, direct that the building operations be discontinued.

**8. Power of Administrator to direct modification of sanctioned plan of a building before its completion.-** If at any time before the completion of a building of which the erection or re-erection has been sanctioned under section 6, the Administrator finds that any modification of the sanctioned plan is necessary, he may direct that the building be modified accordingly, subject to payment of compensation by the State Government for any loss incurred by the owner on account of such modification.

**9. Lapse of sanction after one year from the date of such sanction.-** Every sanction for erection or re-erection of any building given or deemed to have been given under section 6 shall be valid for one year from the date of such sanction or for such longer period as the Administrator may allow:

Provided that the erection or erection of the building not commenced within one year and completed within two years or such longer period as may have been allowed the sanction shall be deemed to have lapsed, but such lapse shall not bar any subsequent application for fresh sanction.

**10. Power to require proper maintenance of site or building.-** If it appears to the Administrator, that the condition or use of any site or building is prejudicially affecting the proper planning of any part of the new mandi township, or its amenities or the health or interests of the general public, he may serve on the transferee or occupier of the site or building notice requiring him to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such a manner as may be specified therein.

**11. Levy of fees for amenities.-** For the purpose of providing, maintaining or continuing any amenity in the new mandi township the State Government may levy such fees as it may consider necessary in respect of any site or building on the transferee or occupier thereof.

**12. Imposition of penalty.-** Where any transferee or occupier defaults in the payment of any fee levied under this Act or the rule made thereunder and such default has continued for three months from the due date, then, in addition to the arrears, a sum equal to twenty percentum of that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

**13. Mode of Recovery of arrears.-** In the event of default in the payment of any amount due under this Act or the rules made thereunder, the outstanding amount together, with the penalty if any, may be recovered from the transferee or occupier as the case may be as arrears of land revenue.

**14. Forfeiture for breach of conditions of transfer.-** (1) Notwithstanding anything contained in any other law for the time being in force, the Administrator may resume any site or building if the transferee or occupier persistently fail to use such site or building for the purpose for which it is sold, leased or transferred or fails to build upon the site within the period allowed or fails to pay the sale price or lease money of such site or building due under this Act or the rules made thereunder.

(2) In the event of such resumption of any site or building, any money paid or deposited in respect of such site or building may also be forfeited:

Provided that no order of resumption or forfeiture of money shall be passed under this section without affording the defaulter an opportunity to show cause against it.

(3) The resumed site or building as the case may be, may be resold by auction and any loss resulting from such re-sale which is not covered by the amount forfeited under sub-section (2), shall be recoverable as arrears of land revenue from such defaulter.

**15. Penalty for breach of the provisions of the Act or rules thereunder.-** (1) Except as otherwise provided in this Act, any contravention of the provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to five hundred rupees and, in the case of continuing contravention, with an additional fine which may extend to fifty rupees for each day during which such contravention continues after the first conviction.

(2) If a building is begun, erected or re-erected in contravention of any of the rules made under sub-section (2) of section 5, the Administrator shall be competent to order the building to be altered or demolished by a written notice served on the owner thereof within six months of such commencement, erection or re-erection. Such notice shall also specify the period not being less than fifteen days during which such alteration or demolition must be made and, if the notice is not complied with, the Administrator shall be competent to demolish the said building at the expense of the owner:

Provided that the Administrator may, instead of requiring the alteration or demolition of any such building, accept, by way of compositions such sum as he may deem reasonable.

**16. Appeal and revision.-** (1) Any person aggrieved by an order of the Administrator under section 6, 9, 10, 14 or sub-section (2) of section 15 may, within thirty days from the date of communication to him of such order, prefer an appeal to the Commissioner:

Provided that the Commissioner may entertain appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the provisions relating to the deduction of period spent in obtaining copies of order contained in the Indian Limitation Act, 1963, shall apply in computing the period of limitation.

(2) The Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed against and may pass such orders, as he may deem fit.

(3) The Financial Commissioner, may, either on his own motion or on an application received in this behalf at any time, within a period of one year from the date of the order, call for the records of any proceedings in which the Administrator or Commissioner has passed an order for the purpose of satisfying himself as to the legality or propriety of such order and may pass such orders in relation thereto as he thinks fit:

Provided that the Financial Commissioner shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

**17. Powers of entry into buildings or land.-** ( 1) The Administrator may, after giving four days' notice to the occupier, or if there be no occupier, to the owner of the building or land, authorise any person-

- (a) to enter on and to survey and to take levels or measurements of any building or land;
- (b) to enter into any building or on any land to ascertain whether any building is being or has been erected without sanction or in contravention of any sanction or the rules made under this Act and to take such measurements as may be necessary for this purpose.

(2) The entry contemplated in clauses (a) and (b) of sub-section (1) shall be between sunrise and sun-set.

**18. Partial exclusion of jurisdiction of Municipal Committees, Panchayats and Town Improvement Trusts in new mandi townships.-** (1) If any new mandi township or a part thereof lies within the limits of a municipality, notified area, gram panchayat area or local area under the Punjab Town Improvement Act, 1922, the State Government may, by notification in the Official Gazette, direct that any or all the powers under the Himachal Pradesh Municipal Act, 1968, the Himachal Pradesh Panchayati Raj Act, 1968 or the Punjab Town Improvement Act, 1922, as are relevant to the purposes of this Act, shall, subject to such conditions and restrictions as may be specified in the notification, cease to operate in such new mandi township or a part, thereof, and the Municipal Committee, the President or any officer of the Committee, the Gram Panchayat or the Town Improvement Trust, as the case may be shall thereafter cease to have jurisdiction over that new mandi township or a part thereof, as the case may be, in respect of such powers.

(2) The provisions of the Himachal Pradesh, Municipal Act, 1968, the Himachal Pradesh Panchayati Raj Act, 1968 and the Punjab Town Improvement Act, 1922 in so far as they are inconsistent with the provisions of this Act shall not apply to a new mandi township or a part thereof .

**19. Procedure for prosecution.-** No Court shall take cognizance of any offence under section 15 except on the complaint of, or upon information received by the Administrator or any other person authorised by him in this behalf.

**20. Bar of jurisdiction of Court.-** Except as otherwise provided in this Act, no order made by the Administrator or any authority in exercise of any powers conferred by or under this Act shall be called in question in any Court.

**21. Protection of Action taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against the Administrator or any other officer or authority for anything done or intended to be done in good faith in pursuance of this Act or rules or orders made thereunder.

**22. Delegation.-** (1) The State Government may, by order, direct that any power exercisable by it or by the Administrator under this Act shall also be exercisable by such officer not below the rank of a Naib-Tehsildar and subject to such conditions, if any, as may be specified in the order.

(2) The Administrator may delegate all or any of his powers under this Act to any officer not below the rank of a Naib-Tehsildar of the State Government or any other authority subject to such conditions as may be specified by the Administrator.

**23. Power to exclude application of Act to certain new mandi townships.-** If the State Government is of opinion that it is not in public interest to develop a new mandi township, it may, by notification, declare that the provisions of this Act shall cease to apply to such new mandi township from such date as may be specified in such notification.

**24. Power to include fully developed new mandi townships within limits of local authorities.-** If the State Government is of the opinion that any new mandi township has been fully developed in accordance with the provisions of this Act and the rules made thereunder, it may, by notification in the Official Gazette, include such new mandi township within the local limits of any local authority from such date as may be specified in the notification, and thereupon the provisions of this Act shall cease to apply to such new mandi township, and the provisions of the law for the time being in force relating to such local authority shall apply in relation thereto.

**25. Certain sales to be deemed to be sale under this Act.-** Every sale of land made to any person under the Punjab New Mandi Township (Development and Regulation) Act 1960 or recognized a sale under section 24 of the said Act in respect of areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act 1966, shall be deemed to have been made to such person under the provisions of this Act and as from the commencement of this Act in such new mandi township all the provisions of this Act and the rules or orders made thereunder shall apply accordingly in respect thereof:

Provided that such rules or orders shall not be inconsistent with the terms and conditions on which such sale has already been made.

**26. Power to make rules.-** (1) The State Government may, by notification in the Official Gazette, make rules prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular prescribing-

- (a) the terms and conditions on which any land or building may be transferred by the State Government under this Act;
- (b) the manner in which consideration money for transfer may be paid;
- (c) the rate of interest payable and the procedure for payment of instalments, interest, fees, rents or other dues payable under this Act;
- (d) the terms and conditions under which the transfer of any right in any site or building may be permitted;
- (e) the levy of fees under section II;
- (f) the terms and conditions for the breach of which any site or building may be resumed;
- (g) the form of notice and the manner in which notices may be served;
- (h) the form and manner in which appeals and applications under this Act may be filed and the court fees leviable on such appeals and applications; and
- (i) any other matter which has to be or may be prescribed.

(2) 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 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.

**27. Repeal and Savings.-** The Punjab New Mandi Townships (Development and Regulation) Act, 1960, in its application to territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Provided that anything done, action taken, rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

**THE HIMACHAL PRADESH NEW MANDI TOWNSHIPS (DEVELOPMENT AND REGULATION) RULES, 1980**

*(English Text of the rules published in Hindi vide Notification No. 1-6/70 Colony-II. dated 4-6-80 in R.H.P. dated 1-11-1980, pages 1133-1140).*

1. **Short title.** - These rules may be called the Himachal Pradesh New Mandi Townships (Development and Regulation) Rules, 1980.

2. **Definitions.** - In these rules, unless the context otherwise requires: -

- (a) "Act" means the Himachal Pradesh New Mandi Townships (Development and Regulation) Act, 1973;
- (b) "form" means a form appended to these rules; and
- (c) "Obnoxious trade" shall be deemed to be carried on in any site or a building if the site or building is used for any of the following purposes: -
  - (i) melting tallow, dressing raw hides, boiling bones offal or blood;
  - (ii) as a soap house, oil boiling house, dyeing house or tannery;
  - (iii) as a brick field, brick-kiln, charcoal-kiln, pottery or like-kiln;
  - (iv) as any other manufactory, engine house, store house or place of business from which offensive or unwholesome smells, gases, noises, or smoke arise;
  - (v) as a yard or depot for trade in unslacked lime, hay, straw, thatching grass, wood, charcoal or coal or other dangerously inflammable material;
  - (vi) as a store-house for any explosive or for petroleum or any inflammable oil or spirit.

3. **Mode of selling land and buildings.** - (1) The land and building in New Mandi Townships shall be sold by the State Government by auction:

Provided that if the Government or semi-Government institutions, local authorities, registered private institutions, corporations in the public sector, the displaced persons, of the Scheme area, whose lands or/building have been acquired within the limits of Mandi Township, the Government employees, including retired Government employees who join to form Housing Co-operative Societies, for the purpose of constructing residential/houses, or the Armed Forces personnel who intend to purchase site; for residential houses, the land, plots or building, may be sold to them by allotment.

(2) Before holding an auction under sub-rule (1) the Administrator shall, at least fifteen days before the date of auction, publish a notice in form 'A'

(3) The notice in form 'A' under sub-rule (2) shall be published by affixing a copy thereof at the office of the Administrator and at such conspicuous places in the locality, in which the property to be sold is situate, as the Administrator may think fit. The notice shall also be published in two of the newspapers having circulation in that locality.

(4) The final bid which is accepted by the Administrator shall be subject to the approval of the State Government.

(5) (i) In the case of sale by allotment, the intending purchaser shall make an application to the Administrator in form "B".

(ii) The applicant shall unless he refuses to accept the allotment within sixty days of the date of receipt of the allotment order, deposit within that period the sale price in lump-sum. The period for payment of sale price may, on sufficient cause being shown by the applicant, be extended by the Administrator, but the period of such extension shall in no case exceed 180 days. In case of failure to deposit the said amount within sixty days of the issue of allotment order, interest at the rate of seven per centum per annum shall be paid by the applicant and when no payment is made within the extended period, the allotment may be cancelled and the payment already made may be forfeited to the state Government by the Administrator in whole or in part as he may deem fit and the applicant shall have no claim to it.

**4. Sale price.** - (1) In the case of sale by auction, the sale price shall be the reserve price or any higher price determined as a result of bidding in open auction.

(2) In the case of sale by allotment, the sale price shall be the price which shall be determined by the State Government from time to time.

*Explanation:* - For the purpose of sub-rule (1) the expression "reserve price" means cost of land plus development charges incurred by the department for the development and improvement of the land and providing amenities like roads, drainage, water supply and street lighting etc.

**5. Terms and Condition of sale.** - The sale of lands or buildings by a auction or allotment be subject to the terms and conditions given in form "A", or "B" as the case may be, and the provisions of the Act and these Rules.

**6. Delivery of possession.** - (1) The Administrator shall after an allotment or bid, as the case maybe, is made or sanctioned by the State Government issue an order of allotment in favour of the transferee.

(2) The transferee shall execute a deed of conveyance in form 'C' in the case of sale by auction and in form 'D' in case of sale by allotment, within a period of six weeks from the date of issue of the order of allotment.

**7. Additional conditions of sale of cinema sites (Section 3(2) & 26(a)).** - The erection of building on the Cinema site shall conform to the provisions of the Himachal Pradesh Cinemas (Regulation) Act, 1979 (Act No. 4 of 1979) and the rules framed thereunder.

**8. The manner in which consideration money for transfer shall be paid (Section 26(b)).** - (1) Twenty-five per cent of the amount of bid accepted by the auctioning Officer shall be paid on the spot by the auction purchaser in cash or by means of Demand Draft or Cheque payable to the Administrator and drawn on any Scheduled Bank situated at a station where branch of the State Bank of India is functioning.

*Explanation:* - For the purposes of this sub-rule the "Scheduled Bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (Act No. 2 of 1934).

(2) The balance of the sale price shall be paid alongwith interest at the rate of 7 percent per annum in;

(a) six equated half-yearly instalments in the case of commercial plots; and

(b) three equated annual instalments in the case of residential plots.

(3) The first instalment shall, be payable six months after the date of the order of allotment in the case of commercial plots and one year in the case of residential plots.

(4) Interest shall accrue from the date of issue of the order of allotment but no interest shall be payable if the balance is paid within a period of thirty days of the date of receipt of the order of allotment by the transferee.

(5) Each instalment shall be remitted by the transferee to the Administrator in the manner provided in sub-rule (1).

**9. Service of notice (Section 13 & 26(g)).** - In case an instalment is not paid by the transferee by the tenth of the month following the month in which it falls due, notice in Form 'E' shall be served on the transferee calling upon him to pay the instalment within a month together with a penalty which may extend to ten per cent of the instalment payable. If the payment is not made within the said period or such extended period as may be allowed by the Administrator, the Administrator may, without prejudice to any other remedy available under the Act or these Rules, proceed to have the same recovered as an arrear of land revenue.

**10. Manner of service of notice (Section 26(g)).** - The notice in Form 'E' may be served on an individual or a group of individuals either personally or by fixation on a prominent part of the land or building or by beat of drum or by registered post.

**11. The form and manner in which appeals and applications under the Act may be filed and the court fees leviable thereon (Section 26(b)).** - (1) Every appeal under sub-section (1) of section 16 shall be preferred in the form of memorandum signed by the appellant or his pleader and shall be accompanied by a copy of the order appealed against.

(2) The memorandum shall set forth, concisely and under distinct heads the grounds of objections to the order appealed against without any argument or narration and such ground shall be numbered consecutively.

(3) The memorandum of appeal shall bear a Court fee stamps of Rs. 1.25 p and an application for revision a Court fee stamps of Rs 2.65 p

**12. Delivery of possession (Section 26(a)).** - The possession of the land or building sold under these rules shall be given after the date of issue of the order of allotment.

**13. Use of site (Section 26(a)).** - The transferee shall not use the site for a purpose other than that for which it has been sold to him and shall keep the property in good repair.

**14. Time within which the building is to be erected (Section 26(a)).** - The transferee shall complete the building within two years from the date of the issue of the order of allotment in accordance with the conditions prescribed by the State Government in this behalf, if any This time-limit may be extended by the Administrator for a period not exceeding six months if he is satisfied that the failure to complete the building within the said period was due to reasons beyond the control of the transferee. Beyond that sanction of the State Government shall be required on an application for extension of time.

**15. Fragmentation (Section 26(a)).** - No fragmentation of any site shall be allowed except with the previous permission in writing of the Administrator.

16. **Plans (Section 26(a)).** - Plans of construction shall be first got approved from the Administrator.

17. **Prohibition of obnoxious trade (Section 26(a)).** - No obnoxious trade shall be carried on in or on any site or any building erected on a site except with the previous permission in writing of the Administrator.

**Form 'A'**

(See Rules 3 & 5)

Form of notice and conditions of sale by public auction of building sites/buildings in the New Mandi Township.

**(a) Notice**

Sale of .....

Notice is hereby given that the undersigned invites offers at public auction for the purchase of ..... (Here should be inserted the brief description of the property to be sold/auctioned showing also where it is situate) being the property of the State Government.

The auction will be held by the Administrator, ..... and will commence at ..... a.m. on the .....

Plans showing full details of the property to be sold will be open to inspection on any working day during office hours at the office of the Administrator, where from further information can also be obtained and the plans, etc., can be obtained on payment.

**(b) Conditions of sale**

1. Bidding. - Offers will be received subject to a reserve price and to the right of the State Government through any of its agents of the auctioneer to bid upto or beyond such reserve price and to withdraw the property without declaring such reserve price. The Administrator shall have the right to reject any bid without assigning any reason or to withdraw any property from auction.

2. Right of Government to accept or reject a bid. - Subject as aforesaid, the highest bid received by the auctioner will be communicated to the Government which may either accept or reject it without assigning any reason. But the auctioner may refuse to receive any bid.

3. Levelling of uneven site. - Government will not be responsible for levelling uneven sites.

4. Settlement of dispute. - If any dispute arises respecting a bid, the property shall be put up again for auction at the last undisputed bid.

5. Auction in lot or lots. - The property may be put up for auction in one lot or in such lots as the Administrator may decide.

6. Initial deposit. - Immediately after the close of the bidding the person making the bid, which is accepted by the auctioner, shall pay to the Administrator as agent of the State Government, a deposit of 25 percent towards payment of his purchase money.

7. Memorandum of offer. - He shall also sign a memorandum of offer in the form annexed hereto.

8. Identity and errors of description. - Bids will be invited by reference to street number or by reference to the number shown on the plan at the Administrator's office. The description of the several lots given therein shall be deemed to be correct and if any error shall be found therein the same shall not annul the sale nor shall any Compensation be given in respect thereof.

9. The sale will be subject to the reservations in favour of the State Government which are set forth in the Conveyance Deed given in Form 'C' and the purchaser will be bound by the covenants contained therein. In particular the purchaser will be required to enter into a covenant not to use the property for any purpose other than that for which it is sold and not to convert the residential, commercial and industrial sites, one into the other and to keep the property in good repair.

10. Payment of taxes, cesses, etc. - The transferee shall pay all general and local taxes and cesses for the time being assessed on the site by a competent authority.

11. Fragmentation. - No fragmentation of any building site shall be allowed.

12. Delivery of possession. - The possession of the site shall be given to the transferee after the date of issue of the order of allotment.

13. Restriction on transfer. - Until the full price of the site has been paid, no transfer of any right, title or any interest in it shall be permitted without the previous sanction of the Administrator. The transferee, however, shall be permitted to let on monthly basis a part or whole of the building erected on the site.

14. Time within which a building is to be erected. - The transferee shall complete the building within two years from the date of the issue of the allotment order in accordance with the conditions prescribed by the State Government in this behalf, if any. This time limit may be extended for a period not exceeding six months by the Administrator if he is satisfied that the failure to complete the building within the said period was due to reasons beyond the control of the transferee. Beyond that, sanction of the State Government shall be required on an application for extension of time.

15. How to make payment. - All payments shall be made in cash or by means of a Demand Draft or a cheque payable to the Administrator and drawn on any Scheduled Bank situated at a station where a Branch of the State Bank of India is functioning.

Explanation. - For the purpose of this clause the expression "Scheduled Bank" shall mean a bank included in the Second Schedule to Reserve Bank of India Act, 1934 (Act No 2 of 1934).

16. Completion of the sale. - If the bid is accepted by Government, the sale shall be completed within six weeks from the date of issue of the allotment order. The transferee shall obtain a deed of conveyance in Form 'C' from the Administrator's Office and shall, at least seven days before the date fixed for completion of sale, return the deed to the Administrator's Office duly stamped at his own expense and ready for execution.

17. Payment of balance. - Within the time fixed for the payment of the balance of the sale price, the transferee shall pay the balance and interest thereon in the manner specified in clause No. 15 above.

18. Forfeiture. - Should any transferee fail to observe or comply with any of the foregoing conditions his deposit shall be forfeited to the State Government which may have the property resold by public auction. Any deficiency of price which may result on such resale shall be made good and paid by the defaulting purchaser.

19. Purchase by more persons than one. - No bid will be accepted in the name of a firm or in any name other than that of a single living person unless the names of all the persons making the offer are given without any specification of shares and the person making the bid produces a power of attorney authorising him to bid on their behalf. No bid will be accepted in the name of more than seven persons and if the bid is to be made in name of an association, the bidder shall produce the necessary documents to show that the association has been duly registered and that he has the authority to bid and enter into an agreement of sale on its behalf.

20. Approval of construction plans. - Plans of construction would be first got approved from the Administrator, New Mandi Townships.....

### **Memorandum of Offer**

(See Condition No 7)

#### **PARTICULARS OF LOTS SOLD**

I ..... Son of ..... of Village ..... Tehsil ..... District ..... hereby acknowledge that I have this day made an offer for the purchase of the property described in the schedule, below, sublet to the provisions of the Himachal Pradesh New Mandi Townships Act, 1973, and the rules framed thereunder and the conditions contained in Form 'A' at the price of Rs. and have paid to the Administrator ..... as auctioneer the sum of Rs. .... by way of deposit in part-payment and I hereby agree to pay the balance alongwith interest and to complete the purchase in accordance with the aforesaid conditions if my offer is accepted by Government.

In witness thereof I/We have set my/our hand hereunto, this ..... day of .....

.....  
(Signature of Purchaser)

Purchase money Rs.....

Deposit paid Rs.....

Balance due Rs.....

#### **CERTIFICATE**

I ..... Administrator hereby certify that ..... son of ..... village ..... Tehsil ..... District ..... has given the highest bid of Rs on the ..... day of ..... for the under mentioned property and has deposited the amount indicated above in the Memorandum of offer.

Signature of Administrator,  
New Mandi Township.

Schedule:

**Form 'B'**

(See sub-rule (5) of rule 3 &amp; rule 5)

(a) Application for the transfer or sale of land or building in the New Mandi Township ..... in favour of The Government Institutions, the Semi-Government Institutions, the Local authorities, the regd. Private institution, the corporation in the public sector, the displaced persons in the scheme area, Government employee housing co-op. society, the armed forces personnels.

(Delete whichever is not applicable).

To

The Administrator,  
New Mandi Township.

.....

Sir/Madam,

I/We intend purchasing the property described hereunder, subject to the provisions contained in the Himachal Pradesh New Mandi Townships Act, 1973 and the rules framed thereunder. I/We have read and understood the rules and conditions laid down for the purchase of said property and hereby agree to abide by thereof.

1. Name(s) of the applicant
2. Name of the New Mandi Township  
where the land is required.
3. Particulars of the land required  
(with areas)
4. Purpose for which the land is required
5. Any other relevant information; -

Yours faithfully,  
Signature of the applicants)  
Present address(es)

Dated: -

**Condition of Sale By Allotment**

1. Allotment. - The intending purchaser shall make an application to the Administrator. The Administrator shall have the right to reject the application without assigning any reason or to withdraw any property from allotment.

2. Submission of application to State Government. - The Administrator shall then forward the application with the proposed sale price of the said property to the State Government which may either accept or reject it without assigning any reason.



3. Allotment Order. - If the application as well as the proposed sale price is accepted by the State Government, the same shall be communicated to the Administrator who shall issue an Allotment Order to the applicant(s).

4. Deposit of sale price. - The applicant(s) shall then deposit the sale price according to the provisions contained in sub-rule (5)(ii) of rule 3 of the Himachal Pradesh New Mandi Townships (Development and Regulations) Rules, 1980.

5. Levelling of uneven sites. - The State Government will not be responsible for levelling uneven sites.

6. Settlement of disputes. - If any dispute arises regarding allotment of the property, the Administrator shall settle it as per records in the papers.

7. Terms and Conditions of sale. - The sale will be subject to the reservations in favour of the State Government which are set forth in the Conveyance Deed given, in Form 'D' and the purchaser will be bound by the covenants contained therein. In particular the purchaser will be required to enter into a covenant not to use the property for any purpose other than that for which it is sold and not to convert the residential, commercial and industrial sites one into the other and to keep the property in good repair.

8. Payment of taxes, cesses, etc. - The transferee shall pay all general and local taxes and cesses for the time being assessed on the site by a competent authority.

9. Fragmentation. - Subject to rule 15, no fragmentation of any building site shall be allowed.

10. Delivery and possession. - The possession of the site shall only be given to the transferee after he has deposited the sale price as per sub-rule (5)(ii) of rule 3 of the Himachal Pradesh New Mandi Townships (Development and Regulation) Rules, 1980.

11. Restriction on transfer. - Until the full price of the site has been paid no transfer of any right or title or any interest in it shall be permitted without the previous sanction of the Administrator. The transferee, however, shall be permitted to let on monthly basis a part or whole of the building erected on the site.

12. Time within which a building is to be erected. - The transferee shall complete the building within two years from the date of the issue of the allotment order in accordance with the conditions prescribed by the State Government in this behalf, if any. This time limit may be extended for a period not exceeding six months by the Administrator if he is satisfied that the failure to complete the building within the said period was due to reasons beyond the control of the transferee. Beyond that, sanction of the State Government shall be required on an application for extension of time.

13. How to make payments. - All payments shall be made in cash or by means of a Demand Draft or a cheque payable to the Administrator and drawn on SBI or any Scheduled Bank situated at a station where a branch of the State Bank of India is not functioning.

Explanation. - For the purpose of this clause the expression "Scheduled Bank" shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (Act No. 2 of 1934)

14. Completion of sale. - If the application for allotment is accepted by the Government the sale shall be completed within 180 days or earlier from the date of issue of the allotment order. The transferee shall obtain a deed of conveyance in Form 'C' from the Administrator's Office and shall, atleast seven days before the date fixed for completion of sale, return the deed to the Administrator's office duly stamped at his own expense and ready for execution.

15. Forfeiture. - Should any transferee fail to observe or comply with any of the foregoing conditions, his deposit shall be forfeited to the State Government which may have the property resold by the public auction or allotment. Any deficiency of price which may result on such resale shall be made good and paid by the defaulting purchaser.

16. Approval of construction plans. - Plans of constructions would be first got approved from the Administrator, New Mandi Township.....

**Form 'C'**  
(See Rule 6(2))

Deed of conveyance of land/building in the ..... Mandi Township sold by auction to be used as a site for shop/Residence/Shop-cum-Residence/Factory

This indenture is made the day ..... of ..... between the Governor of Himachal Pradesh (hereinafter called the "vendor" of the one part and ....., son of ..... resident of ..... Mandi Township, in the district of in Himachal Pradesh (hereinafter called the "vendee") of the other part;

Whereas the land/building hereinafter described and intended to be hereby conveyed was owned by the Vendor in full proprietary rights and the same measuring ..... adjoining and on the ..... of ,situated on the was sold by auction and that sale was sanctioned vide Himachal Pradesh Government, Colonisation Department, memo No ....., dated for Rs on the ..... day of .....,

And whereas the Vendee has paid to the Vendor a sum of Rs. .... by way of deposit in full towards payment of the said purchase money pursuant to the conditions of the sale in that behalf;

And whereas the said land/building was sold, as a site for ..... and the Vender agree to comply with the condition of sale.

And whereas the said conditions of sale inter alia provides for the execution of a deed of conveyance between the parties.

And whereas the order of allotment was issued on .....

Now, therefore, this deed witnessed that for the purpose of carrying into effect the sale of land/building (hereinafter referred to as the "said land") and in consideration of the covenants of the Vendee hereinafter contained and of the said sum of Rs. .... paid by the Vendee as hereinbefore mentioned, the receipt of which the Vendor acknowledges, the Vendor as beneficial owner hereby grants and conveys up to the Vendee, the said land/building.

All the aforesaid property described in the Schedule hereto attached and more particularly delineated in the plans filed in the office of the Administrator, signed by Administrator aforesaid on the .... day of .....

To have and to hold the same into and to the use of the Vendee in full proprietary right for ever subject nevertheless to the exceptions, reservations, conditions and covenants hereinafter contained and each of them that is to say:

(1) The Vendor reserve to himself all mines and minerals whatsoever in. under or upon the said property with all such rights and powers as may be necessary or expedient for the purpose of searching or, working, obtaining, removing and enjoying the same at all such time and in such manner as the Vendor thinks fit, with powers to carry out any surface or under-ground working and to let down the surface of all or any part of the said land that may be erected thereon now or hereinafter and sink pits, erect building, construct lines and generally to be appropriate and the surface of the said lands for the purpose of doing all such things as may be convenient or necessary for the full enjoyment of the exception and reservations hereinbefore contained;

Provided that the Vendee shall be entitled to receive from the Vendor such payment for the occupation by him of the surface and for the damage done to the surface or to building on the land by such works or workings or letting down as may be agreed upon between the Vendor and the Vendee or failing such agreement as shall be ascertained by reference to arbitration.

(2) The land revenue in respect of the land shall be payable by the Vendee.

(3) The Vendee shall pay all general and local taxes, rates or cesses for the time being imposed or assessed on the said property by competent authority.

(4) The Vendee shall complete to the satisfaction of the Administrator the construction of the said ..... within two years from the date of the issue of allotment order of the said land; provided that the time under this clause may be extended by the Administrator in case if failure to complete the building by the stipulated date was due to reasons beyond the control of the Vendee

(5) The Vendee shall not, except with the previous permission of the Administrator, use the building to be erected on the said land for any purpose inconsistent with that for which the said land is sold, that is, for any purpose other than that of ..... or permit the same to be so used.

(6) The Vendor may by his officers and servants, at all reasonable times, and in a reasonable manner, after 24 hours notice in writing, enter in and upon the said land or building erected thereon for the purpose of ascertaining that the Vendee has duly performed and observed the covenants under these presents.

(7) The Vendor shall have full rights, power and authority at all times to do all acts and things which may be necessary and or expedient for the purpose of enforcing compliance with all or any of the terms, conditions and to recover from the Vendee as first charge upon the said land and the building erected thereon the costs of doing all or any such acts, and things and all costs incurred in connection therewith or in any way relating thereto.

(8) In the event of non-observance by the Vendee or his legal representative of any of the covenants herein on his part to be observed then in any such case, it shall be lawful for the Vendor, notwithstanding the waiver of any previous cause or right for re-entry to enter into and upon the said land or building erected thereon or any part thereof and to re-possess, retain and enjoy the same as of his former estate and the Vendee shall not be entitled to a refund of the purchase money or any Part thereof or to any compensation whatsoever on account of such a resumption.

(9) That all the dispute and differences arising out of or in any way touching or concerning this agreement shall be referred to the sole arbitration of the Secretary to Government of Himachal Pradesh... Department acting as such at the time of reference. It will be no objection to such appointment that the arbitrator so appointed is a Government servant and that he had to deal with the matters to which this deed relates or that in the course of his duties as such Government servant he has expressed his views on all or any of the matters in dispute or difference. The award of such arbitrator shall be final and binding on the parties to this agreement.

(10) If and so long as the Vendee shall fully perform and comply with, and shall continue to so perform and comply with each and all of the terms and conditions herein made and provided but not otherwise the Vendor will secure the Vendee full and peaceful enjoyment of the rights and privileges herein and hereby conveyed and assured.

And it is hereby agreed and declared that unless a different meaning shall appear from the context,-

- (a) the expression "Vendor" used in these presents shall include in addition to the State Government, the successors and assignees of the Government of Himachal Pradesh and in relation to any matter or things contained in or arising out of these presents every person duly authorised to act for or to represent the Vendor in respect of such matter or things;
- (b) the expression "Vendee" used in these presents shall include in addition to the said Vendee his lawful heirs, successors, representatives, assignees, transferees, lessees and any person or persons in occupation of the said land or building erected thereon.

In witness whereof the parties to this deed subscribed their hands on the dates respectively mentioned under their signatures in the ..... year of the Republic of India.

Signed.....  
Dated.....

Witness:  
I .....  
Dated .....

Secretary to Government of H.P  
..... Department  
for and on behalf of the Governor of  
Himachal Pradesh Witness:

Witness  
2 .....  
Dated .....

.....  
Signed .....  
(Vendee)

**Form "D"**  
(See Rule 6(2))

Deed of conveyance of land/building in the ..... Mandi Township sold by allotment to be used as a site for Shop/Residence/Shop-cum-Residence/Factory.

This indenture is made the.....day of.....between the Governor of H.P. (hereinafter called the "Vendor") of the one part and son of resident of.....Mandi Township, in the district of ..... in Himachal Pradesh (hereinafter called the "Vendee") of the other part;

Whereas the land/building hereinafter described and intended to be hereby conveyed was owned by the Vendor in full proprietary rights and the same measuring ..... adjoining and on the ..... of situated on the ..... was sold by allotment and that sale was sanctioned vide Himachal Pradesh Government colonisation Department, memo No ....., dated ..... for Rs. .... on the ..... day of .....

And whereas the Vendee has paid to the Vendor the sum of Rs by any of deposit in full towards payment of the said purchase money pursuant to the conditions of the sale in that behalf;

And whereas the said land/building was sold, as a site for ..... and the Vendee agree to comply with the conditions of sale;

And whereas the said conditions of sale inter-alia provides for the execution of a deed of conveyance between the parties;

And whereas the order of allotment was issued on ..... Now, therefore, this deed witnessed that for the purpose of carrying into effect the said sale of land/building (hereinafter referred to as the "said land") and in consideration of the covenants of the Vendee hereinafter contained and of the said sum of Rs paid by the Vendee as hereinbefore mentioned (the receipt of which the Vendor hereby acknowledges) the Vendor as beneficial owner hereby grants and conveys upto the Vendee, the said land/building.

All the aforesaid property described in the schedule attached and more particularly delineated in the plans filed in the office of the Administrator signed by Administrator aforesaid on the .... day of .....

To have and to hold the same into and to the use of the Vendee of full proprietary rights for ever subject nevertheless to the exceptions, reservation, conditions and covenants hereinafter contained and such of them that is to say;

(1) The Vendor reserves to himself all mines and minerals whatsoever in, under the said property with all such rights and powers as may be necessary or expedient for the purpose of searching, or, wearing, obtaining, removing and enjoying the same at all such time and in such manner as the Vendor thinks fit, with powers to carry out any surface or underground working and to let down the surface of all or any part of the said land that may be erected thereon now or hereinafter and sink pits, erect building, construct lines and generally to appropriate and the surface of the said lands for the purpose of doing all such things as may be convenient or necessary for the full enjoyment of the exceptions and reservations hereinbefore contained;

Provided that the Vendee shall be entitled to receive from the Vendor such payment for the occupation by him of the surface and for the damage done to the surface or to building on the land by such works or working or letting down as may be agreed upon between the Vendor and the Vendee or foiling such agreement as shall be ascertained by reference to arbitration.

(2) The land revenue in respect of the land shall be payable by the Vendee.

(3) The Vendee shall pay all general and local taxes, rates or cesses for the time being imposed on the said property by competent authority.

(4) The Vendee shall complete to the satisfaction of the Administrator the construction of the said ..... within two years from the date of the issue of allotment order of the said land; provided that the time under this clause may be extended by the Administrator in case the failure to complete the building by the stipulated date was due to reasons beyond the control of the Vendee.

(5) The Vendee shall not, except with the previous permission of the Administrator, use the building to be erected on the said land for any purpose inconsistent with that for which the said land is sold, that is, for any purpose other than that of ..... or permit the same to be so used.

(6) The Vendor may by his officers and servants, at all reasonable times, and in a reasonable manner, after 24 hours notice in writing, enter in and upon the said land or building erected thereon for the purpose of ascertaining that the Vendee has duly performed and observed the covenants under these presents.

(7) The Vendor shall have full rights, power and authority at all times to do all acts and things which may be necessary and or expedient for the purpose of enforcing compliance with all or any of the terms, conditions and to recover from the vendee as first charge upon the said land and the building erected thereon the costs of doing all or any such act, and things and all costs incurred in connection therewith or in any way relating thereto.

(8) In the event of breach or non-observance by the Vendee or his legal representative of any of the covenants herein on his part to be observed then in any such case, it shall be lawful for the vendor, notwithstanding the waiver of any previous cause or right for re-entry, to enter into and upon the said land or building erected thereon or any part thereof and to repossess, retain and enjoy the same as of his former estate and the Vendee shall not be entitled to a refund of the purchase money or any part thereof or to any compensation whatsoever on account of such resumption.

(9) That all the disputes and differences arising out of or in any way touching or concerning this agreement shall be referred to the sole arbitration of the Secretary to Government, Himachal Pradesh ..... Department acting as Such at the time of reference. It will be no objection to such appointment that the arbitrator so appointed is a Government servant and that he had to deal with the matters to which this deed relates or that in the course of his duties as such Government servant he has expressed his views on all or any of the matters in dispute or difference. The award of such arbitrator shall be final and binding on the parties to this agreement.

(10) If and so long as the Vendee shall fully perform and comply with, and shall continue to so perform and comply with, each and all of the terms and conditions herein made and provided but not otherwise the Vendor will secure the Vendee full and peaceful enjoyment of the rights and privileges herein and hereby conveyed and assured.

And it is hereby agreed and declared that unless a different meaning shall appeal from the context -

- (a) The expression “Vendor” used in these presents shall include in addition to the State Government, the successors and assignees of the Government of Himachal Pradesh and in relation to any matter or things contained in or arising out of these presents every person duly authorised to act for or to represent the Vendor in respect of such matter or things;
- (b) the expression “Vendee” used in these presents shall include in addition to the said Vendee his lawful heirs, successors, representatives, assignees, transferees, lessees and any person or persons in occupation of the said land or building erected thereon.

In witness whereof the parties to this deed subscribed their hands on the dates respectively mentioned under their signatures in the ..... year of the Republic of India.

Witness

1.....

dated.....

Signed .....

Dated .....

Secretary to Govt of H.P

.....Department

for and on behalf of the Governor of Himachal Pradesh.

Witness

2 .....

Dated .....

Signed.....

(Vendee)

Dated.....

**Form "E"**  
(See Rules 9 and 10)  
Under Postal Certificate  
No. (Sales).....

Dated.....

OFFICE OF THE ADMINISTRATOR NEW MANDI TOWNSHIP

To

Shri.....

.....

Whereas you purchased Mandi shop/Booth/Residential/industrial plot No.....in Mandi Town.....and whereas the.....instalment of the sale price payable on.....has not been paid so far. Please take notice therefore, that you should pay Rs.....as the instalment of the sale price plus .....on account of penalty at the rate of Rs.....percent of the instalment due, on or before failing which I shall take action to recover the same as arrears of land revenue.

Issued under my hand and the seal this ..... day of .....

Administrator  
New Mandi Township.

REVENUE DEPARTMENT  
NOTIFICATIONS  
DECLARATION OF NEW MANDI TOWNSHIPS  
Simla-171002, the 28th March, 1980

No. 1-5/72-Col (Revenue). - In exercise of the powers conferred by sub-section (1) of section 3 of the Himachal Pradesh New Mandi Townships (Development and Regulation) Act, 1973 (Act No 18 of 1973) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to declare the Area of Saproon Colony in Solan District as a New Mandi Township subject to the conditions laid down in section 25 of the Act *ibid* for the purpose of the said Act.

(R.H.P date 3.5.1980, P. 536)



**HIMACHAL PRADESH FINANCIAL COMMISSIONER'S STANDING  
ORDERS**

**FINANCIAL COMMISSIONER, HIMACHAL PRADESH STANDING ORDERS**

Standing Order No. 1

PROCEEDINGS AND SUITS BETWEEN LANDOWNERS AND TENANTS

1. **Notice of Resumption of lease on cessation of inability or disability.**- The procedure connected with the issue of notices by the Revenue Officer for resumption of lands leased to lessees by landowners under sub-section (3) of section 30 of the H.P. Tenancy and Land Reforms Act, 1972, on the cessation of inability or disability is described in sub-section (1) of section 30 of the Act.

Care should be taken that the particulars required are correctly mentioned as such notices are frequently set aside owing to defects of form.

The form of notices to be used is given hereunder:-

NOTICES ISSUED BY A.B. ASSISTANT COLLECTOR OF THE DISTRICT

Notice of Resumption issued pursuant to the provisions of sub-section (3) of section 30 of the H.P. Tenancy and Land Reforms Act, 1972.

Person on whose application this notice is issued	C.D. (with father's name and residence).
---	--

Person on whom the notice is to be served	E.F. (with father's name and residence).
---	--

Lease to which the notice relates

(Give for each field included in the lease its number and its area, also, the total area of the lease and the estate and tehsil in which situate.)

Whereas C.D. has made an application to this office stating that he is the landowner of the lease above described, and the inability/disability on account of which the lease aforesaid was given has closed and he wants to resume the lease and prayed that E.F. the leases thereof, be ejected, and

Whereas it appears from the annual record that E.F. holds as a lease of C.D., and is liable to ejectment by notice in accordance with the provisions of clause .....(here mention, the relevant clause) of sub-section (1) of section 30 of the H.P. Tenancy and Land Reforms Act, 1972. This notice of ejectment is issued against E.F. the said lessee, and he is hereby informed that he must vacate the land immediately after harvesting the crop then current and in case the lessee has any objection, it should be filed on ..... before the undersigned.

Dated at the Revenue office of this ..... day of .....

(Seal and signature of Revenue Officer).

2. **Ejectment of Tenants failing to satisfy decrees for arrears of rent.**- The ejectment of tenants who have failed to satisfy decrees for arrears of rent is provided in section 37 of the H.P. Tenancy and Land Reforms Act, 1972. Sub-section (2) of section 39 of the H.P. Tenancy and Land Reforms Act, 1972 empowers a Revenue Officer the attendance of both parties before him and to take such action as may prevent the acquisition by the landowners of a valuable property for the often comparatively nominal amount of the unsatisfied arrear of rent. When the arrear remains

unsatisfied on account of poverty or other reason, the retention of his holding by the tenant is not advisable. It is probable that the landowner would readily accept a suggestion that his tenant's rights including the tenant's claim to compensation under sections 49 and 52 of the H.P. Tenancy and Land Reforms Act, 1972 would be most equitably extinguished by a money payment to the tenant. An arrangement of this sort, of course, depends on the consent of the landowner but where it has been tried, it is believed that as a rule, he at once admits the fairness of the suggestion and allows the defaulting tenants half or more of the value or some other equivalent of the tenant right. The Court should keep in view the provisions of section 41 of the Act. If the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landowner, therefore, the court may order the tenant to remedy the injury within a specified period instead of ordering his ejection.

3. The Collectors should impress upon the Revenue Officers of their districts, that the provisions of the H.P. Tenancy and Land Reforms Act are worked considerately. When a landowner seeks to eject a tenant because of an unsatisfied decree of arrears of rent a class of case in which the law is sometimes mechanically enforced the provisions of sub-section (2) of section 39 should be sympathetically applied.

In all such cases, the Revenue Officer concerned should cause the defaulting tenant served with a notice to appear before him personally. On his appearance, the tenant should be clearly warned of the danger of his ejection. If the difference between the arrears of rent due and the value of the tenant's right is great, the Revenue officer should endeavor to affect some compromise between the parties. The form of notice required to be served on the tenant is prescribed below:

NOTICE ISSUED BY A.B. ASSISTANT COLLECTOR OF THE DISTRICT

.....

Notice of ejection issued pursuant to the provision of sub-section (1) of section 39 of the H.P. Tenancy and Land Reforms Act, 1972.

Land owner on whose application this notice is issued. C.D. (with father's name and residence).

Tenancy on whom this notice is to be served. E.F. (with father's name and residence).

Tenancy to which the notice relates. (Give for each field included in the tenancy its number and its area, also of the tenancy and the estate and tehsil in which situate)

Whereas on the ..... day of ..... 20 ..... in the Court of ..... at ..... a decree for Rs. .... and cost Rs. .... on account of an arrear of rent due in respect of the tenancy above described was passed in favour of the C.D., land owner-plaintiff against E.F., tenant-defendant, whereas a sum of Rs. .... is still due under this decree as set out in the account annexed.

This notice of ejection is issued against E.F. the said tenant, and he is hereby informed that if he does not pay to this office the said amount of Rs. .... which is still due under the decree, within fifteen days from the receipt of this notice, he will be ejected from the said tenancy.

Dated at the Revenue Office of this ..... day of ..... 20

(Seal and Signature of Revenue Officer)

ACCOUNTS OF SUMS DUE UNDER THE DECREE

Amount of decree .....	Rs.
Cost decreed against defendant .....	Rs.
Cost of execution to date .....	<u>Rs.</u>
Total Rs.	
Paid by defendant .	_____
Balance now due.	_____

4. **Establishment of right of occupancy.-** In connection with suits to establish right of occupancy, paragraphs 208-211 of the Settlement Manual and paragraph 800 of the Land Administration Manual may be consulted.

When a Revenue Court passes a judgment giving a right of occupancy, the decree should invariably specify the section and clause which define the class of right affirmed.

5. **Suits for and to contest ejectment.-** Suits (a) by landowners for the ejectment of tenants and (b) tenants to recover possession or to obtain compensation in case of wrongful ejectment are dealt with in paragraphs 801-805 of the Land Administration Manual.

6. **Summary of the provisions of the H.P. Tenancy and Land Reforms Act, 1972 relating to ejectment of tenants.-** The following summary of the provisions of the H.P. Tenancy and Land Reforms Act, 1972 so far as it deals with the ejectment of tenants may prove useful to Revenue Officer :-

- (a) a notice of ejectment can only be served by a Revenue Officer in the five months between 16<sup>th</sup> June and 15<sup>th</sup> November;
- (b) if compensation is found to be due, the Revenue Officer is bound to stay ejectment until it is paid (Section 51);
- (c) save in accordance with the provisions of section 40, an order of ejectment can only be executed between 1<sup>st</sup> May and 15<sup>th</sup> June.

7. **The question of compensation must be decided in all ejectment and enhancement of rent suits.-** The provisions of section 51 of the H.P. Tenancy and Land Reforms Act, 1972 by which the Court is required to direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof, are obligatory as mentioned in paragraph 804 of the Land Administration Manual, and should be observed in all suits brought by tenants to contest liability to ejectment or by landowners to eject tenants or enhance their rent.

8. **Decree not to be executed till compensation has been paid.-** In suits to contest liability to ejectment the court is bound if the tenant fails, to direct his ejectment by its decree. But, if a Court directs the ejectment of a tenant, it is further bound to determine the amount of compensation due to the tenant and to stay execution of the decree until the landowner pays into Court that amount less any arrears of rent or costs proved to be due to him from the tenant.

The subject of compensation for improvements is dealt with in paragraphs 71, 72, 74-78 of the Land Administration manual.

9. **Compensation for disturbance.-** Revenue Courts must not overlook the question of compensation for disturbance that is due to a tenant (other than a joint owner of the land in suit) who has cleared and brought under cultivation waste land in which he does not enjoy a right of occupancy. Compensation on this account is due in addition to any compensation for improvements but only if the tenant is ejected from the land. Paragraph 73 of the Punjab Land Administration Manual explains in detail the circumstances for payment of compensation for disturbance.

10. **Scale of compensation for disturbance.-** in dealing with the claims of tenants for compensation on account of disturbance, Revenue Officer and Courts should comply with the provisions of section 50 of the H.P. Tenancy and Land Reforms Act, 1972, which prescribes the maximum scale for such compensation. The sum actually awarded is to be determined on the merits of each case.

11. Paragraphs 807 and 808 of the Land Administration Manual lay down the guidelines for dealing with suits for arrears of rent.

It is generally seen that in these suits sufficient use is not made of the documentary evidence available in the patwaris record and registers. The outturn of each class of land has to be ascertained with due care. In such suits it is necessary, therefore, to have a finding on each of the following points:-

- (a) The area under each kind of crop grown in the harvest for which the rent is claimed.
- (b) The approximate gross outturn.
- (c) The share of the produce, after deducting Kamiana and reapers dues, if any, to which the landowner is entitled.
- (d) The prices at which the land owner's share should be commuted.

For achieving this objective the following guidelines are laid down:-

- (i) Information under head (a) can be obtained from the khasra girdawari.
- (ii) Courts should insist on landowners claiming arrears of rent in kind to file with their complaints not only the usual extracts from the jamabandi, but also one from the khasra girdawari for the harvests for which the suit is filed.
- (iii) Patwaris should also be directed to note on the extract from the jamabandi the amount of demand payable for the land in dispute for each harvest, the land revenue and cesses being shown separately. The area to be ascertained as under each crop will, of course, be that under matured crops, failed crops (kharaba) being deducted.

Information under head (c) above can be had from the extract of the jamabandi which should show in the rent column the share of the produce due to the landowner.

Paragraphs 807 and 808 of the Land Administration Manual provide the guiding principles in regard to information on (b) and (d) above.

**Important.-** Collectors should stress upon Tehsildars to send a copy of the harvest prices recorded for each assessment circle to each Revenue Court every six months.

12. **Tabular statement to be given in judgment.-** Every judgment in which a decree is passed for arrears of rent payable in kind should contain a statement in the following form, showing the process by which the decree has been arrived at:-

Village							Assessment Circle		
Harvest	Crop	Soil	Matured area	Average outturn per acre	Gross outturn	Deduction for Kamianas etc.	Landowners share	Average price by circle notebook	Value of land-owners share
1	2	3	4	5	6	7	8	9	10

For sufficient reasons, the amount calculated at the circle rate of outturn can be departed from. The harvest may have been above or below a normal yield owing to exceptionally good or bad rainfall or irrigation. Such reasons must be taken into consideration before deciding on the amount to which the landowner is entitled. It is not intended to bind the courts to hard and fast rules, or to insist that all rents should be decreed by mere rule of thumb. All that is stressed upon the Revenue Courts is that they shall have before them such data as are available for right decision in suits of this kind and that they shall make an intelligent use of them.

**13. Responsibility of first Court of Appeal.-** All Appellate Courts should insist that the particulars set forth in paragraphs 8 and 9 above shall always be contained in the judgement of the court of first instance.

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## STANDING ORDERS OF THE FINANCIAL COMMISSIONER HIMACHAL PRADESH

STANDING ORDER No. "2" (Draft)

**General Procedure of Revenue Officers and Revenue Courts**

Note : In connection with this Standing order Chapters VI and XXIII of the Punjab Land Administration Manual should be consulted.

## Section-A

Procedure of Revenue Officers

1. **Revenue Officer.-** Section 7(1) of the H.P. Land Revenue Act. 1953 prescribed the following classes of Revenue Officers, namely;-

- (a) The Financial Commissioner.
- (b) The Commissioner.
- (c) The Collector.
- (d) The Assistant Collector of the first grade.
- (e) The Assistant Collector of the second grade.

The Deputy Commissioner of a district is the Collector thereof under Section 7(2) of the aforesaid Act.

The State Government is competent u/s 28 of the aforesaid Act to confer any or all the powers of a Revenue Officer on any officer or class of officers for all or specific purposes.

2. **Revenue Court.-** When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in Sub-Section (3) of Section 58 of the H.P. Tenancy and Land Reforms Act. 1972 or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

3. **Revenue Officers and Revenue Court distinguished.-** A Revenue Court is therefore, simply a Revenue Officer acting in a judicial instead of an executive capacity. There are, therefore, the same classes of Revenue Courts as of Revenue Officers and ordinarily a Revenue Officer of any grade is a Revenue Court of the same grade and his jurisdiction in one capacity is co-extensive with his jurisdiction in the other (Section 5(2) of the H.P. Tenancy and Land Reforms Act, 1972 (Act. No. 8 of 1974).

The distinction between Revenue and Civil Courts is more of agency than of procedure. As regards their respective jurisdiction. Paragraphs 792-810 of the Punjab Land Administration manual and Chapter 2-B of the High Court Rules & orders, Volume-I may be referred to

4. Rules 34 to 46 of the Punjab Land Revenue Rules as applicable to Himachal Pradesh and Rules 3-10 of the H.P. Tenancy Rules prescribe the procedure of Revenue Officers and should be consulted. These rules prescribe that the statements and pleadings made by or on behalf of the parties to the revenue proceedings, whether oral or written shall be as brief as the nature of the case admits and shall not be argumentative. Every written application or statement filed by a party shall be drawn up and verified in the manner provided by the Code of Civil Procedure for written statements in suits. In fixing dates etc; the Revenue officer is to follow the procedure of Revenue

Courts and the provisions of the Code of Civil Procedure in respect of Commission's also apply in case of proceedings before a Revenue Officer. In proceedings before a Revenue Officer under the H.P. Tenancy and Land Reforms Act, 1972, the Revenue officer shall make with his own hand a brief memorandum of statement of parties and witnesses at the time when each statement is made. In every proceedings in which an order is passed on the merits after inquiry, the Revenue Officer making the order shall record a brief statement of reasons on which it is founded. A Revenue Officer may at his discretion award expenses of witnesses not exceeding the sum to which they may be entitled in Civil Courts. In proceedings in which costs have been incurred, the final order shall apportion the costs which will be recoverable in the manner prescribed in Section 76 of the H.P. Land Revenue Act. Revenue Officers Orders of ejectment shall be enforced in the manner provided in the Code of Civil Procedure and in enforcing these orders, a Revenue Officer shall have all the powers in regard to contempt's, resistance and the like which a civil court may exercise.

The Memorandum to be made by a Revenue Officer under Rule 40 of the Punjab Land Revenue Rules or Rule 7 of the H.P. Tenancy and Land Reforms Rules shall be in Hindi.

**5. Procedure of Revenue Courts.-** Section 69(1) of the H.P. Tenancy and Land Reforms Act, 1972 empowers the State Govt. to frame rules for regulating the procedure of Revenue Courts in respect of matters under this Act. But no such rules have been framed and the provision of the Code of Civil Procedure 1908 and Rules and Orders of the High Court so far these are applicable shall apply to all proceedings in Revenue Courts. The Procedure contained in Chapters 1-A to 1-I-H, 1-J to 1-L, 9, 10-A, 10-B, 11-B and 14-E of Volume-I, Chapter 7 of Volume-IV of the High Court Rules and Orders should be followed with special care. Some of these instructions with necessary modifications making them applicable to Revenue Courts are reproduced below.

#### Section-B

#### Reception of Complaints and Applications

(See Chapter 1-B, Vol.7, High Court Rules & Orders, 1930)

**6. Time & hour of presentation.-** Complaints and petitions should be received on every day which is not an authorized holiday during office hours.

**7. How filed.-** Complaints and Petitions must be filed except when other-wise specially provided by any law for the time being in force by the party in person or by his recognized agent or by a duly authorized and qualified legal practitioner. Recognized Agents are defined in Order III, Rule 2 of the Code of Civil Procedure. As to the appointment of a pleader, the provisions of Rule 4 *ibid* should be carefully studied.

**8. Preliminary Examination.-** Every complaint or petition should, if possible, specify the provisions of the law under which it is presented. The Presiding Officer of the Court should note, or cause to be noted, on the complaint the date of presentation, and whether it has been presented by the plaintiff in person or by his duly authorized agent or pleader. The court fees should be forthwith examined and cancelled in the manner prescribed in that behalf.

**9. Responsibility regarding Court Fee, Stamps.-** The instructions contained in the High Court Rules & Orders, Volume-IV, Chapter-4 and 5 should be observed *mutatis-mutandis* by all Revenue Courts.



The ministerial officer of the Court concerned i.e. the Asstt. Superintendent (Revenue)/Head Vernacular in the case of Deputy Commissioner and Naib-Tehsildar (Peshi) in the case of Commissioner and the Reader in case of other Courts shall be personally responsible for ensuring that plaints and petitions are properly stamped in all simple and undisputed cases. In case of doubt regarding the correctness of the Court Fee, due, he should take the orders of the Presiding Officer. Personal responsibility shall be enforced against the ministerial officer in all cases that he failed to refer to the Presiding officer for orders, and against the Presiding Officer in other cases. This shall, however, be subject to the provision that personal responsibility should be enforced against the presiding or ministerial officer, as the case may be where obvious mistakes were made and not in cases in which a genuine doubt was possible regarding the correctness of the court fee due.

Deputy Commissioners should impress upon the Presiding Officers of Subordinate Revenue Courts and their readers etc. their personal responsibility in this matter and make them understand that as a consequence of this, responsibility, all Government losses in stamp revenue will be taken of serious notice and stern action will be taken against the delinquents.

Serious notice should also be taken of failure to cancel the stamps by punching. Erring officials should be suitably proceeded against.

10. When an unstamped petition is presented to the Financial Commissioner and other Senior Revenue Officers, and if it is to be transferred to a subordinate officer, a slip will be attached to the effect that no action should be taken on the petition until it is properly stamped.

#### Section –C

##### Examination of the Plaint

(See Chapter 1-C, volume 1 ibid)

11. **Examination of plaint.-** On the presentation or receipt of a plaint, the Court should examine it with special reference to the following points viz;

- (i) Whether the name of the court to which the suit is brought is given in the plaint (order VII rule 1(a);
- (ii) Whether it contains the name, description and place of residence of the plaintiff, so far as they can be ascertained (order VII; rule 1(b);
- (iii) Whether the plaint contains the name, description and place of residence of the defendant (order VII rule 1(a);
- (iv) Whether any of the parties to the suit are minor and if so whether they are properly represented (order VII, rule 1(d);
- (v) Whether it contains the facts constituting the cause of action and when it arose (order VII, rule 1(e);
- (vi) Whether the suit is within the jurisdiction of court or else it should be returned for presentation to the proper court (order VII, rule 1(f) and (10);
- (vii) Whether plaint states the relief which the plaintiff claims (order VII, rule 1(g) ;
- (viii) Whether it contains the amount allowed or relinquished if the plaintiff has allowed a set off or relinquished a portion of his claim (order VII, rule 1(h);
- (ix) Whether it contains a statement of the value of the subject matter of the suit for the purpose of jurisdiction and of Court fees to far the case admits (order VII, rule (c) ;

- (x) Whether there is prima-facie any non-joinder or mis-joinder of parties, or mis-joinder of causes of action;
- (xi) Whether the plaint is duly signed and verified;
- (xii) Whether the plaint is liable to be rejected for any of the reasons given in order VII rule 11.
- (xiii) Whether the documents attached to the plaint (if any) are accompanied by the lists in the prescribed form and are in order.
- (xiv) Whether the plaintiff has filed a proceeding containing his address for service during the litigation as required by rule 19 of order VII as framed by the High Court.
- (xv) Instructions contained in paragraph 9 below should also be borne in mind at the time of examination of plaint.

**12. Rule of pleading noticed.-** The provision of the code with regard to the pleadings (which term includes the plaint and written statement of parties) should be carefully studied. The principal rules of pleadings may be briefly stated as follows:-

- (a) The whole case must be stated in the pleadings that is to say, all material facts must be stated (order VI, rule 2).
- (b) Only material facts are to be stated. The evidence by which they are to be proved is not to be stated (order VI Rules 2, 10, 11 & 12).
- (c) The facts are to be stated concisely.
- (d) Every pleading is to be signed by the party and also by his pleader, if any (order VI, rule 14).
- (e) Save as otherwise provided for by law for the time being in force, every pleading is to be verified at the foot by the party or by one of the parties pleading (order VI, Rule 15)
- (f) The person verifying the pleading is bound to state by reference to the numbered paragraphs of the pleading what he verified of his own knowledge; and what he verified upon information received and believed to be true (order VI, rule 15(2)).
- (g) It is obligatory that the verification should be signed by the person making it, stating the dates on which and the place at which it was signed (order VI, rule 15(3));
- (h) It is not necessary to allege the performance of any condition, precedent, an avement of performances implied in every pleading (order IV, rule 6);
- (i) It is not necessary to set out the whole or any part of a document unless the precise words thereof are necessary. It is sufficient to state the effect of the documents as briefly as possible (order VI, Rule 9) ;
- (j) It is not necessary to allege a matter of fact which the law presumes or as to which the burden of proof lies on the other side (order VI, Rule 13) ;
- (k) When mis-representation, fraud, undue influence etc. are pleaded necessary particulars must always be given (order IV, Rule 4) ;
- (l) When a suit is prima-facie time barred the ground on which exemption is claimed must be stated (order VII rule 6);

If the plaint is prolix or indefinite or omits to give the necessary particulars or to specify the relief claimed precisely or is defective in any other respect, it should be returned to the party or his counsel for such amendments as may be necessary in the actual presence of the Presiding Officer

after he has signed the endorsement. The court has wide powers in this respect (See order VI, Rules 5, 16 and 17). Where amendment is directed an order should be recorded by the Court indicating the particulars about the necessary amendment and fixing a date for filing the amended plaint.

**13. Joinder of parties and causes of action.**-When the plaintiffs or defendants are more than one, the plaint should be examined with a view to see, if there is prima-facie any misjoinder of parties or causes of action;

- (i) It should appear in the plaint that the persons if more than one who sue together as plaintiffs all either jointly, severally or in the alternative, claim the right which is the object of suit to vindicate, if all the persons jointly entitled to the right, which according to the plaint, has been in-fringed cannot be got to sue together. This fact should be stated in the plaint together with the grounds of refusal, if known. If the plaintiff wishes to sue on behalf of or for the benefit of such persons, he must apply for the permission of the court under Order 1, rule 8(1), Code of Civil Procedure.
- (ii) Similarly, it should appear in the plaint that the rights to the relief claimed exists against all the defendants either jointly or severally or in the alternative in respect of the subject matter in dispute. If the cause for suing one defendant is different from that for suing another the plaint should be returned for amendment on the ground that the plaintiff has joined causes of action which ought not to be joined in the same suit. Different causes of action against different defendants or groups of defendants cannot be brought into one suit. Under order 1, Rule 5, however, it is not necessary that every defendant should be interested as to all the relief claimed in any suit against him.
- (iii) Order II, Rule 3 of the Code of Civil Procedure only permits a plaintiff to unite in the same suit several causes of action, against the same defendant or the same defendants jointly. It follows, therefore, that where the defendants are not jointly liable for the several sums which the plaintiff claims from each, or for other relief sought, the provisions of Order II, Rule 3, cannot be applied and each distinct cause of action must form the subject of a separate suit. Several plaintiff having distinct causes of action against the same defendant or defendants cannot join in one suit.
- (iv) The general rule to be observed is that while no suit may be defeated by mere misjoinder of parties and the rights of the parties actually before the court may always be disposed of, distinct causes of action can only be joined in one suit where the parties are identical and only subject to the provisions of Order II, Rules 4 and 5 and Section 15 to 25 of the Code of Civil Procedure.
- (v) In suits which cannot be properly disposed of unless all persons interested in the matter are before the court, Order I, Rules 8(2) & 10(2) of the Code enables the Court to add necessary parties when it discovers that they have been committed by the plaintiff.

**14. Scrutiny of plaint relating to Agriculture land and when plaintiff is illiterate.**- If the plaint relates to agricultural land and the plaintiff is illiterate it should be scrutinized with special care according to the following directions :-

“Every such plaint shall be accompanied by a statement, in the prescribed form, setting forth the particulars relating thereto recorded in the settlement record and in the last Jamabandi. It should also include a copy of the Khasra Girdawari of the harvest concerned if the suit is under the H.P. Tenancy and Land Reforms Act. This statement shall be verified by the signatures of the Patwari of the circle in which the land concerned is situated. Where by reason of partition, river action or other cause, the entries in the settlement record and in the last Jamabandi do not accord, a brief explanation of the reasons should be given in the column of remarks. Where the suit is for a specific plot with definite boundaries, it shall also be accompanied by a map, drawn to scale, showing clearly the specific plot claimed or in relation to which the decree is to be made and so much of the fields adjoining it, also drawn to may be sufficient to facilitate identification. The specific plot and adjoining field; shall numbered in accordance with the statement and the map shall be certified as correct by the patwari or other person who prepared it. Where however, the suit is for the whole or one or more Khasra numbers as shown in the settlement map or a share in such numbers and not for a specific portion thereof no map will be required unless it is necessary for other reasons to show the boundaries of such Khasra numbers.

#### SECTION-D

##### Issue and Service of Processes

**15. Court to determine the form of summons.-** In order V, Rule 5 of the Code of Civil Procedure, it is laid down that the Court shall determine at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit and the summons shall contain a direction accordingly. Thus, the question of what form of summons is to be issued is one which the court is bound to consider and determine in each particulars case.

**16. Summons to the defendant.-** Summons should be clearly and legibly written and signed, and the seal of the court must be affixed.

Order V, Rule (3) of the Code requires that the summons shall be signed by the Judge or the Officer appointed by him, In courts provided with clerk of Courts or Asstt. Superintendent (Revenue)/Head Vernacular Clerk/Naib-Tehsildar (Peshi), he may be authorized to sign summons. In all other courts, the Presiding Officer should himself sign them. The signature should in all cases be fully and legibly written. The summons must be framed so as to require the defendant to produce any document called for by the plaintiff, or on which the defendant intends to rely in support of his own case which is fixed for the settlement of issues only or for final disposal. It must also have attached thereto one of the copies or concise statements of the plaint which the plaintiff is bound to file with the plaint. Before issuing the summons, the court should satisfy itself that the form selected is that appropriate to the order made under Order V, Rule 5 of the Code.

No court can rightly proceed to hear a suit ex-parte, until it has been proved to satisfaction of such court that the summon to a defendant to appear has been duly served i.e. has been served strictly in such manner as the law provides. The nature of the proof of service which the court ought to require in such cases are contained in Rule 7, Chapter i-D of the High Court Rules and Orders, Volume I.

17. The Revenue Courts should note the Rules for the service of summons contained in Rules 21-23 and Rules 25-26, Order V of the Civil Procedure Code, which should be carefully studied.

- (i) **Service within India-**If the process has to be served within the jurisdiction of another court but within the same district, the agencies located at Tehsils will be employed, the process being transmitted by post from one agency to another. If the process has to be served in another district but within the State it should be transmitted by post to the Collector concerned through the Collector of the District where the court is situated for service and return. But no court should refuse to serve any process received for service within its jurisdiction from a court in another District of State merely by reason of the process not having been sent through the Collector. In issuing process to districts in other States, they should be forwarded for execution to the Collector of the district in which service of such process is designed except where they are to be served within one of the Presidency Towns (order V, Rule 22, Code of Civil Procedure) when they shall be transmitted for service to the Judge of the Court of Small Causes.
- (ii) **Service by post.-**The attention of the Revenue Officer and Revenue Courts is specially drawn to the provisions of Section 21 of the H.P. Land Revenue Act and Section 71 of the H.P. Tenancy & Land Reforms Act, 1972 (Act No. 8 of 1974) under which a summon may be served by registered post. This mode of service has proved speedy and useful and may be freely resorted to in addition to, or in substitution for any other mode.

The Revenue Courts and Officers in Himachal Pradesh for the purposes of levying process fees are divided into three grades as shown in the table below:-

GRADE	REVENUE COURTS
First	Financial Commissioner
Second	Commissioners
Third	Collectors and Asstt. Collectors

The rates prescribed under High Court Rules and Orders (Chapter 5-B, Vol. IV,) shall apply.

**18. Service by post to be the general rule.-**Provisions for service of summons in foreign territory : Order V, Rule 25 of Code of Civil Procedure and Chapter 7-F Vol. IV of High Court Rules and Order lay down the procedure to be followed which should be studied in detail in this behalf.

**19. Service in foreign territories where no special arrangements exist.-** When service by post under Order V, Rule 25 has failed and it is desired to proceed under order V, Rule 26 C.P.C. the summons should be submitted to the Deputy Commissioner for transmission to the local Govt. They should never be sent direct to the courts of foreign territories. Before issuing summons, the court should enquire from the postal authorities the time that it normally takes for a letter to get to the required place and must then double that time and add not less than two months to it in fixing the date of hearing for the case. But in no case less than four months be allowed for such service.

In forwarding such summons to Collector for transmission to the Commissioner, subordinate Courts must certify that service by post has been tried and failed and also state in what manner it has failed.

On receipt of summons from Subordinate Courts, it will be the duty of the Assistant Superintendent Revenue/Head vernacular Clerk to the Collector, before transmitting the same to the Commissioner, to examine the summons carefully and bring in defects, if any, to the notice of the Collector, to the Court issuing the summons.

Summons, notices and other judicial documents intended for service in foreign countries should always be accompanied by translation in the language of the country in which service is to be effected where ever possible, summons should be type written in English and must be checked and legibly signed by the Presiding Officer of the court who will be held personally responsible for their neatness and accuracy.

**20. Cases in which Military Officers or Soldiers are concerned.-**Unnecessary delay in the case in which Military Officers or Soldiers or members of the Military Reserves are concerned should be avoided and the attention of the Revenue Officers and Revenue Courts is drawn to Chapter 6-A and 6-B of the High Court Rules and Orders Vol. I. In disposing of revenue business such as partition cases and appointment of Lambardars in which one of the parties to the case is a Military Officer or a Soldier on leave for a limited period, this fact should be taken into consideration by the Revenue Officer/Revenue Courts in fixing the order in which the case shall be sent down for hearing and an attempt should be made to decide such cases within the period for which the officer or soldier has obtained leave to be present at the hearing.

#### SECTION-E.

Written Statement (See Chapter I E. Volume I, ibid)

**21. Defendants to present a written statement.-** It is laid down in Order VIII, Rule I of the Code of Civil Procedure, that a defendant may and if so required by the court shall, at or before the first hearing and within such time as the Court may permit, present a written statement of his defence. Ordinarily, he is advisable to require such a written statement and the Court should at the time of issuing the summons call for a written statement from the defendant on the dates fixed for his appearance. In most cases, there should be no difficulty in presenting such a written statement on the date fixed, and no adjournment should be given for the purpose except for good cause shown and in proper cases costs should be awarded to the opposite side. Laxity in granting adjournments for the purpose of filing written statements should be avoided and it should be noted that in extreme cases contumacious refusal to comply with the Court's order is liable to be dealt with under Order VIII, Rule 10, Code of Civil Procedure.

**22. Written statement be accompanied by documents relied upon.-** Rule I Order VIII (as amended by the High Court) further requires the defendant to produce the written statement and other documents in his possession or power on which he bases his defence or claim to set off, if any. If he relies in support of his case on any other document, not in his possession or power, he, must annex' a list thereof to the written statement with all other particulars. With the written statement the defendant must also file his address for service during the litigation.

**23. Plaintiff may also be called upon to file a written statement.-** When the defendant has filed a written statement the court may call upon the plaintiff to file a written statement in reply. Under order VIII, Rule 9, the Court has powers to call upon both parties to file written statements at any time and this power should be freely used for elucidating the pleas when necessary, especially

in complicated cases. In simple cases, however, examination of the parties after the defendant has filed his written statement is generally found to be sufficient.

**24. Each defendant as a rule file separate written statement.**-In all cases, where there are several defendants the Court should as a rule take a separate written statement from each defendant unless the defence of various defendants filing a joint written statement are identical in all respects. There may be different defences based upon a variety of circumstances and these should not be allowed to be mixed up together in a single statement merely because all the defendants deny the plaintiffs claim.

**25. Set Off.**-Written Statement called from the parties may be on plain paper, but when the defendant claims in his written statement any sum by way of set off under Order VIII, Rule 6, Code of Civil Procedure, the statement must be stamped in the same manner as a plaint in a suit for the recovery of that sum.

**26. General and special rules as to written statements.**-A "Written Statement" is included in the definition of pleading (vide Order VI, Rule 1) and should conform to the general rules of pleadings given in order VI as well as the special rules with regard to written statements in Order VIII. All admissions and denial of facts should be specific and precise and not evasive or ambiguous. When allegations of fraud etc. are set, the particulars should be fully given. When any other legal provision is relied upon not only the provisions of law relied upon should be mentioned but also the facts making it applicable should be stated, for instance when a plea of resjudicate is raised, not only the provision of law (e.g. section 11 of the Code of Civil Procedure) should be mentioned, but the particulars of previous suit which is alleged to bar the suit should be given.

#### SECTION –F

##### Settlement of issues

**27. Necessity of framing correct issues.** –The trial of a suit falls into two broad divisions, the first part leading upto and including the framing of issues and the second, consisting of the hearing of the evidence produced by the party on those issues and the decision thereof. Issues are material propositions of facts and law which are in controversy between the parties and the correct decision of a suit naturally depends upon the correct determination of these propositions. The utmost care and attention is, therefore, needed in ascertaining the matter in dispute between parties and in fixing the issues in precise terms. In most cases, the main difficulty of the trial is overcome when the correct issues are framed. A few hours spent by the Court at the outset in studying and elucidating the pleadings may mean a saving of several days, if not weeks in the later stages of trial. In some courts, the framing of issues is left to the pleaders of the parties concerned. This practice is illegal and must cease.

In suits brought under the Himachal Pradesh Tenancy & Land Reforms Act. 1972 considerable reliance has to be placed on the revenue records and the failure of the Court to scrutinize the entries recorded in the latest Jamabandi and the Khasra Girdawari of the Harvest Concerned (excepts of which are produced with the complaints) often leads to the framing of wrong issues or to laying the burden of proof on the wrong party. Such mistakes subsequently cause unnecessary delay in the disposal of cases and financial loss to the parties. It is, therefore, of great

importance that entries recorded in the column of ownership; and cultivation of the revenue records should be carefully examined before framing the issues and allotting the burden of proof.

28. **Main foundation for the issues.-** The main foundations for the issues is supplied by the pleadings of the parties viz, the plaint and the written statements. But owing to the ignorance of the parties and for other reasons, it is frequently found that the facts are stated neither correctly nor clearly in the pleadings. The code gives ample power to the courts to elucidate the pleadings by different methods prescribed in Order X, XI and XII of the Code and in most cases it is essential to do so, before framing issues.

29. **Procedure in framing issues.-** On the dates fixed for the settlement of issues the Court should, therefore, carefully examine the pleadings of the parties and see whether allegations of fact made by each party are either admitted or denied by the opposite party, as they ought to be. If any allegations of fact are not so admitted or denied in the pleadings of any party, either expressly or by clear implication, the Court should proceed to question the party or his pleader and record categorically his admission or denial of those allegations (Order X, Rule 1).

30. Order X, Rule 2 of the Code empowers the Court at the first or any subsequently hearing to examine any party appearing in person or present in Court or any person accompanying him, who is able to answer all material questions relating to the suit. This is a most valuable provision and if properly used results frequently in saving lot of time. To use it properly, the Court should begin by studying the pleas and recording the admissions and denials of the parties under Order X, Rule 1 as stated above. The Court then be in a position to ascertain what facts need further elucidation by examination of the parties. The parties should then be examined alternatively on all such points and the process of examination continued/until all the matters in conflict and especially matters of facts are clearly brought to a focus. When there are more defendants than one, they should be examined separately so as to avoid any confusion between their respective defences.

31. In examination, the parties or their pleader, the Court should insist in a detailed and accurate statement of facts. A brief or vague oral plea, e.g. that the suit is barred by limitation or by the rule of resjudicate should not be received with a full statement of the material facts and the provisions of law on which the plea is based. Similarly, when fraud, collusion, custom, mis-joinder, estoppels, etc. is pleaded the facts on which the pleas are based should be fully elucidated. Any inclination of a party or his pleader to evade straight forward answer or make objections or pleas which appear to the Court to be frivolous can be promptly met, when necessary, by an order for a further written statement on payment of costs. The party concerned should also be warned that he will be liable to pay the costs of the opposite party on that part of the case at a rate to be determined by the Court if he failed to substantiate his allegation.

32. **Amendment of pleadings.-** The examination of the parties frequently discloses that the pleadings in the plaint or written statements are not correctly stated. In such cases, these should be ordered to be amended and the amendment initialled by the party concerned. If any mis-joinder or multi-fariousness is discovered, the Court should take action to have the defect removed.

33. **“Discovery” inspection and “Admission”.-**The Provisions of order XI and order XII of the Code with regard to “discovery” and “admission” are also very important for the purpose of ascertaining the precise cases of the parties and narrowing down the field of controversy.



These provisions are little understood and are not utilized at present as they should be. The Court should make himself conversant with such provisions and encourage the parties to make free use of them especially in long and intricate cases. It should be noted that under section 30 of the Code, the Court has power to make orders suo-moto as regards delivery of interrogatories for the purposes of discovery, inspection and admission. If these provisions are properly used they will result in a saving of considerable cost to the parties and also curtail the duration of the trial.

34. When the pleadings have thus been exhausted and the Court has before it the plaint, pleas, written statements, admissions and denials recorded under Order X, Rule 1 examination of parties recorded under Order X, Rule 2 and admissions of facts or documents made under Order XII of the Code, it will be in a position to frame correctly the issues upon the points actually in dispute between the parties. Each issue should state in interrogative form one point in dispute. Every issue should from a single question and as far as possible issues should not be put in alternative form. In other words each issue should contain a definite proposition of facts or law which one party avers and the other denies. An issue in the form, so often seen of a group of confused questions is no issue at all and is productive of nothing but confusion at the trial. A double or alternative issue generally indicates that the Court does not see clearly on which side or in what manner the true issue arises and on whom the burden of proof should lie, and an issue in general terms such as "Is the plaintiff entitled to a decree" is meaningless. If there are more defendants than one who make separate answers to the claim, the Court should note against each issue the defendant or defendants between whom and the plaintiff the issue arises.

35. **Burden of proof.**- The burden of proof as to each issue should be carefully determined and the name of the party on whom the burden lies, stated opposite to the issue.

#### SECTION-G

##### Documentary Evidence

(See Chapter 1-G, volume 1 ibid)

36. **Main provisions with regard to the production of documents.**- The main provisions of the Code with regard to the production of documents by the parties are as follows:-

- (a) According to Order VII, Rule 14 when the plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented and deliver the document itself or a copy thereof to be filed with the plaint. If he relies on any other document whether in his possession or power or not as evidence in support of his case, he shall enter such document in a list to be annexed to the plaint. If the documents are not so produced or entered in a list, they cannot be produced at a later stage without the leave of the Court, unless they fall within the exception given in Sub-Rule 2 of Rule 18 of Order VII.
- (b) Similarly, Order VIII, Rule 1 require the defendants to produce with his written statement any documents upon which his defence or claim to set off is founded.

The defendants must also annex to the written statement a list of all documents on which he intends to rely in support of his defence or claim to set off, whether in his possession or power or not.



invariably used. If the printed forms are not at any time available, the question prescribed therein should be asked and the questions as well as the answers noted. If these instructions are strictly carried out, there will be no justification for the plea frequently put forwarded by ignorant litigants with regard to the late production of a document that they had brought the documents at the first hearing but were not called upon to produce.

**39. Documents produced at a later stage.**-The above provisions with regard the production of the documents at the initial stage of a suit are intended to minimize the chances of fabrication of documentary evidence during the course of the suit as well as to give the earliest possible notice to each party of the documentary evidence relied upon by the opposite party. These provisions should, therefore, be strictly observed and if any document is tendered at a later stage, the Court should consider carefully the nature of the document sought to be produced i.e. whether there is suspicion-about its genuineness or not and the reasons given for its non-production at the proper stage, before admitting it. The fact of a document being in possession of a servant or agent of a party on whose behalf it is tendered is not itself a sufficient reason for allowing the document to be produced after the time, prescribed under Order XIII, Rule 1. The Court must always record its reasons for admission of the documents in such cases, if it decided to admit it. (Order XIII, Rule 2.)

**40. Documents with suspicious appearance or executed on unstamped or in-sufficiently stamped papers.**-Should any document which has been partially erased or interlined which otherwise presents a suspicious appearance be presented at any time in the course of proceedings, a note should be made of the fact and should a well founded suspicions of fraudulent alteration or forgery subsequently arises, the document should be impounded under order XIII, Rule 8. The Court should also consider to file a complaint to proceed against the offender for the offence. Similarly, should any document be presented which appears to have been executed on unstamped or insufficiently stamped paper action should be taken under section 33 and 35 of the India Stamp Act, 1899.

**41. Distinctions between mere productions admission in evidence.**- Courts should be careful to distinguish between mere production of documents and their admission in evidence after being either “admitted” by opposite or proved according to law. When documents are ‘produced’ by the parties, they are only temporarily placed on the record subject to their being ‘admitted in evidence’ in due course. Only documents which are duly admitted in evidence form a part of the record while the rest must be returned to the parties producing them. (Order XIII rule 7).

**42. Exhibition of documents.**- Every document ‘admitted in evidence’ must be endorsed and signed or initialed by the Court in the manner required by Order XIII, Rule 4 and marked with an “exhibit number”. Document produced by the plaintiff may be conveniently marked as Exhibit P-1, Exhibit P-2 etc. while those produced by the defendant as Exhibit D-1, D-2, D-3, etc. To ensure strict compliance with the provisions of Order XIII, Rule, 4, the importance of which has been emphasized by their lordship of the Privy Counsel on more than one occasion, e.g. Indian Law Reports 38, Allahabad 627 page 633) each Revenue Court should be supplied with a rubber stamp in the following form:-

Suit No. \_\_\_\_\_ of 20

Title \_\_\_\_\_ Plaintiff V/S Defendant

Produced by \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Nature of document

Stamp duty for Rs. -

As P. Is (is not /Correct)

Admitted as Exhibit No.

Collector

The entries in the above form should be filled in at the time when the document is admitted in evidence under the signature of the Revenue Officer. Details as to the nature of document and the stamp duty paid upon it are required to be entered in order that Courts may not neglect the duties imposed on them by Section 33 of the Indian Stamp Act of 1899. Revenue Officers should see that all Courts subordinate to them are supplied with these stamps.

**43. Documents how to be dealt with at the trial.**-Every document which a party intends to use as evidence against his opponent, must be formally tendered by him in evidence in the course of proving his case. If a document has been placed on the record, it can be referred to for the purpose. If it is not on the record, it must be called for and produced by the person in whose custody it is.

No application for the production of a Court record should be entertained unless it is supported by an affidavit and the Court is satisfied that the production of the original is necessary (Order XIII, Rule 10)

**44. Documents admitted by the opposite party to be endorsed and numbered.**-If the opponent does not object to the document being admitted in evidence, an endorsement to that effect must be made by the Revenue Officer with his own hand and, if the document is not such as is forbidden by the legislature to be used as evidence, the Revenue Officer will admit it, cause it, or so much of it as the parties may desire, to be read and then endorse and stamp it in the manner already described. Otherwise, it must be proved in accordance with law before it is so endorsed and stamped. The endorsement and stamp will show that the document is proved. It is to be remembered that the word "proved" used in the context here means that judicial evidence has been led about it, and does not imply proof in an absolute sense.

**(b) Document objected to by the opposite party.**- If, on the document, being tendered, the opposite party objects to its being admitted in evidence two questions commonly arise; first whether the document is authentic or in other words is that which the party tendering it represents it to be, and second whether supposing it to be, authentic, it is legally admissible in evidence as against the party who is sought to be effected by it. The later question, in general is a matter of argument only; but the first must as a rule be supported by such testimony as the party can adduce. It may be noted here that, under Order XII, Rule 2, of the Code of Civil Procedure either party may, by a notice through the Court invite the other party to inspect the documents specified in the notice at a specific time and place, and admit, within forty-eight hours from the time fixed for such inspection the genuineness of such document; that unless such notice be given no costs of proving the documents should ordinarily be allowed; and if on the other hand, notice is given and the admission is, without sufficient cause, withheld, the party refusing to admit the document must bear the expense of proving it whatever may be the result of the suit.

**45. Inconvenience caused by neglect of foregoing direction.**- Owing to the neglect of the foregoing direction as regards endorsing and stamping of document it is often impossible to say what papers on the file constitute the true record; copies of extracts from public or private records or accounts, referred to in the judgement as admitted in evidence, are often found to be not proved according to law, and sometimes altogether absent.

**46. Objection as to the admissibility of relevancy of the documents.-** All legal objections as to the admissibility of a document should, as far as possible, be promptly disposed of and the Court should carefully note the objection raised and the decision thereon.

The court is also bound to consider, *suo moto*, whether any document sought to be proved is relevant and whether there is any legal objection to its admissibility. There are certain classes of documents which are wholly inadmissible in evidence for certain purpose, owing to defects such as want of registration etc. (see e.g. section 49 of the Indian Registration Act. There are others in which the defect can be cured, e.g. by payment of penalty in the case of certain unstamped or insufficiently stamped documents.

**47. Mode of proof of documents.-**As regards the mode of proof, the provision of the Indian Evidence Act should be carefully born in mind. The general rule is that documents should be proved by primary evidence, i.e. the document itself should be produced in original and proved. If secondary evidence is permitted, the Court should see that the conditions under which such evidence can be let in exist. If an old document is sought to be proved under section 90, the court should satisfy itself by every reasonable means that it comes from proper custody. Under the Banker's Books Evidence Act, 1891, certified copies can be produced, instead of the original entries in the Books of Banks, in certain circumstances and a similar privilege is extended under section 26 of the Co-operative Societies Act, 1912 to entries in books of societies registered under that Act.

**48. Examination of witnesses identifying documents.-**There are certain points which the court should bear in mind when the signature or attestation of a document is sought to be proved.

Before a witness is allowed to identify a document, he should ordinarily be made, by proper questioning to state the grounds of the knowledge with regard to it. For instance, in he is about to speak to the act of signature, he should first be made to explain concisely the occurrences which led to his being present when the document was signed; and if he is about to recognize a signature on the strength of his knowledge of the supposed signer's handwriting, he should first be made to state the mode in which this knowledge was acquired. This should be done by the party who seeks to prove the document. It is the duty of the Court, in the event of a witness professing ability to recognize or identify handwriting, always to take care that his capacity to do so is thus tested, unless the opposite party admits it.

**49. Signature by the pen of another.-**The signature of one person which purports, or which appears by the evidence to have been written by the pen of another is not proved until both the fact of the writing and authority of the writer to write the same on the document is proved. In the case of an illiterate person, it should be proved that he understood the contents of the documents.

**50. Proof of registered documents.-**Attention is invited to the proviso added to section 68 of the Indian Evidence Act, 1872 by Act XXXI of 1926, which lays down that it shall not be necessary to call attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provision of the Indian Registration Act, 1908, unless its execution by the person by whom it purports to have been executed, is specifically denied.

**51. Certified extracts from settlement records bearing on the case should be placed on record.**-It frequently happens that, although the Wajib-ul Arz or Riwayat-I-Am or other revenue record is referred to by the parties and by the Court itself, as affording most important evidence, there is no certified extract or copy with the recorded of the entries relied on. Not only has there been no formal proof of such copy, but often, when there is any copy at all, it is incomplete, or so carelessly written as to be unintelligible. It becomes necessary to call for originals, thus causing damage to the records themselves, and delay and inconvenience to the parties to the suit. It is the duty of Appellate Courts to see that the Courts subordinate to them have proper extracts or copies of relevant entries in Settlement records made, verified and placed in the record.

**52. Revision of Record before judgement.**-(i) It is the duty of the Court before proceeding to judgement, under Order XX, Rule I of the Code of Civil Procedure finally to revise the record which is to form the basis of its judgement and to see that it contains all that has been formally admitted in evidence and nothing else. Any papers still found with the file, which have not been admitted in evidence should be returned to the parties.

(ii) **Duties of Appellate Courts on such matters.**- Appellate Courts should examine records of the cases coming before them on appeal with a view to satisfying themselves that subordinate Court have complied with the provisions of the law on the subject and should take serious notice of the matter when it appears that any Court has failed to do so.

**53. Return of documents.**-Documents admitted in evidence can be returned to the persons producing them subject to the provisions of Order XIII, Rule 9, If an application is made for return of a document produced in evidence before the expiry of the period for filing an appeal or before the disposal of the appeal (if one is filed), care should be taken to require a certified copy to be placed on the record and to take an undertaking for the production of the original, if required.

#### SECTION H-PRODUCTION OF REVENUE RECORDS (Chapter 9 Volume I ibid)

**54. Requisitions of appellate Courts to be sent to Deputy Commissioner.**-Requisitions by Commissioners or the Financial Commissioners for original revenue records will be addressed to the Deputy Commissioner, who will take measures to transmit such records to the court calling for them. Such Court will be responsible for the safe custody of the records, and if, in any case, a record is found to have been damaged in the Court of the Commissioner or Financial Commissioner, the Deputy Commissioner will report the fact to the court concerned and to the Financial Commissioner within twenty four hours of its being returned.

**55. Production of records in appellate Courts.**-Original Revenue records will be produced in Courts of first instance by the Kanungo, or Patwari Moharrir in accordance with the instructions contained in Chapter 9, Volume I, of the High Court Rules and Orders.

Briefly, the procedure to be followed in such cases is under:-

(i) The Court in which the suit is pending issues a summons to the Kanungo, or Patwari, Moharrir who after preparing his excerpt goes to the court on the date fixed, taking with him the revenue records from which the excerpts has been compiled. He is then placed in the witness box,

Counsels thus have the opportunity of comparing the excerpts with the original, and of examining him on any point they choose.

(ii) Parties who desire to summon the Kanungo or Patwari Moharrir as a witness with his records must be required to state succinctly and in writing the point on which information is required and the application must be sent alongwith the summons to the Kanungo or Patwari Moharrir. The Court must see that the application is in a readily intelligible form before they issue it, and the practice where it occurs, of sending for the Kanungo or Patwari Moharrir to tell what is required must be discontinued though Courts may also issue written instructions or supplement or correct the applications.

(iii) Courts must be on their guard against using the Kanungo or Patwari Moharrir for purposes for which he is not intended, e.g. he is not to be required to give opinions, he is not to be used as local commissioner, or to be asked to provide instances in support of or to refute an alleged custom. Courts must also see that if, Special Kanungo or Patwari Moharrir is required, he is summoned for the first hearing after issues are framed, and not, as some times happens at present, at the end of the case. They must also never fail to ask him on oath whether the excerpts is in accordance with the revenue records.

(iv) The excerpts prepared by the Kanungo is not evidence unless proved and cannot be used as such. He cannot be allowed to go to outlying Courts because he cannot take revenue record with him and without them, there would be no check over his excerpts. It is, however, very desirable that outlying Courts should be able to utilize the Kanungo, and as the best practicable method of securing that object, Presiding Officers of outlying Courts may issue either interrogatories for the Kanungo or an open commission to a senior official at headquarters ordinarily and, unless there is some special reason to the contrary, Revenue Assistant or an Officer not below the rank of an Assistant Collector I Grade. This official, who will have other duties and is described in the instructions appended as the officer incharge, will then comply with the directions given, summon the Kanungo record his statement on oath and make the return to the Court. In this connection, attention is drawn to Order XXVI, Rule 18(1) of the Code of Civil Procedure. This issue of a commission should not become a source of unnecessary delay, and the officer-in-charge should in the absence of very strong reason proceed in the absence of parties if, they do not appear. Parties should be informed that their appearance at headquarters is optional if interrogatories are issued.

**56. Duty of Court in such matters.**-In every case, it is the duty of the Court to insist;

- (a) On the plaintiff filing with the plaint the statement referred to in paragraph 14 supra.
- (b) On each party filing certified copies or extracts of all relevant entries on which they rely.

**57. Duties of appellate courts in calling for revenue record.**-Appellate Courts should refrain from calling for an original records unless it is absolutely necessary for a determination of the case and if the necessity arises from the neglect of a court of first instance to comply with the instruction here issued, such court should be severally dealt with by the appellate court in the exercise of the functions of administrative control vested in it.

**58. Inconveniences resulting from.**-Where Revenue Courts neglected to make the parties supply proper copies or extracts of relevant entries inconvenience is caused (1) to the Revenue authorities in being required to produce original records unnecessarily; and (2) to appellate court

from the fact that all evidence necessary for a proper decision on the case is not actually on the record and that references are made to revenue records which must be called for before the appeal can be decided. The revenue records themselves moreover often sustain injury in being sent from Court to Court, while the work of the Revenue Department may be delayed by their records being retained for long periods by Revenue Courts. At the same time, the Revenue authorities of districts should clearly understand that one of the chief objects of the more important standing records of rights is to supply reliable evidence for the decision of land suits by Revenue Courts; that the requirements of such courts must be complied with; and that such records must be freely available to courts engaged in investigating and deciding questions affecting land or interests in land.

**59. Deputy Commissioners to bring to the notice of the Financial Commissioner the case of any officer who systematically fails to comply with the orders on the subject.**-The Financial Commissioner will be prepared to take proper notice of the action of any Revenue Court which disregards the directions as to the manner in which original revenue records are to be referred to and Deputy Commissioners as Collectors, should bring to the notice of the Financial Commissioner through the usual channel, the case of any officer who fails to comply with the orders on the subject.

#### SECTION-J ATTENDANCE OF PATWARIS IN REVENUE COURT

(See Chapter 5-B, Volume I ibid)

**60. Patwari is not to be unnecessarily summoned.**- Officers presiding over Revenue Courts should be careful to see that Patwaris are not summoned unnecessarily to give merely formal evidence regarding entries in the village record and annual papers, information as to which could be as well obtained from an inspection of the records in the district office. It should be remembered that Patwaris have very important duties to perform, and that the discharge of these duties should not be allowed to be hindered by making them to attend courts except when examination as witness is really necessary. It is of great importance that they should not be called away at time presumed for harvest inspections in view of these consideration.

**61. Patwari is not to be summoned during girdawari time.**- Officers presiding over Revenue Courts should not summon Patwari (Except in case of great urgency) during the times when the principal crop girdawaris are going on, Patwari should be summoned only when their presence is absolutely necessary in the opinion of the courts and the evidence of the Kanungo is insufficient. The question whether urgency exists will be decided by the Revenue Court.

**62. Patwari is to be summoned through the Tehsildar, courts to furnish Patwaris with certificates showing attendance.**-When a Revenue Court requires the attendance of a Patwari at a time other than that above referred to, such court should forward the summons to the Tehsildar as principle revenue authority of the tehsil to which the Patwari belongs. The Tehsildar should serve the summons with as little delay as possible. A certificate should be furnished by the Court to every Patwari, who attends in obedience to a summons, showing the date of his appearance before the court and date on which he was relieved.

**63. During Settlement Patwaris to be examined by Commission.**-When a Settlement is in progress, it is especially undesirable that Patwaris should be summoned to attend in the Revenue Courts when they are required to give evidence which cannot be contained in the manner indicated



in paragraph I, this should usually be obtained by the issue of a Commission under order XXVI, Rule 4(1) (c) of the Code of Civil Procedure. Such Commissions ordinarily be addressed to the Settlement Tehsildar of the tehsil, but any wish expressed on this point by the Settlement Officer should be responded to, and the period to be ordinarily allowed for the execution of a commission should be arranged in consultation with him.

The Revenue Court issuing the commission should always note thereon the date to which the case has been adjourned, and the officer to whom the commission is sent should then be careful either to return the commission by that date, or to inform the Court, before such date, of the circumstances which will prevent the return of the commission within the time fixed, and what further time will be required.

## SECTION K-COMMISSIONS AND LETTERS OF REQUEST

(See Chapter 10, Volume I *ibid*)

64. The general law as to commissions and letter of request is contained in Sections 75 to 78 and Order XXVI of the Code of Civil Procedure and the forms to be used are No. 7 or 8 of Appendix H of Schedule I of the said Code.

65. **Expenses of Commissioners.**-Applications for issue of commission should be made as early as possible. Notice of any such application should be given to the other side. If, the application is granted, the Court should fix a sum for the expenses of the Commission which should, ordinarily, provide a reasonable fee to the Commissioner. If at any time the sum so fixed is found to be insufficient, it may, for special reasons, be increased by the Court, the full sum fixed should be paid to the Commissioner, but where the commission is not executed at all or not fully or satisfactorily executed or the work done turns out to be less than was expected, it will be in the discretion of the Court to direct a less amount to be paid or to make any other order in the matter which it thinks just and proper in the circumstances.

66. **Issue of Commission to Revenue Officials.**-The following direction relate to issue to Revenue Officials:-

(i) No Revenue Court, of a grade lower than the court of the Collector, shall issue a Commission to a Revenue official to make a local investigation or to examine accounts or to make a partition of immovable property, not paying revenue, to Government, except with the previously obtained sanction of the Deputy Commissioner.

(ii) When a Commission is issued under the preceding rule to any Revenue official below the rank of Tehsildar, moderate fees may be allowed by the Court issuing the Commission if such Court is satisfied with the manner in which the Commission has been executed, and considers the services rendered sufficiently onerous to deserve remuneration.

Provided that in the case of a Commission issued by a Court subordinate to that of the Collector no fees shall be allowed except with the approval of the Deputy Commissioner, and of such amount as he considers appropriate.

67. **Issue of Commissions for local investigation etc.**-Wherever it becomes necessary in the course of a suit to appoint a Commissioner to make local enquiry or to examine accounts (see Order

XXVI), the Revenue Officer who makes the Order for such appointment should write the order with his own hand, and specify therein;

- (a) the precise matter of the enquiry,
- (b) the reason why the evidence bearing on that could not reasonably have been taken in the usual way at the trial in Court.

**68. Duties of Commissioners so appointed.**-The Commissioner's duties should be strictly limited by the order to such matters as taking accounts and dispositions of witnesses, reporting to the Court, either by means of a map or plan, or in writing or both the existing physical features of the subject inspected, its boundaries and situation relative to other subjects, and so on as the case may be. The functions of the Commissioners are thus limited to procuring evidence and information for purpose of the trial and this evidence, including the maps, reports and record of evidence made by the Commissioner must be adduced in open Court before the parties, and placed on record like all other evidence. The Court has no power to depute to the Commissioners the final determination of any issue between the parties.

**69. Selection of Commissioners.**-Great care should be exercised by the Courts in selecting persons or appointment as Commissioners for the purpose of making local inquiries and Deputy Commissioner should exercise strict supervision over the action of subordinate Courts in this respect. The habitual employment of the same person should not be encouraged. The issue of Commissions to petition writers and persons to hang about the Court should not be permitted.

**70. As above.**-Court Readers or other ministerial officers should never be appointed to make local investigation, such as finding out the market value of the property, etc. Such Commissions should be issued wherever possible to retired Revenue Officers or professional men such as Engineers, Contractors, Auctioneers and Accountants.

Commissioners to examine accounts should be selected from men competent in the particular form of accounts. It is absolutely futile to issue Commission in a particular form of account to a person who is unable even to read the script in which those accounts are written.

**71. Letters of request to a foreign country.**-Letters of a request for execution in a foreign country should invariably be sent through the State Government. They should be accompanied by a complete list of questions to be put to the witness. Translations of the letter of Request and of the interrogatories and cross-interrogator and of any other document about which the witness is to be examined, should in all cases be furnished by the party at whose instance the letter of Request is issued in the language of the country in which the Commission is to be executed and should be transmitted with the Letter of Request. In cases where both parties are to be represented at the examination, the Letter of Request might further ask that the agents of the parties be permitted to ask such further questions in examination and cross-examination as they may be advised.

**72.** As the foreign authorities responsible for executing Letters of Request, etc., are entitled to the payment of any out-of-pocket expenses actually incurred in obtaining the evidence for Indian Courts, the Courts should, therefore, satisfy themselves before sending any document for execution that in case of such a demand being made the money will be forthcoming.

SECTION L-(HEARING OF SUITS, ADJOURNMENTS, EXAMINATION OF WITNESSES, ETC.)  
(See Chapter I-H, Vol. I *ibid*)

**73. Notice of the day of trial and adjournment.**-Notice of the day of trial reasonably sufficient to enable the parties to attend with their witnesses, should be given beforehand. It is the business of the parties respectively to take all reasonable steps to have all their witnesses present in Court on the day fixed. The Court should on application and deposit of process-fees within proper time, issue the requisite summonses as soon as possible so as to secure their attendance on the day fixed for hearing. The day fixed for the trial should not be changed except for sufficient cause, and in dealing with applications for adjournment the interests of both parties ought to be considered. When the day of trial is changed otherwise than with the consent of all parties, reasonable notice of the change should be given as in the first instance. The court should in every instance, at the time of granting an adjournment, record its reasons for so doing and make an order as to the cost thereof.

Revenue Judicial cases, especially in which parties have engaged counsel should not as far as possible, be taken up on tour without giving notice sufficiently in advance to the parties of the place of hearing. The record should show that due notice of date and place has been given and served upon the parties.

**74. Adjournments on payment of costs.**- It has been observed that a number of Courts grant an adjournment merely because the party at fault is prepared to pay the cost of adjournment. Subordinate Courts should bear in mind that the offer of payment of the costs of adjournment is not in itself a sufficient ground for adjournment. The provision of Order XVII, Rule 3, also deserves notice in this connection. If a party to a suit whom time has been granted for a specific purpose as contemplated by Order XVII, Rule 3, Civil Procedure Code, fails to perform the act or acts for which time was granted with any good cause, the rules gives the court the discretion to proceed to decide the suit 'forthwith', i.e., without granting any adjournment. In such cases a further adjournment should not ordinarily be granted merely because offer is made for payment of costs. In some courts, it is apparently assumed that if such an adjournment is not granted the case will be remanded by an Appellate Court. There are however, no valid grounds for this assumption. If the record makes it clear that a further adjournment has been refused because of negligence of the party concerned, such refusal would not in itself justify an Appellate Court in remanding the case. An adjournment granted otherwise than on full and sufficient grounds is a favour and in suits favour can be shown to one party only at the expense of the other.

No hard and fast rule can, however, be laid down. Each case must be judged on its own merits.

**75. Witnesses should be examined on the day on which they attend.**-Revenue Courts should endeavour to hear the evidence on the date fixed, much expense and inconvenience being caused by postponements ordered on insufficient grounds, before the witnesses in attendance have been heard. Under Order XVII, Rule I, of the Code when the hearing of the evidence has once begun, the hearing of the suit should be continued from day to day until all the witnesses in attendance have been examined unless the courts finds the adjournment of the hearing to be necessary for reasons to be recorded by the presiding officer with his own hand.

**76. Court to note when each party has closed his case.**-It is frequently urged in appeals that a party has/had a witness in attendance whom the lower court has omitted to examine. It is often impossible to ascertain from the record whether this is the case and it would be equally impossible to ascertain it by a remand. It is, therefore, directed that, as regard both plaintiff and defendant, when the examination of the last witness produced in Court by either party is closed such party shall be distinctly asked if he has more witnesses to produce; that the question, and reply shall be noted on the record, and that if more witnesses are named, the Court shall either examine them or record its reasons for not doing so. If either party stated that he desires additional witnesses to be summoned, the Court should record the fact of the application and pass an order thereupon.

**77. Examination of witnesses how to be conducted.**-In the examination of witnesses, questions ought to be put in a leading form as to induce a witness, other than an expert, to state a conclusion of his reasoning an impression of fact or a matter of belief in the place of describing what he actually observed. The question should be simple, should be put one, and should be framed so as to elicit from the witness, as barely as may be in chronological order, all the material facts to which he can speak of his own personal knowledge. A general request to a witness to tell what he knows or to state that fact of the case should as a rule not be allowed because it gives an opening for a prepared story. Where the party calling witnesses is not aided by a counsel, and is unable himself to examine properly his witnesses he may be asked to suggest questions and the examination may be conducted by the Court.

**78. Cross examination.**-When the examination-in chief is concluded, the opposite side should be allowed to cross-examine the witness, or if unable to do so, to suggest question to be put by the Court. In cross-examination leading questions are permissible.

**Re-examination.**-Then should follow, if necessary for the purpose of enabling the witness to explain answers which he may have imperfectly given on cross-examination and to aid such further facts as may be admissible for the purpose.

**79. Question by the court.**-When the examination, cross-examination and re-examination are conducted by the parties or by their pleaders, the presiding officer, ought not as a general rule, to interfere except when necessary, e.g., for the purpose of causing questions to be put in a clear and proper shape, or checking improper questions, and of making a witness give precise answers, at the end, however, if these have been reasonably well conducted, he ought to know fairly well the exact position of the witness with regard to the material facts of the case, and he should then put any questions to the witness that he thinks necessary. The examination, cross-examination, re-examination and examination by the court (if any) should be indicated by marginal notes on the record.

#### SECTION-M-JUDGEMENT AND DECREES

**80. General instructions as to the judgement.**-When the trial in Court is over the Revenue Officer should proceed at once, or as soon as possible to the consideration of his judgement. It is entirely necessary that he should do so while the demeanour of the witnesses and their individual characteristics are fresh in his memory. He should bear in mind that his first duty is to arrive at a conscientious conclusion as to the true state of those facts of the case about which the parties are not agreed. The oral and documentary evidence adduced upon each issue should be carefully reviewed and considered in the judgement. The judgement should contain a concise statement of the

pleadings, the points for determination, decision thereon, and the reasons for such decision. The judgement should be dated and signed in open court at the time of pronouncing it, and should be pronounced in open court at a time fixed for the purpose. When a judgement is not written by the Presiding Officer with his hand, every page of such judgement should be signed by him. It should contain the direction of the court as to costs.

**81. Evidence and final order to be recorded legibly.**-Judgements (when not type-written) should always be written in a clear and legible manner. If they are not so written, such a copy should be made and placed with the record. When a Revenue Officer has occasion to decide any case in accordance with any rules or order of Government or of the Financial Commissioner, or any section of any Act of the Legislature, should make a reference in his order to such rules, orders or Acts, and in recording his Order he should as far as possible use the actual wording of such rules, order or Acts.

**82. Judgements must be written and announced within 14 days from the date on which arguments are heard.**-Instances have occurred of judgement not being written until a considerable time after final arguments in a case have been heard. This practice is open to grave objection, and in any case, in which judgement is not written and pronounced within 14 days from the date on which arguments were heard, a written explanation of the delay must be furnished by the subordinate court concerned to the Deputy Commissioner. This is not meant to encourage judgements; on the contrary, judgements should ordinarily be written as soon as arguments have been heard.

It is only in the exceptional case where the Court has to consider many rulings and cannot conveniently give judgement at once, that there is any justification for judgement being reserved.

**83. Decree.**-The decree should be framed by the Revenue Officer with the most careful attention to its object. It must agree with the judgement, and not only complete in itself but also precise and definite in its terms. It should specify clearly and distinctly the nature and extent of the relief granted, and what each party effected by it, is ordered to do or to forbear from doing. Every declaration of right made by it must be concise, yet accurate and every injunction, simple and plain.

**84. Standard forms of decree prescribed in certain cases.**-Standard forms of decree for use in the following classes of Revenue Court cases have been prescribed by the Financial Commissioner:-

- (i) Claims for right of occupancy.
- (ii) Claims to contest notice of ejection.
- (iii) Claims for enhancement of rent.

#### OCCUPANCY

**85. Powers of the court to be disclosed.**-Every judicial officer hearing or deciding a suit, proceeding or appeal, is responsible that the record, the final order of judgement and the decree, shall disclose the powers which such officer exercised in hearing or deciding such suits, proceeding or appeal.

**86. Preparation of decree.**-The following directions relate to the preparation of decree:-

- (i) In decrees for possession of agricultural land, it should be stated whether possession is to be given at once or after the removal of any crop that may be standing on the land at the time when the decree is executed or on or after any specified date.

(ii) In Appellate Courts the language used in filing in the decretal order, shall conform to the action recognized by the law, and shall direct that the decree of the lower court be either “affirmed” “varied” set “aside” or “revised”. In each case, in which a decree is affirmed, the terms thereof shall be recited, so as to make the appellate decretal order complete in itself. In varying a decree, the relief granted in lieu of that originally granted shall be fully and accurately set out. Where a decree is reversed on appeal, the consequential relief granted to the successful party similarly be stated. Every decretal order shall be so worded as to be capable of execution without reference to any other document and so as to obviate misunderstanding on the part of the persons concerned.

(iii) When any parties are added or substituted in the course of the suit, care should be taken to see that their names are properly shown in the decree-sheet.

**87. Decree based on compromise.**-When a decree is to be passed on the basis of a compromise, the court should order the terms of compromise to be recorded in accordance with the provision of Order XXIII, Rule 3, Civil Procedure Code, and then pass a decree in accordance with the terms. When, however, the compromise goes beyond the subject matter of the suit, a decree can be passed only in so far as it related to the suit. As regards the proper form of decree in the latter class of cases, the direction of their Lordships of the Privy Counsel in ‘Hemant Kumari Devi versus Midapur Zamindari Company’ (46 IA 240 and 244 and ILR 18 Cal 485) should be followed.

When any of the parties to the case are minors care should be taken to see whether the compromise is to their benefit and record a finding to that effect if the compromise is sanctioned and made the basis of a decree.

#### SECTION N-APPEALS

(See Chapter 14, Volume I ibid)

**88. General.**-The instruction contained in Chapter 14-B and 14-D of Volume I of High Court Rules and orders should be observed mutatis mutandis by all Revenue Appellate Courts.

The provisions of Order XLI, Rule II, of the Code of Civil Procedure, which enables the Appellate Court to dispose of a registered appeal by confirming the decision of the lower Court on a fixed date in presence of the appellant, without sending for the records and without summoning the respondent is a very important one, and Appellate Courts should be careful to see that its object is not defeated and respondents put to unnecessary trouble and expense by the indiscriminate issue of notice to the respondents in all cases. It should be observed, that when a decision is confirmed under Order XLI, Rule II of the Code the confirmation must be notified to the lower court. Such confirmation within the definition of ‘Decree’ in section 2 of the Code, and being as such, appealable, a formal decree should be framed in every case disposed of under the provisions of Order XIII, Rule II.

**89. Copy of decree to be filed.**-Appellants should always file, with the petition of appeal and the copy of the judgement copy appealed against, a copy of the decree appealed against.

**90. Vernacular copies of English order not Required.**- It is not necessary to file copies of orders in vernacular (Hindi) as well as in English. Where English order is the original it will suffice to file a copy of the order in English, on duly stamped paper, without its counterpart in vernacular (Hindi).

91. **Terms “Appellant” and “Respondent” not to be used.**-As confusion frequently arises from the use of the words “Appellant” and “Respondent”, in two successive Appellate courts, especially when the parties appealing belong to different side Appellate Courts should not use these terms, but always “Plaintiff” and “Defendant” throughout their proceedings. If the latter terms are used no mistake can possibly arise.

92. **Appellate files transmitted in vernacular.**- In case of appeal to the Financial Commissioner files should not be transmitted under English docket or covering letter; nor will they be so returned except in case of importance, or general interest.

93. The following rules are made by the Financial Commissioner in regard to the transmission of Appellate Courts orders to lower Courts:-

- (i) The Commissioner will send copies of all his judgements on appeal to the Collector, who will transmit the copies to the original court for information and return direct to the Record-Keeper, to whom the original records will be sent at once.
- (ii) The Collector will similarly send copies of all his judgements on appeal to the original Courts for information and return direct to the Record-Keeper, to whom the original records will be sent at once.

#### SECTION O-ABATEMENT OF PROCEEDINGS

94. **Death, marriage or insolvency of parties.**-(1) In Revenue Officer’s cases, death of one of the parties to a revenue proceeding, or in a proceeding to which a female is a party, her marriage does not cause the proceedings to abate. And the Revenue Officer before whom the proceeding is held shall have power to make the successor in interest of the deceased person or of the married female a part thereto.

(b) In Revenue Court cases, the procedure to be followed in the event of death, marriage or insolvency of parties is laid down in Order XXII, Civil Procedure Code. Proper steps must be taken to bring the legal representatives of the persons concerned (the Receiver in the case of a person who is declared an insolvent) on the record within the period of limitation. Otherwise the suit is liable to abate, wholly or partly in certain cases. The abatement take place automatically and a formal order of abatement, though not essential, should be recorded. The abatement can be set-aside on an application by the aggrieved party, if sufficient cause is shown (Order XXII, Rule, 9)

There is no abatement if a party dies after the conclusion of the case but before judgement. In such cases judgement may be pronounced and will take effect as though it had been pronounced while the party was alive.

In certain cases, the abatement of a suit against as one defendant results in the dismissal of the whole suit. Reference may be made in this connection to I.L.R., 10 Lahore 7 (F.B.).

#### SECTION-P-MISCELLANEOUS

95. **Rent suits.**- Para 804 of Land Administration Manual and Section 51(1) of the H.P. Tenancy and Land Reforms Act, 1972 should be strictly observed and in case no application for grant of compensation is put, in a note should be made by the Court that the tenant was so directed.

In suits for enhancement of rent the Revenue Court should invariably state in tabular form in its judgement the area involved and the present land revenue, and cesses, together with the rent or malikana as the case may be. If there has been a recent re-assessment of land revenue the previous land revenue cesses and malikana (if any) should be stated also.

**96. Tenure to be accurately described.-** The attention of the Revenue Officers is invited to the necessity of describing accurately the tenures dealt with in their administrative and judicial proceedings. It is very common for an undivided share in a holding to be described as if it were a stated area of land held separately. Care should be taken to eliminate mis-descriptions of this nature from revenue proceedings. If a person holds an undivided share in land his interest should always be so described; and the use of words which imply that he holds separately a definite area should be carefully avoided. Plaints, applications and reports which contain errors of this nature should be returned for correction.

**97. Surveys and boundaries.-**When time has been granted by the Civil Court to party in suit for the purpose of making an application under Section 107 of the H.P. Land Revenue Act, 1954 and such application is made, the Revenue Officer should endeavour to dispose of the application as promptly as the circumstances of the case will allow.

**98. References to High Court under Section 81.-**Direct references to the High Court of the kind provided for in section 81 of the H.P. Tenancy and Land Reforms Act, 1972 be made by Commissioners and Collectors, and the rules published in Chapter 15 of the Rules and Orders of the High Court Volume-I, should so far as they are applicable, be observed by Commissioners and Collectors in making these references and all Revenue Courts should similarly observe these rules in making these references under Section 80 of the Act *ibid*.

**99. Court hours holidays and cause lists.-**The attention of Revenue Officers is invited to the instructions laid down in Chapter I-A of the High Court Rules and Orders, Volume I, in regard to the means to be adopted of informing litigants of the hours of business of Court holidays and cause lists, with the object of reducing the number of dismissals of cases in default of appearance of plaintiffs or appellants. Revenue Courts and Officers should conform to the practice thus laid down for Civil Courts.

**100. Petition paper.-** With regard to the paper employed in formal petitions to Revenue Courts and Officers the practice of Civil Courts should be followed. The paper required should be obtained by Collectors from the Deputy Controller, H.P. Printing and Stationery Shimla quarterly on regular indents. The paper is to be sold to the public at ten paise per sheet, and the rules for the supply, custody and sale of non-postal stamps given in the Punjab Stamp Manual apply *mutatis mutandis* to the water marked petition paper.

**101. Preparation of records, size and quality of paper.-** Instructions for the preparation of Revenue Judicial Records and the size and quality of paper to be used in all Revenue Courts and Offices are reproduced below:-

1) **Petition paper to be used for all copies, petitions and applications.-** The instructions conveyed in Chapter 16 Part-A, Rule-1 of the Rules and Orders of the High Court, Volume IV, regarding the use of the standard pattern water-marked plain paper supplied by the Dy. Controller of



Printing and Stationery H.P. should be strictly followed in Revenue Courts and Offices. All copies of Revenue documents and all applications and petitions should be written on this paper, and copyists and petition writers should be required to comply with this direction. The paper is to be used and kept flat at its full size (13½''x 8½'')

2) **Official full-scape paper.**- The official full scape half-sheet, which is very nearly the same size as the petition paper alluded to in the last paragraph should be used for all English portions of the record; and should also be kept flat.

3) Unbleached double full-scape paper of 24 lbs. should be used for the autograph records of officers who do not write their record in English. For ordinary purposes, paper of 20 lbs. should be used.

4) **Instruction to prevent waste.**-In order to prevent waste and injury and improve the vernacular (Hindi) records, attention should be paid to the following matters:-\

(a) In all cases depositions of witnesses should be written continuously instead of on separate sheet, a clear space of 3 and 4 inches being left between the end of one and the beginning of the next deposition (if on the same sheet).

(b) The practice of writing orders and other matters across the top and along the sides of a page should not be avoided.

(c) In all vernacular proceedings an eighth margin should be left on each side of the paper, so that writing should not be obliterated by fraying at the edges.

(d) Files in use in Revenue Offices should be placed between stiff wooden or cardboard protectors, of the size of the standard file when tied together, so that the strain of the cloth or other covering or of the strin or tape does not fall on the papers within. It is not intended that the file of each case should be placed between stiff covers, all that in necessary is to tie each file with broad tape or nawar instead of strings, but each bundle of files should until packed away in the Record Room, be kept between stiff covers to prevent fraying, folding, etc.

(e) English records and papers should be placed at their full size in envelopes of the size of the file.

(f) Exhibits should be folded to as nearly as possible the same size and placed in envelopes of the size of the file.

102. All Revenue Court are required to enter on a separate sheet or sheets in the annexed form, a short abstract of every order passed in the course of the proceedings in a case. The entries are to be made consecutively according to the dates of the orders, and the sheet is to be the first paper entered in the index of papers. The entries so made are to be in addition to the usual record of the orders in their proper places in the file, and are intended to facilitate the tracing by appellate Courts of the course of procedure in a case.

## FORM OF CHRONOLOGICAL ABSTRACT OF ORDERS

In the court of  
Case No.

at  
of

Against

---

Date of order

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Abstract of order

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Generally, this abstract is not necessary in Revenue Officers and miscellaneous cases, but partition, boundary and muafi cases are exception to this general rule.

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## STANDING ORDER OF THE FINANCIAL COMMISSIONER HIMACHAL PRADESH

## Standing Order No. 5

## INSPECTIONS

Note.- 1. The instructions in this Standing Order apply to Sub-Tehsils also the word “tehsil” means a “Sub-Tehsil” and “Tehsildar” shall mean a “Naib-Tehsildar” when the inspection relates to a Sub-tehsil.

2. “Sub-Divisional Officer (Civil)” shall mean the “Sub-Divisional Collector” if the powers of Collector have been conferred upon the officer otherwise it shall mean “the Assistant Collector of the First Grade” if he enjoys the powers of this grade only.

1. **Importance of inspections.-** The work in tehsil offices, sub-divisional offices and the Deputy Commissioner’s offices has increased tremendously. It is likely that certain branches of work may be neglected while others may not receive the attention and care they deserve. It has, therefore, become all the more necessary that these offices are thoroughly checked every six months. A perfunctory inspection is worse than no inspection as it will merely encourage irregularities and malpractices which have escaped detection. The inspecting officer should, therefore, plan his inspection of these offices in such a manner that he can himself devote maximum time for the thorough scrutiny of the different branches of the office under inspection. If this is not possible to do so, it is advisable to check one or two branches thoroughly and to leave the remaining branches for the next inspection.

2. **Minute book of inspection.-** At each district, sub-divisional and tehsil office, there shall be maintained a<sup>1</sup> minute book of inspections in which the inspecting officers shall note the result of their inspections. The minute book is to be preserved permanently (see para 8 infra). It should be made of good quality paper and should be bound in cloth. It will be the duty of the Controlling Officers to see on every subsequent inspection that the defects pointed out previously have been rectified. The Sub-Divisional Officer (Civil), the District Collector and the Commissioner should keep in mind the results of these inspections while writing the annual confidential reports of the officer concerned.

3. **No. of inspections.-** In view of the immense value of these inspections, no tehsil office should be left without detailed inspection for a longer period than six months. The Sub-Divisional Officer (Civil) should, therefore, thoroughly inspect each tehsil within his jurisdiction once a year.

The Deputy Commissioner, should himself inspect each tehsil office thoroughly once a year and, in case, he has no time to do so himself, he should direct the Additional Deputy Commissioner or the District Revenue Officer or any other experienced Revenue Officer at the headquarter to do so on his behalf. However, he himself should visit each tehsil once in two years.

The Deputy Commissioner will also inspect at least half of the sub-divisional offices/courts in a year. Various registers prescribed for Revenue Officers and Revenue Courts under Standing

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<sup>1</sup> Note. – As matter of policy, all the inspecting officers should give priority to those tehsils, sub-divisions and districts for inspection which have been afflicted by natural calamities such as drought, hail, flood and fire etc. or otherwise require the attention of the Government because of its peculiar problems or have remained uninspected for long.

Order No. 14 (formerly Standing Order No. 55) should be inspected besides checking of other miscellaneous work.

Once in year, the Deputy Commissioner either himself or through the Additional Deputy Commissioner and if there be no Additional Deputy Commissioner through his District Revenue Officer or any other senior officer at the District headquarter must have his own office thoroughly checked. The details of branches and the work assigned to them is described in the District Office Manual.

The norm for inspection by the Divisional Commissioner will be as under:-

Name of office		Period
3. Deputy Commissioner's Office/Court		Once after a lapse of two years under his charge subject to the condition that all offices/courts are inspected during the period of three years.
4. S.D.O (C)'s office/court		-do-
5. Tehsils/SubTreasury		Once in three years.

4. **Control of Commissioner over the inspecting officers in his division.**-The Commissioner is responsible for ensuring that these inspection are carried out regularly by the Deputy Commissioner and Sub-Divisional Officer(Civil) within his division. The Deputy Commissioner will send each year by 10<sup>th</sup> of April and 10<sup>th</sup> of October, Statement No. 1 showing which tehsils and sub-divisions have been inspected by him and which tehsils have been inspected by the Sub-Divisional Officer (C) in the six months ending 31<sup>st</sup> March and 30<sup>th</sup> September. The Commissioner will draw the attention of the Deputy Commissioner and the Sub-Divisional officers (C) to the tehsils which have not been inspected and ask the concerned inspecting officer to inspect them during the following six months. Proper notice should be taken of the failure of the inspecting officer in this respect and the Deputy Commissioner should be required to ensure that all the remaining tehsils are inspected by the concerned inspecting officer in the following six months.

5. By the end of May each year, the Commissioner should forward a Statement No. II to the Financial Commissioner's office indicating the tehsils and other offices in which inspections have been carried out and in which these are yet to be carried out and stating reasons thereof.

6. **Submission of copies of inspection notes to the Commissioner and Financial Commissioner.**-The Sub-Divisional Officer (Civil) should submit a copy of his inspection note to the Deputy Commissioner and the Deputy Commissioner should send a copy of his inspection note to the Commissioner of the division. When a Commissioner inspects an office or a court, he should forward a copy of the inspection note to the Financial Commissioner. Copies of the minutes recorded by the Financial Commissioner on his inspection of a tehsil/court /office should be forwarded to the Financial Commissioner's office for record.

7. Inspection note should consist of two parts, the first consisting of general conclusions relating to matters of particular importance and the second of detailed criticism. The inspecting officer should verify all important points personally and should suggest steps to remove defects. The inspection note should be clear and concise. Copies of inspection notes should reach their destination within a month at the latest of inspection.

8. **Destruction of inspection note.**-The original minute book of inspections is an important record of local problems at different times. It should, therefore, be preserved permanently. Copies of inspection notes filed in district and divisional offices should be destroyed after three years.

9. **Distribution of work in tehsil office.**- Being head of office, the Tehsildar is responsible for distribution of work in the tehsil office. There will be variations in every district in every tehsil, but broadly the distribution of work in the various branches should be somewhat as follows:-

**A-Peshi Branch**

- (i) court work (revenue and criminal),
- (ii) partition cases,
- (iii) cases under land reforms laws,
- (iv) execution of orders of Civil Courts,
- (v) cases of lambardars etc.

**B-Land Records Branch**

- (i) Revenue record and various statements and returns connected therewith;
- (ii) Patwaris and Kanungo's cases
- (iii) human census,
- (iv) cattle census,
- (v) agricultural census,
- (vi) election work,
- (vii) natural calamities and gratuitous relief;
- (viii) miscellaneous land reforms work and
- (ix) resumption of muafi ceses etc.

**C-Revenue Accounts Branch**

Revenue accounts and land acquisition cases etc. other than the Public Works Department and the State Electricity Board.

**D-Miscellaneous Branch**

Office routine, matters relating to chowkidars, peons and other miscellaneous matters.

**E-Registration Branch**

Registration work.

10. **Matters requiring attention at the time of inspection.**- Generally, the inspecting officer will know either from his personal knowledge or from the previous inspection notes as to what are the particular points to be looked into in a tehsil under inspection. At the same time, his local knowledge should tell him as to what are the most important or most difficult tasks that the particular tehsil staff has to do. It is, therefore, not necessary to lay down a programme of tehsil inspections or to limit in any way the discretion of an inspecting officer. He is in a better position to direct his inspection to the points, he thinks are important, and require his attention. The following items of work should, however, be seen while inspecting the work of the various branches.

**A-Peshi Branch**

Registers for Revenue Courts prescribed under para-2.

## STANDING ORDER NO. 14

1. Revenue Court cases.
2. Execution of decrees in revenue court cases.
3. Objections in executions.
4. Miscellaneous applications.
5. Witnesses.
6. Persons punished for contempt of Court.
7. Dates fixed for hearing of cases.

The above registers should be scrutinised to ascertain:-

- (i) that the work is disposed of punctually,
- (ii) that the files are consigned to the record room promptly,
- (iii) that the suit register properly indicates the relief decreed and the amount of the costs awarded so as to avoid the necessity of referring to the file at the time of application for execution.
- (iv) that the appellate orders are properly noted and also the relief and the costs awarded by the appellate court,
- (v) that the suit and the execution registers clearly show the extent to which the decree has been executed,
- (vi) that the entries in the two registers are properly linked,
- (vii) the pending files should be checked to see that witnesses present for more than one day are so noted in register-V,
- (viii) that the plaints document are properly stamped,
- (ix) that the names of the parties given in the plaint on comparison with the extract from the Jamabandi show that all the necessary persons impleaded are parties to the case and no one has been impleaded who is neither a co-sharer nor a tenant in the holding and over whom the revenue court has no jurisdiction. If some person has been wrongly included as a party or has been omitted from the plaint, see that the court has taken action in striking out unnecessary party and adding the necessary party,
- (x) files of proceedings and suits between landowners and tenants should be scrutinised in the light of Standing Order No. 1,
- (xi) it should be noted if common proceedings have been taken in suits involving the same parties and the same points of law and facts.

## REGISTERS FOR REVENUE OFFICERS (PARA 3) STANDING ORDER NO. 14

**11. Cases relating to Lambardars.-Register I (for Lambardars).-** (i) Ascertain the number of cases instituted, the date of the oldest case and the number of the cases pending.

(ii) Pending files should be gone through to see if there are unnecessary adjournments and if cases are taken up on the spot.

(iii) Check a certain number of entries to see if the register of mutation of names is regularly written up.

(iv) Check that all files are entered in Register I as soon as instituted and not when reported to Sadar.

(v) Check whether patwaris report casualties promptly.

**12. Partition cases.-Register IX (page 3 Standing Order No. 14).-** Maintain separate Misalband for Tehsildar and Naib-Tehsildar.-

(i) This register should be examined in order to detect delays. Column Nos. 6 and 8 should be referred to and causes of delays should be carefully enquired into.

(ii) Pending files should be examined to see if all have been entered in the Register.

(iii) Check a few files to see:-

(a) that there have been no undue delays or adjournment.

(b) that the preliminary hearing was held on the spot (Chapter 18.6 of the Land Records Manual),

(c) that the partition was properly carried out (Chapter 18.12 of the Land Records Manual),

(d) that the mode of partition was clearly reported (Chapter 18.10 of the Land Records Manual).

(iv) Names of the parties given in the application for partition should be compared with those noted in the parcha jamabandi and it should be seen whether all the necessary co-sharers have been made parties in the case and that all of them were duly served with notice. In cases of partition of land held by recorded tenants, both landowners and tenants should be parties.

(v) See that ex-parte proceedings are not taken without showing sufficient cause.

(vi) Check that the provisions of Chapter 18.10 of the Land Records Manual are observed in determining the mode of partition, and that the mode is not vague.

(vii) Ascertain whether there has been any undue delay in effecting the partition and, if so, why.

(viii) Ascertain whether there has been any undue delay on the part of the field staff in effecting partition on the spot. If so, reasons for delay should be looked into. In case there are no sufficient reasons, responsibility for delay should be fixed on the concerned official.

**13. Coercive processes (Standing Order No. 8).-** The following registers should be inspected-(Prescribed under para 3 of Standing Order No. 14):-

- (i) V-B—Cases under chapter VI of the H.P. Land Revenue Act.
- V-I-B—Cases under section 103 of the H.P. Land Revenue Act.
- V-II-B—Cases for which no other register is provided.

- (ii) The receipts for writs and warrants (Standing Order No. 8) and the monthly statement of writs and warrants (Standing Order No. 8 paragraph 11 should also be seen).
- (iii) Ascertain the number of writs and warrants of arrest and attachment and cases of actual arrest and attachment, and reasons for any remarkable figures.
- (iv) Check that a separate process is issued for each default.
- (v) Check balances of forms with numbers, sent and issued.
- (vi) Check talbana receipts with day-book or register of classified items and dakhilas.
- (vii) Ascertain the talbana balance as shown in the monthly tauzi with the above registers.
- (viii) A few pending and decided files of recovery of revenue should be checked and it should be observed whether there has been any unreasonable delay or irregularity of procedure.
- (ix) Ascertain that correct amount of talbana is being levied.
- (x) Ascertain whether the ahlmad understands what cases are to be entered in registers V, VI or VII and that the entries are correct.

14. **Registers for miscellaneous revenue work.**- The following registers (Standing Order No. 14) should be inspected:-

III-B- Register of cases relating to Chapter V of H.P. Land Revenue Act other than assessment of resumed assignments.

XI—Register of cases relating to execution of orders of civil and criminal courts.

XI-A—Register of cases relating to execution in revenue courts.

XII- Register of cases relating to division of produce under section 156 of H.P. Land Revenue Act.

XIII- Register of cases under the H.P. Land Revenue Act for which there is no other register.

XVI- Register of cases enumerated in section 57(1) of the H.P. Tenancy and Land Reforms Act, 1974.

Check whether any case of division or appraisal of produce under section 15 of the H.P. Tenancy and Land Reforms Act, 1972, which might be entered in Register XVI is entered in Register XII above or vice versa and whether the muharrir understands what cases are to be entered in each register.

Ascertain whether the muharrir conveniently understands the entries in each register.

### **B.-Land Records Branch**

15. Office Kanungos are required to submit to the Tehsildar various periodical returns showing agricultural data and the progress of various branches of the work of the Kanungos and Patwaris. These returns are forwarded to the Deputy Commissioner by the Tehsildar.



- I. Check whether these returns are sent regularly, correctly and by due date to the Deputy Commissioner.
- II. Check whether the Office Kanungo has maintained the note books for each estate, for each assessment circle and for the tehsil.
- III. Ascertain whether:-
  - (a) the accounts of blank forms and their issue to Patwaris and Kanungos are kept properly,
  - (b) the accounts of the Patwari and Kanungo establishment are upto date,
  - (c) the accounts of mutation fees are properly maintained,
  - (d) information called for by the superior authorities is supplied timely,
  - (e) reports of natural calamities submitted by Patwaris and Kanungos are in accordance with the provisions of the Emergency Relief Manual and are brought immediately to the notice of the Tehsildar for onward transmission to the Deputy Commissioner through the Sub-Divisional Officer (Civil). In case of delay what action has been taken against the delinquent.

See that the following registers are maintained by the Office Kanungo and are upto date-

1. Copy of register of accepted Patwari Candidates.
2. Stock register of Patwari forms.
3. Stock register of forms used by the Kanungos and Tehsildars.
4. Copy of register of Patwar Circles.
5. Register of rainfall.
6. Register of prices current (Daily or Weekly)
7. Register of mutation of names of Lambardars.
8. Register of annual returns filed by Patwaris.
9. List of villages (if any) exposed to river action.
10. Register of contingent expenditure met from permanent advance.
11. Consolidated register of survey equipment and almirahs or boxes in charge of Patwaris.
12. Register (in several parts) of revenue free tenures.
13. Register of abstract of orders to which effect is to be given in Patwaris Salary Bills.
14. List of Civil Military Pensioners.
15. Register of interrogatories.

16. Register of survey marks.
17. Register of Patwar Khanas.
18. Files regarding registration memoranda.
19. Lists of accepted and rejected mutations.
20. Register of resumption of muafis and pension.
21. Register of Patwaris and Kanungos.

16. **Maintenance of Reference Books and Circulars.-** The Tehsil Office Kanungo is required to keep complete set of revenue books (Para 2.57 of the Land Records Manual) and the Standing Orders issued by the Financial Commissioner. He is also required to keep in separate files the instructions issued by the Financial Commissioner and the other local officers. It should be seen whether the reference books are kept upto-date amended and the files of circulars are properly maintained.

### **C-Revenue Accounts Branch**

17. Standing Order No. 7 prescribed a detailed procedure for acquisition of land for public purposes. Peruse Register XIII-B which is missal land for the land acquisition cases.-

- (a) **Land Acquisition cases.-** Find out how many cases are pending at the tehsil. Satisfy yourself that the prescribed procedure is being followed and there is no avoidable delay.
- (b) See how much money is lying with the Tehsildar on account of compensation for land acquired and what steps are being taken to disburse it to the persons concerned.
- (c) Also see whether a tehsil office goes to the spot or whether the persons are being called to tehsil for petty items.

18. **Suspensions and remissions.-** Register IV-Cases relating to suspensions or remissions (Paragraph 3 Standing Order No. 14)-

- (i) Inspect the orders for suspensions, remissions and collections in the last harvest.
- (ii) Check a few files to see whether the field staff sent up suspension and remission cases promptly to the Tehsildar and these were complete in all respects in accordance with the provisions of the H.P. Emergency Relief Manual.

19. **Land Revenue Accounts.-** Ascertain amount under suspension on account of previous harvests and discuss prospects of collection. See that orders of suspension and collection of arrears are entered in the Khatauni.

20. **The following registers should be inspected :-**

- (a) Kistbandi of fixed land revenue (Paragraph 11, Standing Order No. 10.)
- (b) Kistbandi of fluctuating land revenue (Paragraph 16, Standing order 10).

- (c) Running register (Paragraph 28, Standing Order No. 10).
- (d) Khatauni (Paragraphs 32-35, Standing Order No. 10).
- (e) The Tauzis (Paragraphs 36-39, Standing Order No. 10),
- (f) The Tahrij kept by the Wasil Bagi Nawis.

21. It is the basis of revenue accounts that all items of receipts are entered separately on the revenue and treasury sides and it is important to ascertain that the two entries have been made independently and agree.

The entries may be checked for two purposes:-

- (a) to see that all items of demand appearing in the revenue accounts have been paid or are shown as due;
- (b) to see that all items which (from the treasury accounts) appear to have been collected were really due, and have been credited to the payer's account.

The chain through which every item of demand may be traced to see that it has been properly paid and accounted for as indicated below.:-

- (1) The demands statement or order :- This may take the form of a Kistbandi (as in the case of fixed and fluctuating land revenue and some item of other land revenue) or the mutation fee list to the register of talbana or an order on a file. In certain cases detailed below, there must be an entry in the running register.
- (2) The Khatanui :- It shows how the account of each village stands.
- (3) The arz irsals.
- (4) The treasury accountant's day-book or register of classified items.
- (5) The Dakhila counter foils.

For fixed land revenue, take entries from Kist bandis and check arzirsals, day book or register of classified items and dakhila counterfoils as explained above.

22. **Day Book (Tehsil Register).**- The inspecting officer should check up whether the Tehsildar, Naib-Tehsildar is giving the weekly certificate in consecutive order from 1<sup>st</sup> October to 30<sup>th</sup> September, next to the effect that entries have been checked by him from the original Treasury Challan and that the postings in the Khataunis have been initialled by him after comparison with the Day Book.

#### FLUCTUATING LAND REVENUE

23. (a) **Temporary excluded from rent roll.**- Orders for those items all appear on the file and should also be entered in the running register. Collect these files and see that entries or demand have been made in the running register and in the Khataunis, and that entries of payment appear in the running register, khataunis, day-book, arzirsals and dakhila counterfoils.

(b) Permanently excluded from rent roll.- In the case of collections from estates held under direct management and of fluctuating assessment, whether of canal or other lands, the demand order is contained in a Kistbandi and no entry need be made in the running register. It should be seen that this is understood properly as tehsil officials often unnecessarily enter these items in this register. In the case of other items of permanently excluded land revenue, an entry in the running register is necessary. Such items are rare and should be enquired for.

24. **Other land revenue-** The demand order may be on a Kistbandi or a file, paragraph 29 of Standing Order No. 10 give the cases in which they need not be entered in the running register, and in addition it may be stated that wherever an item of demand is important enough to require a Kistbandi, the Deputy Commissioner should seek permission to omit it from the running register. Items under this head are also entered either in the village khatauni or a special Khatauni. Collect all these Kistbandis and check entries with the running register and Khata Khatauni as in the preceding paragraph and in the case of order by the Tehsildar see that the files shows that they have been promptly reported to sadr.

Check collections as explained above.

25. **The Khataunis.-** Ascertain that (i) the balances in the Khataunis have been correctly struck and correctly carried over from the Khataunis of last year, (ii) each entry of demand in the current khataunis is supported by an order of the Deputy Commissioner in a Kistbandi in the case of fixed and fluctuating revenue and of most items of other revenue, and by an order on a file in other cases. If the order is passed by the Tehsildars, see that the file shows that he has at once reported it to sadr, (iii) each entry of demand been entered in the running register where this is necessary.

26. “See that the entries of collections in the Khatauni are initialled by the Tehsildar after comparison with Day-Book”.

Check orders of suspension and remission from the files.

This register requires careful scrutiny as it is often carelessly kept up. It is most important that all appropriate items of the demand of “fluctuating” and “Other” land revenue should be brought on this register as soon as orders are passed. It should at the same time be seen that the register is not inflated by the entry of any but “Other” items in the case of fluctuating revenue permanently excluded from the fixed land revenue roll. A few items of demand may be picked out and the files sent for from the district record room. This will show whether they bear the necessary certificate of entry in this register.-

- (a) Find out whether the demand to the end of the last month under “other land revenue” agrees with that shown in the tauzi.
- (b) **The Tauzi.-** Look through the balances of revenue and ascertain reasons for delay in collection of recoverable balances. The monthly list of balances submitted in accordance with Standing Order No. 10 paragraph 37 should be consulted.
- (c) **Mutation fees.-** Compare statement of demand with Khataunis and check entries of payment, in the latter with the day-book.
- (d) See that the Patwaris receipts for his share is attached to the arz irsal.

**27. The following registers should be inspected:-**

- (a) Taccavi loans (Standing Order No. 11)
- (b) Misalband register, (Standing Order No. 11 paragraph 45).
- (c) Kistbandi for loans under Act XIX of 1883 (Standing Order No. 11, paragraph 40).
- (d) Khatauni, for loans under Act XIX of 1883 (Standing Order No. 11 Paragraph 39).
- (e) Ascertain the amounts granted in the past year and how the Tehsildar is spending his allotment for the current year.
- (f) See that wells for which loans have been granted are inspected.
- (g) Ascertain the amount of arrears under each Act.
- (h) Loans advanced under other enactments are also recovered as arrears of land revenue. Ascertain if the recovery in such cases is being effected regularly.
- (i) Check some entries of repayments with the arz irsal, dakhila, counterfoils, and cash book. See the separate arz irsals are made out by the Patwari for each debtor, and that the lambardar does not credit the whole amount due from the village in a lump sum.
- (j) See that the entries of collections in the khataunis are initialled by the tehsildar after comparison with the day-book.
- (k) See that penal interest is charged on installments more than one month overdue. (Standing Order No. 11 Paragraph 3).
- (l) See that the interest is charged with effect from the due harvest. (Standing Order No. 11 paragraph 2).
- (m) Check the pending files to see that the grant of taccavi is not being delayed.
- (n) Check the files relating to the suspension of recovery of taccavi loans and other Government loans and see whether orders of the Government have been complied with.

**28. State lands given on sale, lease, etc. XV-** Register of cases relating to sale, lease or grant of waste land (Standing Order No. 14)-

- (a) Khataunis of single harvest leases.
- (b) Kistbandis of single harvest leases.
- (c) See if any files have been pending too long in the tehsil and whether the proper procedure is followed.
- (d) Compare Khatauni with the demand statement and with the arz irsals and dakhila counterfoils, and see that the entries agree.

- (e) Ascertain whether the demand for single harvest leases is brought on the running register or not. When there are many such leases and a regular kistbandi of demand is prepared, it is unnecessary to bring them on this register.

#### **D-Registration Branch**

- (1) See that the copy of the Indian Registration Act and Rules and Registration Manual are kept upto date.
- (2) See that the various books (Books I-VI) prescribed for different purposes are properly maintained and steel almirahs have been provided for their safe custody.

#### **CHECK AS FOLLOWS**

##### **Book No. 1**

I. Read over the endorsements of three deed in each volume registered since the last inspection and note:-

- (i) Are the endorsements in the forms given in C(6), D(10) and E(18) (or as the case may be ) of Appendix IV?
- (ii) Are the written by the Sub-Registrar with his own hand where this is obligatory? See paragraphs 151.
- (iii) Are both the alienor and alienee identified in a proper manner? See paragraph 126 and 127.
- (iv) Does the Registering Officer certify in the section 60 certificates that thumb-marks were taken in his presence? See paragraph 130.

II. Read over the important part of 15 deeds in each volume, electing at least 3 deeds of sale, 3 deeds of lease and see:-

- (i) Are (a) consideration for and (b) nature of the deed and (c) number of words and (d) copying fees correctly stated in column 2 of the register?
- (ii) Are stamps shown in column-I correct?
- (iii) Have registrations fees been correctly assessed?
- (iv) Are interlineations, and c, in the original deeds copied exactly and noted in the register by the Sub-Registrar in accordance with section 20 of the Indian Registration Act, 1908.
- (v) Are references under paragraph 65 duly noted?
- (vi) Are corrections made in red ink and attested by the registering officer? See paragraph 103.
- (vii) Are deeds of mortgage being registered as leases? See paragraph 80.

- (viii) If the property is not wholly situated in his jurisdiction did the registering officer send a memorandum of copy of the document to the Sub-Registrar or Registrar concerned and was a fee realized for preparing the copy to be sent to the Registrar? See sections 64 and 65 of the Indian Registration Act, 1908 and paragraph 156.
- (ix) Had the Sub-Registrar jurisdiction to register, see section 29 of the Indian Registration Act, 1908 and paragraph 116, and where the documents presented within time? See sections 23, 25 and 34 of the Indian Registration Act, 1908. Question for Inspection concluded.

III. Are documents consecutively numbered by the calendar year (Section 53), and are the provisions of paragraph 103 observed?

IV. Are certificates at the end of a year and of a volume in the proper form, and are lists of errors attached to them in a tabular form? See paragraphs 60 and 61.

V. Has the registering Officer examined each volume on receiving it from the office of the Registrar? See paragraph 58.

VI. See that only vernacular figures are used in the registers? See para 98.

VII. Is the cancellation or amendment of deeds by the civil courts or by the Deputy Commissioner noted in red ink? See paras 99 to 101.

#### SUPPLEMENTARY BOOK I

I. Are heading of the butts properly filled up? See para 66.

II. Are endorsements on memos and copies, and C, properly made? See para 66.

III. Are the documents indexed in indexes Nos. I, II.

#### BOOK 2

I. Are the grounds for refusal sufficient? See section 35 of the Indian Registration Act, 1908 and paras 71 and 137.

II. Are they in the handwriting of the registering officer?

#### BOOK 3

I. Read over a few documents and see that only wills and deeds of adoption which are also wills are registered in this book. See para 72, 73 and 80.

#### BOOK No. 4

(i) See that the points noted under Book-I are, so far as applicable correct in book 4 too.

(ii) Read over two or three documents of each kind and see-

- (1) that none of the documents registered in this book relates to immovable property;
- (2) that the nature of the documents is properly described;
- (3) that powers of attorney are classified into special and general and that general powers have not been stamped as special powers;
- (4) that powers of attorney for conducting cases within the Punjab have been stamped with court-fee stamp in accordance with article 10, schedule 2 of the Court Fees Act, 1870.

#### BOOK-6

See that the substance of those powers of attorney only entered in this book which authorize an agent to present a document for registration and nothing more. See para 79.

#### INDEXES

- (1) Are they up-to-date?
- (2) Are entries correctly made? Compare some entries with the books.
- (3) Are the indexes of the past years bound up? See paras 88 and 90.

#### SUBSIDIARY BOOKS

##### FEES BOOK

- (1) Check some entries for consecutive days with the registers, receipt books A and B, statement III and siala.
- (2) Are fees promptly paid into the treasury?
- (3) Are monthly totals made in red ink and signed by the registering officer?
- (4) Are the entries signed daily by the registering officer and by the treasurer when he receive money?

##### RECEIPT BOOK "A"

Note.- This books will show whether there are any documents which have not yet been copied in the registers or not returned to the persons entitled to get them.

- (1) Are documents copied and returned the same day?
- (2) Is the date of the returns of documents noted on the reverse?
- (3) Are numbers of documents, book and volume noted on the reverse?
- (4) Is the signature or the thumb-impression of the person if illiterate with his name written in vernacular to whom the documents is returned taken on the reverse?
- (5) Are receipts numbered consecutively in annual series?



- (6) What documents are lying unreturned and what are the reasons?
- (7) Does the numbers of unreturned documents present in the office correspond with the number of absent counterfoils?

**E-Miscellaneous Branch**

**29. The following registers should be inspected:-**

**Choukidars:**

- (1) Chaukidars pay in Districts where the Chaukidars are under the Revenue Department (Standing Order No. 6, paragraph-9).

**(2) Misalband :**

- (a) See whether register (1) has been opened and whether the entries are properly made. (Standing Order No. 6, paragraph-9).
- (b) See whether any action has been taken against Lambardars who have not presented the chaukidars receipt for pay.
- (c) See whether all pending files are entered in register (2), and that they were entered when instituted and not when reports were submitted to the sadr.

**30. Check the following registers:-**

Office routine:-

- (1) Register of parwanas from sadr. (Standing Order No. 14).
- (2) Dak register.
- (3) Register of service stamps.

See if there are any old references pending.

If a monthly list of old pending reference is submitted to sadr, compare the last list with the register of parwanas.

**31. The following registers should be inspected :-**

**Chaprasis :-**

- (1) Diary of watch and ward and roster of duties (Standing order No. 14, paragraph 11).
- (2) Register of service or process from other Districts.
- (3) Register of service or process from other Districts. See that (i) the work is properly distributed among the chaprasis, and that they are not allowed to spend un-necessary time over their work
- (ii) there is sufficient number of them and they are available for duty.

## STANDING ORDERS OF THE FINANCIAL COMMISSIONER, HIMACHAL PRADESH

## STANDING ORDER NO. 8

## COERCIVE PROCESSES

1. **Collection of Land Revenue.**-The collection of land revenue is regulated by the Himachal Pradesh Land Revenue Act, 1954 and the rules framed under the Punjab Land Revenue Act as applicable to this State. The procedure to be followed when the defaulter lives in a District other than that in which the arrears have accrued is laid down in the Revenue Recovery Act of 1890. The following instructions and the provisions of chapter XV of the Land Administration Manual should be observed in this behalf.

2. **No fees on applications for processes by village officers.**-No fees is to be charged on applications under Section 102 of the H.P. Land Revenue Act, made by village officers in accordance with the provisions of rule 64 of the rules aforesaid.

3. **Recovery of dues of various departments of Govt.**-In addition to the recovery of land revenue as arrears of land revenue under the H.P. Land Revenue Act, fees, fines and certain dues of other departments are also recovered as arrears of land revenue. Necessary provisions for the purpose is often made in the relevant enactments. Before the dues of other departments are recovered by the Collector, the departments concerned are required to take steps for the recovery of these dues at their own level. Sometimes a provision is made in the relevant enactment for recovery of these dues through arbitration. The Collector should, therefore, before issuing the coercive processes for the recovery of these dues, should ensure that the departments concerned have taken due care to adopt all steps including arbitration before sending the cases to him for recovery of these dues as arrears of land revenue. The procedure laid down in Standing Order No. 10 (previously Standing Order No. 31.) for such cases should be borne in mind.

## SECTION-I

## WRITS OF DEMAND AND EXECUTION OF PROCESSES

4. **Issue of writs of demand under Section 75 of the H.P. Land Revenue Act.**-A writ of demand issued U/S 75 of the H.P. Land Revenue Act must be in the following form and should not be issued if the defaulter is known to have absconded from, or to be residing outside the district.

FORM OF WRIT DEMAND U/S75 OF THE HIMACHAL PRADESH LAND REVENUE ACT  
NO. \_\_\_\_\_

Writ of demand U/S 75 of the H.P. Land Revenue Act.

To

\_\_\_\_\_  
R/o Village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ Whereas it is  
shown by the accompanying certificate\*

A clear account certified by the Wasil Baqi Nawis should be endorsed on the writ.

Particulars to be filled in by the Wasil Baqi Nawis or other officer.

- (1) Name of peon.
- (2) Date of issue of writ.
- (3) Date fixed for its return.

(The above particulars to be entered before service of the writ).

- (4) Date on which the writ was returned.
- (5) Revenue paid ..... Rs. ....
- (6) Talbana ..... Rs. ....
- (7) Revenue due ..... Rs. ....
- (8) Talbana ..... Rs. ....

that an arrear of Rs. .... is due from you on account of land revenue ..... and ..... you are hereby required to pay into the tehsil the said sum together with the sum due as talbana fee, amounting to a total sum of Rs. .... On or before the .....

dated .....

Revenue Officer

**5. Period within which to be returned.**-The person receiving the writ is held responsible for its return within six days from the date of issue. He may be entrusted with any number of writs which he can serve within the said period.

**6. Rate of Talband.**-A separate writ, warrant or other coercive process, shall issue for each defaulter except in the case of those who are jointly responsible for the payment of the arrears, when a joint process shall issue. For the service of every writ, warrant of other process for the collection or revenue under chapter VI and VII of the Himachal Pradesh Land Revenue Act 1954, a charge shall be made at the following rates:-

- (1) For writ of demand ..... Rs. 1/-
- (2) For warrant of attachment ..... Rs. 2/-
- (3) For warrant of arrest or other process .....Rs. 3/-

This rule applies to processes issued for the recovery of sums recoverable as arrears of land revenue (i.e. income tax) as well as to processes issued for the recovery of land revenue proper. The words "other processes" includes warrant of sale and other processes issued under Section 77 of the H.P. Land Revenue Act, for the transfer of a holding.

**7. Recovery of arrears.**-The procedure for the recovery of arrears on the application of a village headman (under Section 102 of the H.P. Land Revenue Act) is laid down in Rules 64-66 of the Punjab Land Revenue Rules.

**8. Talbana fee when process is issued on application of village headman.**-Where a process is issued on the application of village headman, payment in advance of the fee for service should not be required; the charge should be recovered in the way laid down in Section 103 (a) of the H.P. Land Revenue Act and the person primarily responsible for the service fee will be the defaulter on whom the process has been served. If, however, he proves to the satisfaction of the Tehsildar that the headman wrongly applied for the issue of the process, the latter will be held responsible for the service fee.

9. **Punctual payments Instructions to Tehsildars.**-It is the duty of Tehsildars to see that all installments are paid punctually. If by the settlement arrangements, the revenue of a harvest is due in two installments, and the first installment is not paid punctually, a writ should issue at once unless the Tehsildar has good reasons for delaying it. The common practice of allowing three days grace before the issue of such writs is reasonable and may be continued. Similarly, if the khataunis show that a village, which is entitled to pay the harvest demand in two installments commonly pays the whole demand in one sum, the delay in issuing writs may be extended approximately to 15 days, but greater delay than this should not be permitted except under the Collector's authority.

10. **Processes for collection of land revenue.**-Writs, warrants and other processes for the collection of revenue under chapters VI and VII of the Himachal Pradesh Land Revenue Act, shall ordinarily be served through the tehsil process serving agency and the fees recovered will be credited to Government. The Collector may, if necessary, employ additional peons on service of processes or on ordinary district work after obtaining sanction from the Government.

11. **Defaulters and Lambardars must pay in person.**-Arrears of revenue may not be realized from defaulters and brought to the tehsil by the peons. Such a practice is liable to be abused. Defaulters and Lambardars should be ordered to pay sums due from them into the treasury either in person or through an agent or by postal money order.

12. **Register for issue of writs and warrants.**-The Sadar Wasil Baqi Nawis should be charged with the superintendence of the issue of writs and warrants. He will supply to the tehsildar and officers of the other departments authorized to issue writs and warrants, the writs and warrants required. He will bring to the notice of the Collector any delay in the transmission of the statement required from Tehsildars as prescribed in paragraph 13 infra. Before issuing the writ and warrants to the Tehsildars or re-issuing forms returned, he will check the serial numbers, if any, to see that the series is unbroken, and otherwise number the forms. He will enter each issue in a Register in the following form:-

- (1) Year.....
- (2) Date of order of issue .....
- (3) Tehsil.....
- (4) Number and kind of process .....
- (5) Serial Nos. i.e. from ..... to .....
- (6) Date of dispatch .....

He will send with each dispatch an extract of the entry made. The tehsildar will sign this extract and return it to the Sadar Wasil Baqi Nawis.

13. **Maintenance of Stock Register.**-A Stock Register of coercive processes will be maintained at sadar/tehsil office by the Sadar Wasil-Baqi-Nawis/Tehsil Wasil Baqi Nawis in the following form:-

District				Year
Month	Kind of process	Previous balance	Receipts during the month	Total of Cols. 3&4
1	2	3	4	5
Disbursed	Balance in hand	Signature of	Signature of Officer I/C D.R.A.	

during the month	D.R.A. (SWBN)		(SWBN) Branch/Tehsildar
	W.B.N.		
6	7	8	9

14. (i) The Tehsildar will maintain a register in the following form with separate pages for (i) writs, (ii) warrants of attachment, (iii) warrants of arrest, (iv) warrants of sale of movable property:-

1	2	3	4	5	6	7	8A	8B	9	10	11	12	13
No. of writ or warrant.	Date of issue.	By whom to be served.	Name of village.	At whose instance.	Name of defaulter.	Kist for which due and month.	Amount of arrears		Talbana due.	Talbana paid with date.	Date fixed for return of process.	Date on which returned.	Remarks.
							For which process issued.	Recovered with dates.					

(ii) At the end of each month, the totals of column-9 will be entered in the running register and the tehsildar will forward to the Collector with the hal tauzi a combined statement in the following form:-

Details	Number issued with serial numbers of forms used in the case of 1 (writs) and 2. (warrants of attachment )	Talbana charged.
1	2	3
1. Writs.		
2. Warrants of attachment.		
3. Warrants of arrest.		
4. Warrants of sale.		
5. Total.		

(iii) On the basis of information at Sr. No. 5 of this statement, the Sadar Wasil Baqi Nawis will enter in his running register, the total demand for the month on account of talbana.

(iv) In the first week of October each year, the tehsil Wasil Baqi Nawis will return unused forms of writs and warrants to the Sadar Wasil Waqi Nawis for check and re-issue.

15. **Receipts how budgetted.**- Receipts are budgetted in the ordinary land revenue budget. Allotments will be communicated by the Financial Commissioner to the Commissioner concerned who will further distribute the allotments to the districts in his division.

16. **Talbana how credited.**-All talbana receipts will be credited direct to Govt. without any deduction under head "029-Land Revenue (e) Other Receipts-(vi) Revenue Talbana". This procedure applies even if the recoveries are made on account of income tax or other demands recoverable as land revenue.

## SECTION-B

## Arrest and detention

(see paragraph 522 of the Punjab Land Administration Manual)

**17. The form of warrant of arrest is given below:-**

Form of warrant of arrest U/S 75(A) of the Himachal Pradesh Land Revenue Act, 1954.

To

Peon (or other officer)

Whereas \_\_\_\_\_ resident of village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ is a defaulter on account of an arrear of revenue that has accrued as shown in the margin, this is to command you to arrest the said defaulter and bring him before me with all convenient speed.

(1) Land Revenue Rs. .... (2) Rates and cesses Rs. .... (3) Other items realizable as land revenue Rs. .... Total Rs. ....

Provided that if the said defaulter shall without unnecessary delay produce the sum of Rs. .... together with Rs. .... for the cost of executing this process and shall proceed personally to bring the said sum with you to the tehsil or send it with you by his agent or servant, the arrest shall be suspended. You are further commanded to return this warrant on or before the ..... day of ..... 20 ..... with an endorsement certifying the day and the manner in which it has been executed or the reason why it has not been executed.

Dated this ..... Day of ..... 20.....

Seal

Signature of Revenue Officer

**18. Committal of defaulter to jail.**-The following forms should be used for committing a revenue defaulter to jail and for his release therefrom :-

WARRANTS OF COMMITTAL OF DEFAULTER TO JAIL UNDER SECTION 75A(3) OF THE  
HIMACHAL PRADESH LAND REVENUE ACT

In the Court of the Collector ..... District

..... Case No.

..... of 19.....

To

The Officer Incharge of the jail at ..... whereas ..... Son of ..... resident of village ..... Tehsil ..... is a defaulter on account of an arrear of land revenue you are hereby commanded to take the said ..... in custody and keep him confined in the civil jail for a period of ..... days or until the said arrear of land revenue is paid. A sum of Rs. .... on account of diet allowance at the rate of per diet is sent with this warrant.

Issued under my signature and seal this ..... day of 20.....

Seal

Signature of Collector.

ORDER FOR THE RELEASE OF A DEFAULTER UNDER SECTION 75-A(3) C (3) OF H.P.  
LAND REVENUE ACT, 1954

In the court of the Collector ..... District .

To

The Officer Incharge of the jail at .....  
whereas ..... Son of ..... resident of  
..... Tehsil ..... who under order dated ..... 20..... was  
required to be confined in the civil prison for a period of ..... days on account of non-  
payment of arrears of land revenue to be paid by him, has now paid the said amount or has urged  
for more time by furnishing security. Therefore, under orders passed this day, you are hereby  
directed to set free the said ..... now in your custody on receipt of this order.

Issued under my signature and seal this ..... day of ..... 20 .....

Seal

Signature of Collector.

**19. Maintenance of defaulter arrested and retained.**-(i) Any cost incurred for the maintenance of a defaulter who is arrested and detained under Section 75(A) of the H.P. Land Revenue Act, 1954 should be defrayed from the revenue contingent grant of the district. The amount may be recovered as an arrear or land revenue, and on recovery, should be credited to Govt. as a cash recovery.

(ii) The Collector may of his own authority adjust in his accounts advances of diet allowances of revenue defaulters while under detention, which may be found to be irrecoverable.

(iii) **Soldiers of Indian Army not to be arrested.**-The Government of India has directed that no process of arrest and detention shall issue under Section 74(b) of the H.P. Land Revenue Act, 1954 against officers or soldiers of the Indian Army.

SECTION –C

DISTRESS AND SALE

(See Paragraph 523 of the Punjab Land Administration Manual)

**20. The forms of warrants are specified below:-**

Form of warrant of distraint under Section 76 of the H.P. Land Revenue Act.

To

The Kanungo (or other officer)

Whereas \_\_\_\_\_ resident of village \_\_\_\_\_ Tehsil  
\_\_\_\_\_ District \_\_\_\_\_ is a defaulter on account of an arrear of land  
revenue which has been accrued as shown in the margin, this is to command you to distraint the  
moveable property and the uncut or ungathered crops of the said defaulter, as set forth in the list

hereto annexed or as pointed out to you on the spot, and to hold the same until further orders from me: Provided that if the said defaulter shall without unnecessary delay, produce the sum of Rs. \_\_\_\_\_ together with Rs. \_\_\_\_\_ for the cost of executing this process and shall proceed personally to bring the said sum with you to the tehsil or send it with you by this agent or servant, the distraint shall be suspended. This warrant does not authorize you to distraint any of the property mentioned in the proviso to Section 60 Part II of the Code of Civil Procedure (Section 60, Part –II, of the Code of Civil Procedure is printed in full on the back of the warrant) or the following portion of the produce of the land of the defaulter, which has been exempted from liability to sale by order of the Collector.

You are further commanded to return this warrant on or before the \_\_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_\_ with an endorsement certifying the date and manner in which it has been executed or why it has not been executed.

Dated :

Collector or Assistant  
Collector-I Grade

WARRANT FOR SALE OF MOVEABLE PROPERTY UNDER SECTION-76 OF THE H.P. LAND  
REVENUE ACT, 1954

To

The Nazir (or other officer)

This is to command you to sell and auction, after giving \_\_\_\_\_ days previous notice by affixing the same in this office and after making due proclamation, the moveable property and uncut and ungathered crops distrained under a warrant from this office dated the \_\_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_\_ or so much of the said property as shall realize the sum of Rs. \_\_\_\_\_, being the amount of the arrear of revenue still due from the defaulter by \_\_\_\_\_

You are further commanded to return this warrant on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed.

Dated :

Collector or Assistant  
Collector-I Grade.

SECTION-D  
TRANSFER OF HOLDING

(See Paragraphs 524-525 of the Punjab Land Administration Manual)

**21. The form of warrant is prescribed below:-**

To

Kanungo (or other officer)

Whereas an arrear has accrued on holding No. \_\_\_\_\_ in the estate called \_\_\_\_\_, Tehsil \_\_\_\_\_, this is to give notice that the said holding is hereby transferred from \_\_\_\_\_ the previous owner of the said holding, to \_\_\_\_\_ a landowner in the



estate in which the holding is situate, and not being a defaulter in respect of his own holding, on condition of the said \_\_\_\_\_ paying the arrear due, to writ Rs. \_\_\_\_\_, before being put **as payments has been made** in possession of the holding. You are hereby directed **on payment.** by the said \_\_\_\_\_ of the said sum of Rs. \_\_\_\_\_ to put the said \_\_\_\_\_ in possession of the said holding, and you are hereby authorized to remove any person bound by this warrant who may refuse to vacate the same. This transfer shall have effect till \_\_\_\_\_ .  
Dated :

Collector.

22. **Report of transfer.**-The reports of transfers under section 77 of the H.P. Land Revenue Act, shall be in the following form and shall be forwarded through the Commissioner of the division.

Statement of transfer of rights of defaulters U/S 77 of the H.P. Land Revenue Act.

1	2	3	4	5	6	7	8	9	10	11	12	13
District .	Tehsil.	Village.	Revenue of Kharif/Rabi.	Name of village headman.	Name of defaulter/defaulters.	Amount of arrear due from each defaulter.	Name of the solvent co-sharers to whom transferred (if numerous described in general terms)	Terms of transfer.	Date of payment of arrears by the transferees	Date of report to the Commissioner.	Circumstances which led to the transfer.	Commissioner' s remarks.

#### SECTION-E

#### ATTACHMENT OF ESTATE OR HOLDING

23. **Account to be kept by the Collector or agent managing land attached U/S 78 or 83 of H.P. Land Revenue Act.**-Where an estate or holding or any other immovable property attached under Section 78 or Section 83 of the H.P. Land Revenue Act, is put under management of the Collector or of an agent, the Collector or agent, as the case may be, shall keep an account of all rents and profits accruing on account of the property and of expenditure for the cost of its attachment and direct management and for defraying the arrear, and any installments, of land revenue and cases becoming due during such management and when the management comes to an end, a full account will be furnished to the person whose property has been attached.

24. **The following form of warrant is prescribed:-**

Warrant for attachment of an estate or holding U/S 78 of the H.P. Land Revenue Act.

To

Kanungo (or other Officer)

**of the estate called**

Whereas an arrear of land revenue has accrued in respect **holding no in estate** owned **estate**

by \_\_\_\_\_, you are hereby ordered to attach the said **holding** and to give notice to the

owner thereof by taking his signature on the back of this warrant, that the said Estate holding is hereby my management taken under the management of whom I appoint agent for that purpose.

This attachment shall have effect for \_\_\_\_\_ year form the commencement of the ensuing agricultural year, unless the arrear be sooner discharged.

Dated :

Collector.

## SECTION-F

### ANNULMENT OF ASSESSMENT

(Paragraph 529-536 of the Punjab Land Administration Manual)

**25. Application for leave to manage direct.**-A report in the form prescribed below should be submitted by the Collector when applying, under Section 79 of the H.P. Land Revenue Act, for permission to manage the land of the defaulter, himself or through an agent.

This report is not required when land is taken under direct management owing to the neglect or refusal to engage, of the persons to whom the settlement was offered (see Section 59 of the H.P. Land Revenue Act), or on account of arrears due in respect of the land where no proclamation of the annulment of the assessment has been published (see Section 78).

Form of application for annulment of assessment and management under Section 79 of H.P. Land Revenue Act, of an estate or holding in the district.

1	2	3	4	5	6	7	8	9	10	11	12	13
Tehsil.	Village.	Area of land with description (in hectares).	Revenue demand of Kharif/Rabi.	Name of defaulter.	Term for which it is proposed to hold under direct management.	Statement of current installment of revenue demand due and aggregate of arrears on account of which assessment is annulled.	Date of proclamation and annulment of assessment.	Date of order for holding under direct management.	Date of report to the Commissioner.	Circumstances which led to the annulment of assessment .	Commissioner' s Remarks	Order of the Financial Commissioner.

In all estates or portions of estates held under direct management, a jamabandi should be prepared for each harvest, as soon as possible after sowing time, showing the area under crops, the names of cultivating occupants with the rent paid by each and a tirij should afterwards be drawn out at the time of collections. A monthly account of collections will be submitted at the close of the month, in which the first installment falls due, and of each following month until the collections for the harvest are complete. No such account will be prepared for the last month of the year, an annual statement of demands, collections and balances being submitted instead.

All estates or portions of estates held under direct management, whatever may be the case of their being so held will also appear in the annual statement of holdings under direct management, submitted by Collectors through the Commissioner to the Financial Commissioner.

Jamabandi asamiwar of lands held under direct management in Tehsil \_\_\_\_\_  
District \_\_\_\_\_ for the year 20\_\_\_\_\_.

1	2	3	4	5	6		7	8	9	10
No.	Name of estates	Name of holder	Area of holding	Description of crops	Cash rents		Cesses etc.	Village expenses	Total demand	Remark (here state the allowances payable to persons dispossessed of beneficial interest.
					Rate of payment	Amount				

**Note:-** If it is necessary to make collections in kind or by appraisment, the jamabandi cannot be submitted until the actual demand is determined and this form and the following form must be modified to adapt them to the mode in which collections are made. Monthly assamiwar collections report of lands held under direct management in village \_\_\_\_\_ Tehsil \_\_\_\_\_  
District \_\_\_\_\_ for the month of \_\_\_\_\_ 20 \_\_\_\_\_

Revenue assessment

For the year

#### DEMAND

1	2	3	4	5	6	7	8	9	10	11	12	13
No holding	Name of holder	Area or holding	Land revenue	Cases and village expenses	Total	Balance due on account of past installment	Current installments	Total	Collections	Balance	Credited to existing demand	Surplus collections for future demand

Tirij asamiwar of lands held under direct management in Tehsil \_\_\_\_\_ District \_\_\_\_\_  
\_\_\_\_\_ for the year \_\_\_\_\_ 20 \_\_\_\_\_.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
			SEASON 'KHARIF'						SEASON 'RABI'									
No.	Name of estate	Name of holder	Area	Rate of demand	Amount	Cesses	Village expenses	Total	Area	Rate of demand	Amount	Cesses	Village expenses	Total	Total of year	Collections	Balance	Remarks

Annual statement of demand, collections and balances of lands held under direct management in village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ for the year \_\_\_\_\_ 20\_\_

1	2	3	4			5	6	7
No. of holding	Name of holder	Area of holding	Revenue for the year			Collections	Balance	Remarks (Here state allowance to persons dispossessed of beneficial interests)
			Land Revenue	Cesses and village expenses	Total			

**26. Application for authority to farm.-**When the assessment of any land has been annulled and the Collector desires to let it in farm under section 79 (3) of the H.P. Land Revenue Act, the proposal should be made in the following form:-

Statement of farming lease proposed for sanction under Section 79 (3) of the H.P. Land Revenue Act, in the District

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Tehsil	Village	Area of land with description	Revenue demand of kharif/rabi	Name of defaulter	Name of farmer	Name of surety	Terms of the proposed farmer	Statement of current installment of revenue demand due and aggregate of arrears on account of which the assessment is annulled.	Date of order for annulment of assessment	Date from which the proposed farm will take effect	Date of payment of arrears by farmer.	Date of report to Commissioner	Circumstances which led to annulment of the assessment	Commissioner's remarks	Order of the Financial Commissioner

**27. Security to be demanded from farmer U/S 79 of the H.P. Land Revenue Act.-**The farmer is required to give good security, amounting to not less than two thirds of the annual demand for the punctual payment of the annual sum at which the estate is farmed and for the fulfillment of the other conditions of the farm.

**28. Right of survivorship when farm is held by several persons.-**If there be joint farmers and any of them die, the farm must be continued to the survivors, unless it be otherwise provided in the engagement.

**29. Persons disqualified from being farmer or surety.-**No female, minor or public servant, can be accepted as farmer or as surety for a farmer of an estate or holding let in farm under Section 79 of the H.P. Land Revenue Act.

30. **Terms of Farmers engagement.**-The engagement of the farmer contains the following conditions:

(i) That nothing inconsistent with good husbandry shall be done by the farmer, his agent or any person holding under him and that he shall be liable to damages for any deterioration or injury to the estate arising from a breach of this condition.

(ii) That the Collector shall be at liberty to revise the security from time to time and to call for fresh security should be consider that the security originally given has become insufficient.

(iii) That the farm shall not be transferable and that on the death of the farmer, or the last survivor of the farmer/farmers, if more than one, it shall be voidable by the Collector from the commencement of the following agricultural year, and, if it be declared void, any sub-leases which may have been granted by the farmer, shall also be voidable. Should the Collector elect to continue it to the heirs of the deceased farmer, or to one or more of them, fresh security shall be called for.

(iv) That when an arrear has become due; the Collector may, in addition to any other of the processes authorized for the recovery of land revenue, cancel the farm.

(v) That no person not named in the engagement shall be entitled to claim any interest in the farm.

(vi) That the farm may be relinquished by the farmer with the previous consent of the Financial Commissioner and not otherwise.

31. **Course to be followed when farm comes to an end before expiration of its term.**

When a farm shall have been declared void on the death of farmer or in default of sufficient security or for arrears, or shall have been relinquished by the farmer, a fresh farm may be granted for remaining period of the original term or, with the previous consent of the Financial Commissioner, the estate may be resettled with the proprietors, on their satisfying any arrear which may remain due from them.

SECTION-G

SALES OF LAND OR OTHER IMMOVABLE PROPERTY  
(See paragraphs 537-538 Punjab Land Administration Manual)

32. **Application for sale.**-Proposals to sell land or other immovable property under Section 81 or 83 of H.P. Land Revenue Act, should be made in the following form:-

Statement of land or houses proposed to be sold for arrears.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
District	Tehsil	Village	Name of the proprietors and nature of tenure	*Detail of property proposed for sale	*amount of land that will be left to defaulter after sale of property detailed in Col. 5	Revenue demand, if any, of the property proposed for sale	Particulars of Balance				Particulars of steps taken to realize amount of the balance	Particulars of persons having right of pre-emption and incumbrances on contracts	Reasons for proposing the sale and remarks by the	Remarks by the Commissioner	Order of the Financial Commissioner
							Year	Month of installment	Amount	Total					

\*Note:- In column 5 and 6, the areas, in addition to any local measures should be expressed in hectares.

33. **Proposals for sale.**-Proposals to sell land or other immovable property under Section 81 or 83 of the H.P. Land Revenue Act, should only be submitted when all other processes prove to be ineffective. As a preliminary to the proposals for the sale the Collector should in particular, explore the expedients provided in Section 78 or Section 79 of the H.P. Land Revenue Act. An offer can be made to a person for the years under Section 78 of the H.P. Land Revenue Act, and for 15 years under Section 79 of the H.P. Land Revenue Act, on the terms which will cover the land revenue for these years plus the arrears. When submitting proposals for sale in the form prescribed in paragraph 32, it should be explained why action under Section 78 or Section 79 of the H.P. Land Revenue Act, is not possible.

34. **The forms of proclamation and certificate of sale are given below:-**

Proclamation of sale under section 85 of the H.P. Land Revenue Act.

Whereas an arrear of revenue amounting to Rs. \_\_\_\_\_ has accrued in respect of the estate and \_\_\_\_\_ holding No. \_\_\_\_\_ in estate and the sanction of the Commissioner has been conveyed vide letter No. \_\_\_\_\_ dated \_\_\_\_\_ under Section 81 of the H.P. Land Revenue Act, 1954 to the sale of the immovable property, detailed in the annexed Schedule for the recovery of the said arrears, this is to give notice that the said immovable property will be sold by auction at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_ O'Clock. Land revenue amounting to Rs. \_\_\_\_\_ per annum is assessed on \_\_\_\_\_ estate payable in respect of the said holding. Any person intending a claim a right of pre-emption must on pain of forfeiting the right give notice of his intention to me on an office day before that fixed above for the sale.

**Section 76**

The sale will be made subject to the provisions of **Section 85(d)** of the H.P. Land Revenue Act and the following encumbrances, grants, contracts or right of occupancy are specially saved by orders of the Financial Commissioner, viz.; have been ascertained to exist in respect of the property.

Dated:

Collector.

Certificate of sale under Section 100 of the Himachal Pradesh Land Revenue Act, 1954.

I \_\_\_\_\_ Collector \_\_\_\_\_ hereby certify that \_\_\_\_\_ resident of village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ has been declared the purchaser to sale by public auction on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ sold for the recovery of an arrear due in respect **thereof** **of** and that the same has been duly confirmed by the Commissioner under Section 97 of the H.P. Land Revenue Act.

(to be added when land is sold for an arrear due in respect thereof)

The following encumbrances, grants, contracts and rights of occupancy specified in the proclamation of the sale are specially saved by order of the Financial Commissioner under Section 82, Sub-Section (2) Clause (c) of the H.P. Land Revenue Act.

This certificate is granted under the provisions of Section 100 of the H.P. Land Revenue Act, 1954.

Dated:

Collector.

## STANDING ORDERS OF THE FINANCIAL COMMISSIONER HIMACHAL PRADESH

## Standing Order No. 12

## Business Returns

1. **Quarterly business returns.-** The business statements prescribed in forms I-V, annexed to this Standing Order shall be submitted by the Deputy Commissioner or Settlement Officer, as the case may be, for each quarter of the year beginning from October 1<sup>st</sup> Statement V shall be submitted only when a special revision of records or general re-assessment is in progress and statement No. I, II and III need not be submitted for the quarter ending 30<sup>th</sup> September.

2. **Explanatory remarks.-** The quarterly returns should in every case be accompanied by a brief letter written upon half margin, with such explanations and details as may be necessary to appreciate fairly the work of the quarter under report. The work shown in the statements for the whole year will be reflected in the annual report.

3. **Procedure in District not under Settlement in regard to statement Nos. I to IV and in Districts under Settlement in regards to Statement Nos. I to III.-** When a District is not under settlement, the Deputy Commissioner shall submit statement Nos. I to III, in duplicate, to the Commissioner who after recording his remarks will return one copy to the Deputy Commissioner and retain the other copy in his office record. Statement No. IV will be submitted by the Deputy Commissioner, in duplicated, to the D.L.R. who after recording his remarks on both the copies will forward this statement (No. IV) to the Commissioner. The Commissioner after recording his remarks will retain one copy in his office for record and return the other copy through the D.L.R. to the Deputy Commissioner.

In case of District under Settlement, the Deputy Commissioner will submit only statements I to II to the Commissioner, in duplicate. The Commissioner will record his remarks on these statements. He will send one copy to the Deputy Commissioner and retain the other copy in his office for record.

4. **Procedure in Districts under Settlement as regards statements IV and V.-**When a district is under Settlement, the Settlement Officer shall submit statement Nos. I to III, in duplicate, to the Commissioner who after recording his remarks will return one copy to the Settlement Officer. Statement Nos. IV and V shall be sent, in duplicate, to the D.L.R. who will record his remarks on these statements and forward them to the Commissioner. The Commissioner after recording his remarks on both the copies of these statements will submit them to the Financial Commissioner. On receipt of these statements in the office of the Financial Commissioner, the same will be submitted to the Financial Commissioner who will record his observations on both the copies. After this has been done, one copy will be retained in Financial Commissioner's office for record while the other copy will be returned to the Settlement Officer through the Commissioner and the D.L.R.

5. Confusion sometimes arises regarding the submission of Statement Nos. I to III by the Settlement Officer and by the District Collector in respect of districts under Settlement. Submission of these statements is essential by both these officers, firstly because while the district as a whole may continue to be under settlement for several years, settlement work might be completed in some tehsils and it may still be in progress in others. Secondly, because these statements (statement No. II) contain information relating to suspension and remission of land revenue or cesses, coercive

processes, deposit of revenue, taccavi loans, land acquisition cases, cases under the preemption Act, Redemption of Mortgages Act, Restitution of Mortgages Act, the Himachal Pradesh Ceiling on Land Holdings Act, the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, and Nautor cases etc. these items fall within the jurisdiction of the District Collector. But information in respect of the remaining items of statement No. II is to be furnished by the Settlement Officer. Hence the necessity of submission of these statements (Statement Nos. I-III) by both these officers in districts under settlement.

6. Miscellaneous business which does not fall under any of the descriptive headings in Statement No. II must not be entered in quarterly returns. Partition and Revenue Court cases on which further action is deferred pending decision of suits filed in the Civil Courts should for the purposes of these returns, be reckoned as decided. The files of cases in which further action is thus deferred should be sent to the Record Office. When, by the termination of proceedings in the Civil Court, either of the parties to a revenue case of the nature above referred to, desires to revive proceedings, the file will, on application being made, be restored to the Register of pending cases and be reckoned in these returns as a new institution.

7. **Return of Kanungos and other candidates under training.**-Settlement Officer(s) will submit half yearly statement in statement No. VI on the 1<sup>st</sup> January and 1<sup>st</sup> of July of each year showing the Kanungos and other candidates under training.

8. **Revenue work of the District Sub-Divisional Collectors.**-The District Collectors will submit to the Financial Commissioner through the Commissioner half yearly business statement for the period ending 31<sup>st</sup> March and 30<sup>th</sup> September, by the 15<sup>th</sup> of the following month showing the revenue work of their courts as also the courts of the Sub-Divisional Collectors by name under their control in statement No. VII. The Commissioner after recording his remarks on the statements shall forward them to the Financial Commissioner alongwith the statement of his court prescribed in para 9 infra.

9. **Revenue appellate work of Divisional Commissioner.**-The Commissioner will submit to the Financial Commissioner half yearly business statements for the period ending 31<sup>st</sup> March and 30<sup>th</sup> September, showing the revenue appellate work of his court in statement No. VIII. The half yearly statements should reach the Financial Commissioner's Office by 30<sup>th</sup> April and 31<sup>st</sup> October respectively addressed to the Clerk of Court to the Financial Commissioner.



**STATEMENT NO. I**  
**SHOWING THE WORK DONE BY EACH OFFICER (ORIGINAL CASES ONLY) FOR THE**  
**QUARTER ENDING .....20.**

Sr. No.	Name and designation/ rank of officer	Days employed for Revenue work	Cases pending from the previous quarter	Instituted during the quarter	Total revenue cases for disposal	Disposed of during the quarter	No. of cases pending at the end of quarter	Partition cases pending over one year	Other cases pending over 3 months	Remarks
1	2	3	4	5	6	7	8	9	10	11
Total										

**INSTRUCTION FOR FILLING IN THE STATEMENT**

- The figure showing cases disposed of should be written in red ink (Col. 7).
- Total of columns 4 and 5 should be given in column No. 6.
- Cases shown as (a) pending for disposal and (b) disposed of during the quarter should tally with the corresponding totals in Statement No. II.
- Cases entirely decided at Tehsils should be credited to the Tehsil Officers concerned. Cases in which final orders are passed by the headquarters officer will be credited to him, even though the bulk of the proceedings may have taken place in the Tehsil.
- Explanation should be given as to the delay in disposing of cases shown pending in column Nos. 9 and 10.

**STATEMENT No. II**

**CLASSIFIED LIST OF CASES IN REVENUE COURTS OR BEFORE REVENUE OFFICERS FOR THE**  
**QUARTER ENDING .....**

Class of cases.-Revenue Court Cases under the Himachal Pradesh Tenancy and Land Reforms Act H.P. Abolition of Big Landed Estates and Land Reforms Act/Punjab Tenancy Act, 1887.

Sr. No.	Description of cases	No. of cases at the beginning of the quarter	No. of cases instituted	No. of cases decided	No. of cases pending
1	2	3	4	5	6

**FIRST GROUP**

- Suits for addition, abatement or commutation of rent under section 58 (3) clause (a) and (b) of the H.P. Tenancy and Land Reforms Act or under the corresponding provisions of Section 116(3) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 or those of Section 77(3) of the Punjab Tenancy Act, 1887.

**SECOND GROUP**

- Suits between landowner and tenant or any other suit arising out the lease or conditions of any tenancy under section 58 (3) clauses (c) to (e) of the H.P. Tenancy and Land Reforms Act, or under

the corresponding provisions of Section 116(3) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 or those of Section 77(3) of the Punjab Tenancy Act, 1887.

3. Suits under clauses (f) to (h) of section 58(3) of the H.P. Tenancy and Land Reforms Act, 1972 or under the corresponding provisions of Section 116(3) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 or those of Section 77(3) of the Punjab Tenancy Act, 1887.

#### THIRD GROUP

4. Suits under clause (i) of Section 58(3) of the H.P. Tenancy and Land Reforms Act, by a landowner for arrears of rent or for money equivalent of rent or under the corresponding provisions of Section 116(3) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 or Punjab Tenancy Act, 1887.
5. Suits under clause (j) of the H.P. Tenancy and Land Reforms Act to recover sums payable on account of land revenue or any other demand recoverable as arrear of land revenue under any enactment for the time being in force or under the corresponding provisions of Section 116(3) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 or those under Section 77(3) of the Punjab Tenancy Act, 1887.
6. Execution of decrees of Revenue Courts.  
Total Revenue Court Cases.

**Class of cases.-** Revenue officer's cases under the H.P. Tenancy and Land Reforms Act./H.P. Abolition of Big Landed Estates and Land Reforms Act. And the Punjab Tenancy Act.

7. Cases falling under Section 57(1) of the H.P. Tenancy and Land Reforms Act, 1972 or under the corresponding provisions of Section 115(1) of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 and Section 76(1) of the Punjab Tenancy Act, 1887.
8. Cases under other Sections such as Section 15, 95, 104, 118 etc. of the H.P. Tenancy and Land Reforms Act or the corresponding provisions of the Punjab Tenancy Act, 1887 or the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953.

Total Revenue Officers Cases.

Cases relating to:-

9. Cases under the H.P. Ceiling on Land Holdings Act, 1972.
10. Cases under the H.P. Village Common Lands Vesting and Utilisation Act, 1974.

**Class of Cases.-** Revenue Officer's cases under the H.P./Punjab Land Revenue Act.

11. Lambardars.
12. Patwaris and Kanungos.
13. Assessment by estates of land revenue or cesses and distribution of the same.
14. Suspension and remission of land revenue or cesses.
15. Special assessments of all kinds including alluvion, diluvion and action of sand.
16. Coercive processes.
17. Boundaries and survey marks.
18. Partitions.
19. Execution of partitions.
20. Warrants of Revenue Officers Cases
21. Deposit of revenue.
22. Execution of orders of Civil, Criminal or Revenue Courts.
23. Application for division of produce.
24. Other cases under the Land Revenue Act such as encroachment etc.

**Class of cases.-**Revenue Officer's Misc. Cases.

Cases relating to:-

25. Resumption of jagirs/Revenue assignments.
26. Sale and lease of waste lands.
27. Taccavi.
28. Land Acquisition.
29. Decrees received from Civil Courts under Pre-emption Act.
30. Redemption of mortgages.
31. Restitution of mortgages.
32. Cases under the H.P. Nautor Rules, 1968.

Total Revenue Officers Misc. Cases.

Gross total of cases in Revenue Courts or before Revenue Officers.

## INSTRUCTIONS FOR FILLING IN THE STATEMENT

### COLUMN NO. 11

**Lambardars.-**As soon as a case is instituted, it should be shown as pending in the court of Sub-Divisional Collector. If in consequence of a case being disputed, it goes to the Collector, it should be shown as disposed off by the Sub-Divisional Collector and pending with the District Collector.

## COLUMN NO. 12

**Patwaris and Kanungos.**-Only the following cases should be shown under this head:-

- (i) Appointment whether temporary or permanent.
- (ii) Suspension, dismissal, fines or retirements.
- (iii) Rewards.
- (iv) Promotions.
- (v) Transfers.
- (vi) Leave sanctioned by the Sub-Divisional Collector or Collector (for this purpose leave means all kinds of leave except casual leave).

## COLUMN NO. 13

**Assessment by estates of land revenue etc.**-(i) These cases should be shown in the business returns of the possessing officer viz. the Tehsildar or the Sub-Divisional Collector as the case may be.

## COLUMN NO. 16

**Coercive processes.**-All coercive processes should be shown in the Tehsil business returns even when issued after reference to superior authority.

## COLUMN NO. 19

Execution of partition cases should be against this column and not against column No. 24 (other cases under the Land Revenue Act).

## COLUMN NO. 22

**Execution of orders of Civil, Criminal or Revenue Courts.**-The following orders of Civil, Criminal and Revenue Courts should only be shown in the Statement:

**Civil and Revenue Courts:-**

- (i) Warrants of attachment of immovable property.
- (ii) Warrants of possession of immovable property.
- (iii) Warrants of sale of immovable property.
- (iv) Paupers applications.
- (v) Mustajri.
- (vi) Probate.

**Criminal Courts:-**

- (i) Warrants of attachment and sale of immovable property under Sections 82/83 of the Criminal Procedure Code.
- (ii) Warrants for recovery of fines:-
  - (a) Robkars, reminders etc. should not be shown.
  - (b) The work under this column should appear in the business returns of the Tehsil and not of the Collector.
  - (c) Certificate of recovery of land revenue and other demands for other districts should not be entered in the business returns.

COLUMN NO. 24

**Other cases under the Land Revenue Act.-** Application for change in the entry of tribal designation etc. should be shown under this head.

STATEMENT NO. 111

REVENUE JUDICIAL APPEALS										
Name of Officer	Office	Old cases	New institutions	Total	Decided	Transferred	Pending more than 3 months	Pending more than one year	Pending more than 2 years	Total
1	2	3	4	5	6	7	8	9	10	11

REVENUE EXECUTIVE APPEALS									
Old cases	New institutions	Total	Decided	Transferred	Pending more than 3 months	Pending more than one year	Pending more than 2 years	Remarks	
12	13	14	15	16	17	18	19	20	

STATEMENT NO. IV

MAINTENANCE OF VILLAGE RECORDS AND SPECIAL STATISTICS IN RELATION THERETO

Instructions for filling in the Statement

(1) All remarks relating to the statement of the Collector or Settlement officer by the D.L.R. and Commissioner should be recorded in the proper column provided in the statement.

(2) In the Statement for the quarter ending 30<sup>th</sup> June, it should be expressly stated in the remarks column whether all the extra rabi extracts have been filed or not as the number of these will usually be less than the whole number of estates.

(3) A note in the remarks column against serial No. 2(d) Part-I should invariably be given as to what steps are being taken to dispose of old cases.

(4) In Part-II, complete figures for one Tehsil should be given before beginning another Tehsil. Similarly totals of columns 6 and 8 should be given for each Tehsil. This will facilitate to know the performance of the Tehsil Revenue Officers of each Tehsil.

PART I  
GENERAL

..... District

MAINTENANCE OF VILLAGE RECORDS FOR THE QUARTER ENDING .....

Sr. No.	Total No. of Patwaris	=	Tehsil	Tehsil	Tehsil	Total for District
	Total No. of Field Kanungos	=				
	Total No. of Estates	=				

Number of estates for which jamabandis:-

(a) Were prepared last year?

1	(b) Have to be prepared this year =	2	3	4	5	6
1.	(a) Kharif crop abstract filed					
	(b) Rabi					
	(c) Extra Rabi					
2.	(a) Total mutation attested during the period under report.					
	(b) Total mutations attested to date.					
	(c) Mutations entered by the Patwari but not attested.					
	(d) Un-attested mutations in Col. 2(c) pending for two year or more.					
3.	(a) Jamabandis filed					
	(b) Jamabandis checked on the spot by field Kanungos.					
	(c) Jamabandis checked by the field Kanungos in the Tehsil.					
4.	Jamabandis checked on the spot by the Tehsil Officer:					
	(a) For the period under report					
	(b) Total to-date.					
5.	(a) No. of Tatima Shajras checked on the spot by the Tehsil Officers.					
	(b) Number of fard bachh checked by Tehsil Officers					
	(c) No. of survey marks inspected by Tehsil officers on the spot.					
6.	No. of Patwaris whose work was inspected by Tehsil Officers.					
7.	(a) No. of estates in which girdawari was inspected by Tehsil Officer					
	(b) No. of fields girdawari of which was inspected by the Tehsil Officers.					
	(c) No. of estates in which girdawari inspected by :					
	(i) Collector.					
	(ii) Sub-Divisional Collector.					
8.	No. of Field Kanungos whose work was inspected by :-					
	(a) Collector and Sub-Divisional Collector (under Land Records Manual)					
	(b) Tehsil Revenue Officer (under Land Records Manual)					
9.	No. of Jamabandis attested on the spot by the Collector and Sub-Divisional Collector.					

10. (a) No. of Tehsils inspected by the Collector and Sub-Divisional Collector.  
 (b) No. of mutations checked by Collector and Sub Divisional Collector as Tehsil inspections.
11. (a) Partition cases pending.  
 (b) Partition cases pending for one year or more.

**PART II**  
**SPECIAL STATISTICS RELATING TO MUTATION WORK**

Days on Tour								
Tehsil	Tehsil officer by name and designation	Total	Days spent for mutation work	Nights spent away from the tehsil for revenue work including mutations	Mutations attested	Average per day (Col. 6 divided by Col. 4)	Mutations pending in each circle	Remarks
1	2	3	4	5	6	7	8	9
Remarks								
By the Deputy Commissioner			By the Director of Land Records		By the Commissioner		Orders of the Financial Commissioner	

No. .... Dated ..... Office of the Deputy Commissioner ..... District at ..... No. ....  
 Dated .....

Deputy Commissioner  
 ..... District

Office of the Director of Land Records, Himachal Pradesh  
 No. .... Dated .....

D.L.R.,  
 H.P.

Office of the Commissioner ..... Division  
 No. .... Dated .....

Commissioner,  
 ..... Division.

STATEMENT NO. V  
PART I  
SHOWING PROGRESS MADE AT SPECIAL REVISION OF RECORDS AND GENERAL RE-ASSESSMENT

Sr. No.	Date of commencement of operations (i) No. of village (ii) No. of Patwaris	Tehsil	Tehsil	Remaining to complete actual or approximate
1	2	3	4	5
1.	No. of Chandas fixed			
2.	Preliminary statements of rights and holdings prepared (Chitha Shajra Nisab and Khatauni)			(i) For the period under report. (ii) Total to date.
3.	No. Khasra measured			(i) For the period under report. (a) Khasra No. (b) Area (ii) Total, to date: (a) Khasra No. (b) Area
4.	(a) Village in which measurement work started			(i) For the period under report (ii) Total to date.
	(b) Village in which measurement completed			(i) For the period under report. (ii) Total to date.
5.	Village finally attested by :- (a) Field Kanungo			(i) For the period under report. (ii) Total to date.
	(b) Naib-Tehsildar			(i) For the period under report. (ii) Total to date.
	(c) Tehsildar			(i) For the period under report. (ii) Total to date.
6.	Village of which maps have been completed. Including Part Tehsil (Momi).			(i) For the period under report. (ii) Total to date.
1.	Jamabandi (Misal Hauiyat) prepared in accordance with new maps.			(i) For the period under report. (ii) Total to date.
2.	Patwaris copies of the records of rights prepared.			(i) For the period under



		report.
		(ii) Total to date.
3.	Khasra Girdawari prepared	(i) For the period under report. (ii) Total to date.
4.	Fard Tafrik Bachh completed	(i) For the period under report. (ii) Total to date.
5.	Villages in which Bachh papers have been prepared	(i) For the period under report. (ii) Total to date.
	Village of which administration papers have been prepared	
6.	Note Books prepared	(i) For the period under report. (ii) Total to date.

Note:- 1. Total to-date means total from the commencement of operations.  
2. In Col. 3 area be given in hectares.

## PART II

### AVERAGE OUTTURN PER WORKING CHAIN IN FIELD NUMBERS AS WELL AS IN HECTARES

Tehsil	Number of patwaris, in district under settlement, engaged on re-measurement or map amendment	Total number of working days	Total Outturn		Average outturn per day per patwari in column 2		Remarks
			Khasra Nos.	Area in hectares	Khasra Nos.	Area in hectares	
1	2	3	4	5	6	7	8

Re-measurement.....

Mal amendment .....

## STATEMENT NO. VI

Sr. No.	District from which deputed	Name with description	Authority for deputation	Date of joining the Settlement training	Date of leaving the settlement training	Remarks
1	2	3	4	5	6	7

STATEMENT NO. VII  
ORIGINAL AND APPELLATE WORK OF THE DISTRICT COLLECTOR/SUB-DIVISIONAL  
COLLECTOR FOR HALF YEAR ENDING 31<sup>ST</sup> MARCH/ 30<sup>TH</sup> SEPTEMBER .....20

**Revenue Judicial Work**

Name of officer	Designation of officer	Old cases	New institutions	Rejected at first hearing	Remanded for re-trial	Decreed	Total
1	2	3	4	5	6	7	8

**Revenue executive work**

Transferred	Pending more than	Old cases	New institutions	Decided	Transferred	Pending	Remarks.
9	A 3 months	b 1 year	11	12	13	14	a 3 months b 1 year
	10						15
							16

1. Original.....
2. Appellate.....
3. Total : .....

STATEMENT NO. VIII  
APPELLATE WORK OF THE COMMISSIONER FOR THE HALF YEAR ENDING 31<sup>ST</sup> MARCH/ 30<sup>TH</sup>  
SEPTEMBER

**Decided Revenue Judicial Appeals**

Name of Officer	Designation of Officer	Old Cases	New Institutions	Rejected at first hearing	Remanded for re-trial	Decreed	Total decided
1	2	3	4	5	6	7	8

**Revenue Executive Appeals**

Transferred	Pending more than	Old cases	New institutions	Decided	Transferred	Pending	Remarks.
9	A 3 months	b 1 year	11	12	13	14	a 3 months b 1 year
	10						15
							16

Total :

## STANDING ORDERS OF THE FINANCIAL COMMISSIONER, HIMACHAL PRADESH

## STANDING ORDER NO. 13

CALENDAR OF SETTLEMENTS

Section 33 of the Himachal Pradesh Land Revenue Act, 1954 empowers the State Govt. to direct by notification the preparation of record of rights for all or any estate in any local area where it does not exist or the special revision of records of rights for an estate where it is considered necessary. Chapter V of the Act provides for the assessment of land revenue. While confirming the assessment under Section 56, the State Govt. has the power to fix the duration for which the assessment shall remain in force and this duration under Section 57(2) has to be forty year notwithstanding the expiration of the period fixed for the continuance of an assessment under Section 57, the assessment shall remain in force till a new assessment takes effect. But State Government is competent to curtail this period for any local area in order to bring the duration of assessment on a uniform basis within a district.

The considerations which determine the period for which the settlement is to run in Himachal Pradesh are: (i) when the land is fully cultivated and (ii) rents are fair and agricultural output is not exposed much to natural hazards, it is sufficient if the demands of Govt. are readjusted once in forty years i.e. in the lifetime of each generation. But if the conditions are otherwise i.e. (i) where there are much waste lands (ii) rents are low and agricultural output is exposed much to natural hazards or (iii) where there is rapid development owing to the construction of roads, projects, colonization and industrial activities and there is consequential increase in population and rise in prices, the postponement of resettlement for such a long period is neither desirable nor in public interest.

The year of the last settlement in respect of the different districts is given in the annexure appended. The Calendar of Land Revenue Settlement should be prepared after every five years in the month of the July in the office of the Financial Commissioner. The Commissioner of the division is responsible to send a copy of the Calendar to each Deputy Commissioner and Settlement Officer in the first week of June of the year in which the calendar is to be updated. All the Deputy Commissioners and Settlement Officers should carefully scrutinize this statement and report the alternations necessary to bring it up-to-date i.e. upto the 30<sup>th</sup> June of the year in which the report is called for. Khalsa, fixed land revenue demand in respect of the villages indicated in column 3 should be shown in column No. 7 and the figures should agree with those shown in the fixed land revenue roll for the current agricultural year. Estimate of fluctuating land revenue permanently struck off from the rent roll based on the figures for the last five years should also be entered in the remarks column for every district if the land revenue in part or whole is assessed on fluctuating basis. The remarks column should indicate the steps taken or proposed to be taken in relation to the settlements which have expired or are within two years of expiry. The specimen of the calendars is given below:-

Specimen of the Calendar

District	Tehsil	Total No. of villages	Year of last Settlement	Due date for revision	Proposed year for taking up the revision
1	2	3	4	5	6

Number of villages taken up for revision	Actual date for starting the operation			Fixed land revenue	Expected revenue demand after settlement
	From	To	Total time taken for completion		
7			8	9	10
Actual demand after Settlement					Remarks
11					12

In all districts in which Settlement Operations are in progress, the report on the Calendar of land revenue settlements will be made by the Settlement Officers of the District through the Deputy Commissioner and the Commissioner of the Division. Deputy Commissioner will afford Settlement Officers such assistance as is required. In all other districts, the reports will be made by Deputy Commissioner through Commissioner. All reports and statements should reach the Financial Commissioner's Office during the first week of July at the latest.

#### STATEMENT

Sr. No.	Name of District	Name of Tehsils	Year of Settlement
1.	Kangra	Kangra Tehsil, Palampur & Nurpur Tehsils, Dehra Tehsil, Hamirpur Tehsil (Now Distt.) Una Tehsil (Now Distt.)	1917 (now under operations since 1970) 1916 (now under operations since 1970) 1918 (now under operations since 1970) 1914 (1.7.1970) 1914 (now under settlement)
2.	Kullu	Kullu including Seraj Rupi and Lahaul & Spiti	1949-52
3.	Chamba	Chamba District	1951-58
4.	Mandi	Mandi District	1959-70
5.	Bilaspur	Tehsil Bilaspur and Ghumarwin	1923-33 A.D.
6.	Kinnaur	Kalpa Tehsil Sangla Tehsil Nichar Tehsil Moorang Tehsil Pooh Tehsil S/Tehsil Hangrang	1926-28 A.D.
7.	Sirmour	Paunta Tehsil Renuka Tehsil Nahan Tehsil Pachhad Tehsil	Smt. 1987-88 B.K. (1930 A.D.) -do- -do- -do-
8.	Solan	Solan Tehsil Kandaghat Tehsil Nalagarh Tehsil Arki tehsil	1952 B.K. (1895 A.D.) 1915-16 A.D. 1965-66 B.K. (1908 A.D.) 1923-24 1908-10
9.	Simla	S/Tehsil Simla Rampur Tehsil Kumarsain Tehsil Rohru Tehsil	1960-61 A.D. 1914-15 1949-50 1915-16 A.D.

Jubbal Tehsil	1907
Dhadhi Area	1949-50
Chopal	1907 A.D.
Kotkhai	1915-16 A.D.
Theog	1930-31 and 1948-49 (Part only)
Sunni	1922 A.D.
Kasumpti (Junga & Koti Area)	1949-50 (Part only).

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- **THE HIMACHAL PRADESH NAUTOR LAND RULES 1968.**
- **THE HIMACHAL PRADESH GRANT OF NAUTOR LAND TO LANDLESS AND OTHER ELIGIBLE PERSONS SCHEME 1975.**
- **THE HIMACHAL PRADESH UTILISATION OF SURPLUS AREA SCHEME, 1974.**
- **THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND UTILIZATION SCHEME, 1975.**
- **THE HIMACHAL PRADESH CONFERMENT OF PROPRIETARY RIGHTS ON CHAKOTADARS SCHEME, 2015.**
- **THE RULES OF ALLOTMENT OF PLOTS IN THE NEW BILASPUR TOWNSHIP.**
- **THE RESETTLEMENT AND REHABILITATION OF BHAKRA DAM OUSTEES (GRANT OF LAND) SCHEME 1971.**
- **THE RULES GOVERNING THE GRANT OF NAUTOR IN THE UNDEMARCATED WASTE OF THE RUPI JAGIR IN THE KULU SUB-DIVISION.**
- **THE SIRMOUR WATER-MILLS (GHARATS) REGULATIONS, 2002**
- **VARIOUS INSTRUCTIONS RELATED TO THE LAND ALLOTMENT RULES, SCHEMES AND 3/2 BISWAS ALLOTMENT.**

## THE HIMACHAL PRADESH NAUTOR LAND RULES, 1968

(As Amended upto December, 2022)

**1. Title, extent and commencement.** - (1) These rules may be called the Himachal Pradesh Nautor Land Rules, 1968.

(2) These Rules shall extend to the whole of Himachal Pradesh except the areas where the Nautor Rules made under the Indian Forest Act, 1927, are applicable.

**2. Repeal and savings.** - All Rules, regulations and Robkars in respect of the grant of nautor hitherto in force in certain areas of Himachal Pradesh are hereby repealed except the Rules made under the Indian Forest Act, 1927, applicable in some areas of the State:

Provided that the repeal of such Rules etc. shall not be deemed to affect any grant already made thereunder

**3. Definitions.** - In these rules, unless there is something repugnant to the subject or context.-

- (a) "Nautor Land" means the right of utilise with the sanction of the competent authority, waste land owned by the Government, outside the towns, outside the reserved and demarcated protected forests, and outside such other areas as may be notified from time to time by the State Government in this behalf for any of the purposes, mentioned in Rule 5:

Provided that, if the State Government so desires, nautor land in any demarcated protected forest may be allowed subject to rules framed under Section 32(g) of the Indian Forest Act:

Provided further that the State Government may, if it so desires, as an exception in special circumstances grant nautor land in reserved forests as provided under section 23 of the Indian Forest Act on such terms and conditions as it may, for general or special orders, lay down.

- (b) "Tenant", "Landowner", "Holdings" and "Estate" shall have the meaning, respectively, assigned to these words in the Himachal Pradesh Tenancy and Land Reforms Act, 1972 and the Himachal Pradesh Land Revenue Act, 1954.
- (c) The term "Circle" shall mean the area lying within the jurisdiction of a Field Kanungo;
- (d) "Resident" means a bonafide resident of Himachal Pradesh who either holds land in a revenue estate or has seasonal abode and has been living therefrom generation to generation and includes such bonafide estate artisan, landless agricultural labourer permanently settled in the particular Revenue Estate for not less than 10 years and works therefor profit or gain, and
- (e) "State Government" means the Government of H.P.

**4. Deleted.** - grant of nautor land.

**5. Purpose for which nautor land may be granted.** - Nautor land may be granted only for one or more of the following purposes, namely: -

- (a) Horticulture.

- (b) Agriculture, including raising of fodder, growing of vegetables, growing of any special grasses, herbs, shrubs and trees for domestic use or for cash income and dairy farming.
- (c) Construction of:-
  - (i) Any building subservient to agriculture;
  - (ii) thrashing floor;
  - (iii) water mill; and
  - (iv) water channel.
- (d) construction of a building for residence.
- (e) Consolidation of Holdings.
- (f) For genuine public purposes like construction of Dharamsala, etc.

**6. The maximum limit of grant.** - Maximum limits to grant nautor land shall be as under: -

(i)	For horticultural purposes	....	20 bighas
(ii)	(a) For Agriculture	....	20 bighas
	(b) For raising of fodder, growing of vegetables, growing of any special grasses, herbs, shrubs and trees for domestic use or for cash income and dairy farming.		
(iii)	For water mills	....	2 bighas
	(the land actually required for taking out a water channel for the water mill shall be sanctioned in addition as actually needed or, in the alternative, only the right to take out the water channel through Government land shall be allowed if grant of nautor land be against public interest in any case).		
(iv)	For a thrashing floor	....	2 biswas
(v)	For a building subservient to agriculture or construction of a residential house	....	1 bigha

Provided that if an applicant already holds some land under him, the grant of nautor land under sub-rule (i) and (ii) above shall be restricted only to the extent by which his total holding falls short of 20 bighas, except in the case of Pangi and Bharmaur areas of Chamba District, Pandrabis and Dodra Kwar areas of Shimla District and the whole of Lahaul and Spiti and Kinnaur Districts where dhanks and ghasnis, if any, comprised in his holding shall be excluded therefrom while calculating this limit of 20 bighas.

and (ii) severally or collectively. The grants for other purposes can be obtained in addition thereto:

Provided further that a person who is granted nautor for a house site shall not become by virtue of this grant, right holder in the revenue estate in which such grant is made and it shall not entitle him to acquire nautor under these Rules.

**Explanation:** - In the case of a joint holding i.e. a holding held jointly by more persons than one, the respective proportionate share of each joint holder, as entered in the revenue records shall be taken to be holding, for the purposes of the limits within which nautor land may be granted, in respect of each joint holder.



**7. Eligibility for nautor land.** - Save for the widow and the children of a member of an armed force or semi-armed force, who has laid down his life for the country (whose widow and children were eligible for grant anywhere within the Tehsil subject to the conditions mentioned in the wajib-ul-Arj in respect of the areas where the land applied for is situated) no one who is not the resident in the estate in which the land applied for is situated, shall be eligible for the grant. Every resident of the estate in which the land applied for lies will be eligible in the following orders of preference: -

- (a) Such persons who have less than ten bighas of land under self cultivation on 1.1.1974, whether as owners, or as tenants, or as lessees, either individually or collectively, or have an income of less than Rs. 2,00,000<sup>1</sup> per annum from all sources including lands. Provided that in this category a dependent of one who has laid down his life for the defence of the country will get preference over his counterparts.
- (b) Scheduled Castes and Scheduled Tribes applicants; and
- (c) The dependents of those who have laid down their lives for the defence of the country Service, for the defence of the country will mean service in a uniformed force as well as in the capacity of civilian, so long as the death occurs on a front be it military or civil.
- (d) Services personnel in the armed forces and Ex-Servicemen.
- (e) Panchayats.
- (f) Others.

Provided that a bonafide landless resident of Spiti shall be eligible for the grant of land in Nautor within the Spiti Sub-Division.

8. Where the father is alive, his son or daughter and where the husband is alive, his wife, shall not be eligible to apply for nautor land except as follows: -

*Exceptions* - (a) If a son or a daughter or a wife proved that the father or the husband, as the case may be has disinherited or separated him or her, or has renounced the words, such a son or daughter or wife, as the case may be, will be eligible for nautor land.

(b) If a serving member of the Armed Forces or his son happens to have applied for nautor land in the life time of his father, he will be eligible for nautor land to the extent of his inheritable share in the father's landed property on the date of the sanction of the nautor land that falls short of the ceilings prescribed under these rules.

8A. - Nothing under these rules, shall apply to the grant of land for the rehabilitation of persons displaced, as a result of anything done for any public purpose to be recognised as a public purpose, for this rule, by the State Government Grant of land for this purpose will be made according to the formal scheme approved by the State Government either generally or specifically for such project or scheme or other action entelling such displacement.

**9. Charges.** - Grant of nautor land shall be made against nazrana on a uniform rate of Rs 50/- per bigha to a grantee other than Scheduled Castes and Scheduled Tribes and at the rate of Rs. 25/- per bigha to a Scheduled Caste grantee and at the rate of Rs. 5/- per bigha to Scheduled Tribes

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<sup>1</sup> Substituted vide Notification No. Rev. B.A(3)-9/2018 dated 27.02.2019.

grantee. Nautor land upto 100 Sq-yards for the construction of a house shall be given free of cost to a landless worker.

Note-

1. The above rate does not include the value of any trees standing on the nautor land, which will be chargeable at the market rate in addition to the nazarana of the land, in case the grantee chooses to buy them.
2. In case where the grantee is not interested in the trees, the Forest Department shall arrange to dispose them off within six months of the sanction and the nautor land cleared of the tree within another six months. In all, there shall be the maximum time limit of one year for the clearance by the Forest Department of the land granted to a person who was not prepared to pay the value of the trees as assessed by the Forest Department. In case of default the Deputy Commissioner will auction such trees and deposit the sale proceeds with the Forest Department.

**10. Registration of gradient.** - No land with a slope of more than 15% shall be granted in nautor except for horticulture, raising of fodder, growing of special grasses, herbs, shrubs, trees and water channel for which purposes no gradient is prescribed.

**11. Land Revenue when due.** - The land revenue leviable on the land granted in nautor shall be chargeable from the date of the grant of patta and not earlier.

**12. Resumption.** - The grant of nautor land shall be cancelled and the land granted resumed by the State Government without payment of any compensation in the following events: -

- (a) If, in the case of ordinary agriculture, the grantee fails to break the land granted to him within two years from the date of the patta.
- (b) If, in the case of horticulture, the grantee fails to plant the area with fruit trees within two years from the date of the patta.
- (c) If, in the case of a water mill and a water channel, the grantee fails to set up the water mill, or to dig out the water channel, as the case may be, within two years from the date of the patta.
- (d) If, in the case of nautor for any other purpose the grantee fails substantially to start utilisation of the land for the purpose for which the nautor land has been granted to him within two years of the grant of the patta.
- (e) If the grantee, at any time, uses the land for any purpose other than the purpose for which the grant was made to him.
- (f) If, the grantee or his legal representative successor alienates the land granted in nautor, within 50 years<sup>1</sup> from the date of the patta, or if he alienates, it, at any time for a purpose other than the one for which the land was granted to him. In the event of other kind of alienation the power to the State Government to cancel the grant and to resume the land shall govern the alienee also; and
- (g) If, the grantee secures the sanction of nautor by suppression of material facts in his nautor application.

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<sup>1</sup> Substituted vide Notification No. Rev.B.A.(3)-13/2000 dated 18.11.2003.

Provided that the periods laid down in (a), (b), (c) and (d) shall in each case, be counted after the removal of trees by the Forest Department/Deputy Commissioner whenever it becomes the responsibility of that Department, Deputy Commissioner to dispose of trees under these rules.

**13. Application for Nautor Land.** - Application in form (c) appended to these rules, duly accompanied by three blank application forms shall be made to the Sub-Divisional Officer (Civil) of the Sub-Division in whose jurisdiction, the land applied for is situated. The original application shall bear a court fee stamp of Rs. 2.50 and shall be accompanied by a Tatima Shajra (Supplementary Map) to be prepared by the Patwari on the spot showing the area applied for. The Tatima Shajra should indicate the boundaries of the Land applied for, on all the sides, with specific reference to at least two permanent boundary marks or fixed marks near enough which should be easily identified on the spot and with the help of which the plot applied for could undoubtedly be located on the spot. Such a copy of the Tatima Shajra shall invariably be attached to the patta to be executed according to rules, the Tatima Shajra should also contain the following additional details to be given thereon by the Patwari: -

- (i) The area and the field No. of the land applied for in the Nautor;
- (ii) the total area of the waste land and its Khasra No. out of which nautor has been applied for; and
- (iii) the number of standing trees, if any on the land applied for.

**14. Procedure.** - On receipt of an application for the grant of nautor land, the following procedure shall be adopted: -

- (a) The Sub-Divisional Officer (Civil) of the Sub-Division shall cause the application to be entered in the Misal Band Register to be maintained, by the Tehsil Revenue Officer in Form 'A' appended to these rules. The register file No shall be marked on the original as well as on the blank application forms where after these blank forms shall be filed up by the Tehsil Revenue Officer on the basis of the original application.
- (b) The Sub-Divisional Officer (Civil) shall cause to be prepared 3 copies, free of cost, of Tatima Shajra attached to the original nautor application and append one copy thereof with each of the duplicate application forms furnished by the applicant. The correctness of the copies of the application form and Tatima Shajra shall be varified by the Tehsil Revenue Officer.
- (c) The original application shall be retained in the office of the Sub-Divisional Officer (Civil) and the remaining copies shall be forwarded one each to the Girdawar Kanungo, the Gram Panchayat of the area and the Forest Range Officer of the Territorial Range, simultaneously, inviting their comments;
- (d) On receipt of the application the Girdawar Kanungo of the circle shall visit the spot and check the Tatima Shajra attached with the application. While checking the Tatima Shajra the field Kanungo will note the proximity of any forest, road, path, existing cultivation water channel public spring, the slope of the land and record a detailed report in respect of trees standing lying on the land applied for, if any, with particular of their kind. He shall also make his report on the following points: -
  - (i) the size of the family of the applicant and the size of the holding(s) he owns or possesses in the circle and elsewhere. While the Field Kanungo shall be

personally responsible for the accuracy of the particulars of the holding within the circle, the particulars of this holding(s), if any, elsewhere should be reported to the best of his information. In support of his report the Field Kanungo shall invariably add excerpt of Jamabandi in respect of the holding of the applicant;

- (ii) whether the plot applied for is suitable for the purposes for which it is intended to be used;
  - (iii) the extent, nature and validity of the objections, if any,
  - (iv) the existing soil classification of the land applied for and the subsequent classification after grant and also the land revenue chargeable thereon, and
  - (v) after the above investigation, the Field Kanungo shall return the application to the Tehsil Revenue Officer within six months from the receipt thereof;
- (e) The Gram Panchayat on receipt of the application shall issue a proclamation calling on any person who may have any objection to the grant of the nautor, to make his objection. A period of one month shall be allowed for receiving objections, if any. After the expiration of the said period of one month, the Gram Panchayat shall consider these objections and record report to on the existing rights in the land and the objections its grant, if any, and return the application to the Tehsil Revenue Officer within 6 months from the date of receipt thereof.

In case the Gram Panchayat fails to make its report and return the application within the stipulated period of 6 months, it shall be presumed that the Gram Panchayat has no comment to offer and the application shall be processed further accordingly;

- (f) The Forest Range Officer shall return the application, within 6 months of its receipt with his comments. His report shall contain the number, kind, girth and value of the trees standing or lying on the land applied for and the gradient of the land with either particulars, if any;
- (g) On receipt of the reports from the Girdawar Kanungo and the Gram Panchayat and the Forest Range Office concerned the Tehsil Revenue Officer shall append these reports with the original application and forward the case to the Sub-Divisional Officer of the Sub-Division, with its consolidated reports, and it shall be the responsibility of the Tehsil Revenue Officer to forward the nautor application complete in all respect to the Sub-Divisional Officer (Civil) within 9 months from the date of its institution:

Provided that the Tehsil Revenue Officer shall, upon non-receipt of duly investigated application within the stipulated period from either the Girdawar Kanungo, the Gram Panchayat or the Forest Range Officer, the Tehsil Revenue Officer shall presume that the defaulter has no comments to offer. In such an event the Tehsil Revenue Officer shall process the application further itself and complete it within the said period of 9 months.

**15. Reference to Public Works Department.** - In a case where the land applied for is situated at the edge of any public road, the Tehsil Revenue Officer shall ascertain from the Sub-Divisional Officer, Public Works Department concerned whether or not the Public Works Department has any objection to the proposed grant. It shall be binding on the Sub-Divisional Officer to communicate his views to the Tehsil Revenue Officer within 30 days from the date of the query made or delivered by the Tehsil Revenue Officer to him or to his officer whichever date is

earlier. Failing to hear from the Sub-Divisional Officer within this period the Tehsil Revenue Officer shall be free to presume that there is no objection from the Public Works Department subject to such general rule or order, if any, of the Government as may be applicable, concerning the grant of nautor lands by the road side.

**16. Power to grant nautor.** - The Sub-Divisional Officer (Civil) of the Sub-Division shall be competent to grant nautor lands upto the maximum limits prescribed in rule 6 and such application shall be disposed of by him within a maximum period of three months from the date of the receipt thereof from the Tehsil Revenue Officer.

Provided that if there may be no Sub-Divisional Officer (Civil) in any District, the Deputy Commissioner, thereof shall be competent to make grants within the prescribed limits.

**17. No legal practitioner to appear.** - No legal practitioner should appear, plead or act, on behalf of any party in the proceedings under these rules

**18. Procedure after sanction of nautor lands.** - (1) After nautor land has been sanctioned by the Sub-Divisional Officer (Civil) or by the Deputy Commissioner where there is no sub-Divisional Officer (Civil) under rule 16 for any of the purposes mentioned in Rule 6(a) and (b) and after the creation of the demand shall communicate the due payable to the Government by the grant as decided by the Sub-Divisional Officer (Civil) or by the Deputy Commissioner where there is no Sub-Divisional Officer (Civil) in quarterly installment not exceeding four thereof, interest free, with advice to the grantee for depositing the first installment within one month from the date of receipt of notice by him. In case the grantee chooses to pay the dues in lump sum he will have the option to do so. The Grant of the patta and mutation in such cases where the grantee will avail himself of the concession of making payment in installments shall stand postponed until full payment has been made. But the possession of the land granted to him shall be delivered on deposit of the first installment. The failure of the grantee to pay any of the installment punctually will render the grant liable to resumption and the amount already paid to forfeiture. Patta will be issued forthwith in such cases where full payment may be made in lump-sum after the expiry of the period for filing an appeal.

(2) After the expiry of the period prescribed for filing an appeal/revision the patta shall be issued under the seal and signature of the Collector of the District to whom it will be put up by the Tehsil Revenue Officer after due completion.

(3) After the execution of the Patta in Form 'D' for purposes other than Horticulture and in Form 'E' for Horticulture, the mutation memorandum in Form B' shall be completed in the office of the Sub-Divisional Officer (Civil) and issued under his signatures to the Revenue Officer of the area concerned for entry and attestation of mutation. After the needful has been done, the mutation memorandum shall be returned to the Sub-Divisional Officer (Civil) who will have it placed on the original Nautor File.

(4) Government dues payable in respect of the grant of nautor lands for water mills, thrashing floor and for building subservient to agriculture or construction of residential houses will have to be paid in lump-sum.

(5) The amount realised from the grantee will be credited into the treasury in the following manner: -

- (i) The Nazarana on land, under head "IX-Land Revenue"
- (ii) The price of trees, as "Forest Income"

19. **Grantee bound by the conditions of the patta.** - Subject to the provisions of these rules, the grantee shall be bound by the conditions of the patta.

20. **Periodical statement to be submitted by the Revenue Officer of the area.** - At the end of each quarter, a statement showing particulars of the grants of nautor lands made in the preceding three months shall be forwarded by the Sub-Divisional Officer (Civil) to the Deputy Commissioner with a copy endorsed to the Commissioner and the Divisional Forest Officer concerned.

21. **Copy of Panchayat and concerned departments.** - The Sub-Divisional Officer of the Sub-Division shall invariably send a copy of the orders passed by him within 15 days of the sanction of nautor land to the Panchayat and the department concerned, in every case in which the Panchayat, the resident/residents of the area or the department, as the case may be, had opposed the grant, so that the department or Panchayat or the objectors, as the case may be, may get a proper opportunity to file an appeal to the Deputy Commissioner against the decision of the Sub-Divisional Officer (Civil) if they have any grievance.

22. In the case of nautor land granted for agricultural or horticultural purposes, the Patwari of the area shall report immediately on the expiry of two years from the grant of the nautor land, whether the land has been brought under cultivation/plantation by the grantee. In the case of nautor land granted for a water mills shall be reported immediately on the expiry of two years whether the mill has been started and if not, yet whether at least construction of the mill has substantially begun. In other case he shall report at the expiry of two years, whether any substantial start has been made for the use of the land for the purpose it was granted giving details thereof. The date on which the above report is due from the Patwari shall be entered in the appropriate column of the misal Band Register.

*Explanations* - The Patwari shall at the time of inspection of each harvest (girdawari) make specific entries about the use to which each field number granted as nautor land has been put to.

23. Deleted.

24. **Report by the Range Forest Office regarding Defaulter to be called before resumption.** - When the Sub-Divisional Officer (Civil) is satisfied that a grantee has committed a breach of the conditions of his grant, he shall before ordering resumption under these rules, give the grantee an opportunity to appear and state his objections to the cancellation and resumption, and having recorded the statement, he may either (a) extend the period for the fulfillment of the conditions of the grant by one year for valid reasons to be recorded in writing or (b) recommend to the Deputy Commissioner that a longer extension of time may be granted within which to fulfill the conditions or that the breach of conditions may be condoned with or without payment of penalty, or that the grant may be resumed.

25. **Deputy Commissioner to pass orders regarding Resumption of possession.** - The Deputy Commissioner, may, on receipt of a report submitted to him under Sub-Rule (b) of the last foregoing rules, pass such orders as he deems fit after giving an opportunity to the person affected to be heard.

26. When an order for resuming the grant has been passed by the competent authority, possession of the nautor lands shall be taken back by the Tehsil Revenue Officer in accordance with these rules and delivered back to the Department whom it originally belonged.

27. Notwithstanding anything contained in the preceding rules grant of nautor lands may be made by the Deputy Commissioner in exchange for applicant's land, which may either be surrounded by Government forests or which may be beneficial to Government and the applicant in view of the soil Conservation, Consolidation of Holdings and a forestation, after getting the two areas to be exchanged properly evaluated to his personal satisfaction. An opportunity will also be given by the Deputy Commissioner to the Divisional Forest Officer of the area or his nominee to be heard before agreeing to such an exchange.

27-A. Except as otherwise provided in these Rules applications received upto 31.12.1983 for grant of land under illicit possession of the applicant prior to December, 1952, shall be disposed off as under:-

- (i) Those who prove an interrupted possession of 30 years or more may be given ownership on payment of all arrears of land revenue and cesses, a nazarana equal to 10 times the land revenue and cesses and a penalty of Rs. 5/- per bigha for agricultural land and Rs.10/- per bigha for building site;
- (ii) Those who are in possession of land for the period of 10 years or more but less than 30 years may be given ownership on a payment of all arrears of land revenue and cesses, a nazarana equal to 15 times the land revenue and cesses and a penalty of Rs.5/- per bigha for Agricultural Land and Rs.10/- per bigha for building site;
- (iii) Those who are in possession for the period of 5 years or more but less than 10 years may be given ownership on payment of all arrears of land revenue and cesses, a nazarana equal to 20 times the land revenue and cesses and a penalty of Rs. 5/- per bigha for agricultural land and Rs 10/- per bigha for building site;
- (iv) Whose period of possession is less than 5 years may be given ownership of land on payment of all arrears of land revenue and cesses, nazarana equal to 25 limits the land revenue and cesses, and a penalty of Rs. 5/- per bigha for agricultural land and Rs. 10/- per bigha for building site in the following cases only: -
  - (a) That he owns no other land, or
  - (b) That he owns land less than 20 bighas.
- (v) If a landless person has encroached upon Government land for construction of a house and land appurtenant thereto, such land shall be granted to such a person to the extent of 100 Sq Yds without payment of Nazarana.
- (vi) If a landless person or person holding land less than 5 bighas has encroached upon Government land such a land shall be granted to the landless person upto 5 bighas and to the person holding land less than 5 bighas to the extent his existing holdings falls short of five bighas, so as to make his holdings 5 bighas on payment of nazarana at the rate prescribed in this Rule. For this purpose, cases of encroachments as on 27th September, 1973, will only be taken into consideration, and whose application for regularisation of such cases have been received upto 31st July, 1974.

**Explanations** - (1) For the purposes of clauses (i), (ii), (iii) no limit or grant is fixed.

(2) In the case falling under category (a) of clause (iv) the grant shall not exceed 20 bighas and in the case falling under category (b) of clause (iv) the grant shall be made only to the extent to which the holding of the encroacher falls short of 20 bighas.

(3) Notwithstanding anything contained in sub-clause (b) of clause (iv) and explanation (2) above, the sanctioning authority may consider most deserving cases and grant land more than the prescribed limit according to the merits of the case under clause (iv) after receiving reasons for doing so.

(4) If trees be standing on the land concerned the value thereof shall be chargeable at market rate in addition to the nazarana of land.

(5) Applications shall be stamped with a court fee stamp of Rs. 2.50 and shall be accompanied by Fard and Tatima of the land. The Investigating Officer need not necessarily follow the normal procedure prescribed for disposal of applications for nautor for deciding applications under this rule. He shall, however, make enquiries to ascertain length of possession.

(6) Where proprietorship is not sanctioned, the trespasser shall be ejected, but all arrears and cesses shall be recovered from him.

(7) The sanctioning authority will be Settlement Officer in the areas under settlement and the Deputy Commissioner elsewhere; and

(8) The land revenue of such building sites as are not already assessed to land revenue shall be determined at the rate of assessment of the adjoining land.

**27-B. Grant of pieces of land surrounded by the land of farmers: -**

(1) Notwithstanding anything contained in these Rules, if a piece of Government land not exceeding 2 bighas in area, is surrounded by the land of one or more farmers from all sides, it may be granted to one of them on the market price to be calculated on the basis of five years average or Rs. 200/- per bigha whichever is higher, as Nazarana, if such farmer applies for it. In case the piece of Government land is surrounded by the Fields of two or more persons and they apply for it, the grant may be made to the person whose holding of land in the Pradesh is smaller.

(2) The forest growth on such piece of land shall be sold to the farmer concerned at the market rate, if the Forest Department fails or is unwilling, to remove it within a period of six months from the date of sanction.

(3) The land may be granted on an application duly stamped with a Court fee of Rs. 2.50 and accompanied by a tatima of the land applied for, showing also the surrounding land and copy of jamabandi thereof.

(4) There should be spot inspection by the Tehsil Revenue Officer to determine if the land applied for, falls within the purview of sub-rule(1). If there is Forest growth on the land applied for, the spot inspection shall be done jointly by the Tehsil Revenue Officer and a representative of the Forest Department not below the rank of a Range Officer.

(5) The grant shall be made by the Deputy Commissioner of the District in which the land is situated.

28. An appeal from the order of the S.D O. (C) under rule 16 shall lie to the Deputy Commissioner within 60 days from the date of the order. A further appeal from the appellate order



of the Deputy Commissioner shall lie to the Commissioner within 60 days from the date of the order.

In the case of original grant made by the Deputy Commissioner, an appeal from his order shall lie to the Commissioner within 60 days from the date of order and a second appeal to the Financial Commissioner within 90 days from the date of order:

Provided that no second appeal shall lie when the original order is confirmed on first appeal.

29. **Review.** - The Financial Commissioner or the Commissioner or the Deputy Commissioner or the Sub-Divisional Officer (C) may either of his own motion or on application of any party interested review, and modify, reverse or confirm any order passed by himself or any of his predecessors in office, provided as follows: -

- (a) when the sub-Divisional Officer (C) thinks it necessary to review any order, he shall first obtain the sanction of the Deputy Commissioner;
- (b) when the Commissioner or the Deputy Commissioner thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Financial Commissioner in the case of the Commissioner and the Commissioner in the case of the Deputy Commissioner;
- (c) the application for review of an order shall not be entertained unless it is made within 90 days from the passing of the order and unless the applicant satisfied the Financial Commissioner or the Commissioner or the Deputy Commissioner or the Sub-Divisional Officer (Civil) as the case may be, that he had sufficient cause for not making the application within that period;
- (d) an order shall not be modified or reversed in review unless reasonable notice has been given to the parties effected thereby to appear and be heard in support of the order;
- (e) an order against which an appeal has been preferred shall not be reviewed.

30. **Revision.** - (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed off by any officer subordinate to him.

(2) The Commissioner may at any time call for the record of any case pending before, or disposed off by any officer subordinate to him.

(3) If, in any case, in which the Commissioner has called for the record, he is of the opinion that the proceeding taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-rule (1) or reported to him under sub-rule (3) pass such order as he thinks fit.

Provided that he shall not under this rule pass any order reversing or modifying any proceedings or orders of the subordinate Revenue Officer without giving the parties concerned an opportunity of being heard.

**FORM 'A'**

[See rule 14(a)]

**MISAL BAND REGISTER FOR THE GRANT OF NAUTOR LAND**

District.....

1. Serial No.
2. Date of institution.
3. Name of estate.
4. Name of the applicant with description.
5. No. Khasra with area and classification of soil applied for.
6. Purpose of grant.
7. Date of dispatch to the Special Agency.
8. Date of receipt from the Special Agency.
9. Abstract of the report of the Special Agency.
10. Abstract of the final order sanctioning the grant with date thereof.
11. Abstract of the main conditions of the grant.
12. Premium money realizable.
13. Annual amount of the rent and the harvest from which chargeable.
14. Tatima Shajra of the Nautor land showing Karukans.
15. Dates on which the report mentioned in rule 22 is due from Patwari.
16. Remarks.

**FORM 'B'**

[See rule 18(3)]

1. Serial No.
2. Name of the village where the nautor land is situated.
3. Area, field numbers, Jamabandi holdings number and in case the land is situated within the limits of Municipal Committee, Small Town committee or Notified Areas Committee details of property as required under section 21 of the Registration Act.
4. Name and detail of the person or persons to whom the grant made.
5. File Number and date of final orders of the sanctioning authority with abstract.
6. Conditions of the grant.
7. Tatima Shajra with Field Numbers.

Forwarded to: -

The Revenue Officer concerned for entry of mutation.

Sign. of the Revenue Assistant.

Dated .....

Date of entry of mutation.....

Date of attestation of mutation.....

Date of return of the memorandum to the Tehsil.....

**FORM 'C'**

(See rule 13 of the Himachal Pradesh Nautor Land Rules, 1968)

**APPLICATION FOR NAUTOR LAND IN HIMACHAL PRADESH**

1. Name of applicant ..... Son of ..... resident of village .....  
Tehsil ..... District .....
  2. Particulars of preference claimed.
  3. Particulars of land already held by the applicant, if any:
    - (i) District
    - (ii) Tehsil.
    - (iii) Number of estate (Hadbast) and name of Estate.
    - (iv) Khasra Numbers with area and classification if known.
    - (v) Whether owner, tenant, self cultivating or non-cultivating
  4. Object for which nautor land is required.
  5. Particulars of the Nautor land applied for
    - (i) District.
    - (ii) Tehsil.
    - (iii) Number of estate (Hadbast) with name of Estate.
    - (iv) Khasra Number with areas and classification.
    - (v) Number of trees and their kind standing on the land with their approximate value.
  6.
    - (i) Number of Children of the applicant with their names, ages
    - (ii) Number of other dependents with their name and parentages
  7. Whether the applicant applied previously for nautor land, if so, give the following particulars: -
    - (a) Date of application, if known;
    - (b) Whether sanctioned or rejected and the date of order, if known
    - (c) Particulars of nautor land granted previously if any.
      - (i) District.
      - (ii) Tehsil.
      - (iii) Name of Estate with Hadbast Number.
      - (iv) Khasra Numbers with area and classification.
      - (v) Amount of dues, if any, paid.
  8. Income accruing to the applicant from all sources.
  9. Whether the applicant was charged or breaking Government land without permission previously
  10. Result of proceedings indicated at item 9, if any.
- I solemnly affirm and declare: -

- (i) That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.
- (ii) That I hold no land anywhere other than the land, the details of which have been given in this application.
- (iii) That I am a resident in the estate in which the land applied for nautor lies.

I hereby promise and undertake that if any grant of nautor land is made in my favour, I shall abide by the terms of such grant.

Dated:.....

Sign, of the applicant

### FORM 'D'

[See rule 18(3)]

### FORM OF PATTA

A grant made by the Government of Himachal Pradesh (hereinafter called the Government) of the one part to.....Son of.....resident of.....Tehsil.....District.....Himachal Pradesh, (hereinafter call the grantee) of the other part in pursuance of order, dated.....of the.....

Whereas the land hereinafter mentioned vests in the Government and which is authorised to grant interest in or to dispose off the said land.

And whereas the grantee has paid the sum of Rs .....:..... to the Government as Nazarana and Rs. .... on account of the price of the trees; and has further undertaken to pay the land revenue and cesses chargeable thereon.

Now this grant witnesseth as follows: -

1. The Government grants unto the grantee all that plot of land, measuring.....bighas hereinafter described as 'Nautor Land' and specifically described in the Schedule hereto, to have an interest in and to held the same having proprietary rights thereon subject to the exceptions and reservations and on the terms and conditions hereinafter appearing.

2. The grant of nautor is made for .....purpose only.

### 3. EXCEPTIONS AND RESERVATIONS ON BEHALF OF THE GOVERNMENT.

- (a) The Government does not grant but excepts and reserves to itself all mines and quarries of whatever nature existing on or below the surface of the land with liberty to search for, work and remove the same in as full and ample manner as if this grant had not been made.
- (b) The Government does not grant but excepts and reserves to itself all rivers and streams with the beds and banks, all drainage, channels and all public thorough fares now existing on the land or proposed for construction.

- (c) For the full discovery, enjoyment and use of the right hereby reserved, it shall be lawful for the Government through its authorised agents or for any officer of the Government to enter-upon the land and make such use thereof as may be necessary for these purposes without paying any compensation to the grantee for such use and occupation except as may be provided hereunder: -

#### 4. OBLIGATIONS OF THE GRANTEE

The grantee hereby covenants with the Government as follows: -

- (a) Not to do or suffer to be done any act inconsistent with or injurious to any of the rights excepted and reserved to the Government.
- (b) To permit without let or hindrance all officers or servants of Government and all other persons duly authorised by the Government in that behalf to enter upon the land at all reasonable times and to do all acts and things necessary for or incidental to:
  - (i) the purpose of enforcing compliance with any of terms and conditions of this grant for ascertaining whether they have been duly performed or observed; or
  - (ii) any purpose connected with the full enjoyment, discovery and use of the rights hereby reserved to the Government.
- (c) To break up the land within two years from the date of patta
- (d) In cases of horticulture, to plant the area with fruit trees within two years from the date of patta.
- (e) In the matter of water mills and water channels to set out the water main and dig out the water channels, as the case may be, within two years of the patta.
- (f) In the case of nautor for other purposes, to substantially start utilization of land, for the purpose for which the nautor has been granted to him within two years of patta.
- (g) If the land is resumed under the terms of this grant to leave the land as soon as the grant is terminated and surrender it peaceably to the Revenue Assistant and, if so required by the Revenue Assistant, to pull down and remove any structure existing thereon.
- (h) The land granted under the terms of this patta shall not be transferred by the grantee, or his successor(s) in interest, for any purpose, within a period of fifteen years.

5. If the grantee fails to perform or commits a breach of any of the terms and conditions of the grant or suffers or permits such a breach or non-performance, the State Government may at any time thereafter terminate the grant and resume possession of the land and may pull down any structure existing thereon, and sell the material thereof and retain the proceeds of the sale.

6. No compensation shall be payable by Government in respect of the exercise of any right reserved or conferred by the terms of this grant, except as provided hereunder:-

- (a) for actual damage or occupation arising out of the exercise of rights under clause (1) such compensation as may be determined by the Revenue Assistant.
- (b) On resumption of the whole or any part or portion of the land otherwise than for breach of or non-fulfillment of the terms and conditions of the grant or for the creation of a right of public way, a proportionate refund of Nazrana paid and such additional sum, if any, as may be determined by the Deputy Commissioner in

accordance with general principles applicable to the acquisition of land for public purpose.

7. Land granted as Nautor will not be subject to fragmentation by way of partition, transfer or by any other means.

### INTERPRETATION

8. In these conditions, unless there is anything repugnant in the subject or context: -

- (a) "Deputy Commissioner" means the Deputy Commissioner of the District in which the land is situated and includes, any other person duly authorised by general or special order to exercise the powers of the Deputy Commissioner in respect of conditions governing the grant;
- (b) "Revenue Assistant" means the Revenue Assistant of the district in which the land is situated;
- (c) "the Government and the grantee" include their successors in title and interest respectively; all rights hereby conferred and all obligations hereby imposed shall be available for the bind their successors in title and interest, as the case may require, and when the term "grantee" includes co-sharers any liability or obligation imposed by this grant shall be the joint and several liability of each co-sharer;
- (d) "the land" means the land which is the subject of the grant, and includes all rights, easements, and appurtenances thereto belonging or pertaining; and
- (e) "Minerals" include all substances of a mineral nature which can be had from the earth, such as coal, earth oil, gold washing, and forms or soils which can be used for a profitable purpose on removal.

### THE SCHEDULE REFERRED TO IN CLAUSE 1 OF THE PATTA

An area of.....bighas.....biswas.....situated in Mauza.....Tehsil.....District.....shown in the revenue records as khasra No.....and bounded as follows: -

On the north by.....

On the east by.....

On the south by.....

On the west by.....

Signature of the Executants and Witnesses

Signed on behalf of the President of India by.....(sd). Officer, acting under his authority in the presence of.....(sd) witness (Address.....on the ..... day.....of..... in the year one thousand nine hundred ..... and signed by the said ..... grantee (sd) grantee).

In the presence of.....(Witness Address.....(description).

On the.....day of.....in the year one thousand nine hundred.....

In witness whereof the parties have hereto set their hands on the dates hereinafter in each case specified.

**FORM 'E'**

[See rule 18(3)]

**PATTA FORM FOR THE GRANT OF NAUTOR LAND FOR HORTICULTURAL PURPOSES IN HIMACHAL PRADESH**

A grant made by the Governor of H.P. (hereinafter called the Government), of the one part to ..... son of ..... resident of ..... Tehsil ..... District ..... in the Himachal Pradesh (hereinafter called the grantee) of the other part in pursuance of order dated ..... of the .....

Whereas the land hereinafter mentioned vests in the Government which is authorized to grant interest in or to dispose off the said land.

And whereas the grantee has paid the sum of Rs..... to the Government as Nazrana and Rs...on account of price of the trees; and has further undertaken to pay the land revenue and cesses chargeable thereon.

Now this grant witnesseth as follows: -

1. The Governor of H.P. on behalf of the State as beneficial owner grants unto the grantee all that plot of land containing.....bighas, more or less, hereinafter described as "Nautor Land" and more particularly described in the Schedule hereto, to have an interest in to hold the same having proprietary rights thereon subject to the exception and reservations and on the terms and conditions hereinafter appearing.

2. The grant of nautor is made for orcharding purpose only.

**EXCEPTIONS AND RESERVATIONS ON BEHALF OF THE GOVERNMENT**

3. The Government does not grant but excepts and reserves to itself all mines and quarries of whatever nature existing on over or below the surface of the land with liberty to search for work and remove the same in as full and ample manner as if this grant had not been made.

4. The Government does not grant but excepts and reserves to itself all rivers and streams with their beds and banks, all drainages, channels and public thoroughfares now existing on the land Or shown as proposed for construction in the plan annexed.

5. For the full discovery, enjoyment and use of the rights hereby reserved, it shall be lawful for the Government through its authorised agents or for any officer of the Government to enter upon the land and made such use thereof as may be necessary for these purposes without making any compensation to the grantee for such use and occupation except as may be provided hereunder.

**OBLIGATIONS OF THE GRANTEE**

6. The grantee hereby covenants with Government as follow –

- (a) Not to do or suffer to be done any act inconsistent with or injurious to any of the rights excepted and reserved to Government.

- (b) To permit without let or hindrance all officers or servants of Government and all other persons duly authorised by Government in that behalf to enter the land at all reasonable times and to do all acts and things necessary for or incidental to: -
  - (i) The purpose of enforcing compliance with any of the terms and conditions of this grant for ascertaining. Whether they have been duly performed or observed; or
  - (ii) any purpose connected with full enjoyment, discovery and use of the rights hereby reserved to Government.
- (c) Not to use the land for any purpose other than that for which it is granted.
- (d) To plant fruit trees of only those varieties which are approved by the Extension Officer, Horticulture or Agriculture if Horticulture Officer is not available and according to layout sanctioned by him.
- (e) To plant areas with fruit trees within two years from the date of Patta.
- (f) To follow the instructions of Extension Officer Horticulture or Agriculture if Horticulture Officer is not available regarding;
  - (i) the purchase of trees from approved fruit nurseries;
  - (ii) the control of insect pests and fungal diseases of the fruit trees according to the advice of Extension Officer Horticulture or Agriculture if Horticulture Officer is not available;
  - (iii) the replacement of unsuitable or worn out trees.
- (g) Not to do intercropping except by the express sanction of Extension Officer Agriculture who will specify the kinds of crops to be grown.

*Note* - No sanction shall be necessary for growing green manuring or other leguminous crop. The grantee may put area remaining fallow in any year till four years from the date of grant by when the entire area under grant is to be put under orchard, under cereals or other crops approved by Extension Officer, Agriculture. This shall not, however, authorise the grantee to intercrop as forbidden under sub-clause (h).

- (h) Not to sell, mortgage or alienate, in any way or sub-lease the land to any other party within a period of fifteen years from the grant of patta.
- (i) To remain at all times of loyal behaviour and at any time of trouble to render active support to the Government and its officers, and to accept the decision of the Government as to whether this covenant has been fulfilled or not.
- (j) To pay such amount towards the cost of the following works as the Deputy Commissioner acting under the general or special orders of the Govt.; may determine, whether cost has already been incurred at the time of the grant or may be incurred thereunder;
  - (i) the survey and demarcation of the land;
  - (ii) the construction of any road, paths, culverts or bridges necessary for the general convenience or the estate in which land is situated;
  - (iii) the maintenance and repair of any such road, paths, culverts or bridges.



- (k) If the land is resumed under the terms of this grant to leave the land as soon as the grant is terminated, surrender it peaceably to the Revenue Assistant to pull down and remove any structure existing thereon.

### **PROVISION**

7. If the grantee fails to perform or commits breach of any of the terms or conditions of the grant or suffers or permits such breach or non-performance, the State Government may at any time thereafter terminate the grant and resume possession of the land and may pull down any structure existing thereon, and sell the materials thereof and retain the proceeds of the sale:

Provided that if the conditions contained in sub-clause (c) (d) and (e) of clause 6 have not been fulfilled to the satisfaction of District Collector, the grant may be terminated and the land resumed without payment of any compensation thereof.

8. No compensation shall be payable by Government in respect of the exercise of any right reserved or conferred by the terms of the grant, except as provided hereunder: -

- (a) For actual damage or occupation arising out of the exercise of rights, such compensation as may be determined by the Deputy Commissioner;
- (b) On resumption of the whole or any part or portion of the land otherwise than for breach of or non-fulfillment of the terms or conditions of the grant or for the creation of a right of public way a proportionate refund of Nazrana paid and such additional sum, if any, as may be determined by the Deputy Commissioner in accordance with general principles applicable to the acquisition of land for public purposes.

9. Land granted as Nautor will not be the subject to fragmentation by way of partition, transfer or by any other means.

### **INTERPRETATION**

In these conditions, unless there is anything repugnant in the context: -

- (a) "Deputy Commissioner" means the Deputy Commissioner of the District in which the land is situated and includes any other person duly authorised by general or special order to exercise the powers of the Deputy Commissioner in respect of conditions governing this grant;
- (b) "Revenue Assistant" means the Revenue Assistant of the District in which the land is situated.
- (c) "The Government" and the "grantee" include their successors in title respectively, all rights hereby conferred and all obligations hereby imposed shall be available for and bind their successors in title as the case may require, and when the term "the grantee" includes co-sharers any liability or obligation imposed by this grant shall be the joint and several liability of each co-sharer;
- (d) "the land" means the land which is the subject of this grant, and includes all rights, easements, and appurtenances thereto belonging or pertaining, and
- (e) "Minerals" include all substances of a mineral nature which can be had from the earth, such as coal, earth oil, gold washing and forms of soils which can be used for a profitable purpose on removal.

**THE SCHEDULE REFERRED TO IN CLAUSE I OF THE PATTA**

An area of..... bighas ..... biswas ..... situated in Mouza ..... Tehsil.....District.....shown in the revenue records as Khasra Number ..... and bounded as follows:-

On the north by.....

On the east by.....

On the south by.....

On the west by.....

Sign, of the Executants and witness

Signed on behalf of the Governor of H.P. by ..... (sd.) Officer acting under his authority in the presence of ..... (sd.) witness (Address) ... on the ..... day of ..... in the year one thousand nine hundred ..... and signed by the said ..... grantee (sd.grantee).....

In the presence of ..... witness(s) ..... (Address) description ..... on the ..... day of ..... in the year one thousand nine hundred .....

In witness whereof the parties have hereto set their hands on the dates hereinafter in each case specified.

**THE HIMACHAL PRADESH GRANT OF NAUTOR LAND TO LANDLESS PERSONS  
AND OTHER ELIGIBLE PERSONS SCHEME 1975**

**GOVERNMENT OF HIMACHAL PRADESH  
'REVENUE DEPARTMENT'**

"NOTIFICATION"

No. 9-14/75-Rev.A.- The Governor, Himachal Pradesh, is pleased to make the following special scheme for grant of Nautor land to landless persons in the State.

**1. Short title and commencement.-** (1) This scheme shall be called the Himachal Pradesh Grant of Nautor Land to Landless persons other Eligible persons scheme, 1975.

(2) It shall come into force at once.

**2. Definition.-In the scheme-**

- (a) 'Landless persons' means a person who holding no land for agricultural purposes, whether as an owner or a tenant, earns his livelihood principally on manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally.
- (b) 'other eligible persons' means persons who hold land less than one acre in the State of Himachal Pradesh as a landowner or a tenant and earns his livelihood principally on manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally and includes those land-owners who were either rendered landless or whose holdings were reduced to less than one acre as a result of implementation of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953.

<sup>1</sup>Provided that notwithstanding anything contained in this scheme, a person who has completed training under the TRYSEM Programme and is certified as eligible by the Project Officer/A.D. Agency of the Distt. concerned for allotment of land for construction of a shop or other business premises shall also be deemed clause and land of the area sufficient for construction of a shop or other business premises, but not exceed 2 biswas as the case may be, may be granted to him by the S.D.O.(C) concerned.

**3. Application of Scheme-** The scheme shall apply to Government waste land outside the Reserved and Demarcated Protected Forest.

**4. Survey of culturable land-**(1) A survey of culturable land in each estate shall be made immediately by the Tehsildar/Naib-Tehsildar concerned and plots of land in each estate which can be granted as nautor land to the landless persons, other eligible persons marked on the ground.

(2) A register of landless persons in each Patwar circle has already been maintained village-Wise under the instructions issued by the State Government. These registers will be verified by the Tehsildars according to the instructions already issued by the Government in this behalf.

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<sup>1</sup>Inserted vide notification No. 9-14/75-Rev-A dated 15.10.1975.

(3) In case of other eligible persons a register in each Patwar circle shall be maintained in form 'A' appended to this Scheme.

**5. Grant of Nautor Land.** - (1) Nautor Land upto 1 acre for the purpose of Agriculture/Horticulture shall be granted to a landless person on a simple application in the Revenue estate in which ordinarily resides or in a nearby revenue estate as far as possible in the following order:-

- (i) in the revenue estate;
- (ii) in the Patwar circle if no land is available in the Revenue estate;
- (iii) in the Kanungo circle if no land is available in the Patwar circle;
- (iv) in the Tehsil, if no land is available in the Kanungo circle.

<sup>1</sup>(2) The allotment of land to eligible persons under the scheme shall be made in the following order of preference.

- (i) members of Scheduled castes/Scheduled Tribes, ex-servicemen, Freedom fighters and Ex-INA personnel covered under the Govt. of India scheme and also those freedom fighters who have been awarded commendation certificates by the State Government;
- (ii) landowners or tenants whose holdings as a result of implementation of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 are reduced below one acre; and
- (iii) to remaining eligible persons;

Provided that no land containing more than 40 trees of valuable species per acre shall be granted under this scheme.

(3) If there are trees on the land granted under this scheme and the grantee is not in a position to pay the price of the trees at market rate, the trees shall be Cleared by the Forest Department within a month from the date of grant of the land.

**6. Delimitation of land.**-The nautor land to be granted to a landless person or other eligible persons under this scheme shall be delimited in his presence and also in the presence of the members of the Gram Panchayat as may be available at the time of delimitation.

**7. Sanctioning Authority** - <sup>2</sup>The Sub-Divisional Officer (Civil) of the Sub-Division and the Tehsildar of the Tehsil in which the land is situated shall be the sanctioning authority for the purpose of this scheme. The sanction order of nautor land shall be made by the Tehsildar on the application and its operative part entered in the register to be maintained for the purpose in the Tehsil. Issue of Patta under the scheme will not be necessary.

**8. Nazarana and mode of its payment.** - (1) The grant of nautor land under this scheme shall be made against payment of nazarana by:-

- (a) a grantee belonging to Scheduled Tribes @ rupees five per bigha;
- (b) a grantee belonging to Scheduled caste @ rupees twenty five per bigha;
- (c) other grantees @ rupees fifty per bigha.

<sup>1</sup>Added vide Revenue Department Notification No. 9-14/75-Rev-A dated 15.10.1975.

<sup>2</sup>Inserted vide notification No. 9-14/75-Rev., Dated 22-1-76.

<sup>1</sup>(2) The payment of nazarana shall be in lump sum or in ten equal half yearly installments. The possession of the land shall be given to the grantee immediately after the sanction of land. In case of payment in installments, the first installment can be paid within one year of the delivery of possession.

(3) If the grantee fails to pay the total amount of nazarana within a period of five years, the same shall be recovered as arrear of land revenue.

9. There shall be no right of appeal against the grant of nautor land to a landless person or to other eligible persons under this scheme.

<sup>2</sup>9-A.-**Revision**;- If at any time, it comes to the notice of the Deputy Commissioner either through an application made by any person or otherwise, that the allotment of any land under this scheme was made to a person who was not entitled or eligible for such allotment or the allotment was wrong on any other grounds, he may call for the record of the case and after making such enquiries as he thinks proper in person or through a Revenue Officer subordinate to him and after giving an opportunity to the parties concerned, he may cancel the grant of land and make such other orders in connection therewith as he deems necessary in the circumstances of the case.

10. **Mutation** :- The mutation of the land to be granted under this scheme to a landless person or to other eligible persons shall be attested immediately after the payment of nazarana by the grantee either in lump sum or on payment of 1<sup>st</sup> installment of the nazarana as the case may be.

11. **Restriction on transfer.** - The grantee shall not transfer the land granted under this scheme to any person within a period of <sup>3</sup>20 years from the date of taking over possession of the land by him. In the event of contravention of the provisions of this para the grant shall be liable to be resumed by the State Government <sup>4</sup>and no further allotment of land should be made to him thereafter. <sup>4</sup>Similarly if he fails to break up the land within a period of 2 years from the date of taking over of the possession the grant shall be liable to be resumed:

Provided that the land granted under this scheme shall not be subject to fragmentation by way of partition, transfer or by any other mean. The Revenue Officer shall record these conditions in the mutation orders to be passed by him. His orders shall further be recorded in the remarks column of the jamabandi in which the mutation pertaining to the land is incorporated.

Provided the allottee may transfer the land by way of mortgage without possession in favour of Primary Agricultural Cooperative Credit Society, a Bank as defined in the H.P. Agricultural Credit Operations and Miscellaneous provisions (Banks) Act 1972 (Act No.7 of 1973) for the purpose of raising loans for development of such land, raising of crops, purchase of bullocks, seed and fertilizers etc. for bringing the land under cultivation.

12. **No legal practitioner shall appear**, plead or act on behalf of any party before any revenue officer in any case under this scheme.

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<sup>1</sup>Substituted vide notification No. 9-14/75-Rev.A Dt. 13-2-76.

<sup>2</sup>Substituted vide notification No. Rev. 9-14/75 dt. 15-10-75.

<sup>3</sup>Substituted vide notification No. Rev. 2A(3) 11/77 dt. 11.9.80.

<sup>4</sup>Substituted vide notification No. Rev. 2A(3)-11/77 dt. 9.12.87.

**REGISTER**

Tehsil	Patwar Circle	Name and percentage of person holding land below 5 bighas	Whether Scheduled Caste/ Schedule Tribe or other	Name of the village where permanently resides	Name of the village where land is hold with extent of land	
					Village	Land held in bighas
1	2	3	4	5	6	7
No. of family members of the person entered in column 3	Name of village in which land is granted	Date of sanction	Particulars of land granted khasra No.	Land in bighas	Price of land charged	Remarks
8	9	10	11	12	13	14

## THE HIMACHAL PRADESH UTILISATION OF SURPLUS AREA SCHEME, 1974

This scheme may be called the Himachal Pradesh Utilisation of Surplus Area scheme, 1974

1. **Short title and commencement.**— (1) This scheme may be called the Himachal Pradesh Utilisation of Surplus Area Scheme, 1974.

(2) It shall come into force at once.

2. **Definitions.**—In this scheme, unless the context otherwise requires:-

(a) “Act” means the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973);

(b) “allottee” means a person who is allotted or is deemed to have been allotted land under this scheme;

<sup>1</sup>(bb) “Commissioner” means the Commissioner, Himachal Pradesh and includes an officer appointed as such by the State Government for the purposes of this Scheme.

(c) “eligible person” means a person who is eligible for the allotment of surplus land under section 15 of the Act;

(d) “form” means a form appended to this scheme;

(e) “rules” means the Himachal Pradesh Ceiling on Land Holdings Rules, 1973;

(f) all other words and expressions used herein and not defined in this scheme but defined in the Act or Rules shall have the meanings as are respectively assigned to them in the Act or the Rules as the case may be.

3. **Application.**—An eligible person may make an application to the Tehsil Revenue Officer in Form I for allotment of land comprised in the surplus area. Such an application shall be made within three months of the date commencement of this scheme or within such extended period as may, for reasons to be recorded, be allowed by the Tehsil Revenue Officer.

4. **Power to proceed suomoto.**—Proceedings for allotment of land comprised in the surplus area may also be intimated suomoto by the Tehsil Revenue Officer.

5. **Procedure to be observed by Tehsil Revenue Officer.**—When application is made under paragraph 3 or when the Tehsil Revenue Officer suomoto initiates proceedings under paragraph 4, he shall after giving the persons seeking allotment or being considered for allotment, an opportunity of being heard and after making such summary inquiry, as he may consider necessary prepare a statement for each revenue estate, indicating:-

(1) Particulars of each eligible person;

(2) The land, if any, owned or held by each person;

(3) The area which can be allotted to each such person under the Act, and

(4) The revenue estate or estates for which such person indicates preference for allotment of land, in case no area is available for allotment in the revenue estate, where he resides.

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Published in Gazette (Extraordinary) dated 20<sup>th</sup> July, 1974 vide Revenue Department Notification No. 10-7/74-Rev., dated 20<sup>th</sup> July, 1974

<sup>1</sup> Inserted vide notification No. Rev. 2A(3) 11/77, dated 10.07.1978

All Deputy Commissioners appointed Commissioners vide notification No. Rev. 2A(4)-3/78 dated 6-1-79.

A.D.M. Kangra, Shimla and Mandi appointed Commissioners vide notification No. Rev. 2A(3)-11/78 dated 26-03-83.

A.D.M. Solan appointed Commissioner vide notification No. Rev. 2A(3)-11/77 dated 27-6-83.

**6. Procedure for allotment of surplus area.**—(a) After the procedure prescribed in paragraph 5 has been followed, the Tehsil Revenue Officer shall prepare a list of all eligible persons for each revenue estate in such a manner that the members of scheduled castes and Scheduled Tribes be placed at the top and the persons who do not own/hold any land and the persons who own or hold less than one acre of land are placed, according to the area possessed by each, in an ascending order.

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(b) The Tehsil Revenue Officer shall also prepare a list of khasra numbers (with area) of the land comprised in the surplus area available for allotment in a revenue estate mentioning such numbers in the numerical order. Where there are killas and rectangles, the numerical order of the rectangles shall be observed first and then of killas in each rectangle.

(c) The record of each case alongwith the lists referred to in sub-paras (a) and (b) above shall be forwarded to the Collector who shall proceed to allot the land to eligible persons in the following order of preference:-

- (a) Members of Scheduled Castes/Scheduled Tribes, ex-servicemen, freedom fighters and Ex-INA personnel, covered under the Government of India scheme, and also those freedom fighters who have been awarded commendation certificates by the State Government.
- (b) Land owners of tenants whose holdings as a result of implementation of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 are reduced below one acre; and
- (c) to remaining eligible persons.

**7. Allotment of land to the eligible persons in other revenue estates.**— (1) If any eligible person cannot be allotted land in the revenue estate in which he resides, the Collector may, having due regard to his preference, allot him surplus area in any revenue estate in which it is available.

When making such allotment, the Collector shall endeavour to allot him land in any other revenue estate nearest to his village of residence, as far as possible, in the following order:-

- (i) in the Patwar Circle;
- (ii) in the Kanungo Circle, if no land is available in the Patwar Circle;
- (iii) in the Tehsil, if no land is available in the Kanungo Circle;
- (iv) in the district, if no land is available in the Tehsil;
- (v) in some other district, if no land is available in the district.

(2) If more than one eligible persons seek or are being considered for allotment of land in a revenue estate other than the revenue estate in which they reside, the principles mentioned in paragraph 6 shall, as far as possible apply.

**8. Surplus area to which scheme not to apply.**- This scheme shall not apply to the surplus areas to be demarcated by the Forest Department in consultation with the Revenue Department for efficient management of land.

<sup>1</sup>8A.(1) No land containing more than 40 trees of valuable species per acre shall be granted under this Scheme.

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\*\*Deleted vide notification No. 10-7/74-Rev.A dated 18.10.75

<sup>1</sup> Added vide No. 10-7/74-Rev.A dated 13.3.76



(2) If there are trees on the land granted under this scheme and the grantee is not in a position to pay the price of the trees at market rate, the trees shall be cleared by the Forest Department within a month from the date of grant of the land. \*\*

**9. Issue of certificate.**—Each allottee shall be given a certificate in Form II by the Collector. A copy of certificate shall be sent to the Tehsil Revenue Officer.

**10. Delivery of possession.**—(1) After making the allotment under paragraph 6 or 7, as the case may be, the Collector shall also pass an order for delivery of possession of the land to the allottee. On receipt of such an order, the landowner or any other person in possession of such land shall deliver possession of the land mentioned in the order to the allottee.

(2) The possession of the land shall be given to the allottee after the crops are harvested.

**11. Condition of allotment.**—The allotment shall be subject to the following terms and conditions:-

- (a) the allottee shall be liable to pay all Government dues, including land revenue, rates and cesses from the date he takes possession of the land;
- (b) the allottee shall be liable to pay for the land an amount as prescribed in section 15 of the Act;
- (c) the allottee shall become full owner of the land allotted to him when all payments due in respect of such land have been made either in lump sum or on payment of first instalment of such dues, as the case may be;
- <sup>1</sup>(d) the allottee shall not transfer his rights in the land allotted to him to any person within a period of 20 years from the date of taking over the possession after allotment and in the event of violation of the provisions, the land granted to him shall be liable to be resumed by the State Govt. and no further allotment of land shall be made to him thereafter.

<sup>2</sup>Provided that the allottee may transfer the land by way of mortgage without possession in favour of a primary Agricultural Cooperative Credit Society, a bank as defined in the H.P Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972 (Act No. 7 of 1973) for the purpose of raising loans for development of such land, purchase of Bullocks, Seed, Fertilisers etc. required for bringing the land under cultivation.

- (e) the land allotted under this scheme shall not be subject to fragmentation by way of partition, transfer or by any other mean; and
- <sup>3</sup>(f) the Revenue Officer shall record the conditions laid down in sub-paras (d) and (e) above in the mutation orders to be passed by him. His orders shall further be recorded in the remarks column of the jamabandi in which the mutation pertaining to the land is incorporated.

**12. Payment of amount in instalments.**—The amount prescribed in section 15 of the Act shall be paid by the allottee in the following manner:-

(1) The amount payable under section 15 of the Act shall, if it is not voluntarily paid in lump sum be paid-

<sup>1</sup> Inserted vide notification No. Rev. 2A(3)-11/77 dated 9-12-87

<sup>2</sup> Inserted vide notification No. 10-4/74 Rev. A dt. 3-6-76

<sup>3</sup> Inserted vide notification No. 10-7/60/74-Rev. A, dated 18.10.1975

- (a) where it does not exceed 100 rupees, in four six-monthly instalments.
- (b) Where it exceeds 100 rupees but does not exceed 200 rupees in eight six-monthly instalments.
- (c) Where it exceeds 200 rupees in twelve six-monthly instalments.

(2) All instalments referred to in sub-paragraph (1) shall be equal in amount upto a rupee, the balance, if any, being payable with the last instalment.

**13. Cancellation of allotment in certain cases.**—If an allottee makes any default in the payment of the amount due from him or infringes any of the conditions of allotment, he shall render himself liable to cancellation of the allotment

Provided that if default is made in paying part of the amount determined under paragraph 12, the Collector may cancel the allotment of an area proportionate to the amount which has remained unpaid.

**14. Manner of payment of amount.**— (i) The amount shall be paid into the Government treasury or sub-treasury by the allottee

(ii) The Tehsil Revenue Officer shall maintain a ledger account in respect of the amount due from and amount paid by each allottee. He shall also maintain a day book regarding payments received from them. At the end of every month a statement regarding payments received from allottees shall be furnished by the Treasury Officer or Sub-Treasury Officer, as the case may be, to the Tehsil Revenue Officer.

<sup>1</sup>14A. **Revision.**—If at any time it comes to the notice of the Deputy Commissioner either through an application made by any person or otherwise, that the allotment of any land under this Scheme was made to a person who was not entitled or eligible for such allotment or the allotment was wrong on any other grounds, he may call for the record of the case and after making such enquiries as he thinks proper either in person or through a Revenue Officer subordinate to him and after giving an opportunity to the parties concerned, he may cancel the grant of land and make such other orders in connection therewith as he deems necessary in the circumstances of the case.

<sup>2</sup>14B. No legal practitioner shall appear, plead or act on behalf of any party, before any Revenue Officer in any case under this scheme.

**15. Repeal and savings.**—The Utilisation of the Surplus Area Scheme, 1960 framed under section 32 of the Pepsu Tenancy and Agricultural Lands Act, 1955, is hereby repealed: Provided that anything done or any action taken under the scheme so repealed shall be deemed to have been done or taken under the corresponding provisions of this scheme.

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<sup>1</sup> Para 14A added vide notification No. Rev. 2A(3)-11/77 dated 10-7-78

<sup>2</sup> Para 14B added vide notification No. Rev. 2A(3)-11/77 dated 11.9.80

FORM  
(See paragraph 3)

Name, Parentage, Village, Tehsil and District of the applicant	Khasra No. Land he owns/ cultivates with the name of the estate, Tehsil and District	Area he wants to be allotted with the name of the estate, Tehsil and District	Name of the scheduled caste or scheduled tribe to which he belongs	Remarks
1	2	3	4	5

I hereby certified that I have known the applicant personally for a period of ..... and to the best of my knowledge and belief, he belongs to the ..... caste which is one of the Scheduled castes/Scheduled tribe declared for Himachal Pradesh under the Constitution of India.

Sign. of the Sarpanch/Lambardar  
or any Gazetted Officer  
or a Revenue Officer

(See paragraph 8)  
(Form of Certificate)

Certified that ..... son of Sh. .... resident of ..... has been allotted land measuring ..... and situated in ..... estate ..... Tehsil ..... District ..... under the provision of Himachal Pradesh Utilisation of Surplus Area Scheme 1974 subject to the conditions specified in the scheme. The amount payable for such allotment has been determined as.

**THE HIMACHAL PRADESH VILLAGE COMMON LANDS VESTING AND  
UTILISATION SCHEME, 1975<sup>1</sup>**

**1. Short title and commencement.-** (1) This scheme shall be called the Himachal Pradesh Village Common Lands Vesting and Utilisation Scheme, 1975.

(2) It shall come into force at once.

**2. Definitions.-** In this scheme, unless the context otherwise require.

(a) 'Act' means the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974; (Act No. 18 of 1974);

(b) 'allottee' means a person who is allotted land under this scheme;

<sup>2</sup>(bb) 'Commissioner' means the Commissioner, Himachal Pradesh, and includes an officer appointed as such by the State Government.

(c) term to cultivate personally will have the same meaning as given in the Himachal Pradesh Tenancy and Land Reforms Act, 1972;

(d) 'form' means the form appended to this scheme;

(e) 'rules' mean the Himachal Pradesh Village Common Lands Vesting and Utilisation Rules, 1974; and

(f) all other words and expressions used herein and not defined in this scheme but defined in the Act or rules shall have the same meaning as are respectively assigned to them in the Act or in the rules, as the case may be.

**3<sup>3</sup>. Procedure to be observed by the Tehsil Revenue Officer.-** Immediately after the land vested in the State Government under Section 3 of the Act is mutated in favour of the State Govt., the Tehsil Revenue Officer shall invite applications through proclamation from the eligible persons in form-I to be submitted to him within 6 weeks thereof. Copy of this proclamation shall be affixed at conspicuous place in the estate. Additional publicity shall be made by other suitable media of publicity.

Provided that the proceedings for allotment of land from the allotable pool may be initiated suo-moto by the Tehsil Revenue Officer.

**4. Enquiry preparation of statement of land available for allotment.—** When application is made under paragraph 3 or when the Tehsil Revenue Officer suo-moto initiates proceedings under the proviso of paragraph 3, he shall after giving the persons seeking allotment or being considered for allotment, an opportunity of being heard and after making such summary inquiry as he may consider necessary, prepare a statement for Revenue estate, indicating-

- (1) particulars of each eligible person;
- (2) the land, if any, owned or held by such person;
- (3) the area which can be allotted to such person under the Act; and

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<sup>1</sup>Scheme published in the Rajpatra, Extraordinary, dated the 20<sup>th</sup> March, 1975 vide Revenue Department notification No. 10-1/73-Rev.A.-dated the 12<sup>th</sup> Feb., 1975.

<sup>2</sup>Amended vide notification No. 10-1/73-Rev.-A dated 18.10.1975.

<sup>3</sup>Substituted vide Notification No. Rev.-2-A(3)11/77, dated 10/7/78.

- (4) the revenue estate or estates for which such person indicates preference for allotment of land in case no area is available for allotment in the revenue estate where he holds land.

**5. Procedure for allotment of land from the allotable pool.-** (1) After the procedure prescribed in paragraph 4 has been followed, the Tehsil Revenue Officer shall prepare a list of all eligible persons for each revenue estate in such a manner that the persons who do not own any land and the persons who own or hold less than one acre of land are placed according to the area possessed by each in an ascending order.

(2) The Tehsil Revenue Officer shall also prepare a list of Khasra Numbers (with area) of the land comprised in the allotable pool area available for allotment in a revenue estate mentioning such numbers in the numerical order. Where there are killas and rectangles, the numerical order of the rectangle shall be observed first and then of killas in each rectangle.

(3) The record of each case alongwith the lists referred to in sub-paras (1) and (2) above shall be forwarded to the Collector who shall proceed to allot the land to eligible persons in the following order of reference:-

- (a) member of Scheduled castes/Scheduled tribes, ex-servicemen, freedom fighters and Ex-INA personnel, covered under the Government of India scheme and also those freedom fighters who have been awarded commendation certificates by the State Government.
- (b) Landowners or tenants whose holdings as a result of implementation of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 are reduced below one acre.

6. If any eligible person cannot be allotted land in the revenue estate in which he resides, the Collector may, having due regard to his preference, allot him land in land revenue estate in which it is available.

**7. Issue of certificate.-** Each allottee shall be given a certificate in Form 'II' by the Collector. A copy of the certificate shall be sent to the Tehsil Revenue Officer.

**8. Delivery of possession.—**After making the allotment, the Collector shall also pass an order for delivery of possession of land to the allottee.

**9. Conditions of allotment.—**The allotment shall be subject to the following terms and conditions:-

- (a) The allottee shall be liable to pay all Government dues, including land revenue rates and cesses from the date he takes possession of the land;
- (b) the allottee shall be liable to pay for the land an amount as prescribed in clause (b) of sub-section (1) of Section 8 of the Act;
- (c) the allottee shall become full owner of the land allotted to him when all payments due in respect of such land have been made either in lump sum or on payment of first installment of such dues, as the case may be;

(d) the allottee shall not transfer his rights in the land allotted to him to any person within a period of 20<sup>1</sup> years from the date of taking over the possession after allotment; and in the event of violation of the provisions, the land granted to him shall be liable to be resumed by the State Govt. and no further allotment of land shall be made to him thereafter.

<sup>2</sup>Provided that the allottee may transfer the land by way of mortgage without possession in favour of a primary Agricultural Cooperative Credit Society, a Bank as defined in the Himachal Pradesh Agricultural Credit operations and Miscellaneous provisions (Banks) Act, 1972 (Act No. 7 of 1973) for the purpose of raising loans for development of such land, purchase of bullocks seed and fertilizer, etc. for bringing the land under cultivation.

(e) the allotment shall be liable to resumption if the land is not cultivated personally within a year of taking over of the possession by the allottee;

<sup>3</sup>(f) the land allotted under this scheme shall not be subject to fragmentation by way of partition transfer or by any other mean; and

(g) the Revenue Officer shall record the conditions laid down in sub-paras(d), (e) and (f) above in the mutation orders to be passed by him. His orders shall further be recorded in the remarks column of the Jamabandi in which the mutation pertaining to the land is incorporated.

**10. Payment of amount in installments.**—The amount prescribed in section 8 of the Act shall be paid by the allottee in the following manners:-

(1) The amount payable under-Section 8 of the Act shall, if it is not voluntarily paid in lump sum be paid;

(a) where it does not exceeds 100 rupees in 2 equal six-monthly installments.

(b) where it exceeds 100 rupees in 4 equal six-monthly installments.

**11. Cancellation of allotment in certain cases.**—(1) If an allottee makes any default in the payment of the amount due from him or infringes any of the conditions of allotment, he shall render himself liable for cancellation of the allotment:

Provided that no cancellation of allotment will be made unless the allottee is given an opportunity of being heard.

(2) If there is a default in payment of installment or installments due to the Government from the allottee, the same shall be recoverable as arrears of land revenue.

**12. Manner of payment of amount.**— (1) The amount shall be paid into the Government Treasury or Sub-Treasury by the allottee.

(2) The Tehsil Revenue Officer shall maintain a ledger account in respect of the amount due from and amount paid by each allottee. He shall also maintain a day book regarding payments received from them. At the end of every month, a statement regarding payments received from allottees shall be furnished to the Treasury Officer or Sub-Treasury Officer as the case may be, by the Tehsil Revenue Officer.

<sup>1</sup> Substituted vide notification No. Rev. 2A(23)-11/77, dated 9-12-87.

<sup>2</sup>Substituted vide notification No. 10, 10-1-73 Rev.A, dated 8.6.76.

<sup>3</sup> Inserted vide notification No. 10-1/73-Rev.-A, dated 18.10.1975.

13.<sup>1</sup>(1) Any person aggrieved by an order, of Collector or any other authority competent to make such order, may within thirty days from the date of such order, or such longer period as the Commissioner may allow for reasons to be recorded in writing prefer an appeal in write the Commissioner.

*Explanation:-* In completing the period of thirty days, the time taken in obtaining the copy of the order appealed against shall be excluded.

(2) An such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.

(3) The Commissioner shall decide the appeal after giving the parties an opportunity of being heard and if necessary, after sending further record of the case from the Collector and after making such inquiry as he thinks fit either personally or through the Collector.

(4)<sup>2</sup> If at any time, it comes to the notice of the Commissioner either through an application made by any person or otherwise, that the allotment of any land under this Scheme was made to a person who was not entitled or eligible for such allotment or the allotment was wrong on any other grounds, he may call for the record of the case and after making such enquires as he thinks proper either in person or through a Revenue Officer subordinate to him and after giving an opportunity to the parties concerned, he may cancel the grant of land and make such other orders in connection therewith as he deems necessary in the circumstances of the case.

14.<sup>3</sup>No legal practitioner shall appear plead or act on behalf of any party before any Revenue Officer, in any case under this Scheme.

FORM I  
(See paragraph 3)

Name, Parentage, Village, Tehsil and District of the applicant	Khasra No.Land he owns/ cultivates with the name of the estate, Tehsil and District	Area he wants to be allotted with the name of the estate, Tehsil and District	Name of the scheduled caste or scheduled tribe to which he belongs	Remarks
1	2	3	4	5

I hereby certified that I have known the applicant personally for a period of ..... and to the best of my knowledge and belief, he belongs to the ..... caste which is one of the Scheduled castes/Scheduled tribe declared for Himachal Pradesh under the Constitution of India.

Signature of the Sarpanch/Lambardar  
or any Gazetted Officer  
or a Revenue Officer

<sup>1</sup> Substituted vide Notification No. 10-4/75-Rev.-B(III), dated 21/6/77.

<sup>2</sup> Substituted vide Notification No. 2-A(3) 11/77, dated 10/7/1978.

<sup>3</sup> Substituted vide notification No. Raj-2-A(3) 11/77, dated 11/9/1980.

## FORM II

(See paragraph 7)

## Form of Certificate

Certified that ..... son of Sh. .... resident of ..... has been allotted land measuring ..... and situated in ..... estate ..... Tehsil ..... District ..... under the provision of Himachal Pradesh Village Common Lands Vesting and Utilization Scheme, 1975, subject to the terms and conditions specified therein. The amount payable for such allotment has been determined as .....

Collector



(Authoritative English Text of this Department Notification No. Rev.- D(G)9-4/2008 dated 14-10-2015 as required under clause (3) of article 348 of the Constitution of India).

**HIMACHAL PRADESH CONFERMENT OF PROPRIETARY RIGHTS ON  
CHAKOTADARS SCHEME, 2015.**

**Government of Himachal Pradesh  
Revenue Department**

NOTIFICATION

No.Rev.-D (G)9-4/2008

Dated : Shimla -2

14<sup>th</sup> October, 2015

In exercise of powers conferred by section 8-B of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, (Act No.18 of 1974), the Governor, Himachal Pradesh is pleased to frame the following Scheme providing for conferment of Proprietary rights on Chakotadars, who have been leased out or allotted lands on Chakota basis by the Panchayats under the Punjab Village Common Lands (Regulation) Act, 1961, namely:-

**SCHEME**

1. **Short title.**- (1) This Scheme may be called the Himachal Pradesh Conferment of Proprietary Rights on Chakotadars Scheme, 2015

(2) It shall come into force on the date of its publication in the Official Gazette.

2. **Definition.**- (1) In this Scheme, unless the context otherwise requires,-

- (a) "Act" means the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974;
- (b) "Chakotadar" means a person who have been leased out or allotted land on Chakota basis by the Panchayats under the Punjab Village Common Lands (Regulation) Act, 1961, and includes his legal heirs ; and
- (c) "Competent Authority" means the Sub-Divisional Officer (Civil) concerned within his territorial jurisdiction.

(2) All words and expressions used herein but not defined shall have the same meanings as are respectively assigned to them in the Act.

3. **Eligibility.**- The Chakotadars, who have been leased out or allotted lands on Chakota basis by the Panchayats under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961, shall be eligible for conferment of proprietary rights over such lands subject to such limits, such conditions and on payment of such amount as fixed under this Scheme.

4. **Maximum Limit.**- The proprietary rights shall be conferred on such eligible Chakotadars to a maximum limit of 00-40-00 hectare (5 bigha/10 Kanal) subject to the condition that his entire holding, including such leased out or allotted lands, by whatever name classified in the revenue record, should not exceed 1-50-00 hectare (20 bigha/40 kanal) after conferment of such proprietary rights.

5. **Consideration amount.**- The proprietary rights shall be conferred on Chakotadars after payment of consideration amount of Rs.1000/- (One thousand only) per 0-07-52 hectare (one

bigha/two kanal) subject to the condition that he shall not alienate such land in any manner for a period of ten years from the date of order of grant passed by the Competent Authority.

**6. Treatment of remaining land.-** (1) The remaining land to the extent of twenty Bighas including land on which proprietary rights to the extent specified in para-4 of this Scheme has been conferred shall further be granted to him on lease initially for a period of 10 years on payment of annual rent of Rs. 1000/- (One thousand only) per 0-07-52 hectare (One bigha/two kanal) and shall further be renewable, on completion of lease period, for next ten years and so on with an increase @ 10% of the lease amount every time on renewal till he holds the land.

(2) The Chakotadar may, if so desired, make application to the Competent Authority concerned before three months from the date of expiry of lease period for renewal of lease:

Provided that the Competent Authority may, after considering the reasons stated in the application, relax the above specified period.

(3) If Chakotadar fails to get the lease renewed, the same shall revert back to the State Government.

(4) The land remaining after conferment of proprietary rights under para-4 of this scheme and lease granted under subpara (1) of this para, shall immediately vest in the State Government free from all encumbrances.

**7. Manner of payment of lease amount.-** The consideration or lease amount, as the case may be, shall be deposited through e-payment or through challan into the Government Treasury or Sub-Treasury by the Chakotadar.

**8. Procedure.-** The Chakotadar may apply on plain paper for grant of proprietary rights to the Competent Authority alongwith a copy of relevant "Jamabandi" and other supporting documents. The Competent Authority shall, thereafter, get the status of the "Chakotadar" verified through the concerned Revenue Officer (Patwari and Kanungo). On receipt of report of concerned Revenue Officer, the Competent Authority shall consider the report and shall, by order in writing, allow or reject the application and a copy of the order so passed shall be forwarded to the concerned Revenue Officer for updating the revenue record:

Provided that such Chakotadar shall be given an opportunity of being heard before rejection of his application.

**9. Appeal.-** Any Chakotadar aggrieved by an order of the Competent Authority passed under any of the provisions of this Scheme may, within thirty days from the date of such order or such further period as the Deputy Commissioner may allow, for reasons to be recorded in writing, prefer an appeal to the Deputy Commissioner concerned, whose decision thereon shall be final.

**10. Cancellation of Proprietary rights in certain case.-** If at any time, it comes to the notice of the Deputy Commissioner, either on an application made by any person or otherwise, that the proprietary rights under this Scheme was conferred to a person who was not eligible, he may call for the record of the case, and after making such enquiry as he thinks fit, and after giving an opportunity of being heard, may cancel the proprietary rights.

By order  
Tarun Shridhar  
Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No.As above.

14-10- 2015

Copy forwarded for information and necessary action to:-

- (1) All the Administrative Secretary to the Government of Himachal Pradesh, Shimla-2.
- (2) The Addl. Chief. Secretary to Chief Minister, HP Shimla-2.
- (3) The LR-cum-Principal Secretary (Law) to the Government of HP Shimla-2
- (4) The Secretary to Governor, HP Shimla-2.
- (5) All the Divisional Commissioners in Himachal Pradesh.
- (6) All the Deputy Commissioners in Himachal Pradesh.
- (7) The Director, Land Records HP Shimla-9.
- (8) The Settlement officers, Shimla and Kangra Division, HP.
- (9) The Controller, Printing and Stationery, Himachal Pradesh, Shimla-5.
- (10) All the SDO (C) in Himachal Pradesh.
- (11) All the Tehsildar/Naib Tehsildars in Himachal Pradesh.
- (12) Guard File.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh

## RULES FOR THE ALLOTMENT OF PLOTS IN THE NEW BILASPUR TOWNSHIP

### Himachal Pradesh, Administration Revenue Department

Whereas it is necessary to make rules for the allotment of plot/plots for the New Bilaspur Township now, therefore, the Lieutenant Governor, Himachal Pradesh, is pleased to make and promulgate the following Rules for the said purpose :—

1. Plot/Plots in the New Bilaspur Township will be available for allotment to all oustees desirous of acquiring the same.
2. The allotment of plot/plots shall be made by the Deputy Commissioner in the following order of priority:—
  - (i) Bilaspur town oustees whose houses or shops or both or shop-cum-residences are situated below R.L. 1550.
  - (ii) Bilaspur town oustees other than those mentioned in (i).
  - (iii) Ousteers from village of Diara or Roura or Kosrian or from village in which land has been or may be acquired for the construction of the New Township of Bilaspur.
  - (iv) Bhakra-Dam Reservoir oustees of Bilaspur district.

<sup>1</sup>**Explanation--** "Oustee" for the purpose of Rules means a person, husband/wife of the person who is entered as owner/co-owner of land in the Revenue record, their children including step or adopted children, including his/her parents and those brothers and sisters who are living jointly with him/her as per entries of Panchayat Parivar Register and has been deprived of his house or shop or both or of his shop-cum-residence on account of land acquisition proceedings in connection with the Bhakra Dam Project and is entitled to compensation thereof, or a person who has been or may be deprived of his house or shop or both or of his shop-cum-residence on account of land acquisition proceedings taken or hereafter to be taken for the construction of the New Township of Bilaspur and who has not been or cannot be allotted land for the construction of his new house or shop or both for shop-cum-residence elsewhere."

The terms, 'Administration' 'Deputy Commissioner' and 'Executive Engineer, for the purpose of these Rules, mean the Lieutenant Governor of Himachal Pradesh, the Deputy Commissioner, Bilaspur, and the Executive Engineer, Incharge, New Bilaspur Township, respectively.

3. Plot/Plots available for allotment comprise of residential, shop and shop-cum-residence plots and these classifications appear in the site plans which are open for inspection in the office of the Deputy Commissioner.
4. The site plan of the plots can be had on payment of Re. 1 per set or 37 np. per plan from the Office of the Deputy Commissioner.
5. Applications for allotment of plot/plots by the oustees must be submitted in the prescribed form, as per specimen attached (Annexure 'A') within 30 days from the date of inviting the applications. Due publicity in respect of inviting applications will be made in the areas where

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<sup>1</sup> Substituted vide Notification No. Rev. (PC) A (4)-1/2005-Vol.-II dated 09.9.2010.



(ii) Not more than one plot will ordinarily be allotted to an applicant.

**EXPLANATION:**

- (i) If an oustee owns one or more house, he shall be entitled to the allotment of one residential plot.
- (ii) If an oustee owns a house/houses and a shop/shops, he shall be entitled to either one shop-cum-residence plot or one house plot and one shop plot measuring 450 sq. ft.
- (iii) If an oustee owns a house but runs a which he has taken on rent, he will be entitled to either a shop-cum-residence plot measuring 900 sq. ft. or a house plot only.
- (iv) If an oustee owns and runs a shop but does not own a house, he shall be entitled to the allotment of a shop measuring 450 sq. ft.
- (v) If an applicant desires to have more than one plot and if plots are available for allotment, the same shall be allotted on payment of full development charges unless his case is covered by explanation (ii) given in rule 10 (ii) above.

11. The allottee shall have to execute a Deed of Conveyance in respect of plot/plots allotted to him and shall have to bear and pay all expenses in respect of execution and registration of the Deed of Conveyance including stamp duty and registration fee payable therefore.

12. Construction on the allotted plot/plots must begin within six months of the allotment and completed within one year from the date of allotment. In case the construction is not started or not completed within the scheduled time, the plot/plots will revert to the Administration and the premium/premiums paid will be forfeited, unless, for sufficient reasons, an extension has been obtained from the Deputy Commissioner for commencement or completion, as the case may be.

13. The plot/plots shall only be used for the purpose for which they have been earmarked and no conversion of residential shop and shop-cum-residence sites, one into other, shall be allowed.

14. No fragmentation of any plot will be permitted.

15. The buildings on the plot/plots allotted shall be constructed strictly in accordance with the bye-laws approved by the competent authority, to be designated by the Himachal Pradesh Administration.

16. (i) No transfer by an oustee of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon shall be valid or effective or enforceable, unless previous sanction for such transfer has been obtained by him from the Deputy Commissioner.

(ii) The Deputy Commissioner shall not give any sanction referred to in sub-rule (i) of this rule till after the expiry of one year from the date of allotment and also the period of extension, if any, mentioned in rule 12.

(iii) Whenever the Deputy Commissioner gives a sanction under sub-rule (i) of this rule the transferor, in the case of the first transfer, shall be liable to pay to the Administration the difference between the premium already paid by him and the full development cost of the plot/plots, as worked out by the Himachal Pradesh Administration, P.W.D. and the sanction shall not be effective until the difference has been so paid:

Provided that this sub-rule shall have no application in the case of a transfer of plot/plots allotted to a person on payment of full development cost.

(iv) The following kinds of transfers are exempted wholly from the operation of sub-rule (iii) of this rule, namely:-

- 1) A gift by an oustee of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon and made in favour of his father, mother, father's mother, father's father, paternal uncle, paternal uncle's wife, son, grand-son, great grand-son, son's widow, grand-son's widow, daughter, daughter's son, daughter, brother, brother's son, brother's son's son, son's daughter, son's daughter's son, son's daughter's daughter, sister, sister's son, sister's-son's son, daughter's husband, sister's husband, paternal uncle's son, paternal uncle's son's son, brother's son's son.
- 2) A gift by an oustee of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon and made purely for religious and/or charitable purposes.
- 3) A sub-lease made by an oustee of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon and made in consideration of payment of periodical rent by the sub-lessee to the sub-lessor.
- 4) An exchange by an oustee of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon and made in favour of another oustee in respect of that other oustee's right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon.
- 5) A simple or usufructuary mortgage made by an oustee in respect of his right, title or interest in the plot/plots allotted to him and/or of the shop/house/shop-cum-residence standing thereon:

Provided that whenever the right, title or interest of the mortgagor-oustee is completely extinguished by sale or otherwise, the provisions contained in sub-rule (iii) of this rule shall become operative.

(v) All other kinds of transfer, not covered by sub-rule (iv) of this rule, will be deemed to be covered by sub-rule (iii) of this rule.

**Explanation 1.-** Notwithstanding anything contained in clause (3) of sub-rule (iv) of this rule, a sublease in perpetuity will be deemed to be covered by sub-rule (iii) of this rule.

**Explanation 2.-** The terms "sale", "mortgage", "simple mortgage", "usufructuary mortgage", "gift", "exchange", "lease", shall have the same meanings as have been assigned to them under the Transfer of Property Act, 1882.

(vi) When the sanction referred to in sub-rule (i) of this rule has been granted and the oustee has transferred his right, title or interest in the plot/plots allotted to him and/or of shop/house/ shop-cum-residence standing thereon to the transferee, the transferor shall give notice in writing to the Deputy Commissioner about:—

- (a) the name/names of the transferor/transferors, and his/their address/addresses,
- (b) the name/names of the transferee/transferees, and his/their address, addresses,

- (c) the date of execution of the Deed of Transfer, and in case of registered deed, number, and place of registration,
- (d) the nature and kind of transfer made and the consideration paid or received for the same, and furnish a copy of the Deed of Transfer, in the case of an unregistered deed, to the Deputy Commissioner,

17. Allotment of plot/plots to persons other than oustees may be made only in respect of such plot/ plots as are left unallotted to the oustees but on payment of full development charges.

18. In case the conditions laid down in rules 12, 13, 14, 15 and 16 are not complied with, the plot/ plots, the earnest-money, premium and other charges already paid, shall be forfeited to the Administration.

19. The Government Grants Act, 1895, shall apply to all transfers of plots in the New Township. The plots will be leased for a period of 999 years, but the Administration reserves the right to revise the rent at intervals of 40 years. The rent payable shall be fixed by the Administration.

20. The terms and conditions of allotment mentioned in rules 11 to 16 from the essence of allotment and shall have to be incorporated by the allottee in the Deed of Conveyance and the allotment shall not be operative, unless the deed is executed.

21. In addition to the terms and conditions mentioned in rules 11 to 16 of these Rules, the oustee/allottee shall also have to incorporate an arbitration agreement clause in the Lease Deed which he is required to execute. The arbitration agreement clause shall be as follows:—

1. If any question of difference whatsoever shall at any time hereafter arise between the lessor and the lessee in any way touching or concerning this lease, or the construction, meaning, operation, or effect thereof or of any clause therein contained or as to the rights or duties or liabilities of either party under or by virtue of this lease, or touching the subject-matter of the lease, or arising out of or in relation thereto, then the matter in difference shall be referred to the arbitration of the Judicial Secretary, Himachal Pradesh Administration, who shall have power to decide any matter so referred, including the following question—
  - (b) Whether the lease should be terminated and what are or will be the rights and obligation of the parties as a result of such termination?
  - (c) Whether a transfer gives a right of recovery of full development costs or not?

2. The decision of the Arbitrator shall be final and binding and when any matter so referred to arbitration involves a claim for the award of a sum of money or any other payment or recovery of money, only the amount decided by the Arbitrator shall be recoverable in respect of the disputes so referred.

22. For the purposes of these Rules, the words used in the masculine gender include the feminine gender, where the context so require or unless-the context requires otherwise.



**ANNEXURE "A"**  
**APPLICATION FORM FOR ALLOTMENT OF PLOT/PLOTS IN NEW**  
**BILASPUR TOWNSHIP**

1. Name (in block Letters).
2. Parentage, caste and address.
3. Particulars of the House/Shop or shop-cum-residence acquired for the Bhakra Dam—
  - (i) Distinctive No. as given by the Evaluation Department,
  - (ii) Plinth Area.
  - (iii) Whether one storeyed or otherwise?
  - (iv) Whether living accommodation and business premises are combined?
  - (v) Whether held jointly or severally?  
 (In the case of former please give names with whom held jointly).
4. Particulars of plot applied for—
  - (a) Whether in Diara, Roura or Kosrian etc., etc.
  - (b) No. of the plot on the map.
  - (c) No./Nos. of alternative plot/plots in Diara/Roura/Kosrian etc., if plot indicated at (a) (b) above is not allotted.
5. Amount of earnest-money deposited Rs.  
 [(Original) Treasury challan must be enclosed with this application in support.]

Date .....

Signature of the Applicant

I hereby solemnly affirm and declare that the particulars given above are true to the best of my knowledge and belief and that I have made myself fully conversant with the rules and regulations for the allotment of plots in New Bilaspur Township which conditions I accept.

Date .....

Signature of the Applicant

I certify that the rules and conditions of allotment have been explained to the applicant and I am satisfied that he fully understands the implication of the allotment and that the declaration by the applicant was made and signed in my presence.

Signature of the Magistrate

**Note**—*The declaration of solemn affirmation by the applicant shall be made before any Magistrate.*

**ANNEXURE-B**

Office of the Deputy Commissioner, Bilaspur  
(Himachal Pradesh)

Dated, Bilaspur (H.P.), the .....

To

.....  
.....

**SUBJECT:** - Allotment of Plots at New Bilaspur Township.

**Memorandum.**

Reference your application dated the....., for a plot No.....

Plot/Plots as detailed below has/have been allotted to you:—

<b>Diara, Roura or Kosrian</b>	<b>Plot No.</b>	<b>Approx, area in sq. ft.</b>	<b>Price of Plot</b>	<b>Name of the Allottee</b>

The sum of Rs.....remitted by you as earnest-money with your application will be adjusted against the premium of the plot.

You should remit the sum of Rs..... due on allotment within 30 days of the receipt of this allotment letter by crediting the same in the local Treasury in favour of the Deputy Commissioner, Bilaspur (Himachal Pradesh), under head.....

In case the allotment is not acceptable to you, an intimation to this effect should be sent by registered post so as to reach this office within 15 days of the receipt by you of allotment letter, or 20 days from the date of issue of this letter, whichever is earlier.

The Deed of Conveyance can be executed by you personally or through your authenticated attorney recognizable under section 33 of the Indian Registration Act. In both the cases it will not be necessary for the executants to be present personally before the Deputy Commissioner. The deed can be executed at Bilaspur. The authority letter of possession will issue on receipt of the amount due on allotment. Possession can be taken by you personally or through an authorised representative.

Your attention is further invited to rules 11 to 16, and 20 of the Rules for the allotment of plots in the New Bilaspur Township and to your affirmation at the time of the presentation of the application for allotment of plot/plots to the Magistrate whereby it is clear that rules 11 to 16 form the essence of allotment and shall have to be incorporated by you in the Deed of Conveyance and the allotment shall not be operative unless the deed is executed and in the manner laid down in the Rules.

Deputy Commissioner  
Bilaspur (Himachal Pradesh)

**THE RESETTLEMENT AND REHABILITATION OF BHAKRA DAM OUSTEES  
(GRANT OF LAND) SCHEME 1971**

**HIMACHAL PRADESH GOVERNMENT**

**No. 13-2/68-Rev.I dated Shimla-2, the 10<sup>th</sup> May, 1971**

**NOTIFICATION**

Whereas the Government of Himachal Pradesh have issued executive orders from time to time for grant of Government land to the oustees of Bhakra Dam.

And whereas Rule 8-A of Himachal Pradesh Nautor Land Rules, 1968 provided for framing a separate set of scheme to the grant of land for resettlement and rehabilitation of persons displaced as a result of anything done for any public purpose.

And whereas the grant of land made so far under the executive instructions/orders or to be made in future are to be regularised under a set of separate Scheme.

Now, therefore, the Government of Himachal Pradesh hereby makes the following Scheme for the grant of land to the persons displaced on account of acquisition of their land and other properties, for construction of Bhakra Dam Project:-

**1. Short title, extent and commencement.**-(1) This scheme may be called the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme 1971.

(2) It shall extend to the whole of the area affected as a result of construction of Bhakra Dam Project acquisition of land for New Bilaspur Township in Bilaspur District.

(3) It shall be deemed to have come into force immediately before the grant of land to the Bhakra Dam Oustees started under the executive orders of Himachal Pradesh Government, in the year, 1955.

**2. Definitions.**- In this scheme, unless there is something repugnant in the subject or contest:-

- (1) 'Oustees' for the purpose of this scheme, means a person who has been deprived of his house, land or both on account of acquisition proceedings in connection with the Bhakra Dam Project and entitled to compensation in lieu thereof;
- (2) The words and expression used in this Scheme but not defined under this clause shall have the same meanings as assigned to them in the Himachal Pradesh Nautor Land Rules, 1968.
- (3) Existing holdings means into holdings possessed by an oustee immediately after acquisition of his property as well as at the time of applications for grant of land.
- (4) 'Dam' means the Bhakra Dam Project.

**3. Purpose for which land may be granted** – The land may be granted to an oustee for subsistence purposes, who had interests in the land and other properties acquired for the dam provided he is eligible for grant of land in Bilaspur District under this scheme.

4. **Maximum limit of grant.**-The maximum limit of grant of land to an oustee shall be as under:-

(1) An oustee of the area upto RL 1280:-

(i) if a land owner, an occupancy tenant requires land in exchange of this land acquired may be granted land in exchange of such land as under:-

- |  |  |
|--|--|
| (a) for cultivated land in self cultivation:           | Twice the area of cultivated land held.  |
| (b) for un-cultivated land; and                        | Equal area of land.  |
| (c) for cultivable land and land under tenant at-will. | Equal area of land to the land-owner or occupancy tenant and equal area of land to the tenant-at-will. |

(ii) Other oustees. Up to 10 bighas provided that holdings of an oustee shall not exceed 10 bighas inclusive of existing holdings, if any.

(2) An oustee of old Bilaspur Town, who does not want to get a plot the New Bilaspur Township may be granted land as under:-

- |  |                                  |
|--|----------------------------------|
| (a) An oustee who owned land less than 5 bighas; | Upto 10 bighas,                  |
| (b) An oustee who owned land more than 5 bighas; | Upto 12 bighas,                  |
| (c) An Oustee who owned no land; and             | 5 bighas of land for home-stead. |
| (d) Gharaties                                    | *upto 10 bighas,                 |

\*inclusive of land, if any, held by him, above RL 1700' provided that both have not got land by way of grant, sale or gift anywhere in Bilaspur District or outside.

(3) An oustee of the area between RL 1280 and RL 1700 (excluding oustees of old Bilaspur Town), who had to be resettled in Hissar District, but could not move to Hissar Distt. because of payment of a meager amount of compensation up to; 500/- which includes a helpless widow, a minor, a disabled person, or a gharaties etc. Up to 10 bighas inclusive of land, if any, held by him, above RL 1700 provided he has not got land by way of grant, sale or gift anywhere in Bilaspur District or outside it.

(4) Any other landless oustee, who has not been able to resettle anywhere. 5 bighas for dwelling/home stead:

Provided that an oustee coming under sub-clause (i) (ii) or (2) (a) & (b) or sub-clause (3) of clause 4 shall be entitled to the grant of land to the extent by which his existing holdings fall short of 10 bighas:

Provided further that the grant of land to an oustee may be subject to the availability of land in Bilaspur District.

5. **Eligibility.**-An oustee mentioned in clause 4 of this scheme will only be eligible for grant of land in Bilaspur District. An oustee of the area between RL 1280 and RL 1700 (except an oustee

mentioned under clause 4(2) and (3) of the scheme), will not be entitled to grant of land under this scheme in Bilaspur District, as he is either eligible for grant of plot in Bilaspur New Township or eligible for allotment of land in Hissar District.

6. **Charges.**-The grant of land in accordance with this Scheme will be made on payment of Nazrana at the uniform rate of Rs.10/- per bigha, plus the market price of trees if any standing thereon.

7. **Land Revenue when due.**-The land revenue on the land granted under this Scheme shall be charged from the date of possession-

The arrears of land revenue and nazrana shall, be recovered in the same manner as arrears of land revenue.

8. **Resumption.**-The grant of land shall be cancelled and land granted, resumed by the State Government without payment of any compensation in the following events:-

- (a) If in the case of grant of land for agriculture/horticulture, the grantee fails to break up/plant fruit trees within two years from the date of delivery of the possession of land or grant of patta.
- (b) If in the case of water mill or water channel, the grantee fails to set up water mill or dig out the water channel, as the case may, within two years from the date of grant of patta.
- (c) If in the case of grant of land for dwelling/homesteads, the grantee fails substantially to start utilisation of the land for the purpose, within one year of the grant of patta.
- (d) If the grantee or his legal representative/successor sells the land granted, within fifteen years from the date of patta/ delivery of possession, and in the event of other kind of sale, the power of State Government to cancel the grant and to resume the land shall govern-the grantee also.

9. **Applications for grant of land**—An oustee will apply for allotment of land in the prescribed proforma 'A' appended to this Scheme, to the Deputy Commissioner, Bilaspur. The application shall bear Court Fee Stamp of Rs. 2.50. The application shall be accompanied by the following documents:-

- (i) A copy of the Tatima shajra, showing the area applied for and indicating the boundaries of the land applied for on all sides, with specific references to the permanent boundary marks or fixed marks near enough to identify easily on the spot.
- (ii) A signed statement by the applicant giving complete details of land held by him whether as owner, tenant or land lessee, whether individually or collectively.
- (iii) A declaration that the applicant is an 'Oustee' (to be recognised from the date of issue of Notification under section 4 of Land Acquisition Act).

**Note** —*The area for allotment to the Oustees will, however, be earmarked by the Deputy Commissioner, Bilaspur.*

10. **Procedure.**- On receipt of the application under clause 9 the Forest Department's representative, *i.e.* the Range Officer will inspect the spot alongwith the Tehsildar/Naib-Tehsildar entrusted with the work by the Deputy Commissioner, on the date to be fixed by the Deputy Commissioner so that there is no delay in granting the land. The joint report of the Range Officer

Tehsildar/Naib-Tehsildar, after spot inspection, shall be sent to the D.C. direct to minimise the delay. No notice to the right-holders including Panchayat and the Forest Departments will be issued.

**11. Power to grant land.-**The Deputy Commissioner Bilaspur District shall be competent to grant land to an Oustee upto the prescribed limit and each application shall be disposed of by him within one month from the date of receipt of application in his office.

**12. Procedure after grant of land.-** (1) After the grant of land, Tehsildar/Naib Tehsildar shall communicate the dues payable to the Government by the grantee, as decided by the Deputy Commissioner calling upon him to pay the same in quarterly installments, not exceeding 4, advising the grantee to deposit the first installment within one month from the date of receipt of notice by him. In case the grantee chooses to pay the dues in lump-sum, he will have the option to do so. The grant of Patta and mutation in such cases where the grantee will avail himself of the concession of making payment in installments, will be postponed till payment of last installment, however, the possession of land grant, shall be delivered to the grantee on deposit of the first installment. The failure of the grantee to deposit an installment on due date shall render the grant of land liable to resumption and in such case the amount already paid by the grantee shall be forfeited. Patta will be issued under the seal and signature of the Collector Bilaspur District, in favour of the grantee on pay of all dues in respect of the land granted, after the expiry of the period for filing an appeal.

(2) After issue of the Patta, in the form appended to Himachal Pradesh Nautor Land Rules, 1968, the Deputy Commissioner, Bilaspur will issue a Memorandum to the Patwari for entry of mutation in Form "B" prescribed under the said Rules. The amount realized from the grantee shall be credited into the Government treasury in the following manner—

- |                     |                                |
|---------------------|--------------------------------|
| (i) Nazrana         | Under head "IX-Land R Revenue; |
| (ii) Price of trees | as Forest Income               |

The allottee shall be bound by the conditions of the Patta.

**13. Exchange.-** Notwithstanding anything in the Scheme the allotment of land may be made by the Deputy Commissioner Bilaspur in exchange for oustee's land acquired for Bhakra Dam Project, as provided herein before, provided that an oustee, has not received any compensation for his land acquired and that the compensation for his land has been deposited in the Government account.

**14. Appeal.-** An appeal from the order of the Deputy Commissioner Bilaspur under para 11 of the Scheme shall lie to the Divisional Commissioner within sixty days from the date of order. A further appeal from the appellate order of the Divisional Commissioner shall lie to the Financial Commissioner within 90 days from the date of the order of the Commissioner.

Provided that no second appeal shall lie when the original order is confirmed on the first appeal.

By order  
U.N. Sharma  
Secretary to the Govt. of  
Himachal Pradesh Rev. Department.

**FORM "A"****(See clause 9 of the Scheme for resettlement of Bhakra Dam Oustee).**

Application for Grant of land

1. Name of applicant \_\_\_\_\_ son of \_\_\_\_\_ R/o Village \_\_\_\_\_  
Tehsil \_\_\_\_\_ District \_\_\_\_\_
2. Particulars of preferences claimed
3. Particulars of land previously held by the applicant :-
  - (i) District
  - (ii) Tehsil
  - (iii) Name of the Village & Hadbast No
  - (iv) Whether owner, tenant self cultivating or non-cultivating.
4. Particulars of the land acquired.
  - (i) District
  - (ii) Tehsil
  - (iii) Name of the Village (Hadbast No.)
  - (iv) Whether owner, tenant self cultivating or non-cultivating.
5. Particulars of the area left.
  - (i) District
  - (ii) Tehsil
  - (iii) Name of the Village (Hadbast No.) area and whether owner, tenant self cultivating or non-cultivating.
6. Particulars of the land applied for with area
  - (i) District
  - (ii) Tehsil
  - (iii) Village (Hadbast No.)

I solemnly affirm and declare that whatever has been stated above is true to the best of my knowledge and belief and that nothing relevant has been concealed or suppressed. I hereby promise and undertake that if any grant of land is made in my favour, I shall abide by the terms of such grant.

Dated \_\_\_\_\_

Signature of the applicant.

**AMENDEMTNS OF THE RESETTLEMENT AND RE-HABILIAATION OF  
BHAKRA DAM OUSTEES (GRANT OF LAND) SCHEME 1971**

**Government of Himachal Pradesh  
Revenue Department**

**No. 10-4-71/Rev. Cell dated Shimla-2, 17<sup>th</sup> January, 1972**

NOTIFICATION

Whereas the Himachal Pradesh Government vide Notification No. 13-2/68-Rev. I, dated the 10<sup>th</sup> May, 1971, have framed the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme 1971 under Rule 8-A of Himachal Pradesh Nautor-Land Rules, 1968.

And whereas the Government have decided to make amendments in the said Scheme.

Now, therefore, under Rule 8-A of said Rules the Himachal Pradesh Government is pleased to make the following amendments in the said Scheme:-

1. In sub-para (2) of para 1 the words "and land acquisition proceedings taken for construction of New Bilaspur Township" shall be inserted after the words "Bhakra Dam Project."
2. In para 3 the words "and for the construction of New Bilaspur Township" shall be inserted after the word "Dam".
3. In sub-para (1) of Para 4 the words "and of the villages in which acquisition has been made for the construction of New Bilaspur Township" shall be inserted after the words "and figures R.L. 1280".
4. Against clause (ii) of sub-para (1) of para 4 the words "including the oustees of villages Kherian and Koserian" shall be added after the words "other oustees".
5. Para 13 shall be renumbered as para (i) and thereafter the following sub-para shall be added.  
(ii) provided further that land in exchange may be allotted to those oustees who were allotted land previously but subsequently washed away due to rains during 1971".

By order  
L. Hmingliana Tochwang  
Secretary (Revenue) to the Government  
of Himachal Pradesh

**No. 10-4/71-Rev. Cell**

**Dated Shimla,**

**the 17<sup>th</sup> January, 1972.**

Copy forwarded to the Deputy Commissioner, Bilaspur, District (with 5 spare copies) for necessary action, regarding conferment of proprietary rights upon the oustees (allottees) of Bhakra Dam Project resettled in Bilaspur District.



**GOVERNMENT OF HIMACHAL PRADESH**

**REVENUE DEPARTMENT**

**No. 10-4/71-Rev. Cell dated Shimla-2, the 21<sup>st</sup> March, 1972.**

**Notification**

**Corrigendum**

Substitute sub-para (1) in place of sub-para (2) in the first line of the amendment appearing at serial No. 3 of this Department Notification of even number dated the 17<sup>th</sup> January, 1972 relating to the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme 1971.

By order

L. Hmingliana Tochwang

Secretary (Revenue) to the Government  
of Himachal Pradesh

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**Government of Himachal Pradesh**

**Revenue Department**

**No. 10-5-1973 Rev. Cell. Dated Shimla-2, the 15-12-1973**

**Notification**

Whereas the Himachal Pradesh Government vide Notification No. 13-2/68-Rev. I, dated the 10<sup>th</sup> May, 1971, have framed the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme, 1971 under Rule 8-A of Himachal Pradesh Nautor Land Rules, 1968;

And whereas, the Government have decided to make amendments/additions in the said Scheme.

Now, therefore, under Rule 8-A of said Rules the Himachal Pradesh Government is pleased to make the following amendments in the said Scheme—

1. At the end of clause 6, the following will be added—

“In case where the grantee is not interested in the trees, the Forest Department shall arrange to dispose them of within three months of the sanction and the nautor land cleared of the trees within another three month. In all, there shall be the maximum time limit of six months, for the clearance of land by the Forest Department granted to person who was not prepared to pay the value of the trees as assessed by the Forest Department. In case of default the Deputy Commissioner will auction such trees and deposit the sale proceeds with the Forest Department.”

2. At the end of line 10 of the clause 10 of the Scheme ibid the following will be inserted.

“In case the representative of the Forest Department fails to inspect the spot on the date(s) fixed by the Deputy Commissioner, Bilaspur or send the report after the inspection within 15 days, it will be presumed that the Forest Department has no objection to the grant of land provided a clear notice of 30 days has been given to the Forest Department for doing joint inspection.

By order

L. Hmingliana Tochwang

Secretary (Revenue) to the Government  
of Himachal Pradesh.

**Himachal Pradesh Government  
Revenue Department**

**No. 10-5-73/-Rev. -Cell dated Shimla-2, 16<sup>th</sup> April, 1975.**

**Notification**

Whereas the Himachal Pradesh Government vide Notification No. 13-2/68-Rev-I, date the 10<sup>th</sup> May, 1971, has framed the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme, 1971 under Rule 8-A of Himachal Pradesh, Nautor Land Rules, 1968.

And-whereas, the Government has decided to make amendments/additions in the said Scheme;

Now, therefore under rule 8-A of said rule, the Himachal Pradesh Government is pleased to make rule/following amendments/additions in the said Scheme;

1. In sub clause (3) of clause 4 of the Scheme the following will be inserted;

- (i) "All the oustees (who received compensation of more than Rs. 500/-) may be granted nautor land up to 10 bighas inclusive of land, if any held by them above RL 1700 provided they have not got land by way of grant, sale or gift, anywhere in Bilaspur District or outside it;
- (ii) The encroachment of Govt. land in Bilaspur Distt. by the oustees who returned to District Bilaspur after disposing of their allotted land in Hissar will be regularized to the extent of 10 bighas including their own holdings if any in Distt. Bilaspur or elsewhere irrespective of the fact whether such oustees had received compensation up to Rs. 900/- or more."

2. In clause 5 of the Scheme after the words "RL 1230 and RL 1700" appearing in lines 3-4, the following may be substituted:-

"Will be eligible for grant of nautor land (except an oustee who is eligible for grant of plot in the New Township Bilaspur) irrespective of the fact whether he had received compensation up to Rs. 500/- or more".

By Order  
U.N. Sharma Sec. (Rev.)

**Government of Himachal Pradesh  
Revenue Department**

**No. 10-5-/73-Rev Cell dated 16<sup>th</sup> April 1975**

From

The Secretary (Revenue) to  
Government of Himachal Pradesh

To

The Deputy Commissioner,  
Bilaspur (H.P.)

Dated Shimla-2,        the 16<sup>th</sup> April, 1975.

**Subject:-** Grant of land to the Bhakra Dam Oustees who received compensation above Rs. 500/- and regularization of encroachment by Hissar Oustees-Last date for receipt of applications and finalization of land allotment cases.

Sir,

In pursuance of the decisions of High Power Committee meeting held on the 16<sup>th</sup> January, 1975 under the Chairmanship of Chief Minister, Himachal Pradesh minutes of which were forwarded to you vide this Department letter No. 9-11/73-Rev. Cell, dated the 6<sup>th</sup>/7<sup>th</sup> February, 1975 and in continuation of this Department Notification of even No. dated the 16<sup>th</sup> April, 1975, I am directed to say that applications for the grant of nautor land/regularization of encroachment cases be allowed to be received up to the 31<sup>st</sup> March, 1975 as already intimated to you during the course of deliberations of the Committee meeting. Further, it is desired that land allotment cases of all such oustees (1455 who received compensation more than Rs. 500/- and other Hissar oustees who received compensation up to Rs. More than Rs. 500/-) may be finalized by you within 3 months after the last date of receipt of applications in respect of each category of oustees.

2. The above instructions of the Government may kindly be brought to the notice of all concerned and to the public representatives of District Bilaspur.

3. The receipt of this communication may kindly be acknowledged.

Yours faithfully,

Sd/-

Under Secretary (Pong Dam) to  
Govt. of Himachal Pradesh.

**RULES GOVERNING THE GRANT OF NAUTOR IN THE UNDEMARCATED WASTE  
OF THE RUPI JAGIR IN THE KULU SUB-DIVISION**

1. (1) These rules shall be called the Nautor (Rupi Jagir) Rules.
  - (2) They shall be applicable to the undemarcated waste of the Rupi Jagir in the Kulu Sub-Division.
  2. In these rules (a) “Kothi rightholder” means a land owner recorded as the owner of a holding of agricultural land assessed to land revenue recorded in the Revenue Settlement of 1911-12 in the Kothi in which it is proposed to grant nautor, or persons who have acquired such holding by inheritance from a person so recorded.
  - (b) “Kothi artisan” means a member of a family of artisans which has been settled in the Kothi in which it is proposed to grant nautor since 1868.
  - (c) “Kulu rightholder” means a Kothi rightholder who is recorded as holding agricultural land assessed to land revenue in any kothi of the Kulu Sub-Division other than in which it is proposed to grant nautor.
  - (d) “Kullu artisans” means a member of a family of artisans which has been settled since 1868 add in any kothi of the Kullu Sub-Division other than that in which it is proposed to grant Nautor.
  - (e) “Outside” means a person who has a rights of the Kulu Sub-Division or who or whose predecessor in interest has acquired such rights otherwise than by inheritance, if at the time of such acquisition he or his predecessor-in-interest as neither a kothi or a Kulu “right holder” or “artisan” as defined above.
  3. “Nautor” means the grant on payment of Nazarana of interest in undemarcated waste land owned by the Jagirdar of Rupi as defined in the patta hereto annexed.
  4. Grants of nautor will only be made either to Kothi or Kulu rightholders or to Kothi or Kulu artisans.
  5. Nautor will be granted to Kothi right holder or Kothi artisans or to Kulu rightholders or Kulu artisans who do not pay land revenue exceeding Rs. 25/- per annum or income tax.
  6. Nautor will only be granted for subsistence or for the construction of a house on necessity proved to the satisfaction of the Jagirdar of Rupi.
- Explanation*—The grant will not be deemed to be necessary if the applicant for the grant or has arable land in his possession lying uncultivated or in the opinion of the Assistant Commissioner, Kulu, has not adequately safeguarded such land against erosion.
7. The grant of nautor in land on a slope of steeper than one vertically in two horizontally or more will be subject to an additional condition that the grant must be safeguarded against erosion to the satisfaction of the Assistant Commissioner, Kulu.
  8. Grants of nautor will be made by the Jagirdar of Rupi.
  9. Grants of nautor to Kothi rightholders or Kothi artisans shall not be made until nazarana at the rate of Rs. 1/- per bigha has been paid when the land is to be granted for agricultural purposes,

and at the rate of Rs. 1/- per biswa when the land is granted for other purpose, statement where such land granted for purpose other than agriculture is within 100 feet of a road in the charge of the Public Works Department, Building and Roads Branch, Nazarana at the rate of Rs. 2/- per biswa shall be paid.

10. Grants of Nautor to Kulu rightholders of Kulu artisans shall not be made until nazarana at the full market value of the land to be granted has been paid.

11. Nautor shall not ordinarily be granted of land which has been encroached upon, but if the Jagirdar of Rupri is satisfied that the grant of nautor of such land encroached upon should be made, then such grants shall not be made until a sum which in the opinion of the Jagirdar of Rupri is equivalent to the full market value of the land has been paid by way of nazarana.

12. (1) Applications (for the grant of nautor) will in first instance be presented to the Jagirdar of Rupri but no application for nautor in any bihal or in any of the undermentioned Kothis will be entertained without written permission of the Assistant Commissioner, Kulu:-

1. Kothi Chung.
2. Kothi Harkandhi.

The number of Kothis and phatis which are to be excluded under this rule may be extended to protect other areas where grasing is found to be insufficient. Land adjacent to Government buildings and roads may also be protected.

(2) The application will be investigated by the Jagirdar of Rupri in the following manner:-

A notice to the Kothi rightholders showing the area applied for and its situation will be published by putting up in a conspicuous place in the villages of rightholders concerned, and on the land applied for One month from such publication will be allowed for objections from rightholders. A responsible member of the Jagirdar's staff will inspect the site, record the rightholder's statements on all existing rights in the land and any objection to its being taken up for cultivation. He will also note whether there are any reserved trees on the land the proximity of roads, paths or water channels and the slope of land. When any reserved trees stand on the land, reference will be made to the Divisional Forest Officer, through the Assistant Commissioner, Kulu, if objections are raised by the Forest Department or by the people who have been accustomed to exercise rights in the waste, the matter shall unless the application is forthwith rejected, be referred to the Assistant Commissioner for decision.

(3) After the nautor has been sanctioned, the Jagirdar of Rupri will issue a patta in the form attached and the file will be sent through the tehsil to the Patwari for entry of the mutation. Field Kanungo will check the corrections of the tatima shajra before the mutation is entered up.

13. Grantees being given possession must at once mark out the land accurately by burjis or low walls according to the demarcation of the Patwari.

14. If a Kothi right holder lodges on objection within one month of the date from which possession is taken and the objection is upheld, the grant may be cancelled without the grantee being entitled to any compensation other than the refund of the Nazarana paid.

15. At the end of each quarter, a statement showing the particulars of the grants of nautor sanctioned in the preceding three months will be forwarded by the Jagirdar of Rupi to the Divisional Forest Officer concerned for the information of the Forest Staff.

16. For waste land required by Government for public purposes, such as timber slides, encamping-grounds, roads, buildings and protective works for preventing or remedying land slips no compensation will be paid to the Jagirdar for his proprietary rights in such waste.

17. Government retains all its present rights to minerals existing in the undemarcated waste.

## SIRMOUR WATER MILLS (GHARATS) REGULATIONS

Regulation No. 1 of 2002

WHEREAS it is expedient to amend the rules relating to Water-Mills (Gharats), it is hereby enacted as follows:-

### CHAPTER I

1. (a) This regulation may be called the Sirmour Water-Mills (Gharats) Regulation 2002. B.K.

(b) It extends to the whole of Sirmour State except the following tracts namely:-

- (i) estates which are the private property of His Highness the Maharaja Sahib Bahadur.
- (ii) any tract which may be exempted permanently or for some period under orders of the Sirmour Durbar notified in the Sirmour Gazette.

(c) It shall come into force from the first of Asoj 2002. B.K.

(d) It supersedes all previous rules, orders and directions relating to water-mills; provided that the Mills (Gharats) which have been constructed or erected under the existing rules under orders of a competent authority, or proceedings which are being conducted or have been completed against persons for infringement of the existing rules, shall be deemed to have been respectively constructed, erected, conducted or completed under this regulation.

2. In this regulation unless there is something repugnant to the subject or context;

The word "Water-Mills" includes Gharat, and any other kind of Mill worked by water of a river, brook or kuhl (a small water channel).

3. The assessment on water-mills, will be treated as part of the jama of the estate, and will be subject to the usual cesses. Such assessment would be liable to suspension or remission, and alluvion and diluvion the same manner, and under the same authority as the ordinary land revenue.

4. The assessment on a water-mill may be permanently or temporarily remitted by orders of the Sirmour Durbar, but no such assessment shall be permanently terminated unless the water-mill has been dismantled and its gear removed or it has otherwise been satisfactorily ascertained that the mill has permanently become useless or unserviceable.

5. (1) All the existing water-mills, and those to be newly constructed for which necessary applications have been received in accordance with the prescribed rules, will be put to auction for the remaining period of the current settlement on annual basis by the Tehsildars within whose territorial jurisdiction such water mills are situated; and the amount of the highest bid, when approved by the Durbar; shall be the assessment on a water-mill for the remaining terms of the settlement.

(2) (a) (i) In recommending any bid for the approval of the Durbar, the Tehsildar and the Collector will consider if the bid having regard to the proximity of the Gharat to the markets, means of transport, extent of business, natural advantages and the amount of bids for other Gharats in the vicinity or situated under similar conditions is adequate or not. Their average annual income during last five years may also be taken into consideration. Recommendation will be made only in respect of the bids that are considered adequate.

(ii) In case of two equal bids preference will be given to the bid of the person who has already held or worked the Gharat for over 5 years immediately preceding the auction bids.

(b) In case the highest bid for a Gharat is considered inadequate by the Tehsildar or a pool is made by the bidders, the Tehsildar will submit report for orders to the Collector.

The Collector on receipt of such report, or when he himself considers the amount of any bid recommended by the Tehsildar as inadequate, shall reject the bid and fix annual fees to be realized in respect of the Gharat (bid for which is rejected), for a period not exceeding five years; and will direct the Tehsildar to submit to him the name of a suitable person willing to work the Gharat on payment of the annual fee as prescribed by him. In determining the amount of annual fee the Collector shall be guided by the Considerations mentioned in sub-clause 2(a) (i) and (ii).

(c) On receiving Tehsildar's report recommending the name of a suitable person the Collector shall submit his proposal for the approval of the Durbar.

The amount of the annual fee approved by the Durbar shall be deemed to be the assessment on the Water-mill for the period for which it is sanctioned.

6. The persons whose bid has been approved by the Durbar or who have been permitted to work Gharats for a specified period in accordance with the provisions of sub-clause (2)(c) of clause 5 will be granted licences by the Collector in the form set out in the Schedule to this regulation. Such licence-holders will be treated as Patta-Dars (Lease holders), and the amount of assessment payable with respect to a water-mill annually together with the rates and cesses chargeable thereon will be held to be the annual Patta (lease) money.

7. The licensees shall be entitled to work the water-mills themselves or through their agents, and to sublet them; and their rights will not be liable to sale or attachment in execution of an order or decree of any court except when such decree or order is for the realization of the amount due as an arrear of the amount assessed on the water-mills.

## **CHAPTER II**

### **PROCEDURE TO REGULATE THE CONSTRUCTION OF NEW MILLS**

8. Any person wishing to start a new mill must apply in writing to the Tehsildar, on one rupee stamp (court fees) for permission to do so. The Tehsildar will then order the Patwari to prepare Shajra and Khasra who shall do so within a month and as soon as these papers are received, the Tehsildar will record statement of the applicant and issue a notice to all concerned to file their objection within sixty days from the date of notice.

The notice will be issued in duplicate, one copy to be posted in a conspicuous place in the village in which the site of the proposed mill is situated; the second copy will be placed on the file with a report of service.

9. After preparation of Shajra and Khasra and expiry of the period of notice, the Tehsildar will completely satisfy himself, by personal enquiry on the spot, as to whether the construction of the proposed mill is not in any way detrimental to the interests of the existing mill owners or the irrigation of land.

Even if no objection has been put in, the Tehsildar will satisfy himself that the water of the Kuhl out of which the channel to work the mill has been taken out, again rejoins it and does not go away elsewhere.



If it appears that the proposed construction of the mill will be harmful so far as irrigation of land is concerned, the working of the mill may be allowed for a period other than the one when water is required for irrigation purposes.

10. Any person intending to put in his objection will do so in writing on one rupee stamp (court fees) within sixty days from the date of notice.

11. If the Tehsildar is satisfied that existing rights are not interfered with, and if no objection has been filed within the specified period, or objections filed have been rejected after due enquiry, the Tehsildar will issue orders permitting the applicant to construct the proposed mill. If the proposed mill has not been constructed or started within one year of the date of granting permission, the same will be deemed as cancelled.

12. If the existing site of a mill has become unsuitable owing to flood or diversion of the course of a river or Nallah, or some other cause, the Tehsildar will, on formal application received, pass such orders as he deems fit. For change of site two files will have to be prepared, viz., one for relinquishment of the old site and the other, for construction of the new mill.

13. If the Tehsildar finds that the proposed mill would be harmful to irrigation or existing water-mills or is otherwise objectionable, he will reject the application. Doubtful cases may be referred to the Collector for orders.

14. As soon as a Patwari comes to know at Girdawari or otherwise that a new mill has been constructed or the site of the existing mill has been changed, without permission, he shall at once submit a report to the Tehsildar.

15. It shall also be the duty of the Lambardar to report to the Tehsildar of the construction or starting of a new water-mill (Gharat) by any person or changing by a licensee of the site of an existing Gharat within his jurisdiction without obtaining the previous sanction of the Tehsildar.

16. (a) Any person, who is proved to have constructed, or changed the existing site of a mill without proper permission shall be liable under the orders of the Collector to a fine not exceeding Rs. 10/- in each case, in addition to the revenue assessed on the mill which shall be realised from the date of construction. Failing payment of the fine and the revenue the mill may, if the Collector deems it proper, be dismantled.

(b) The fine not exceeding Rs. 10/- imposed on a mill which has been ordered to be dismantled, shall be recurring and recoverable monthly until the mill continues to exist.

17. When a mill has been permitted to be constructed subject to certain condition and it has been found that those conditions have not been adhered to, the Collector may inflict a fine not exceeding Rs. 10/- on the person committing such infringement and may also, if he thinks fit, order that the mill be stopped.

18. A register (in form 'c') of all mills situated in Tehsils will be maintained by the Wasil Baqi Nawis of each Tehsil, and no files relating to such mills shall be consigned to Record Room without obtaining the certificate of the Wasil Baqi Nawis to the effect that AMADDARAMAD has been made in his register.

19. In case water-mills are situated on land not owned by the State, the owners of such land shall be given at the time of auction, option to work the Gharats on their agreeing to pay the amount

of the highest bid. If they decide to avail of this right of pre-emption they will be treated as the highest bidders within the meaning of clause 5.

In case they refuse to pre-empt they shall be entitled to receive from the license-holders such rent for the use and occupation of the land as may be determined by the Tehsildar.

20. No rights will accrue to the mill owners by mere lapse of time.

### **CHAPTER III**

#### Record of Water-mills.

21. In the Patwar papers, all mills in Tehsils as described under Chapter II will be shown as follows:-

- (a) Each mill will be shown by the Patwari under a separate Field No. in the KHASRA GIRDAWARI, and in column 'for changes' he will note at every harvest whether the mill is in working order or not, changes in the ownership or tenancy of the mill will also be shown as usual in this column.
- (b) Mills of which the site does not change, will be entered in their proper place according to locality; those, of which the situation is variable, such as those in the beds of large rivers, will be shown in the papers of the adjoining estates regardless of temporary changes of situation; each such mill will have a separate Field No. and entries regarding all such mills will be made in one place at the end of the KHASRA GIRDAWARI.

22. Similarly, all mills will be shown in the JAMABANDI of the village in which they are situated. If the mill owner is also a land-holder or an occupancy tenant, his status in respect of the Gharat (Water-Mills) in the JAMABANDI should be the same as he enjoys in respect of the land concerned. In case the person who has constructed a mill possesses no land in his capacity as land-holder or occupancy tenant, the entry of the mill will be made separately in the "KASHT" column of the KHEWAT concerned. In the former case the land and the mill revenue should be shown separately as under:-

Land revenue demand .....	}	..... Total demand.
Mill revenue demand .....		

### **CHAPTER IV**

#### GENERAL RULES

23. A list of gharats Tehsil-wise will be drawn up.

24. The Revenue Officers will take out with them while in ..... a duplicate list of the gharats in the Tehsil and will check the list while touring. The list will be kept in the Tehsil in duplicate so that one copy may be available for Tehsildar and other for the Naib-Tehsildar. A Separate account of the income from the Gharat fees will be kept.

25. If any person or persons run a Gharat for a certain period and then wipe it off and remove all its traces in order to prevent state fees to be levied thereon, such person or persons will be liable to a fine which may extend to five times the amount assessed on it on conviction by any Magistrate of the 2<sup>nd</sup> Class.



## FORM "B"

पट्टा न.

ढेका घराट

अज पेशगाह साहब क्लक्टर बहादुर

जिला रियासत सिरमौर नाहन बाकी

सवंत 200

1	2	3	4	5	6	7	8	9	10	11	12	
न. शुमार किस्तबन्दी तहसील	नाम तहसील	नाम मौजा मय न. हदबस्त	न. खसरा मय नाम घराट	नाम ढेकेदार घराट	नाम व पता जामन	तदाद जरे ढेका सालाना	मियाद ढेका	शरायत किस किस माह में रुपया दाखिल होगा	माह	माह	क्या शाह पिसाई आरद गन्दम ढेकेदार को लेना चाहिए	कैफियत
								पोह	सावन	मक्की मन गन्दम मन  2 Seers per maund in kind.		

## FORM "C"

Form of Register maintained in the Collector's Office as required by Sirmour State Gharat Rules,  
2002

किस्त बन्दी घराट तहसील

जिला रियासत सिरमौर नाहन सम्वत

बमुजिब हिदायत नम्बर 2 मोर्चा 22 भादों सं. 1963 हैड आफिस

1	2	3	4	5	6	7	8	9	10	11	12	13	14	
नाम शुमार	नाम तहसील	नाम मौजा मय नम्बर हदबस्त	नाम ढेकेदार मय सिफ्त	नाम घराट बमय नं. खसरा	किस खाला या नदी से जारी हे और कितने दिन जारी रहता हे	मुताबला साल गुजाश्ता	मुताबला साल हाल	खरीफ	रबी	मीजान	बेशी	कमी	वजूदात कमी बेशी	कैफियत

**Notifications and Instructions related to the Land Allotment Rules, Schemes and 3/2 Biswas Allotment.**

<b>Sr. No.</b>	<b>Reference</b>	<b>Type</b>	<b>Subject</b>	<b>Page No.</b>
1.	The H.P. Govt. Department Notification No. REV. 2A(3)11/77 Dated: 09.12.1987.	Notification	Amendments in para 11 of the Himachal Pradesh Grant of Nautor Land to Landless and Other Eligible Persons Scheme, 1975.	894
2.	The H.P. Govt. Department Notification No. Rev. 2A (3)11/77 Dated: 09.12.1987.	Notification	Amendments in clause (d) of para 9 of the Himachal Pradesh Village Common Lands Vesting and Utilisation Scheme, 1975 reg. allotment of lands thereof.	895
3.	The H.P. Govt. Department Notification No. REV. 2A(3)11/77 Dated: 09.12.1987.	Notification	Amendments in clause (d) of para 11 of the Himachal Pradesh Utilisation of Surplus Area Scheme, 1974.	896
4.	The H.P. Govt. Department Notification No. Rev. B. A. (3)-13/2000 Dated: 18.11.2003.	Notification	Amendments in Clause (f) in rule 12 of the Himachal Pradesh Nautor Land Rules, 1968.	897
5.	The H.P. Govt. Department Notification FFE-B-F(5)2/2002-Pt.IV-Loose Dated: 17.07.2014.	Notification	Conditions for allotment of Nautor Land	898
6.	The H.P. Govt. Department Notification FFE-B-F(5)2/2002-Pt.IV-Loose Dated: 23.07.2014.	Notification	Implementation of the Himachal Pradesh Nautor Rules, 1968	899
7.	The H.P. Govt. Department Notification FFE-B-F(4)1/2015 Dated: 02.12.2016.	Notification	Implementation of the H.P. Nautor Rules, 1968	900
8.	The H.P. Govt. Department Notification FFE-B-F(4)1/2015 Dated: 27.05.2017.	Notification	Implementation of the H.P. Nautor Rules, 1968	902
9.	The H.P. Govt. Department letter No. FFE-B-F(4)-3/2018 Dated: 13.02.2019	Notification	Implementation of the H.P. Nautor Rules, 1968	904
10.	The H.P. Govt. Department Notification No. Rev. B. A. (3)9/2018 Date: 27.02.2019.	Notification	Amendments in clause (a) in rule 7 of the Himachal Pradesh Nautor Land Rules, 1968.	906
11.	The H.P. Govt. Department Letter No. 9-13/71-(Rev-A) Dated: 07.01.1975.	Instruction	Grant of Nautor Land (ban on allotment of nautor land )	907
12.	The H.P. Govt. Department Letter No. 9-13/71-Rev-A Dated: 11.04.1975.	Clarification	Grant of Nautor Land (ban on allotment of	908

			nautor land )	
13.	The H.P. Govt. Department Letter No. 9-14/75-Rev.-A Dated 03.10.1975.	Guidelines	Priority in allotment of land under various schemes.	909
14.	The H.P. Govt. Department Letter No. 9-13/71-(Rev-A) Dated: 19.12.1975.	Clarification	Ban on Nautor land not applicable for Gharats.	911
15.	The H.P. Govt. Department Letter No. 9-13/71-(Rev-A) Dated: 18.05.1976.	Instruction	Ban on grant of Nautor land.	912
16.	The H.P. Govt. Department Letter No. 9-13/71-(Rev-A) Dated : 21.08.1976.	Instruction/ Clarification	Grant of Nautor Land	913
17.	The H.P. Govt. Department Letter सं० 9-13/71-रैव-बी(1) Dated: 29.11.1978.	Instruction/ Clarification	Lifting of ban on allotment of Nautor land in Spiti.	915
18.	The H.P. Govt. Department Letter सं० 9-13/71-रैव-बी Dated: 27.06.1979.	Clarification	Grant of Nautor Land and encroachment.	916
19.	The H.P. Govt. Department Letter सं० रैव-बी-9-13/71 Dated: 10.12.1979.	Instruction	Grant of Nautor Land (Rule 27-B)	917
20.	The H.P. Govt. Department Letter No. 9-13/71-Rev-B Dated: 24.12.1980.	Instruction	Grant of Nautor Land-Review of Policy.	918
21.	The H.P. Govt. Department Letter No. 9-13/71-IV, Rev-B Dated: 23.04.1982.	Instruction	Grant of Nautor Land-Review of Policy.	920
22.	The H.P. Govt. Department Letter No. Rev.2E(3)36/85 Dated: 25.07.1985.	Instruction/ Clarification	Grant of Land under rule 27-B.	921
23.	The H.P. Govt. Department Letter No. Rev.2E(6)7/83 Dated: 23.07.1986.	Instruction/ Clarification	Grant of Nautor land to landless persons and others.	922
24.	The H.P. Govt. Department No. Rev.-2A(3)11/77 Dated: 21.01.1987.	Instruction	Conferment of joint title on the allotment of land/house sites to landless and other eligible persons.	924
25.	The H.P. Govt. Department No. Rev.-2A(3)11/77 Dated: 21.01.1987.	Instruction	Allotment of land to landless and other eligible persons (Jurisdictions of Civil Courts)	925
26.	The H.P. Govt. Department No.9-13/71-Rev.B Dated: 24.08.1987.	Instruction	Nautor Policy.	927
27.	The H.P. Govt. Department सं० 9-13/71-राज० ख Dated: 09.02.1988.	Clarification	Nautor Policy.	929
28.	The H.P. Govt. Department No.9-13/71-IV/Rev.B Dated: 11.02.1988.	Instruction	Nautor Policy.	930
29.	The H.P. Govt. Department No. Even Dated: 05.03.1988.	Instruction	Ban on allianation of land allotted under various schemes.	932
30.	The H.P. Govt. Department letter No. Rev.-D(G)6-13/87 Dated: 30.05.1988	Instruction	Allotment of various categories of lands under the prevailing schemes.	933

31.	The H.P. Govt. Department No. 9-13/71-Rev.B. Dated: 25.08.1988.	Instruction	Nautor Policy.	936
32.	The H.P. Govt. Department No. 9-13/71-Rev.B. Dated: 08.11.1988.	Instruction	Grant of land in exchange of the land damaged or washed away due to heavy rains/floods.	937
33.	The H.P. Govt. Department No. रैव 9-13/71-रैव-बी Dated: 23.11.1990.	Clarification	Clarification with regard to ban on Nautor Land.	938
34.	The H.P. Govt. Department No. Rev. B-F (7)-1/94 Dated: 15.11.1995.	Instruction	Grant of land under various schemes (Mutation and Possession thereof).	939
35.	The H.P. Govt. Department letter No. Rev. B.D. (1)-4/2000 Dated: 07.07.2000	Instruction	Grant of land under various schemes (Mutation and Possession thereof).	941
36.	The H.P. Govt. Department letter No.9-13/71-Rev.B-V. Dated: 18.06.2006	Clarification	Lifting of ban on grant of Nautor under H.P. Nautor Rules, 1968	942
37.	The H.P. Govt. Department letter No. Rev.B.A.(4)-4/2001-Vol-III Dated: 10.08.2006	Instruction	Regarding grant of Nautor Land in Tribal Areas.	943
38.	The H.P. Govt. Department letter No. 9-13/71-रैव-बी-V Dated: 07.09.2006.	Instruction/ Clarification	Allotment of land (issuance of Patta and Mutation)	944
39.	The H.P. Govt. Department letter No. 9-13/71-रैव-बी-V Dated: 05.10.2006	Office Order	Allotment of Patta and attestation of mutation.	945
40.	The H.P. Govt. Department letter No. Rev.B.A.(4)-4/2001-Vol-III Dated: 17.10.2006	Clarification	Regarding grant of Nautor Land in Tribal Areas.	946
41.	The H.P. Govt. Department letter No. रैब-डी (जी) 6-14/2013 Dated: 22.12.2015.	Instruction	भूमि तबादला पर प्रतिबन्ध बारे।	947
42.	The H.P. Govt. Department letter No. रैब-डी (जी) 6-2/2004-II Dated: 15.03.2016	Instruction	शिमला नगर में "भूमि के मालिकाना हक योजना" बनाये जाने बारे	948
43.	The H.P. Govt. Department letter No. Rev-D(G)6-4/2016 Dated 26.08.2016.	Instruction/ Clarification	Policy for grant of ownership rights to the lease holders of Dalhousie Municipal Council.	950
44.	The H.P. Govt. Department letter No. रैब-डी (जी) 6-2/2004-II Dated 12.01.2017.	Clarification	शिमला नगर में "भूमि के मालिकाना हक योजना" बनाये जाने बार	952
45.	The H.P. Govt. Department letter No. रैव0. बी0एफ.(12)1/2008-वॉल-II Dated: 20.04.2017	Clarification	सरकारी कर्मचारियों के पक्ष में स्वीकृत नौतोड़ मिसलों पर पट्टा जारी करने हेतु दिशा-निर्देश।	953
46.	The H.P. Govt. Department letter No. Rev.B.F.(12)1/2008-Vol-II Dated: 26.08.2017	Clarification	सरकारी कर्मचारियों के पक्ष में स्वीकृत नौतोड़ मिसलों पर पट्टा जारी करने हेतु दिशा-निर्देश।	954
47.	The H.P. Govt. Department letter No. Rev. B.F. (5)2/2017-Loose Dated: 11.06.2020.	Instruction	Regarding withdrawal of instruction dated 10.08.2006.	955

<b>Instruction/ Clarification regarding allotment of 3/2 Biswas Land</b>				
48.	The H.P. Govt. Department letter No. Rev. B.F. (1)1/2006-I Dated: 22.01.2014.	Instruction	Regarding allotment of 3/2 biswas in Rural/Urban areas of State to houseless persons/families.	956
49.	The H.P. Govt. Department letter रैव.बी.एफ. (1)1 / 2006- I Dated: 09.02.2015	Instruction	Regarding allotment of 3/2 biswas land.	958
50.	The H.P. Govt. Department letter No. रैव. बी०एफ.(1)1 / 2006-II Dated: 23.11.2015.	Instruction	Regarding allotment of 3/2 biswas land.	959
51.	The H.P. Govt. Department letter No. Rev. B.F. (1)1/2006-II Dated: 14.03.2016.	Instruction	Regarding allotment of 3/2 biswas land.	960
52.	The H.P. Govt. Department letter No.रैव. बी०एफ.(1)1 / 2006-IV Dated: 28.05.2016.	Instruction	Regarding allotment of 3/2 biswas land (Area of allotment).	961
53.	The H.P. Govt. Department letter No. FFE-B-F-(10)-2/2018 Dated: 20.08.2018.	Instruction	Regarding allotment of 3/2 biswas land (FCA approval).	962
54.	The H.P. Govt. Department letter No. Rev. B.F.(1)1/2006-IV-loose Dated: 04.12.2018.	Instruction	Regarding allotment of 3/2 biswas land (Income limit)	963
55.	The H.P. Govt. Department letter No.Rev. B.F.(1)1/2006-IV-Loose Dated: 12.06.2020.	Instruction	Regarding allotment of 3/2 biswas land (Income limit).	965
56.	The H.P. Govt. Department letter No. FFE-B-F(2)-9/2022 Dated: 16.11.2022	Clarification	Regarding allotment of 3/2 biswas land (FCA approval).	967



Authoritative English Text of Government Notification No. REV. 2A(3)11/77 Dated 09-12-87 as required under Clause (3) of Article 348 of the Constitution of India.

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GOVERNMENT OF HIMACHAL PRADESH  
DEPARTMENT OF REVENUE

No. REV. 2A(3)11/77 dated Shimla-171002, the 9-12-1987.

NOTIFICATION

The Governor, Himachal Pradesh is pleased to make the following further amendments in the Himachal Pradesh Grant of Nautor Land to Landless and Other Eligible Persons Scheme, 1975

AMENDMENTS

In para 11 of the Himachal Pradesh Grant of Nautor Land to Landless and Other Eligible Persons Scheme, 1975 the figures "15" shall be substituted by figures "20"; and words "and no further allotment of land shall be made to him thereafter" shall be inserted after the words "by the State Govt." but before the sign ".", at the end.

By order  
(Attar Singh)  
Secretary Revenue) to the  
Government of Himachal Pradesh.

No. Rev.2A(3)11/77, dated Shimla-2 the 9 /12/1987.

A copy is forwarded to:-

1. The Secretary to the Governor, Himachal Pradesh Shimla-2.
2. The Controller, Printing and Stationery, H.P., Shimla-5, for publication in the H.P. Rajpatra. 5 copies of the Rajpatra may please be sent to this Department for record.
3. The Registrar H.P. High Court, Shimla-171001.
4. All the Deputy commissioners, H.P. with a spare copy.
5. The Settlement Officer, Kangra at Dharamshala/Shimla, Kinnaur at Shimla.
6. The Settlement Officer (Consolidation) Hamirpur.
7. All the Sub Divisional Officer (Civil) in H.P.
8. The Divisional Commissioner, Shimla, Mandi, Kangra at Dharamshala.
9. The Clerk of court to the Financial Commissioner, Himachal Pradesh, Shimla.171002.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Authoritative English Text of Government Notification No. REV. 2A(3)11/77 Dated 09-12-87 as required under Clause (3) of Article 348 of the Constitution of India.

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GOVERNMENT OF HIMACHAL PRADESH  
DEPARTMENT OF REVENUE

No. Rev. 2A (3)11/77 dated Shimla-171002, the 9-12-87.

NOTIFICATION

In exercise of the powers conferred upon him under sub section (4) of section 8 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 (Act No. 18 of 1974), the Governor, Himachal Pradesh is pleased to make the following further amendments, in the Himachal Pradesh Village Common Land Vesting and Utilization Scheme, 1975, published in the Rajpatra, H.P. Extra ordinary, dated 20<sup>th</sup> March, 1975 vide Govt. Notification No. 10-1/73-Rev-A., dated the 12<sup>th</sup> February, 1975, with immediate effect, namely:-

AMENDMENTS

In clause (d) of para 9 of the Himachal Pradesh Village Common Lands Vesting and Utilisation Scheme, 1975.

- (a) for the existing figures "10" occurring therein, figures "20" shall be inserted; and
- (b) after word "allotment" and before the sign ":" the words "and in the event of violation of these provisions, the land granted to him shall be liable to be resumed by the State Government and no further allotment of land shall be made to him thereafter" shall be inserted.

By orders

Attar Singh

Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. 2A (3)11/77, dated Shimla-171002, the 9<sup>th</sup> Dec., 1987.

Copy forwarded to:-

1. The Controller, Printing and Stationery, Himachal Pradesh Shimla-171005 for publication in the H.P. Rajpatra. 5 copies of the Rajpatra may kindly be supplied to this Department for record.
2. The Secretary to the Governor, Himachal Pradesh-171002.
3. The Deputy Legal Remembrancer, Government of Himachal Pradesh.
4. The Registrar, H.P. High Court, Shimla-171001.
5. All the Deputy Commissioner in H.P. (with 15 spare copies each).
6. The Settlement Officer, Kangra at Dharamshala/Kinnaur at Shimla.
7. The Settlement Officer (Consolidation), Hamirpur.
8. All the Sub Divisional Officers (Civil) in H.P.
9. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
10. The Clerk of Court to the Financial Commissioner, H.P. Shimla-171002.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Authoritative English Text of Government Notification No. Rev. 2A(3)11/77 dated 09-12-87 as required under Clause (3) of Article 348 of Constitution of India.

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Government of Himachal Pradesh  
Department of Revenue.

No. REV. 2A(3)11/77 dated Shimla-171002, the 9<sup>th</sup> December, 1987.

NOTIFICATION

In exercise of the powers conferred upon him under sub section (4) of section 15 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973), the Governor, Himachal Pradesh is pleased to make the following further amendments, in the Himachal Pradesh Utilisation of Surplus Area Scheme, 1974 published in the, H.P. Rajpatra (Extra-ordinary) dated the 20<sup>th</sup> July, 1974, vide Government Notification No. 10-7/74-Rev, dated the 20<sup>th</sup> July, 1974, with immediate effect, namely:-

AMENDMENTS

In clause (d) of para 11 of the Himachal Pradesh Utilisation of Surplus Area Scheme, 1974.

- (a) for the existing figures "10" occurring therein, figures "20" shall be inserted, and
- (b) after the word "allotment" and before the sign ":" the words "and in the event of violation of these provisions, the land granted to him shall be liable to be resumed by the State Government and no further allotment of land shall be made to him thereafter" shall be inserted.

By order

Attar Singh

Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. 2A (3)11/77, dated Shimla-171002, the 09-12-1987

Copy forwarded to:-

1. The Controller, Printing and Stationery, Himachal Pradesh Shimla-5 for publication in the Himachal Pradesh Rajpatra. 5 copies of the Rajpatra may please be supplied to this Department for record.
2. All the Deputy Commissioners in Himachal Pradesh (with 15 spare copies each).
3. The Settlement Officer (Consolidation), Hamirpur.
4. The Settlement Officer, Kangra at Dharamshala/Kinnaur at Shimla.
5. All the Sub Divisional Officers (Civil) in H.P.
6. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
7. The Clerk of Court to the Financial Commissioner, Himachal Pradesh, Shimla-171002.
8. The Director of Land Records, H.P. Shimla-171002.
9. The Deputy Legal Remembrancer, Government of Himachal Pradesh.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Government of Himachal Pradesh  
Department of Revenue

No. Rev. B. A. (3)-13/2000, dated: Shimla-2 the 18<sup>th</sup> November, 2003

**NOTIFICATION**

The Governor, Himachal Pradesh is pleased to make the following further Amendments in the Himachal Pradesh Nautor Land Rules, 1968, namely:-

- |              |   |
|--------------|---|
| Short title. | 1. These rules may be called the Himachal Pradesh Nautor Land (Amendment) Rules, 2003.  |
| Amendment    | 2. In rule 12 of the Himachal Pradesh Nautor Land Rules, 1968, in of rule 12. clause (f), for the figure and word "15 years", the words "fifty years" shall be substituted. |

By order  
F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev. B.A. (3)-13/2000, dated: Shimla-2, 18<sup>th</sup> November, 2003

Copy forwarded for information and taking necessary action to:-

1. The Controller, Printing and Stationary, H.P. Govt. Press, Shimla-5, for publication in the H.P. Government Gazettee (Extraordinary). Five copies of the gazettee may kindly be sent to this Department for record.
2. All Administrative Secretaries to the Govt. of H.P.
3. All the Divisional Commissioners, in H.P.
4. Director, Land Records and Consolidation of Holdings, H.P. Shimla-9.
5. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.
6. All Head of Departments in Himachal Pradesh.
7. All the Sub-Divisional Officer (C)/Tehsildars and Naib Tehsildars posted in sub-tehsil in H.P. for information and necessary action.
8. Clerk of Court to the F.C. (Appeal) to the Government of Himachal Pradesh, Shimla-2.
9. The Deputy Legal Remembrancer-cum-Draftsman, Himachal Pradesh, Shimla-2.

Deputy Secretary (Rev.) to the  
Government of Himachal Pradesh.

**Government of Himachal Pradesh  
Department of Forests.**

FFE-B-F(5)2/2002-Pt.IV-Loose

Dated: Shimla-2, the

17-07-14

**Notification**

The Governor, Himachal Pradesh, in exercise of the powers vested in her, under sub-para(1) of Para 5 of Schedule V appended to the Constitution of India is pleased to direct that the Forest Conservation Act, 1980 shall not apply to the Scheduled Areas of the State of Himachal Pradesh for a period of two years subject to the fulfilment of the following conditions:

- (i) The area does not fall in National Park/ Sanctuary/ Conservation Reserve/ Community Reserve/ Reserve Forest/ Demarcated Protected Forest.
- (ii) There is no tree standing on the land proposed to be allotted/a Nautor.
- (iii) The area is situated at a minimum distance of five kilometres (ground distance) from National Park/Sanctuary/Conservation Reserve/Community Reserve.
- (iv) The area is situated at a minimum distance of one kilometre (ground distance) from Perennial/Natural Water Source.
- (v) The Nautor so granted is utilized only for bona fide domestic purpose and is not utilized for any commercial activity.
- (vi) The Nautor is not granted to any such person who is involved in any kind of forest offence, including encroachment on forest land.

By Order

Tarun Shridhar

Principal Secretary (Forests) to the  
Government of Himachal Pradesh.

Endst. No. As above dated, Shimla-2

17-7-14

Copy forwarded for information &amp; necessary action to :-

1. Private Secretary to Governor, Himachal Pradesh.
2. Private Secretary to Chief Minister, Himachal Pradesh.
3. Private Secretary to Forest Minister, Himachal Pradesh.
4. Private Secretary to Chief Secretary, Himachal Pradesh.
5. All Administrative Secretaries to the Government of H.P.
6. Pr. Chief Conservator of Forests(HoFF) Talland Shimla.
7. Divisional Commissioner, Shimla, Mandi & Kangra.
8. All Head of Departments.
9. All the Deputy Commissioners of Himachal Pradesh.
10. The Controller, Printing & Stationary Department, H.P. Shimla-5.
11. S.O. (Forest-A) HP Secretariat Shimla-2.
12. Guard File.

(Prakasha Nanad)

Deputy Secretary (Forests) to the  
Government of Himachal Pradesh.

Government of Himachal Pradesh  
Department of Forests.

FFE-B-F(5)2/2002-Pt.IV-Loose

Dated: Shimla-2, the

23-07-14.

**ADDENDUM**

In continuation to this department Notification of even No. dated 17-7-14 the Governor, Himachal Pradesh is pleased to order that the suspension of Forest Conservation Act, 1980 in Scheduled areas of the state shall be for the limited purpose of implementation of the Himachal Pradesh Nautor Land Rules, 1968 subject to the conditions imposed vide above Notification.

By Order

Tarun Shridhar

Principal Secretary (Forests) to the  
Government of Himachal Pradesh.

Endst. No. As above dated, Shimla-2

23-7-14

Copy forwarded for information & necessary action to :-

1. Private Secretary to Governor, Himachal Pradesh.
2. Private Secretary to Chief Minister, Himachal Pradesh.
3. Private Secretary to Forest Minister, Himachal Pradesh.
4. Private Secretary to Chief Secretary, Himachal Pradesh.
5. All Administrative Secretaries to the Government of H.P.
6. Pr. Chief Conservator of Forests(HoFF) Talland Shimla.
7. Divisional Commissioner, Shimla, Mandi & Kangra.
8. All Head of Departments.
9. All the Deputy Commissioners of Himachal Pradesh.
10. The Controller, Printing & Stationary Department, H.P. Shimla-5.
11. S.O. (Forest-A) HP Secretariat Shimla-2.
12. Guard File.

(Prakasha Nand)

Deputy Secretary (Forests) to the  
Government of Himachal Pradesh.  
0177-2628481, 94184-55573

**Government of Himachal Pradesh  
Department of Forests.**

FFE-B-F(4)1/2015

Dated: Shimla-2, the

02-12-2016

**NOTIFICATION**

Consequent upon expiry of validity of GoHP Notification No. FFE-B-F(5)2/2002-Pt. IV-loose dated 17-7-14 and its addendum dated 23-07-14, the Governor, Himachal Pradesh, in exercise of the powers, vested in him, under sub-para (1) of Para 5 of Schedule-V appended to the Constitution of India is pleased to direct that the Forest Conservation Act, 1980 shall not apply to the Scheduled Areas of the State of Himachal Pradesh for the limited purpose of implementation of the H.P. Nautor Rules, 1968 & carrying essential development activities for a period of two years subject to the fulfilment of following conditions.

1. The area does not fall in National Park/ Sanctuary/ Conservation Reserve/ Community Reserve/ Reserve Forest/ Demarcated Protected Forest.
2. The number of tress standing over the land proposed to be allowed as Nautor should not exceed two.
3. It shall only be applicable to the Nautor lands already sanctioned by competent authority till the date of issue of this Notification in which *pattas* could not be granted.
4. The Nautor so granted is utilized only for bona-fide domestic purpose and is not utilized for any commercial activity.
5. The Nautor is not granted to any such person who is involved in any kind of forest offence including encroachment on forest land.
6. No forest land will be granted for any purpose in which natural water resources are utilized by the local inhabitants.
7. No forest land will be granted for any purpose where paths and roads exist which are used by the local inhabitants.
8. The essential developmental activities to be provided by the Govt. shall include (1) Schools (2) Dispensaries/Hospitals (3) Electric and Telecommunication lines (4) Drinking water projects (5) Water/Rain Water Harvesting Structures (6) Minor Irrigation Canals (7) Renewable Sources of Energy (8) Skill Up-gradation/Vocational training centres (9) Power sub-stations (10) Communication posts (11) Construction/Widening of roads including approach roads to road side establishments (12) Upgradation/Strengthening/Widening of existing bridges by the Border Roads Organization (BRO) (13) Police Establishments like Police Stations/Outposts/Border Outposts/watch towers in sensitive areas identified by the Ministry of Home Affairs. Permission for these activities shall be granted by the Forest Department, Government of H.P. on case to case basis for which regulation shall be framed by the Government of H.P. specifying procedure and authorities for granting the permission.

By Order

(Tarun Kapoor)

Principal Secretary (Forests) to the  
Government of Himachal Pradesh.

Endst. No. As above dated Shimla-2

2-12-2016

Copy forwarded for information & necessary action to :-

1. Private Secretary to Governor, Himachal Pradesh.
2. Private Secretary to Chief Minister, Himachal Pradesh.
3. Private Secretary to Forest Minister, Himachal Pradesh.
4. Private Secretary to Chief Secretary, Himachal Pradesh.
5. All Administrative Secretaries to the Government of H.P.
6. Pr. Chief Conservator of Forests (HoFF), Talland Shimla.
7. Divisional Commissioner, Shimla, Mandi & Kangra.
8. All Head of Departments.
9. All the Deputy Commissioner of Himachal Pradesh.
10. The Controller, Printing & Stationery Department, H.P. Shimla-5.
11. S.O. (Forest-A), H.P. Secretariat Shimla-2.
12. Guard File.

(Sat Pal Dhiman)

Joint Secretary (Forests) to the  
Government of Himachal Pradesh.



**Government of Himachal Pradesh  
Department of Forests.**

FFE-B-F(4)1/2015

Dated: Shimla-2, the

27<sup>th</sup> May, 2017

**NOTIFICATION**

WHEREAS, the Governor of Himachal Pradesh, in exercise of the powers, vested in him, under sub-para (1) of Para 5 of Schedule-V appended to the Constitution of India issued vide Notification No. FFE-B-F (4)1/2015 dated 2<sup>nd</sup> December, 2016 (hereinafter referred to as the said "Notification"), stipulating that Forest Conservation Act, 1980 shall not apply to the Scheduled Areas of the State of Himachal Pradesh for the limited purpose of implementation of the HP Nautor Rules, 1968 and carrying essential development activities for a period of two years subject to fulfilment of certain conditions;

AND WHEREAS, the Governor, Himachal Pradesh is satisfied that it is necessary and expedient to amend the said notification; and

NOW, THEREFORE, in exercise of the powers vested in him, under sub-para (1) of Para 5 of Schedule-V appended to the Constitution of India, the Governor of Himachal Pradesh is pleased to substitute the condition no. 3 of the said notification, as under, namely:

**“Condition No. 3** *Where ever Nautor land has already been sanctioned by competent authority till the date of issue of the said Notification dated 02-12-2016 but pattas could not be granted, pattas may now be granted at the same location for which sanction was issued. For new sanctions of Nautor in Un-demarcated Protected Forests (UPFs), land parcels be selected in such a manner that the general forests and ecology of the area is not disturbed. Land chunks be therefore identified jointly by Revenue and Forest officers in order to avoid scattered allotment of Nautor in the Forests, Divisional Forest Officer concerned shall be authorized to issue No Objection Certificate for allotment of Nautor in UPF areas till such time as Forest Conservation Act, 1980 does not apply in the Scheduled Areas.”*

By Order

Tarun Kapoor

Addl. Chief Secretary (Forests) to the  
Government of Himachal Pradesh.

Endst. No. As above dated, Shimla-2

27<sup>th</sup> May, 2017

Copy forwarded to the following for information and necessary action to :-

1. All the Additional Chief Secretaries/Principal Secretaries/Secretaries to the GoI
2. The Special Secretary (GAD) to the Govt. of H.P. w.r.t. Item No. 82 of \_\_\_Ministers meeting held on 02-05-2017.
3. The Pr. Accountant General, Himachal Pradesh.
4. DLR-Cum-Dy. Secy. (Law) to the Govt. of H.P.
5. Principal Chief Conservator of Forests (HoFF) HP.
6. Principal Chief Conservator of Forests (Wild Life)-cum-Chief Wild Life Warden
7. Divisional Commissioners, Shimla, Mandi & Kangra.
8. All the Deputy Commissioners in Himachal Pradesh.
9. All CCFs/CFs/DFOs in Himachal Pradesh.

10. Private Secretary to the Governor, Himachal Pradesh.
11. Private Secretary to the Chief Minister, Himachal Pradesh.
12. Private Secretary to the Forest Minister, Himachal Pradesh.
13. Private Secretary to Chief Secretary, Himachal Pradesh.
14. The Controller, Printing & Stationery Department, H.P. Shimla-5.
15. S.O.(Forest-A), H.P. Secretariat Shimla-2.
16. Guard File.

(Sat Pal Dhiman)

Joint Secretary (Forests) to the  
Government of Himachal Pradesh.

**GOVERNMENT OF HIMACHAL PRADESH  
DEPARTMENT OF FORESTS.**

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**No. FFE-B-F(4)-3/2018**

**Dated Shimla-2, the**

**13<sup>th</sup> February, 2019.**

**NOTIFICATION**

Consequent upon expiry of the Government of Himachal Pradesh Notification No. FFE-B-F(4)1/2015, dated 2<sup>nd</sup> December, 2016 and 27<sup>th</sup> May, 2017, the Governor, Himachal Pradesh, in exercise of the powers conferred under Sub-clause(1) of clause 5 of FIFTH SCHEDULE appended to the Constitution of India, is pleased to direct the Forest(Conservation) Act, 1980 shall not apply to the Scheduled Areas of the State of Himachal Pradesh for the limited purpose of implementation of the Himachal Pradesh Nautor Rules, 1968 and carrying essential development activities, for a period of one year, subject to fulfillment of the following conditions,-

1. The areas does not fall in Nation Park/Sanctuary/Conservation Reserve/Community Reserve Forest/Demarcated Protected Forest.
2. The number of trees standing over the land proposed to be allowed as Nautor should not exceed two.
3. Where ever Nautor land has already been sanctioned by competent authority till the date of issue of the this Notification but pattas could not be granted, pattas may now be granted at the same location for which sanction was issued. For new sanctions of Nautor in Un-demarcated Protected Forests(UPFs), land parcels be selected n such a manner that the general forests and ecology of the area is not disturbed. Land chunks be therefore identified jointly by Revenue and Forest officers in order to avoid scattered allotment of Nautor in the Forests. Divisional Forest Officer concerned shall be authorized to issue No Objection Certificate for allotment of Nautor in Un-demarcated Protected Forest areas till such time as Forest(Conservation) Act, 1980 does not apply in the Scheduled Areas.
4. The Nautor so granted is utilized only for bonafide domestic purpose and is not utilized for nay commercial activity.
5. The Nautor is not granted to any such person who is involved in any kind of forest offence including encroachment on forest land.
6. No forest land shall be granted for any purpose in which natural water resources are utilized by the local inhabitants.
7. No forest land will be granted for any purpose where paths and roads exist which are used by the local inhabitants.
8. The essential developmental activities to be provided by the Government shall include (1) Schools (2) Dispensaries/Hospitals (3) Electric and Telecommunications lines (4) Drinking Water projects (5) Water/Rain Water Harvesting Structures (6) Minor Irrigation Canals (7) Renewable Sources of Energy (8) Skill up-gradation/ Vocation Training centre (9) Power Sub-Stations (10) Communication posts (11) Construction/Widening of roads including approach roads to road side establishments (12) Up-gradation/Strengthening/Widening of existing bridges by the Border Roads Organization(BRO) (13) Police Establishments like Police Stations/Outposts/Border Outposts/watch towers in sensitive areas identified by the Ministry of Home Affairs,. Permission for these activities shall be granted by the Forest Department, Government

of Himachal Pradesh, on case to case basis as per the regulation already framed by the Government of Himachal Pradesh vide Government of Himachal Pradesh letter No. FFE-B-F(4)-1/2015, dated 31<sup>st</sup> December, 2016, specifying procedure and authorities granting the permission.

**By Order,**

**Ram Subhag Singh,  
Additional Chief Secretary(Forests) to the  
Government of Himachal Pradesh, Shimla**

Endst. No. FFE-B-F(4)-3/2018

Dated Shimla-2, the

13<sup>th</sup> February, 2019

Copy forwarded for information and necessary action to the following:-

1. All the Additional Chief Secretaries/ Principal Secretaries/Secretaries to the Government of Himachal Pradesh, Shimla-2
2. JLR-Cum-Joint Secretary (Law) to the Government of HP., Shimla-2
3. The Under Secretary (GAD) to the Government of HP Shimla-2 w.r.t. item No. 09 of the Council of Ministers' meeting held on 11<sup>th</sup> December, 218.
4. The Principal Accountant General, Himachal Pradesh, Shimla.
5. Principal Chief Conservator of forests(HoFF), HP., Shimla-01.
6. Principal Chief Conservator of Forests(Wild Life)-cum-Chief Wild Life Warden, HP. Shimla-01.
7. Divisional Commissioners, Shimla/Mandi/Kangra, Himachal Pradesh.
8. All the Deputy Commissioners in Himachal Pradesh.
9. All the Chief Conservator of Forests/Conservators of Forests in Himachal Pradesh.
10. All the Divisional Forest Officers in Himachal Pradesh.
11. Private Secretary to the Governor, Himachal Pradesh, Shimla-2
12. Private Secretary to the Chief Minister, Himachal Pradesh Shimla-02.
13. Private Secretary to the Forest Minister, Himachal Pradesh, Shimla-02.
14. Private Secretary to the Chief Secretary, Himachal Pradesh, Shimla-02.
15. The Controller, Printing & Stationary Department, Himachal Pradesh, Shimla-02.
16. The Section Officer (Forest-A) HP Secretariat, Shimla-02
17. Guard File.

-sd-

**(Sat Pal Dhiman)  
Joint Secretary(Forests) to the  
Government of Himachal Pradesh.  
Phone No. 0177-2621874**

Authoritative English Text of this department Notification No. Rev. B.A. (3) 9/2018 dated 27-02-2019 as required under clause 3 of the Article 348 of the Constitution of India.

**Government of Himachal Pradesh**  
**Department of Revenue**

No. Rev. B. A. (3)9/2018, dated: Shimla-2 the 27<sup>th</sup> February, 2019.

**NOTIFICATION**

The Governor, Himachal Pradesh is pleased to make the following rules further to amend the Himachal Pradesh Nautor Land Rules, 1968, notified vide this department Notification No. 1-4/63-Rev.I dated 17/9/1968, namely:-

- |                         |  |
|-------------------------|--|
| 1. Short title-         | These rules may be called the Himachal Pradesh Nautor Land (Amendment) Rules, 2019.  |
| 2. Amendment of rule 7. | In rule 7 of the Himachal Pradesh Nautor Land Rules, 1968, in Clause (a), for the word and figure "Rs. 2,000" the word and figure "Rs. 2,00,000/-" shall be substituted. |

By Order  
(Manisha Nanda),  
Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. Rev. B.A. (3)9/2018. Dated: Shimla-2, the  
Copy forwarded for information and taking necessary action to;

1. Administrative Secretaries to the Government of H.P.
2. All the Divisional Commissioners in H.P.
3. The Director Land Records H.P.
4. All the Head of Departments in H.P.
5. All the Deputy Commissioners in H.P.
6. All the Sub-Divisional Officer (Civil) in H.P.
7. The A.L.R.-cum-Under Secretary (Law) to the Government of H.P.
8. All Tehsildars/Naib Tehsildars posted in sub-tehsils, in H.P.
9. Clerk of Court to the F.C. (Appeal), Govt. of H.P. Shimla-2.
10. The Controller, Printing and Stationary, H.P. Government Press, Shimla-5.

(Rakesh Mehta),  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. 9-13/71-(Rev-A)  
Government of Himachal Pradesh  
Department of Revenue

\*\*\*\*

From

The Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner, H.P.
2. All the Deputy Commissioners in H.P.
3. All the Sub-Divisional Officers (Civil) in H.P.

Dated Shimla-171002, the 7<sup>th</sup> January, 1975.

Subject:- Grant of nautor land.

Sir,

I am directed to say that for implementation of the provisions of resumption under the H.P. Tenancy and Land Reforms Act, 1972, we may have resort to providing nautor land for rehabilitation of the tenants likely to be ejected in the process of resumption U/S 104 of the said Act. It is also likely that nautor land will be required for allotment to the landowners whose land holdings will be reduced to less than one acre on account of acquisition of proprietary rights by their non-occupancy tenants u/s 104 of the said Act. In case, the work of grant of nautor land continues at the present pace in the various districts it is possible that a saturation point may reach in several revenue estates and no more nautor land may be left to implement the aforesaid Act.

2. In view of the above, it has, therefore, been decided that the sanction of the nautors may be stopped forthwith except in favour of harijans and agricultural landless labourers till such time that the implementation of the H.P. Tenancy and Land Reforms Act, 1972 is completed. The grant of nautor will continue for harijans and agricultural landless labourers, as heretofore.

3. The pending cases of applicants other than harijans and agricultural landless labourers will remain pending at the stage they are at present. No further action in these case be taken and all such cases referred to the forest deptt. Panchayats and field kanungos be withdrawn and kept pending in the offices of the SDO(C). The total number of cases pending in each district be communicated to the undersigned in due course.

4. All the revenue officers concerned may be informed about these orders,
5. The receipt of this communication may be acknowledged.

Yours faithfully,

-sd-

K.C. Pandeya,  
Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. 9-13/71-Rev-A  
 Government of Himachal Pradesh  
 Department of Revenue

\*\*\*\*

From

Sh. K.C. Chauhan,  
 Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Shimla.

Dated Shimla-171002, the 10<sup>th</sup>/11<sup>th</sup> April, 1975.

Subject:- Grant of nautor land.

Sir,

I am directed to refer to your letter No. III-SML (PSH) 18NC/73-218 dated the 21<sup>st</sup> January, 1975 regarding certain clarifications of the Government's order issued vide this department letter No. 9-13/71-Rev.I dated the 7<sup>th</sup> January, 1975 and to convey the following clarifications in this behalf:-

1. Exchange: The ban on grant of nautor land applies to exchange also.
2. Encroachment: Rule 27-A will continue to apply for deciding encroachments detected during settlement operations. The Govt. orders regarding regularisation of encroachment on Govt. land upto 5 bighas continue to be in force.
3. Rule 27-B: The grant of land under rule 27-B will continue.
4. Appeals: Appeals by all the appellate authorities under the nautor rules shall continue to be decided.
5. Fresh applications: Fresh applications should only be entertained in cases of harijans/agricultural landless labourers and members of Scheduled tribes.
6. Grant of land to Scheduled tribes: The ban on sanctioning nautors has been relaxed in cases of scheduled tribes also.

Yours faithfully,

-sd-

(K.C. Chauhan)

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Copy to:

1. The Divisional Commissioner, H.P. Shimla for information.
2. All the D.Cs. in H.P. except Shimla/all the Sub-Divisional officers in H.P. in continuation to this deptt. letter of even number dated the 7<sup>th</sup> Jan. 1975.

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

TOP PRIORITY

No. 9-14/75-Rev.-A  
 Government of Himachal Pradesh  
 Revenue Department

From

The Financial Commissioner-cum-  
 Secretary (Revenue) to the  
 Govt. of Himachal Pradesh.

To

The Divisional Commissioner,  
 Himachal Pradesh, Shimla-2.

Dated: Shimla-2, the 1<sup>st</sup>/3<sup>rd</sup> October, 1975.

Subject: Guidelines for grant of land to persons whose existing holdings are less than one acre in the second phase of the programme of providing land to eligible persons.

Sir,

I am directed to refer to this Department letter of even number dated the 8th September, 1975, on the above subject, and to say that with a view to bringing about uniformity in the whole of this Pradesh in the matter of allotment of land to the eligible persons, the following guidelines are hereby issued under the following three schemes:-

1. The H.P. Utilisation of Surplus Area Scheme, 1974.
2. The H.P. Village Common Lands (Vesting & Utilization) Scheme. 1975;
3. The H.P. Special Nautor Scheme, 1975 now made applicable to eligible persons.

2. During the second phase of the programme land under all the three schemes will be allotted to those persons whose holdings are less than one acre to make their holdings upto one acre(hereafter referred to as eligible persons).

3. Priorities in allotment. The allotment of land to eligible persons under the aforesaid three schemes shall be made in the following order of preference:

- (i) Members of Scheduled Castes/Scheduled Tribes, ex-servicemen, freedom fighter and Ex-INA personnel, covered under the Govt. of India Scheme and also these freedom fighters who have been awarded commendation certificates by the State Government;
- (ii) To land owners or tenants whose holdings as a result of implementation of Section 104 of the H.P. Tenancy and Land Reforms Act, 1972, is reduced to below one acre;
- (iii) To remaining eligible persons;
- (iv) To those land owners in the areas comprised in H.P. immediately before 1<sup>st</sup> November, 1966, who were either rendered landless or whose holdings were reduced to less than one acre as a result of the implementation of the H.P. Abolition of Big Landed Estates and Land Reforms Act, 1953 (only under the H.P. Special Nautor Scheme).



4. The income from other sources upto a limit of Rs. 3000/- per annum should be kept in view while allotting land to eligible persons in the second phase of the programme. No land should be allotted to a person, whose annual income from other sources exceeds Rs. 3000/-.
5. Where, in joint holdings co-sharers live jointly, their per capita share need not be worked out. For example, four brothers are living jointly and they have three acres of land. In such case, it is not essential to make their joint holdings as four acres. Only individual holdings falling short of five bighas will be taken up. Similarly, in a polyandrous family, where the land is in the name of the eldest brother according to the custom of area, the rest of the brothers will not be treated as eligible persons.
6. The distribution, out of shamlat land, since vested in the Govt. shall begin only after the area reserved for grazing and common purposes and allottable pool are properly demarcated and other formalities under the H.P. Village Common Lands (Vesting and Utilization) Act and the Rules and the Scheme made under the Act are completed. The relaxations of the provisions of the rules and the Schemes allowed as per letter No. 10-4/75-Rev.-A dated the 23<sup>rd</sup> July, 1975, was allowed only in respect of landless persons.
7. Necessary amendments in all the above mentioned schemes in the light of the above guidelines are being issued very shortly. In the meanwhile you may kindly direct all the Deputy Commissioners to complete the formalities under the laws, Rules and the schemes and also prepare the lists of all the eligible categories mentioned above and thereafter start distribution of land in the second phase in view of the provisions and guidelines given in the letter.

Kindly acknowledge receipt.

Yours faithfully,

-sd-

(K.C. Chauhan)

Under Secretary (Revenue) to the  
Govt. of Himachal Pradesh.

No. 9-14/75-Rev.-A Dated Shimla-2, 1<sup>st</sup>/3<sup>rd</sup> October, 1975.

Copy to all the Deputy Commissioners/ Settlement Officer, Dharamshala/S.D.O. (Civil)/Tehsildars in H.P. for information and necessary action

-sd-

Under Secretary (Revenue) to the  
Govt. of Himachal Pradesh.

No. 9-13/71-(Rev-A)  
Government of Himachal Pradesh  
Department of Revenue

\*\*\*\*

From

The Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner, H.P.
2. All the Deputy Commissioners in H.P.
3. All the Sub-Divisional Officers (Civil) in H.P.

Dated Shimla-171002, the 19<sup>th</sup> December, 1975.

Subject:- Grant of nautor land.

Sir,

I am directed to refer to this department letter of even number dated the 7<sup>th</sup>/8<sup>th</sup> January, 1975 on the subject cited above and to state that the ban put on grant of nautor land vide the aforesaid letter would not apply for granting land for construction of a Gharat. Therefore, nautor for gharats can be sanctioned to all those eligible to get nautor under the H.P. Nautor Rules, 1968.

2. It is, requested that all the Revenue Officers concerned may be informed about these orders.

3. the receipt of this communication may be acknowledged.

Yours faithfully,

-sd-

(K.C. Chauhan),

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. 9-13/71-(Rev-A)  
 Government of Himachal Pradesh  
 Department of Revenue

\*\*\*\*

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Divisional Commissioner,  
 Himachal Pradesh, Shimla-2.

Dated Shimla-171002, the 18<sup>th</sup> May, 1976.

Subject:- Grant of nautor land.

Sir,

I am directed to say that it has come to the notice of the Government that nautors are still being granted to those persons who already have 20 bighas and more land with them. No nautors of any nature have to be granted either by sanctioning authority or by the appellate authority under the said Rules, 1968. All applications/appeals/revision/review under the said rules shall, therefore stand stayed till further orders. Nautors can only be granted under the Himachal Pradesh Grant of Nautor Land to Landless and Eligible Persons Scheme, 1975.

2. It is also required to report cases where nautors have been granted in contravention of the Government instructions contained in this department letters of even number dated 7<sup>th</sup> January, 1975 and 11<sup>th</sup> April, 1975 and subsequent letter No. 9-14/75-Rev.A dated 28<sup>th</sup> January, 1976. Names of officers who have sanctioned nautors or entertained applications of nautor against Government instructions after the implementations of 20 Point Economic Programme, should be intimated so that disciplinary action is initiated against them. These orders supercede all previous instructions issued from time to time.

3. You are requested to kindly convey the above orders to all the Deputy Commissioners/SDM's concerned immediately and obtain an acknowledgement from them.

Jai Hind,

Yours faithfully,

-sd-

(P.K.Mattoo),

Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. 9-13/71-(Rev-A)  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Divisional Commissioner,  
 Himachal Pradesh, Shimla-2.

Dated Shimla-171002, the 21<sup>st</sup> August, 1976.

Subject:- Grant of nautor land.

Sir,

I am directed to refer to this Department letter of even number, dated the 18<sup>th</sup> May, 1976 on the subject cited above and to convey the following decisions taken by the Government in regard to the cases under the Himachal Pradesh Nautor Land Rules, 1968 as amended from time to time, mentioned below:-

- (i) Exchange: The ban on exchange of private land with Government land has been lifted and applications in this behalf under rule 27 of the Himachal Pradesh Nautor Land Rules, 1968 will continue to be entertained and decided.
- (ii) The applications for grants under rule 27-A of the said rules already received upto the prescribed date will continue to be processed and decided.
- (iii) The applications of grant of land under rule 27-B of the said rules shall continue to be entertained and decided.
- (iv) Pending Applications: All the pending applications for grant of nautor land under the Himachal Pradesh Nautor Land Rules, 1968 except under rule 27; 27-A and 27-B, will be consigned to the record room.
- (v) Appeals etc. Pending appeals, review and revision cases with regard to the grant of Nautor Land under the aforesaid rules will continue to be decided by the Courts concerned.

2. It has also been decided that where any person has constructed house, shop and other structure on government land encroached upon by him, such site(s) be permitted to be exchanged with private land of the encroacher subject to the condition that the land in question is outside the controlled area under the Himachal Pradesh Road Side Land Control Act, 1968. However, where any such person has no land to offer in exchange of such sites on Government land, the encroached land be sanctioned to such person provided such site is not within the controlled area referred to above. The necessary provision in the Himachal Pradesh Nautor Land Rules, 1968 is being made accordingly but action pursuant to these decisions may be taken in hand on the receipt of this letter.

3. Kindly acknowledge receipt.

Yours faithfully,

-sd-

(P.K.Mattoo),

Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. 9-13/71(Rev.A) Dated Shimla 171002, the 21<sup>st</sup> August, 1976.

Copy forwarded for information and necessary action to:-

1. All the Deputy Commissioners in Himachal Pradesh.
2. All the Sub-Divisional Officer (Civil), in Himachal Pradesh.

The receipt of this communication may be acknowledged.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

State

Telegram

Ordinary

Deputy Commissioner

Dharamshala/ Mandi (State)/ Bilaspur (State)/ Hamirpur/ Una/ Nahan/ Kalpa/ Keylong/ Chamba/  
Solan/ Kullu.

Number, 9-13/71-Rev. Stop Grant of Nautor Land under Nautor Rule 27-B (Twenty Seven-Bee)  
(Juxtapose) stayed till further orders.

HIMFINCOM

No. 9-13/71-Rev. Dated Shimla 171002, the 19<sup>th</sup> July, 1978.

Copy forwarded to the Deputy Commissioner, Shimla District, Shimla-1. He is informed  
that the grant of nautor land under Nautor Rule 27-B (Twenty Seven-Bee) (Juxtapose) has been  
stayed till further orders.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

सं09-13/71-रैव-बी (1)  
हिमाचल प्रदेश सरकार  
राजस्व (ख) विभाग

.....

प्रेषक

अवर सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

मण्डलायुक्त,  
हिमाचल प्रदेश सरकार।

दिनांक: शिमला-171002, 29/11/78

विषय: नौतोड़ भूमि का दिया जाना।

महोदय,

मुझे उपर्युक्त विषय पर आपका ध्यान इस विभाग के समसंख्यक पत्र दिनांक 21 अगस्त, 1976 की ओर आकर्षित करते हुए यह कहने का निर्देश हुआ है कि मामला का पुनरीक्षण करने के पश्चात यह निर्णय लिया गया है कि स्पिति उप-मण्डल में नौतोड़ भूमि देने पर लगाई गई रोक को हटा दिया जाये। अतः आपसे अनुरोध है कि आगामी कार्यवाही इसी अनुसार की जाए।

भवदीय,

—हस०—

अवर सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

सं09-13/71-रैव-बी (1)

दिनांक: 29/11/78

प्रतिलिपि :-

1. उपायुक्त, लाहौल तथा स्पिति जिला, किलांग, हिमाचल प्रदेश को सूचनार्थ प्रेषित।
2. उप-मण्डलाधिकारी (नागरिक) स्पिति उप-मण्डल, काजा, जिला लाहौल एवं स्पिति, हिमाचल प्रदेश को सूचनार्थ प्रेषित।

—हस०—

अवर सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

सं09-13/71-रैव-बी  
हिमाचल प्रदेश सरकार  
राजस्व (ख) विभाग

.....

प्रेषक

सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

सभी उपायुक्त,  
हिमाचल प्रदेश।

दिनांक: शिमला-171002,

27-6-1979

विषय: नौतोड़ में भूमि का स्वीकार करना।

महोदय,

मुझे उपर्युक्त विषय पर इस विभाग के समसंख्यक पत्र दिनांक 21 अगस्त, 1976 के पैरा-2 के संदर्भ में स्पष्टीकरण करने का आदेश हुआ है कि 21-6-1976 से पहले ही के अवैध कब्जे नियमित किये जा सकते हैं परन्तु इसमें शर्त यह होगी कि इस पत्र के जारी होने के दो मास की अवधि के भीतर तक प्राप्त हुए प्रार्थना पत्रों पर छानवीन से जो मकान, दुकान इत्यादि मुकममल हुए पाये जाएं ऐसे ही कब्जे नियमित किये जावें।

यह भी ध्यान रखा जाये कि शामलात भूमि जो सरकारी हो गई है उसमें यदि रिहायशी मकान व गोशाला हिमाचल प्रदेश विलेज कामन लैंड वैस्टिंग व यूटिलाईजेशन एक्ट, 1974 के लागू होने से पहले ही तैयार किए जा चुके हैं, उनके नीचे की भूमि का तबादला नहीं लिया जाता है क्योंकि उपरोक्त एक्ट की धारा 3(2) के अन्तर्गत ऐसी भूमि सरकारी नहीं बनी।

इस विषय में तुरन्त आवश्यक कार्यवाही की जाए ताकि ऐसे कब्जों को नियमित करने हेतु प्रार्थना पत्र दो मास के भीतर प्राप्त हो जाएं तथा उन्हें शीघ्रतिशीघ्र निपटाया जा सके।

कृपया पावती भेजें।

भवदीय,

-हस0-

अवर सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

सं0रैव-बी-9-13/71  
हिमाचल प्रदेश सरकार  
राजस्व (ख) विभाग

.....

प्रेषक

सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

सभी उपायुक्त,  
हिमाचल प्रदेश।

दिनांक: शिमला-171002, 10-12-1979

विषय: नौतोड़ रूल 27-बी के अन्तर्गत दी गई भूमि पर रिवियू, रिविजन व अपीलों पर स्थगन आदेश।

महोदय,

मुझे इस विभाग की समसंख्यक तार दिनांक 19.7.1978 का क्रम जारी रखते हुए यह कहने का निर्देश हुआ है कि यह आदेश रिवियू, रिविजन व अपीलों पर भी लागू होंगे अर्थात् नौतोड़ नियम 27-बी के अन्तर्गत दी गई भूमि में रिव्यू, रिविजन व अपीलों की सुनवाई अगले आदेशों तक स्थगित रहेंगी।

कृपया पावती भेजें।

भवदीय,

—हस०—

उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

प्रतिलिपि मण्डल आयुक्त, शिमला व कांगड़ा को सूचनार्थ प्रेषित है।

—हस०—

उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार



No. 9-13/71-Rev-B  
 Government of Himachal Pradesh  
 Department of Revenue

\*\*\*\*

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Deputy Commissioners in H.P.
2. All the S.D.O.(Civil) in H.P.
3. All the D.R.O's in H.P.
4. All the Tehsildars in H.P.

Dated Shimla-171002, the 24<sup>th</sup> December, 1980.

Subject:- Grant of Nautor Land-Review of policy regarding.

Sir,

In partial modification of this Department letter of even number dated the 21<sup>st</sup> August, 1976, on the subject cited above, I am directed to say that the matter regarding grant of nautor land under the Grant of Nautor Land Rules, 1968 has been reviewed further by the Government and the following decisions have been taken:-

- (i) The ban on grant of nautor land under the H.P. Grant of Nautor Land Rules, 1968, shall continue except in the Districts of Lahaul and Spiti, Kinnaur, Pangi and Bharmaur areas of Chamba District and Dodra Kwar and Pandar-bis areas of Shimla District. In these areas Dhanks and Ghasanis shall be excluded from the limit of 20 Bighas for the purposes of the first proviso to Rule 6 of the aforesaid rules;
- (ii) In other areas of the Pradesh where the H.P. Grant of Nautor Land Rules, 1968 are applicable, nautor land may be granted only for construction of residential houses, cowsheds and Gharats; and providing alternative lands where lands are washed away by floods, land slides etc;
- (iii) No land having more than 25 trees of valuable species per hectare shall be granted in future as nautor under the aforesaid rules or the three Schemes namely (a) The Utilisation of Surplus Area Scheme, 1974 (b) The H.P. Village Common Lands (Vesting & Utilization) Scheme, 1975 and (c) The Grant of Nautor Land to Landless and Other Eligible Persons Scheme, 1975. The felling of trees standing on the land granted under these Schemes in the first and second phases so far, shall be allowed to this extent only by the Deputy Commissioners under intimation to the Forest Department Authorities.
- (iv) No land with a slope of more than 15% shall be granted under the rules or the aforesaid Schemes.

You are requested to take necessary action accordingly, where required.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. 9-13/71-(Rev-B), dated Shimla-2, the 24<sup>th</sup> December, 1980.

Copy to :-

1. The Divisional Commissioner, Kangra at Dharamsala/Shimla.
2. The Clerk of Court to the Financial Commissioner, (Appeals)/financial Commissioner (Revenue) H.P. Shimla-2.
3. The Settlement Officer, Kangra at Dharamsala.
4. The Section Officer, Revenue-D Section, H.P. Sectt., Shimla-2, for information and necessary action.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. 9-13/71-IV. Rev-B  
 Government of Himachal Pradesh  
 Department of Revenue

\*\*\*\*

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner, Dharamsala/Shimla.
2. All the Deputy Commissioners in H.P.
3. All the S.D.O.(Civil) in H.P.
4. All the D.R.O's in H.P.
5. All the Tehsildars in H.P.

Dated Shimla-171002, the 23<sup>rd</sup> April, 1982.

Subject:- Grant of Nautor Land-Review of policy regarding.

Sir,

In continuation of this department letter of even number, dated the 24<sup>th</sup> December, 1980, on the above subject, I am directed to say that the Govt. have lifted the ban imposed on the hearing of appeals, reviews and revisions relating to the earlier grants made under, or arising out of the provisions of rule 27-B of the Himachal Pradesh Nautor Land Rules, 1968 with immediate effect. You are therefore requested kindly to take action accordingly on such cases, lying pending at various levels.

It has also been decided that in future grant of land under rule 27-B of the said rules shall be made in those cases only where the land so surrounded, does not exceed 2 bighas in area. An amendment to this effect is being made separately in the rules. You are accordingly requested to take action under the new rule 27-B accordingly.

Yours faithfully,

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. 9-13/71-IV. Rev-B, dated Shimla-2, the 23<sup>rd</sup> April, 1982.

Copy forwarded for information to :-

1. The Settlement Officer, Kangra at Dharamsala.
2. The Settlement Officer, Shimla & Kinnaur, at Sanjauli, Shimla-6
3. The Clerk of Court to the F.C. H.P. Shimla-2

-sd-

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.2E(3)36/85  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Deputy Commissioners in H.P.
2. All the S.D.O.(Civil) in H.P.
3. All the Tehsildars in H.P.
4. The Settlement Officers, Shimla/Dharamsala.
5. The Director of Consolidation of Holdings, Himachal Pradesh, Shimla-2.
6. The Settlement Officer (Consolidation) Bilaspur/Hamirpur.

Dated Shimla-171002, the 25<sup>th</sup> July, 1985.

Subject:- Grant of Land under rule 27-B (WHICH IS JUST A POSED LAND)

Sir,

I am directed to say that it has been noticed that while processing applications under rule 27-B of the Nautor Land rules, 1968, the pre-requisites and procedure prescribed under the rules, for the grant of nautor land in general, are followed for the grant under this rule also.

Rule 27-B begins with the words “notwithstanding anything contained in these rules....” It means that this rule has been thrown out of the general scheme of these rules and the general procedure prescribed for the grant of nautor land is not applicable for processing applications under this rule. That is why, an independent procedure for processing applications under this rules has been prescribed under the rule itself. In other words, the requisitions regarding overall ceiling of 20 bighas, and other such qualifications are not applicable for the grant of land under this rule nor is the procedure prescribed under rule 13 & 14 required to be followed while processing applications thereunder.

Kindly acknowledge receipt.

Yours faithfully,

-sd-

Deputy Secretary (Rev.II) to the  
 Government of Himachal Pradesh.

No. Rev.2E(3)36/85, dated Shimla-2, the 25<sup>th</sup> July, 1985.

Copy forwarded to :-

1. The Divisional Commissioner, Shimla/Dharamshala, for information.
2. The Clerk of Court to the Financial Commissioner (Appeals), Himachal Pradesh, Shimla-171002, for information. This may please be brought to the notice of the Financial Commissioner (Appeals).

-sd-

Deputy Secretary (Rev.II) to the  
 Government of Himachal Pradesh.

No. Rev.2E(6)7/83  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Deputy Commissioner, Lahaul & Spiti, Keylong.
2. The Deputy Commissioner, Kinnaur, Kalpa.
3. The Resident Commissioner, Pangi.
4. The Deputy Commissioner, Shimla.
5. The Deputy Commissioner, Kangra at Dharamshala.
6. The Deputy Commissioner, Chamba.

Dated Shimla-171002, the 23<sup>rd</sup> July, 1986.

Subject:- Grant of Nautor land to landless persons and others.

Sir,

I am directed to say that it has been brought to the notice of the Govt. that the land being granted to the landless persons or other eligible persons under the schemes may not be sufficient for their sustenance in the difficult areas of your Districts, since under the hard conditions of cultivation in these areas the yield from the land is much below the average which falls too short to make both ends meet. The govt. has considered this point and it has been decided that where a person allotted land under the scheme is not satisfied with the allotment and wants more land and his demand is found to be genuine, he should be advised to apply for more land under the nautor rules of 1968. After observing due procedure the land so applied should be granted to him since ban on grant of land under Nautor Rules of 1968 has since been lifted in respect of these areas. A copy of this Deptt. letter No. 9-13/71-Rev.B dated 24-12-1980 is enclosed for ready reference.

2. Similarly, it has been represented that while there is enough land for allotment in these areas under the rules the Deputy commissioners concerned reject the application merely on the grounds that the land applied for falls within the purview of the Forest (Conservation) Act, 1980. Here again it has been decided that the Deputy Commissioners concerned should not reject such applications merely on the ground that the land applied for falls under the Forest (Conservation) Act, 1980. In such cases, if the demand is found to be genuine, the right course would be to send the particulars of the land to the Forest Department with a request to get the clearance from the Govt. of India under the Act. Action may please be taken accordingly in future under intimation to this Department.

3. I am further to add that all applications rejected on this ground may also be processed accordingly sending detailed particulars of the land applied for to the Forest Department for getting exemption from the Govt. of India under the Forest (Conservation) Act, 1980.

Kindly acknowledge receipt.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.2E(6)7/83, dated Shimla-2, the 23<sup>rd</sup> July, 1986.

Copy forwarded to :-

1. The Secretary (Forests) to the Govt. of H.P. Shimla-2.
2. The Chief Conservator of Forests, H.P. Shimla-2.
3. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala.
4. All the Deputy Commissioners in Himachal Pradesh, for information.

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev.-2A(3)11/77  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners Kangra at Dharamshala/Mandi/Shimla.
2. The Settlement Officers Kangra at Dharamshala/Shimla.
3. The Director of Land Records, Himachal Pradesh, Shimla.
4. The Director Consolidation of Holdings, Himachal Pradesh, Shimla.
5. All the Deputy Commissioners in Himachal Pradesh.
6. All the Sub-Divisional officers in Himachal Pradesh.
7. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 21<sup>st</sup> January, 1987.

Subject:- Conferment of joint title on the allotment of land/house sites to landless and other eligible persons.

Sir,

I am directed to say that the question of conferring joint title of the land or house sites allotted to landless and other eligible persons has been under consideration of the Government for sometime in the past. It has now been decided by the Government that in future, in all the cases of allotment of land or house sites the title of such land shall be vested in both the partners namely the husband and the wife. I am accordingly to request that mutation of such land when allotted to a landless or other eligible person may be entered and attested in the name of both the husband and wife where both of them are alive and where relations between them have not been severed formally.

Please acknowledge receipt.

Yours faithfully,  
 -sd-

Secretary (Revenue) to the  
 Government of Himachal Pradesh.

IMMEDIATE

No. Rev.-2A(3)11/77  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners Kangra at Dharamshala/Mandi/Shimla.
2. The Settlement Officers Kangra at Dharamshala/Shimla-6.
3. The Director of Land Records, Himachal Pradesh, Shimla.
4. The Director Consolidation of Holdings, Himachal Pradesh, Shimla.
5. All the Deputy Commissioners in Himachal Pradesh.
6. All the Sub-Divisional officers in Himachal Pradesh.
7. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 21<sup>st</sup> January, 1987.

Subject:- Allotment of land to landless and other eligible persons-Jurisdiction of Civil Courts to entertain suits arising therefrom.

Sir,

I am directed to say that at present land is being allotted to the landless or other eligible persons under the following three Schemes:-

1. The Himachal Pradesh Utilization of Surplus Area Scheme, 1975.
2. The Himachal Pradesh Village Common Land Vesting and Utilization Scheme, 1975.
3. The Himachal Pradesh Grant of Land to Landless and Other Eligible Persons Scheme, 1975.

2. In this behalf, as you know, the first two Schemes are statutory schemes and have been framed under the Acts passed by the Himachal Pradesh State legislature. However, the third, namely the Nautor Schemes is an independent one and does not derive sanction from any other law. You are also aware that these Acts contain a provision barring the jurisdiction of the Civil Courts. It is, therefore, implied that a dispute arising out of the allotment of land or cancellation thereof by the competent authority is not subject to adjudication by the Civil Courts whose jurisdiction stands barred in the Acts. It has, however, been noted by the Government that cases are being taken to Civil Courts by the interested parties and the courts are entertaining them for decision totally disregarding the bar contained in the Acts. As you know, the very purpose of launching the programme of allotment of land is defeated once a case goes to the Court since it takes a lot of time



there and the person concerned who often not eligible for allotment of land, continues in possession of the land erroneously allotted to him.

3. It appears that the District Attorney or other officers are not well posted of this provision do not often raise this point before the courts at the time of admission of the suits. It should be brought home to all concerned that the civil courts have no jurisdiction to try the cases arising out of the H.P. Ceiling on Land Holdings Act, 1972, or the H.P. Village Common Lands Vesting and Utilisation Act, 1974 and those cases where the land has been allotted under the two schemes namely the Himachal Pradesh Utilization of Surplus Area Scheme and the Himachal Pradesh Village Common Land Vesting and Utilization Scheme. A copy of these schemes should be made available to all Law Officers who are concerned with the defence of the cases arising out of the above two Schemes and they should be instructed to take the pleas of jurisdiction in the courts invariably. Where however the courts still entertain the cases, an appeal should be filed in the next court against this decision until the issue has been finally settled once for all.

4. As regards the cases of allotment of land under the third scheme, namely the Himachal Pradesh Grant of Land to Landless and Other Eligible Persons Scheme, suitable arrangements are being made to strengthen the hands of the authorities concerned in this behalf also.

Please acknowledge receipt.

Yours faithfully,

-sd-

Secretary (Revenue) to the  
Government of Himachal Pradesh.

Immediate

No.9-13/71-Rev.B  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners, Shimla/Mandi/Dharamshala, H.P.
2. All the Deputy Commissioners in Himachal Pradesh
3. The Settlement Officers Kangra at Dharamshala/Shimla and Kinnaur Districts, Shimla-6.
4. All the Sub-Divisional officers in Himachal Pradesh.
5. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 24<sup>th</sup> August, 1987.

Subject:- Nautor Policy.

Sir,

I am directed to say that the Nautor policy has been under going constant review from time to time at Govt. level and it has been taking shape keeping the various factors in view such as requirements of occasion, demands of the public etc. the major factor which shapes this policy is, however, the availability of the land. As you are aware the Govt. land is squeezing with a terrific speed and a stage has now come where we should consider all pros and cons involved in this matter.

2. In the year 1980 and 1982 the restrictions imposed vide this Department letter of even number dated 23.08.1976 on the grant of nautor land was partially removed and certain concessions were granted to the people. It has however, been noted with regrets that these concessions were taken un-due advantage of in some fields, even at the cost of the poor people whom these concessions were primarily meant for. The Government have therefore, taken the following decisions which should be implemented strictly in letter and spirit by all concerned:-

- (i) The grant of exchange of govt. land under rule 27 of the H.P. Nautor Rules, 1968 or otherwise has been banned and all such cases should be consigned to the Record Room without further action on them. A list of these cases should however be prepared and placed on record. However, if the Deputy Commissioner finds it necessary, in a particular case in compelling circumstances, the exchange would be permitted, for which prior approval of the Government shall be obtained.
- (ii) The grant of nautor land under rule 27-B (Grant of Govt. land surrounded by private land) has been banned. No land should now be granted under this rule and all the cases pending at present should be consigned to the Record Room without further action on them. A list of these cases should however, be prepared and placed on record.

(iii) The extent of land to be granted for construction of residential buildings etc. shall now be reduced from 1 bigha to 5 biswas and grant in these cases shall be sanctioned, only with the prior permission of this Department. The pending cases should be processed accordingly.

3. All the cases of grant of nautor land under rule 27-B or for construction of residential buildings or of grant of exchange of Govt. land out of nautor land or otherwise, made after 1.1.1986 shall be reviewed, denovo, by, the D.C. in case of sanction by S.D.O.(C), and by the Commissioner where sanctioned by the Deputy Commissioner and if these are found to be sanctioned in an irregular manner or against the rules or are otherwise found to be wrong, or where land has not been used for the purpose specified in the grant order, the grants made therein shall be cancelled after following due process of law.

4. The Government had issued instructions on grant of land free or in exchange to those persons who were affected by the floods, excessive rains or other natural calamities, vide this Department letter No. Rev. 2A(3)-11/77, dated the 9<sup>th</sup> January, 1979. These instructions have been grossly abused in the field and are therefore withdrawn at once. The letter referred to above may kindly be treated as cancelled with immediate effect. However, should such an occasion arise in future, the Deputy Commissioner are hereby empowered to settle such persons temporarily and to formulate scheme for their settlement, for approval of the Government.

5. I am again directed to request you kindly to implement the above instructions strictly.

Kindly acknowledge receipt.

Yours faithfully,

-sd-

Deputy Secretary (Revenue)  
For Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. 9-13/71.Rev.B., dated Shimla-2, the 24<sup>th</sup> August, 1987.

Copy forwarded for information and guidance to :-

1. The Under Secretary (Revenue) to the Govt. of Himachal Pradesh, Shimla.
2. The Clerk of Court to the F.C.(R), Himachal Pradesh. Shimla -2.

-sd-

Deputy Secretary (Revenue)  
For Secretary (Revenue) to the  
Government of Himachal Pradesh.

सं० 9-13/71-राज० ख  
हिमाचल प्रदेश सरकार  
राजस्व विभाग

.....

प्रेषक

उप सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त,  
चम्बा, हिमाचल प्रदेश।

दिनांक: शिमला-171002,

9 फरवरी, 1988

विषय:

नौतोड़ पोलिसी।

महोदय,

उपरोक्त विषयक आपके टेलेक्स सन्देश संख्या सी.बी.ए.-एस.के.-7(3)/80-113, दिनांक 4 जनवरी, 1988 के सन्दर्भ में मुझे यह कहने का निर्देश हुआ है कि जैसी कि आपके टेलेक्स में कल्पना की गई है, इस विभाग के समसंख्यक पत्र तारीख 24 अगस्त, 1987 में दिए गए अनुदेश केवल नौतोड़ रूलज 1968 पर लागू है- बाकि किसी भी स्कीम जैसे लैंडलैस परसन्ज या हाऊसलैस परसन्ज या किसी और योजना के अन्तर्गत दी जाने वाली भूमि पर लागू नहीं होते।

भवदीय,

-हस०-

उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

पृ०सं० 9-13/71-राज० ख दिनांक : 9 फरवरी, 1988

प्रतिलिपि निम्नलिखित को पृष्ठांकित की जाती है:-

1. मण्डलायुक्त, शिमला/मण्डी/धर्मशाला।
2. समस्त जिलाधीश, हिमाचल प्रदेश।
3. समस्त उप-मण्डलाधिकारी (प्र.) हिमाचल प्रदेश।
4. अवर सचिव (राजस्व), हिमाचल प्रदेश।
5. क्लर्क आफ कोर्ट, वित्तायुक्त(राजस्व), हिमाचल प्रदेश, शिमला-2।
6. समस्त तहसीलदार, हिमाचल प्रदेश।

-हस०-

उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार

No.9-13/71-IV/Rev.B  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners, in Himachal Pradesh
2. All the Deputy Commissioners in Himachal Pradesh
3. The Settlement Officers, Kangra at Dharamshala/Shimla and Kinnaur in Himachal Pradesh.
4. All the Sub-Divisional Officers(C) in Himachal Pradesh.
5. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 11<sup>th</sup> February, 1988.

Subject:- Nautor Policy.

Sir,

In continuation of this Department letter of even number dated 24.8.87 , on the above subject, I am directed to say that certain doubts have been expressed from certain districts about the implications of the above letter which are clarified hereunder:-

- (i) The above letter ( copy enclosed) deals with the Nautor Policy which is contained in Himachal Pradesh Nautor Rules, 1968 as amended from time to time. The above letter therefore, does not apply to areas where the H.P. Nautor Rules, 1968 are not applicable.
- (ii) In accordance with letter No.9-13/71-IV/Rev.B, dated 24.12.80 (copy enclosed), "in the districts of Lahual and Spiti, Kinnaur, Pangi and Bharmour tehsils of Chamba Districts, Dodra-Kawar and Pandra-bis areas of Shimla District, the grant of nautor land is permissible as per provisions of H.P. Nautor Rules, 1968 and in these areas DHANKS and GHASANIS are to be excluded from the limit of 20 bighas for the purpose of the first proviso to rule 6 of the aforesaid rules." This grant is still permissible but in accordance with the provisions of the above letter dated 24.8.1987 grant of exchange of Land under Rule 27 of the said rules has been banned though in rare cases in compelling circumstances the exchange would be permitted with the prior approval of the Government. In the above areas too, all pending cases under Rules 27-B of the said rules would be consigned to the Record Room and the extent of land to be granted for construction of residential buildings etc. stands reduced from 1 Bighas to 5 biswas and grant in all these cases shall be made only with the prior permission of the Revenue Department. So all such pending cases where the grant to the extent of 5 biswas is considered genuine would be referred to the Government through the Divisional commissioner concerned.
- (iii)The other conditions of the grant laid down in this department letter No. 9-13/71-Rev.B dated the 24<sup>th</sup> December, 1980 will remain enforce. These conditions relate to tree growth on the Nautor Land and slope thereof.

(iv) The provisions of para 3 and 4 of the above letter dated 24.8.1987 are applicable to all the districts in H.P. and action as desired has to be taken by all concerned. Progress so far made should be sent to us immediately.

2. You are accordingly advised to take action in the matter in the light of these clarifications.

Yours faithfully,

-sd-

For Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. 9-13/71-IV.Rev.B., dated Shimla-2, the 11<sup>th</sup> February, 1988.

1. Copy specifically forwarded to the Deputy Commissioner, Hamirpur, with reference to his letter No. 2624/DRA dated 1.10.1987. It appears that exchanges are being granted with private land for those lands also which have not vested in the Government under the Act. In this behalf his attention is invited to Clause (c) of Sub-Section 3 of the H.P. Village Common Lands (Vesting and Utilization) Act, 1974. This may please be checked up.
2. Copy forwarded for information and guidance to the Under Secretary (Revenue) and Clerk of Court, H.P. Shimla-2.

-sd-

For Secretary (Revenue) to the  
Government of Himachal Pradesh.

हिमाचल प्रदेश सरकार  
राजस्व विभाग

.....

प्रेषक

उप सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

1. समस्त जिलाधीश,  
हिमाचल प्रदेश
2. समस्त उप मण्डलाधिकारी (प्र),  
हिमाचल प्रदेश
3. समस्त तहसीलदार/नायब तहसीलदार,  
हिमाचल प्रदेश।

दिनांक: शिमला-171002, 5 मार्च, 1988

विषय: सरकार द्वारा विभिन्न स्कीमों के अर्न्तगत भूमि का आबंटन।

महोदय,

उपरोक्त विषयक मुझे यह कहने का निर्देश हुआ है कि सरकार द्वारा विभिन्न स्कीमों के अर्न्तगत दी जाने वाली जमीन के भविष्य में विक्रय के सम्बन्ध में जहां समय सीमा का नोट दिया जाता है उसी के साथ यह भी शर्त लगाई जाए कि अलाटी इस जमीन को 20 वर्ष की अवधि पूरी होने तक या अपनी पत्नी के जीवन काल में बेच नहीं सकेगा तथा न ही वह अपनी पत्नी को इस भूमि सम्बन्धी अधिकारों से वंचित कर सकेगा।

भवदीय,

उप सचिव(राजस्व),  
हिमाचल प्रदेश सरकार  
दिनांक: 5 मार्च, 1988

पृ.सं. :रैव-2ए(3)-11/77

प्रतिलिपि निम्नलिखित को पृष्ठांकित की जाती है:-

1. मण्डलायुक्त, षिमला/मण्डी/कांगड़ा स्थित धर्मशाला।
2. भू-व्यवस्था, अधिकारी, शिमला एवं किन्नौर स्थित षिमला/कांगड़ा स्थित धर्मशाला (हि0प्र0)
3. भू-व्यवस्था अधिकारी (भू एकत्रीकरण) हमीरपुर हि0 प्र0।
4. कल्क आफ कोर्ट, वित्तायुक्त (अपील) हिमाचल प्रदेश, षिमला-2.

उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

**No. Rev.-D(G)6-13/87**  
**Government of Himachal Pradesh**  
**Department of Revenue**  
**'D Section'**

From

The Financial Commissioner –cum-  
 Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. All the Divisional Commissioners in Himachal Pradesh.
2. All the Deputy Commissioners in Himachal Pradesh.

Dated, Shimla-2, the 30-05-1988

Subject:- Allotment of land to landless/houseless persons as outright grant and allotment of land for the construction of houses etc. on payment of nazrana on lease basis-A clarification on the points involved.

Sir,

I am directed to say that as you are aware there are numerous legal, extra legal or purely administrative arrangements under which land is given to a person for various purposes including construction of residential buildings. Due to legal difficulties, separate law/instructions exist for the utilisation of land owned or vested in the Government under the H.P. Ceiling on Land Holdings Act, 1972 and the H.P. Village Common Lands (Vesting & Utilisation) Act, 1974. This land has been treated in the light of the provisions of these Acts and has to be treated as distinct in comparison to other Government land.

2. In so far land vested in the Government under these Acts is concerned, there are following legal arrangements for utilisation of this land:-

**LAND VESTED UNDER VARIOUS ACTS:**

Land coming to Government under Ceiling and Village Common Land Acts is allotted to the Landless and other eligible persons under two schemes framed by the Government under these Acts, namely:-

- (i) The H.P. Utilisation of Surplus Area Scheme, 1974; and
- (ii) The H.P. Village Common Lands (Vesting & Utilisation) Scheme, 1975.

Section 15 A in Ceiling Act and section 8 A in the Village Common Lands Act authorises the State Government Department or by lease to an individual for initiating development works. Besides under a recent amendment in these Acts, land can be allotted to an handicapped person also for his rehabilitation. All these arrangements are in operation and land can be allotted thereunder, of course, subject to availability and entitlement since there is no ban on allotment under these laws, for the above purposes. Thus it should be noted that no sale lease is allowed out of the land coming to us under these Acts. Under the H.P. Common Land Scheme, land can be allotted from the allotable pool only.

**GOVERNMENT WASTELAND OR CHARAND LAND:**

Besides, the above, there is Government waste land popularly known as 'Charand'. While land under Nautor Rules, 1968 has been banned in the Pradesh, except in tribal and difficult areas, land under Rules 5 & 6 of these Rules is open for being granted upto the extent of 1 Bigha.



This has, however, been reduced by the Government to five biswas and that too with the prior approval of Government vide this department letter No. 9-13/71.Rev.-B, dated the 24<sup>th</sup> August, 1987 as clarified vide letter of the same number, dated the 9<sup>th</sup> and 11<sup>th</sup> February, 1988 (copies enclosed). This grant can be made to any estate right holder provided there are adequate reasons for the grant.

#### ALLOTMENT OF LAND TO LANDLESS & OTHER ELIGIBLE PERSONS:

Government waste land can be allotted to a landless person or an other eligible person under the H.P. Grant of Nautor Land to Landless and other Eligible Persons Scheme, 1975. There is no ban on it and land under this scheme can be allotted to a person eligible under the scheme, of course, subject to availability and subject to having been listed in the Surveys done on 30-4-1981 and 30-03-1983.

#### HOUSE SITES TO HOUSELESS PERSONS IN RURAL AREA:

No regular Scheme has been drawn by the Government for the purpose. Allotment of land for house sites is made as part of implementation of 20 point programme. This is also continuing, subject to availability of land and there is no ban on it. Under this head land measuring 100 Sq. yards has to be allotted to a houseless person for the construction of the house. The instructions were issued vide letter No. 9-20/71-Rev.A, dated the 23<sup>rd</sup> September, 1975 (Copy enclosed).

3. Finally, a new scheme has been launched by the H.P. Govt. to lease out 25 sq. metres land to Ex-servicemen, IRDP families and handicapped persons with more than 50% disability for the construction of Khokhas/Stalls for starting self employment near their villages on the roadside. The instructions have been issued vide letter No. Rev.-D(G)6-16/86 dated the 8<sup>th</sup> March, 1988 (copy enclosed).

4. It appears that there is a good deal of confusion about the import of Rules, Schemes and instructions and the land being granted/leased thereunder. I am to clarify that there is no ban either on the grant of land to landless and other eligible persons under the above schemes provided suitable land for allotment is available, or on the grant of land for house sites to houseless person in rural areas. However, it has to be borne in mind that only those landless persons have to be considered for the grant of land who have been listed in the survey with cut off dates on 30-04-1981 and 30-03-1983.

5. It is further clarified that it is only under Nautor Rules, 1968 that grant of land to the estate right holders for the construction of residential house subservient to agriculture has to be given with the prior permission of the Government by the sanctioning authorities and the transfer of land vested in the Govt. under the two Acts mentioned above, is not admissible under the law, in any manner, except as provided in the Acts or Schemes made thereunder.

6. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

Sd/-

(Attar Singh)

FC-cum-Secy.(Revenue) to the Govt. of  
Himachal Pradesh, Shimla-2.

No. Rev. D(G)6-13/87- Dated, Shimla-2, the 30.5.88.

Copy for information and necessary action is forwarded to:-

All the Sub-Divisional Magistrate/Tehsildars/Naib Tehsildars working in Sub-Tehsils in Himachal Pradesh.

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. D(G)6-13/87- Dated, Shimla-2, the

All the Assistants working in Revenue 'B' and 'D' Sections of H.P. Secretariat.

Guard file.

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. 9-13/71-Rev.B.  
 Government of Himachal Pradesh  
 Department of Revenue

From

The Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioners Kangra at Dharamshala/Mandi/Shimla.
2. All the Deputy Commissioners in H.P.
3. The Settlement Officers Kangra at Dharamshala/Shimla and Kinnaur District, Shimla-2.
4. All the Sub-Divisional officers in Himachal Pradesh.
5. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 25<sup>th</sup> August, 1988.

Subject:- Nautor Policy.

Sir,

In partial modification of sub-para (iii) of para 2, of this Department letter of even number dated the 24<sup>th</sup> August, 1987 on the above subject, I am directed to say that it has now been decided that the cases of grant of Nautor Land for construction of residential building etc. in which prior permission of the Govt. was required to be taken, shall now be disposed off by the Deputy Commissioners at their own level instead of sending them to this Department for prior approval. The extent of land to be sanctioned shall, however remain unchanged i.e. Five Biswas as laid down therein.

Yours faithfully,

-sd-

Deputy Secretary (Rev.I) to the  
 Government of Himachal Pradesh.

Endst. No. 9-13/71-Rev-B Dated Shimla-171002, the 25<sup>th</sup> August, 1988.

Copy forwarded for information and guidance to :-

1. The Under Secretary(Rev.) to the Govt. of H.P. shimla-2.
2. The Clerk of Court to the Financial Commissioner (Appeal) H.P. Shimla-2.

Deputy Secretary (Rev.I) to the  
 Government of Himachal Pradesh.

No. 9-13/71-Rev-B Dated Shimla-171002, the 25<sup>th</sup> August, 1988.

Copy also forwarded to the Director Land Record/ Director Consolidation of Holding H.P. Shimla with a copy of this Department letter referred to above, for information.

-sd-

Deputy Secretary (Rev.I) to the  
 Government of Himachal Pradesh.

No. 9-13/71-Rev-B.  
Government of Himachal Pradesh  
Department of Revenue

From

The Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioners Shimla/ Mandi/ Dharamshala in H.P.
2. All the Deputy Commissioners in H.P.
3. The Settlement Officers Shimla/ Dharamshala in H.P.
4. Director Land Record, Himachal Pradesh, Shimla-2.
5. Director of Consolidation of Holding, Himachal Pradesh, Shimla-2.
6. All the Sub-Divisional Magistrates in Himachal Pradesh.
7. All the Tehsildars in Himachal Pradesh.

Dated Shimla-171002, the 8-11-1988

Subject:- Grant of land in exchange of the land damaged or washed away due to heavy rains/floods.

Sir,

In continuation of this Department telex of even number dated the 20<sup>th</sup> October, 1988 regarding grant of land to those persons whose lands were damaged in the recent rains, I am directed to say that it has now been decided that those marginal and small farmers, whose land was either completely washed away or so badly damaged in recent rains/floods, that it can not be reclaimed, may be granted land in exchange of such lands. Besides, it has also been decided that a house site upto 5 biswa of land may also be granted to such a person if his house has so been damaged that it can not be reconstructed on the same site.

I am accordingly directed to say that necessary action may kindly be taken to grant land in exchange or otherwise as the case may be, as indicated above in such cases if a request for land, in such circumstances, is received. In this behalf, it may kindly be noted that:-

1. The provisions of the relevant scheme shall apply, mutation and is, to such grant of exchange of land so far as other aspects are concerned;
2. The concession shall be available to the small and marginal farmers only;
3. It will be applicable to those persons only whose lands/houses have been damaged in recent rains/floods; and
4. The grant/exchange of land shall be sanctioned by the Deputy Commissioner concerned

Yours faithfully,

-sd-

Deputy Secretary (Rev.) to the  
Government of Himachal Pradesh.

Endst. No. 9-13/71-Rev-B Dated Shimla-171002, the 8-11-1988

Copy forwarded to :-

1. The Clerk of Court to the Financial Commissioner (Appeal) to the Govt. of H.P. Shimla-2 for information.
2. The Under Secretary (Rev.) to the Govt. of Himachal Pradesh, Shimla-2 for information (with 10 spare copies).

Deputy Secretary (Rev.) to the  
Government of Himachal Pradesh.

संख्या : रैव 9-13/71-रैव-बी  
हिमाचल प्रदेश सरकार  
राजस्व विभाग

.....

प्रेषक

अवर सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

1. उपायुक्त, किन्नौर स्थित कल्या, हि0प्र0।
2. उपायुक्त, लाहौल एवं स्पिति स्थित केलांग, हि0प्र0।
3. उपायुक्त, शिमला, हि0प्र0।
4. उपायुक्त, चम्बा, हि0प्र0।

दिनांक: शिमला-171002,

23 नवम्बर, 1990

विषय: नौतोड़ भूमि पर लगे प्रतिबन्ध के सन्दर्भ में स्पष्टीकरण।

महोदय,

उपरोक्त विषय के सन्दर्भ में सरकार के ध्यान आया है कि जन-जातीय क्षेत्र में नौतोड़ भूमि इस कारण नहीं दी जा रही है कि सरकार ने नौतोड़ देने पर प्रतिबन्ध लगा रखा है। इस सन्दर्भ में स्पष्ट किया जाता है कि जो आदेश इस विभाग के समसंख्यक टेलैक्स दिनांक 19.3.1990 को जारी किये गये हैं वे जन-जातीय क्षेत्रों पर लागू नहीं होते। जन-जातीय क्षेत्रों में नौतोड़ के बारा इस विभाग के पत्र संख्या: 9-13/71-रैव-बी, दिनांक 11.2.1988 की और आपका ध्यान आकृष्ट करना चाहूंगा जिसमें पहले भी इस विषय पर स्पष्टीकरण जारी किया गया है। अतः यह पुनः स्पष्ट किया जाता है कि जन-जातीय क्षेत्रों में नौतोड़ भूमि पर कोई प्रतिबन्ध नहीं है और इन क्षेत्रों में आवेदन पत्रों का निपटारा हिमाचल प्रदेश नौतोड़ अधिनियम, 1968 के तहत ही किया जाए।

भवदीय,

—हस0—

अवर सचिव(राजस्व),  
हिमाचल प्रदेश सरकार।

No. Rev. B-F (7)-1/94  
 Government of Himachal Pradesh  
 Department of Revenue

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From

The F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All Deputy Commissioners  
 in Himachal Pradesh.

Dated Shimla-171002, the 15<sup>th</sup> November, 1995.

Subject:- Allotment of land to the identified landless and other eligible persons-  
 instructions regarding.

Sir,

I am directed to say that the State Government have formulated the following three schemes in order to grant land to the landless and other eligible persons in the Pradesh namely:-

- (i) Special grant for Nautor land to landless and other eligible persons.
- (ii) Utilization of Surplus Area Scheme, 1975.
- (iii) H.P. Village Common Lands Vesting and Utilization Scheme, 1975.

2. With a view to identify the landless and other eligible persons in the Pradesh, two surveys were got conducted in 1981 and 1983 and most of the persons so identified have been granted land under the above referred three schemes but a few persons were left to whom the land could not be allotted for the reason that either the suitable land was not available near the places where they reside or such identified remaining persons were not willing to move to such far off places where such suitable land is available. These left out persons mostly belong to districts of Kullu, Chamba and Kangra. In the district of Kullu and Chamba, the Government land is classified as 'forest land' and as such land cannot be allotted unless the 'forest land' is de-notified under the Forest Conservation Act, 1980 in consultation with the Government of India by the Forest Department. The Government has since stopped allotment of land except by specific relaxation.

3. Since the Government have been monitoring the progress of allotment of land to landless and other eligible persons under the above schemes, it has been brought to the notice of the Government that these allotted land previously face problems of attestation of mutation, delivering possession and exchange of cultivable land in lieu of un-cultivable land etc. to the allottees. With a view to remove these and after due consideration, the Government have now decided that such cases should be dealt with by respective District Collectors sympathetically and after proper verification/inspection on the spot they should initiate action to review the cases of following nature as per rules and instructions:

- i) The persons who were allotted land and where the pattas/certificate and mutations have not been attested, the same should be issued/attested immediately;

- ii) The persons who have been allotted land but the same is not suitable for cultivation/horticulture be given another area by cancelling the previous allotment, if available;
- iii) In cases where the allottee is in possession of land at place other than the place where it was allotted, the same may be sanctioned to them upto the extent of allotment made to them by cancelling previous allotment, justified for allotment.

The District Collectors may take suitable action to resolve the long standing problems of the allottees who have been allotted land under the above schemes only as per above directions. In case on 3(ii) and 3 (iii) above while reviewing the cases of land given in exchange or in possession it should be ensured that land now being given is 100 meter away from road, is not a prime land, land situated in a market or community place and is not prohibited by any other Act/regulation or orders of any civil court. They are further requested to intimate the number of such cases in their respective districts and also the progress made in this behalf to the Government.

4. Kindly acknowledge receipt.

Yours faithfully,

F.C.-cum-Secretary (Rev.) to the  
Government of Himachal Pradesh.

Endst. No. Rev. B. F. (7)-1/94

Dated Shimla-2, the 15<sup>th</sup> Nov., 1995.

Copy forwarded to the following for information and necessary action:-

1. All Divisional Commissioners in Himachal Pradesh.
2. The Settlement Officer, Shimla/Kangra at Dharamshala.

Joint Secretary (Rev.) to the  
Government of Himachal Pradesh.

No. Rev. B.D. (1)-4/2000  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

All the Deputy Commissioners  
 in Himachal Pradesh.

Dated Shimla-2, the 7<sup>th</sup> July, 2000.

Subject:- Regarding allotment of land to the identified landless and other eligible persons-instruction thereof.

Sir,

In continuation of this department letter No. Rev. B.F. (7)-1/94 dated 15<sup>th</sup> November, 1995 vide which necessary instructions were issued to all the concerned, on the subject cited above. Now it has been brought to the notice of Government that such instructions are not being adhered to strictly and thus affected allottees of land are facing many problems. In order to decide these cases on prior basis, the following instructions may please be followed up strictly and compliance report be sent to this department immediately:-

- (i) Such cases of landless and other eligible persons who have been granted certificate of allotment/pattas for the land which is not in possession of allottees, but allottees have possession somewhere else. The correction of Tatimas be done without delay.
- (ii) The cases in which certificate of Allotment/Patta has been issued but the land is not available due to uncultivable land or otherwise and that land is available somewhere else or in another village. Those matters may be brought to the notice of the Government for its decision with comprehensive proposal.
- (iii) The cases where certificate of patta has been issued but the right holders have objection for such allotted area. What is the alternative for settling such landless/eligible persons.

Yours faithfully,

Under Secretary (Revenue) to the  
 Government of Himachal Pradesh.



No.9-13/71-Rev.B-V.  
 Government of Himachal Pradesh  
 Department of Revenue.

From F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To The Deputy Commissioner,  
 Shimla, District Shimla, H.P.

Dated : Shimla-2 the 18.06.2006

Subject : Lifting of ban on grant of Nautor under H.P. Nautor Rules, 1968-Clarification thereof.

Sir,

I am directed to refer to your letter No. SML-PSh-NC(Nautor Rule)1/2002-663 dated 16<sup>th</sup> September, 2005, on the subject cited above and to clarify that for the purpose of allotment of land as per letter No.9-13/71-Rev.V dated 4.12.2002 the definition of expression "houseless person" is as under:-

**"Houseless Persons"**, means a person who owns no house or a site to construct a house for himself;

Provided that a person except Ex-servicemen, whose father is alive or whose annual income from all sources exceeds the limit fixed for persons having below poverty line as notified by the State Government from time to time shall not be deemed to be a houseless persons.

Therefore, the allotment may be houseless persons who fall under the aforesaid definition.

Yours faithfully,  
 -sd-  
 Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2 the 18.06.2006.

Copy forwarded for information and necessary action to:-

1. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioner, in H.P.
3. All the SDO(C) in Himachal Pradesh.
4. All the Tehsildars/Naib Tehsildars in H.P.

-sd-  
 Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

No. Rev.B.A.(4)-4/2001-Vol-III  
Government of Himachal Pradesh  
Department of Revenue

From

F.C.-cum-Secretary (Revenue) to the  
Government of Himachal Pradesh

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala H.P.
2. All the Deputy Commissioners  
in Himachal Pradesh.
3. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All the SDO (C)  
In Himachal Pradesh.
5. All the Tehsildars/Naib Tehsildars, in H.P.

Dated Shimla-2,the

10-08-2006

Subject:- Regarding grant of Nautor Land in Tribal Areas.

Sir,

I am directed to say that the matter regarding grant of nautor land under H.P. Nautor Land Rules, 1968 was discussed in detail in the meeting of Tribal Advisory Committee held under the Chairmanship of Hon'ble Chief Minister on 12.5.2006 when it was decided that keeping in view the pressure on the Government land every where including the tribal areas coupled with the fact that every nautor case is required to be taken up with the Government of India for clearance under the provisions of Forest Conservation Act, 1980 and 1952 notification of the Forest Department and large amount of money required to be deposited with the Government of India, Ministry of Environment as Net Present Value and for Compensatory Afforestation, the grant of nautor be now confined to only landless people.

Keeping in view the above state position it has been decided that grant of nautor be made only to landless people. This will not only ease the pressure on Government land, but will also make the Government lands available for public purpose and developmental activities as also to take care of the future needs.

You are, therefore, requested to grant nautor land only to landless persons in tribal area. The operation of the said rules has already been banned in other areas of the State and the ban will remain continue.

Kindly acknowledge the receipt of this letter.

Yours faithfully,

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2, the

10-8-2006

Copy forwarded for information to:

1. The Director, Land Records, H.P. Shimla-9.
2. The Clerk of Court to the F.C. (Appeals) to the Govt. of H.P., Shimla-2.
3. Copy to File No. 9-13/71-Rev.B-Vol-V alongwith photo copy of extract of N:88-92 for record.

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

**फैक्स संदेश**

9-13/71-रैव-बी-V

हिमाचल प्रदेश सरकार

राजस्व विभाग

प्रेषक:

अतिरिक्त मुख्य सचिव एवं वित्तायुक्त (राजस्व)

हिमाचल प्रदेश सरकार।

प्रेषित:

समस्त उपायुक्त

हिमाचल प्रदेश।

दिनांक : शिमला-171002,

7 सितम्बर, 06

विषय:-

मकानहीन/भूमिहीन/अन्यपात्र पात्र व्यक्तियों को आबंटित भूमि के इन्तकाल एवं भूमि के पट्टे प्रदान करने बारे।

महोदय,

सामाजिक न्याय एवं अधिकारिता विभाग द्वारा गठित विभिन्न बोर्ड के सदस्यों द्वारा समय-समय पर यह मुद्दा उठाया जा रहा है कि जिन लोगों को विभिन्न स्कीमों अथवा रूल्ज के अन्तर्गत भूमि आबंटन की गई थी, का कई स्थानों पर सम्बन्धित अलाटी के नाम न तो इन्तकाल तसदीक किया जा रहा है और न ही आबंटित भूमि के पट्टे जारी किये जा रहे हैं/गये हैं।

अतः उक्त के दृष्टिगत आपसे अनुरोध किया जात है कि ऐसे मामलों की छानबीन की जाए तथा सम्बन्धित अलाटी के नाम ऐसी भूमि का इन्तकाल दर्ज करवाया जाए तथा जहां पट्टा जारी नहीं किया गया है वहां जारी किया जाए।

भवदीय,

उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

हिमाचल प्रदेश सरकार  
राजस्व विभाग।

9-13/71-रैव-बी-V दिनांक: शिमला-171002

5 अक्टूबर, 2006

**कार्यालय आदेश**

इस विभाग के समसंख्यक पत्र दिनांक 7-9-2006 के क्रम को जारी रखते हुए मुझे यह कहने का निर्देश हुआ है कि समय-समय पर यह मुद्दा उठाया जा रहा है और सरकार के ध्यान में लाया जा रहा है कि जिन लोगों को विभिन्न स्कीमों अथवा रूल्ज के अन्तर्गत भूमि आबंटन की गई थी, का कई स्थानों पर सम्बन्धित अलाटी के नाम न तो इन्तकाल तसदीक किया जा रहा है और न ही आबंटित भूमि के पट्टे जारी किये जा रहे हैं/गये हैं और जहां पट्टे जारी किये गये हैं वहां लोगों को कब्जा नहीं दिलाया गया है। कई ऐसे मामले भी ध्यान में आए हैं जहां लोगों को उनको आबंटित भूमि से गैर कानूनी तरीके से बेदखल किया गया है।

उक्त के दृष्टिगत आपसे अनुरोध किया जाता है कि ऐसे मामलों की छानबीन की जाए तथा सम्बन्धित अलाटी के नाम ऐसी भूमि का नियमानुसार इन्तकाल दर्ज करवाया जाए तथा जहां पट्टा जारी नहीं किया गया है यहां नियमानुसार पट्टा जारी किया जाए।

इस हेतु एक विशेष अभियान छेड़ा जाए तथा इस कार्य को समयबद्ध तरीके से 6 माह के भीतर सम्पन्न करना सुनिश्चित किया जाए व की गई कार्यवाही से हमें सब डिविजन वार्डज सूचना 15 दिन के भीतर दी जाए। इस बारे मासिक प्रगति सूचना इस विभाग को हर माह भेजी जाए।

**मामले में व्यक्तिगत ध्यान आपेक्षित है।**

कृप्या इस पत्र की पावती भेजें।

आदेश द्वारा,

अतिरिक्त मुख्य सचिव एवं वित्तायुक्त (राजस्व)

हिमाचल प्रदेश सरकार।

पृश्ठांकन संख्या यथोपरि

दिनांक शिमला-171002 5-10-2006

1. समस्त उपायुक्त, हिमाचल प्रदेश
2. प्रतिलिपि मण्डलायुक्त, शिमला, मण्डी व कांगड़ा को इस आशय से प्रेषित है 945 कवह मण्डल से सम्बन्धित जिलों में उक्त आदेशों की अनुपालना सुनिश्चित करें।

उप सचिव (राजस्व)

हिमाचल प्रदेश सरकार।

No. Rev.B.A.(4)-4/2001-Vol-III  
 Government of Himachal Pradesh  
 Department of Revenue

From

F.C.-cum-Secretary (Revenue) to the  
 Government of Himachal Pradesh

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala H.P.
2. All the Deputy Commissioners  
 in Himachal Pradesh.
3. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
4. All the SDO (C)  
 In Himachal Pradesh.
5. All the Tehsildars/Naib Tehsildars, in H.P.

Dated Shimla-2,the

17<sup>th</sup> October, 2006

Subject:- Regarding grant of Nautor Land in Tribal Areas.

Sir,

In continuation of this department letter of even number dated 10-8-2006 on the subject cited above, I am directed to say that the instructions issued vide aforesaid letter will be applicable to future applications i.e. applications received after 10-8-2006 and not the pending applications at various levels.

Yours faithfully,

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2, the

17<sup>th</sup> October, 2006.

Copy forwarded for information to:

1. The Director, Land Records, H.P. Shimla-9.
2. The Clerk of Court to the F.C. (Appeals) to the Govt. of H.P., Shimla-2.

Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.

संख्या: रैब-डी(जी) 6-14/2013  
हिमाचल प्रदेश सरकार  
राजस्व विभाग-डी

प्रेषक

अतिरिक्त मुख्य सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

1. समस्त अतिरिक्त मुख्य सचिव/प्रधान सचिव/सचिव  
हिमाचल प्रदेश सरकार।
2. समस्त विभागाध्यक्ष, हिमाचल प्रदेश।
3. समस्त मडलायुक्त/उपायुक्त, हिमाचल प्रदेश।

दिनांक : शिमला-2,

22-12-2015

विषय: भूमि तबादला पर प्रतिबन्ध बारे।

महोदय,

उपरोक्त विषय पर सरकार के ध्यान में लाया गया है कि सरकारी भूमि तबादला मामलों में प्रतिबन्ध होने के बावजूद कई विभागों द्वारा अपने स्तर पर निर्णय लिये जा रहे हैं जो कि राजस्व विभाग द्वारा जारी अधिसूचना संख्या 9-13/71-राजस्व-ख दिनांक 24-08-1987 (हिमाचल प्रदेश नौतोड़ नियम, 1968 के नियम-27) की सरासर अवहेलना है जिसके अन्तर्गत सरकार द्वारा भूमि तबादला पर पूर्ण प्रतिबन्ध लगाया गया है।

अतः समस्त विभागों के ध्यानार्थ पुनः दोहराया जाता है कि यदि किन्हीं अपरिहार्य/विशिष्ट परिस्थितियों में भूमि तबादला जनहित में अनिवार्य हो तो ऐसे मामले में कोई भी विभाग अपने स्तर पर निर्णय न ले, बल्कि ऐसे मामले अन्तिम निर्णय हेतु राजस्व विभाग को ही विचारार्थ भेजे जाएं ताकि अनावश्यकत कानूनी विवाद से बचा जा सके।

भवदीय,

हस०

(राकेश मैहता)

उप सचिव (राजस्व)

हिमाचल प्रदेश सरकार।

दूरभाष न०: 0177-2621895

संख्या: रैब-डी (जी) 6-2/2004-II  
हिमाचल प्रदेश सरकार  
राजस्व विभाग-डी

प्रेषक

अतिरिक्त मुख्य सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त,  
शिमला, जिला शिमला, हि0प्र0-171001

दिनांक : शिमला-2, 15-03-2016

विषय: शिमला नगर में "भूमि के मालिकाना हक योजना" बनाये जाने बारे।

महोदय,

उपरोक्त विषय पर मुझे आपके पत्र संख्या:एसएमएल-एलआरडी-18(1) 2006-III- 117771 दिनांक 31 अक्टूबर, 2015 तथा माननीय उच्च न्यायालय, हि0 प्र0 द्वारा याचिका संख्या: 8045/2012-कर्म चन्द सूद बनाम राज्य सरकार एवं अन्य में पारित आदेश दिनांक 18-09-2015 की अनुपालना में इस विभाग के पत्र संख्या: रैब-डी(जी)6-2/2004-लूज दिनांक 15-09-2012 का अधिकमण करते हुए शिमला नगर में ब्रितानी काल से सरकारी भूमि व उस पर निर्मित संरचनाओं के कब्जाधारियों के पक्ष में मालिकाना हक प्रदान करने हेतु प्रदेश सरकार द्वारा पुन- एक नीति बिना किसी समय सीमा निर्धारण के निम्नलिखित शर्तों एवं निबन्धनों के आधार पर बनाने का निर्देश हुआ है:-

1. वार्ड अनुसार दरें निम्न प्रकार निर्धारित होंगी:-
 

i) बाजार वार्ड बड़ा शिमला उप महाल कृष्णानगर	रु 1000/- प्रति वर्गमीटर
ii) बाजार वार्ड लक्कड़ बाजार बाजार वार्ड बाजूगंज	रु 900/- प्रति वर्गमीटर
iii) बाजार वार्ड छोटा शिमला	रु 800/- प्रति वर्गमीटर
2. हिमाचल प्रदेश मुजारियत एवं भू-सुधार अधिनियम, 1972 की धार 118 की अनुमति निर्मित भवनों के लिए नगर निगम क्षेत्रों में आवश्यक नहीं होगी।
3. आंशिक कब्जाधारियों को निर्मित भवनों में हिस्सानुसार हक दिये जाएंगे।
4. सम्बन्धित कब्जाधारी को आवश्यक दस्तावेजों सहित सम्बन्धित राजस्व/पंजीकरण अधिकारी (उपायुक्त या तहसीलदार/नायब तहसीलदार) के पास आवेदन सहित विक्रय विलेख पंजीकृत करना होगा।
5. सभी मामलों में भू-अभिलेख में इन्द्राज की प्रक्रिया राजस्व विभाग के पत्र संख्या: रैब-बी0ए0(3)-8/2012 दिनांक 10-09-2012 के अनुसार पूर्ण की जाएगी।

भवदीय,

हस0

(प्रवीन कुमार टाक)  
उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार  
फोन न0: 0177-2628504

पृ० सं०: यथोपरि—

दिनांक शिमला-2, 15-03-2016

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:—

1. अवर सचिव (नगर एवं ग्राम योजना), हिमाचल प्रदेश सरकार शिमला-2
2. आयुक्त, नगर निगम, शिमला-1
3. अनुभाग अधिकारी, राजस्व अनुभाग (क, ख एवं ग), हिमाचल प्रदेश सचिवालय, शिमला-2

हस०

उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार



No. Rev-D(G)6-4/2016  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Chamba, Distt. Chamba, H.P.

Dated: Shimla-2, 26.08.2016

Subject: Reg. Policy for grant of ownership rights to the lease holders of Dalhousie Municipal  
 Cpouncil, District Chamba, H.P.

Sir,

I am directed to refer to your letter No. CBA-DRDA-2015 dated 26<sup>th</sup> November, 2015 on the subject cited above and to say that the Government has decided to frame a policy for grant of ownership rights in respect of pre-independence lease holders of British Regime in Dalhousie Municipal area on the following terms and conditions:-

- i) The ownership rights shall be conferred tin respect of the concerned beneficiary/lease holders for the land & built up structures by charging rates for regularization @ Rs. 500/- per square meter for total leased out /possessed area.
- ii) The amount shall be charged in lumpsum or in equal half yearly installments basis within one year as fixed by the collector.
- iii) The concerned lease holder shall apply before the concerned Revenue/Registration Officer, i.e., Deputy Commissioner or Tehsildar/Naib-Tehsildar alongwith all relevant revenue/other documents for registration of sale deed.
- iv) The stamp duty & registration fee will be applicable as per prescribed rates.
- v) The requirement of permission under section 118 of HP Tenancy & Land Reforms Act, 1972 shall not be applicable in such cases.
- vi) The entries in Revenue record shall be effected in accordance with Revenue Department letter No. Rev-B-A(3)-8/2012 dated 10-09-2012 in all cases.

You are, therefore, requested to get the vide publicity of this policy ensured for the information of all concerned and take further action in the matter accordingly at the earliest. The list of such lease cases (53 numbers) is enclosed herewith.

Yours faithfully,

-sd-

(Praveen Kumar Taak)  
 Deputy Secretary (Revenue) to the  
 Government of Himachal Pradesh.  
 Phone No. 0177-2628504

Endst. No. As above:

Dated: 26/08/2016

Copy is forwarded for information & necessary action to:-

1. The Addl. Chief Secretary (Urban Dev.) to the Government of Himachal Pradesh, Shimla-2.
2. The Secretary (GAD) to the Govt. of Himachal Pradesh , Shimla-2, w.r.t. item No. 41 of Cabinet meeting dated 27-05-2016.
3. The Divisional Commissioner, Kangra Division at Dharamshala, District Kangra, H.P.
4. The Director, Urban Development, Himachal Pradesh, Talland Shimla-2.
5. The sub Divisional officer (C), Dalhousie, District Chamba, H.P.
6. The Tehsildar, Dalhousie, District Chamba, H.P.
7. The Executive Officer, Municipal Council Dalhousie, District Chamba, H.P.
8. Guard file.

-sd-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

संख्या: रैब-डी (जी) 6-2/2004-II  
हिमाचल प्रदेश सरकार  
राजस्व विभाग-डी

प्रेषक

अतिरिक्त मुख्य सचिव (राजस्व),  
हिमाचल प्रदेश सरकार।

प्रेषित

उपायुक्त,  
शिमला, जिला शिमला, हि0प्र0-171001

दिनांक : शिमला-2,

12-01-2017

विषय: शिमला नगर में "भूमि के मालिकाना हक योजना" बनाये जाने बारे।  
महोदय,

उपरोक्त विषय पर मुझे आपके पत्र संख्या:एसएमएल-एलआरडी-18(1)2006-वोल-IV-130262 दिनांक 16-09-2016 के संदर्भ में यह कहने का निर्देश हुआ है कि सरकार द्वारा इस विभाग के समसंख्यक पत्र दिनांक 15-03-2016 को जारी "भूमि मालिकाना हक योजना" वर्ष 2012 में इस विभाग के पत्र संख्या: रैब-डी(जी)6-2/2004-लूज दिनांक 15-09-2012 के अर्न्तगत जारी मालिकाना हक योजना की शर्तों एवं निबन्धनों के अनुरूप ही बनाई गई है। अतः इस मामले में आपके उक्त पत्र द्वारा अपेक्षित स्पष्टीकरण/मार्गदर्शन के सम्बन्ध में यह स्पष्ट किया जाता है कि शिमला नगर में ब्रितानी काल से सरकारी भूमि व निर्मित संरचनाओं के वर्तमान कब्जाधारियों के मामले भी मालिकाना हक प्रदान करने हेतु सम्मिलित होंगे।

अतः आपसे निवेदन है कि ऐसे समस्त लम्बित मामलों में तदनुसार विचार करके आगामी आवश्यक कार्यवाही शीघ्र अमल में लाने की कृपा करें।

भवदीय,

हस्त0

(प्रवीन कुमार टाक)  
उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

पृ0 सं0: यथोपरि-

दिनांक शिमला-2, 12/07/2017

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. अवर सचिव (नगर एवं ग्राम योजना), हिमाचल प्रदेश, शिमला-2
2. आयुक्त, नगर निगम, शिमला-1
3. अनुभाग अधिकारी, राजस्व अनुभाग (क, ख एवं ग), हिमाचल प्रदेश सचिवालय, शिमला-2

हस्त0

उप सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

संख्या : रैव0.बी0एफ.(12)1/2008-वॉल-II  
हिमाचल प्रदेश सरकार  
राजस्व (ख) अनुभाग।

प्रेषक:

अतिरिक्त मुख्य सचिव (राजस्व)  
हिमाचल प्रदेश सरकार

प्रेषित:

उपायुक्त,  
किन्नौर, जिला किन्नौर, हि0 प्र0।

दिनांक : शिमला-171002, 20-04-2017

विषय:- सरकारी कर्मचारियों के पक्ष में स्वीकृत नौतोड़ मिसलों पर पट्टा जारी करने हेतु दिशा निर्देश जारी करने बारे।

महोदय,

उपरोक्त विषय पर मुझे आपके कार्यालय के पत्र सं0 के0एन0आर0-1/2000(एन0सी)/-1056904 दिनांक 22-03-2017 के संदर्भ में यह कहने का निर्देश हुआ है कि सरकारी कर्मचारियों के पक्ष में स्वीकृत नौतोड़ भूमि से संबंधित याचिका CWP No. 9859/2013 titled as Narender Lal Negi V/s State of H.P.में माननीय उच्च न्यायालय द्वारा पारित आदेशों के विरुद्ध सरकार द्वारा माननीय सर्वोच्च न्यायालय, नई दिल्ली में SLP (C) CC No. 2044/2016 State of HP V/s Narender Lal Negi दायर की गई है जो कि अभी भी माननीय सर्वोच्च न्यायालय में न्यायधीन है। मामला न्यायधीन होने के कारण इस प्रकार के प्रकरणों पर किसी प्रकार के दिशा निर्देश नहीं दिए जा सकते हैं।

अतः सरकारी कर्मचारियों के पक्ष में लंबित नौतोड़ मिसलों पर अभी पट्टा जारी नहीं किया जा सकता उन्हें लंबित ही रखा जाए व अन्य लोगों के लंबित नौतोड़ मामलों को वन विभाग की अधिसूचना सं. FFE-B-F(4)1/2015 दिनांक 02-12-2016 के तहत तथा साथ ही नए प्राप्त आवेदनों का निपटारा दृढ़ता से (strictly) हिमाचल प्रदेश नौतोड़ नियम, 1968 व उसके उपरान्त जारी हिदायतों के अनुसार करें।

भवदीय,

(आशीश कोहली)  
संयुक्त सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।  
दूरभाष: 0177-2622498

पृष्ठांकन संख्या: यथोपरि

दिनांक शिमला-02

20.04.2017

प्रतिलिपि उपायुक्त, चम्बा तथा लाहौल स्पीति, हि0 प्र0 को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित है।

(आशीश कोहली)  
संयुक्त सचिव (राजस्व)  
हिमाचल प्रदेश सरकार।

No. Rev-B.F. (12)1/2008-Vol-II  
 Government of Himachal Pradesh  
 Department of Revenue.

From

The Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

To

The Deputy Commissioner,  
 Kinnaur, Chamba and Lahaul & Spiti,  
 Himachal Pradesh.

Dated: Shimla-2,

26.08.2017

Subject: सरकारी कर्मचारियों के पक्ष में स्वीकृत नौतोड़ मिसलों पर पट्टा जारी करने बारे।

Sir,

I am directed to refer to the subject cited above and to say that the matter was examined in consultation with the Law Department. The Law Department has opined that if the employees to whom the pattas are to be allotted are other than the persons who are covered in the 5789 cases mentioned in the orders of Hon'ble High Court in CWP No. 9859/2013 titled as Narinder Lal Negi Vs. State of H.P. then in that eventuality the application for grant of pattas can be considered strictly in accordance with the H.P. Nautor Rules, 1968 and taking into consideration the law laid down by the Hon'ble Supreme Court in the case of Gopinder Singh Vs. Forest Department of H.P.

You are therefore, requested to accept/process the applications of government employees as per the opinion of the Law Department and in accordance with H.P. Nautor Rules, 1968 and instructions issued by the Govt. in this regard from time to time subject to the final outcome in Civil Appeal No. 1215-1216/2016 pending adjudication in the in the Hon'ble Supreme Court.

Yours faithfully,

-sd-

(Ashish Kohli)

Joint Secretary (Revenue) to the  
 Government of Himachal Pradesh  
 Phone: 0177-2622498

No. Rev. B.F. (5)2/2017-Loose  
Government of Himachal Pradesh  
'Revenue Department'

From

The Principal Secretary-cum-F.C. (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All Deputy Commissioners,  
Himachal Pradesh.
3. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All Sub-Divisional Officers (Civil),  
Himachal Pradesh.
5. All Tehsildars/Naib Tehsildars,  
in Himachal Pradesh.

Dated: Shimla-171002, the 11<sup>th</sup> June, 2020.

Subject: Regarding grant of Nautor Land in Tribal Areas.

Sir,

I am directed to refer to the subject cited above and to say that it has been decided by the Government to withdraw the instructions issued vide this Department's letter No. Rev.B.A(4)-4/2001-Vol-III, dated 10-08-2006.

Yours faithfully,

(Rakesh Mehta)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2, the June, 2020

Copy forwarded for information to:

1. The Director, Land Records, H.P., Shimla-9.
2. The Clerk of Court to the F.C. (Appeals) to the Govt. of H.P. Shimla-2.

(Rakesh Mehta)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.F. (1)1/2006-I  
 Government of Himachal Pradesh  
 'Revenue Department'

From

The Principal Secretary-cum-F.C. (Revenue) to the  
 Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
 Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All Deputy Commissioners,  
 Himachal Pradesh.
3. The Settlement Officer,  
 Shimla/Kangra at Dharamshala, H.P.
4. All Sub-Divisional Officers (Civil),  
 Himachal Pradesh.
5. All Tehsildars/Naib Tehsildars,  
 in Himachal Pradesh.

Dated: Shimla-171002, the 22<sup>nd</sup> January, 2014.

Subject:- Regarding allotment of 3/2 biswas in Rural/Urban areas of State to houseless persons/families.

Sir,

In supersession of this Department's letters No. Rev. B.F(1)1/2006, dated: 28<sup>th</sup> February, 2007, 05-10-2007 and 01-11-2010 on the subject cited above, I am directed to say that on reconsideration of the matter by the Government it has been decided to allot 3/2 biswas of land in rural/urban areas in the form of following clarifications:-

- i. The land is to be allotted out of the surplus land available in the Districts under various schemes such as Himachal Pradesh Utilization of Surplus Areas Scheme, 1974, Himachal Pradesh Village Common Land Vesting and Utilization Scheme, 1975, Special Scheme for grant of Nautor Land to landless persons, 1975 and H.P. Nautor Rules, 1968.
- ii. The land available in the government pool is to be allotted only by the Deputy Commissioners under the Scheme.
- iii. In Urban areas not much land is available with the Government in any of the Schemes mentioned above, therefore, the land may have to be acquired for the purpose regarding which action may be taken depending on the number of eligible families in the urban areas.
- iv. All such families whose income is Rs. 50,000/- per annum or less and who are houseless or those families whose entire land has been washed away in floods and have no suitable land for construction of residential house shall be eligible for allotment of 3 Biswas of land in Rural areas and 2 Biswas of land in urban areas even if such families are not included in the BPL list issued by the Rural Development Department.

- v. The land allotted under these instructions shall be mutated in the name of both husband and wife and such land or house built on allotted land shall not be transferred by the allottee or his/her legal heir(s), in any manner. In case the land so allotted or the house built thereon is transferred by the allottee or his/her legal heir(s), the allotment so made shall stand cancelled and the land alongwith house if any, shall vest in the State Government free from all encumbrance.
- vi. The provisions/requirements of Town & Country Planning would govern such allotments.

**In addition to above, it has further been decided that following persons will not be entitled for allotment of land under aforesaid instructions:-**

1. Who have been allotted land under the various allotment schemes/rules of the Government and have transferred/sold the land.
2. Who have been conferred with the proprietary rights under H.P. Tenancy and Land Reforms Act, 1972 and have been allotted the land under the scheme for allotment under Ceiling Act and have transferred/sold the land.
3. Who have been allotted the land under any scheme of the government for landless and have transferred/sold the land.
4. Whose father is alive. However the person who will inherit less than 3/2 biswas of land in rural/urban areas shall also be eligible for allotment so that his/her total holding is made upto 3/2 biswas.

With above instructions it is expected that there remains no ambiguity in the scheme and all the Deputy Commissioners will take initiative to fulfil the Government announcement in letter and spirit without any further loss of time. Monthly progress report may be sent by Seventh of following month.

The Divisional Commissioners are requested to monitor the allotments on monthly basis and inform the Government.

The instructions may be implemented in letter and spirit and the receipt of the communication may kindly be acknowledged.

Yours faithfully,  
(Tarun Shridhar)  
Pr. Secretary-cum-F.C.(Revenue) to the  
Government of Himachal Pradesh.  
22<sup>nd</sup> January, 2014.

Endst. No. As above.                      Dated: Shimla-2, the  
Copy forwarded to:

1. The Principal Secretary (Forests) to the Government of Himachal Pradesh.
2. The Principal Secretary (Rural Development) to the Government of Himachal Pradesh.
3. The Principal Secretary (Planning) to the Government of Himachal Pradesh.
4. The Secretary (Urban Development) to the Government of Himachal Pradesh.
5. The Director, Rural Development Department, Shimla-9, H.P.
6. The Director, Land Records, H.P Shimla-9.
7. COC to the F.C. (Appeals), H.P.

(Tarun Shridhar)  
Pr. Secretary-cum-F.C.(Revenue) to the  
Government of Himachal Pradesh.



संख्या: रैव.बी.एफ.(1)1/2006-।।  
राजस्व विभाग,  
हिमाचल प्रदेश सरकार।

प्रेषक,

अतिरिक्त मुख्य सचिव एवं वित्तायुक्त (राजस्व)  
हिमाचल प्रदेश सरकार।

प्रेषित,

समस्त उपायुक्त,  
हिमाचल प्रदेश।

दिनांक, शिमला-02 09-02-2015

विषय:-

Regarding allotment of 3/2 biswas in Rural/Urban areas of  
State of houseless persons/families.

महोदय,

उपरोक्त विषय पर इस विभाग के पत्र संख्या रैव.बी.एफ.(1)1/2006-।, दिनांक 22 जनवरी, 2014 की ओर आपका ध्यान आकर्षित करते हुये यह कहने का निर्देश हुआ है कि सरकार के ध्यान में आया है कि उक्त स्कीम का कड़ाई से पालन नहीं किया जा रहा है।

अतः आपसे अनुरोध है कि उपरोक्त स्कीम के अन्तर्गत प्राप्त प्रार्थना-पत्रों पर शीघ्र-अतिशीघ्र कार्रवाई की जाये। इसके लिए एए विशेष अभियान छेड़ा जाये तथा जिले में यदि सरकारी भूमि उपलब्ध नहीं है तो उसकी विस्तृत रिपोर्ट इस विभाग को शीघ्र भेजें। इसके अतिरिक्त इस बारे त्रैमासिक प्रगति सूचना इस विभाग को हर तीन महीने में भेजें।

इसके अतिरिक्त उपायुक्तों से इस स्कीम के सम्बन्ध में स्पष्टीकरण के लिए पत्र प्राप्त हो रहे हैं, अतः स्पष्ट किया जाता है कि यह स्कीम भूमिहीनों के लिए बनाई गई है, अतः जो भूमिहीन व्यक्ति लम्बे समय से हिमाचल में रह रहा है तथा जिसकी हिमाचल में रहने की स्थाई प्रकृति है उसे भूमि का आबंटन सम्बन्धित उपायुक्त स्व-विवेकानुसार करें। जो हिमाचल के व्यक्ति/परिवार हिमाचल के ही अन्य जिलों में रह रहे हैं उनको उनके स्थाई जिले में ही भूमि आबंटित की जायेगी। इस स्कीम के अन्तर्गत हि0 प्र0 भू-मुजारियत अधिनियम, 1972 की धारा 118 के तहत सरकार से अनुमति लेने की आवश्यकता नहीं है। जो भूमि आबंटित की जानी है यदि उस भूमि पर भू-संरक्षण अधिनियम, 1980 के प्रावधान लागू होते हैं उसमें उक्त अधिनियम के अन्तर्गत अनुमति प्राप्त करने के उपरान्त ही कार्रवाई अपेक्षित है।

**मामले में व्यक्तिगत ध्यान अपेक्षित है।**

भवदीय,  
(राकेश मैहता)  
उप सचिव (राजस्व),  
हि0 प्र0 सरकार।

संख्या : रैव0.बी0एफ.(1)1 / 2006-II  
राजस्व विभाग  
हिमाचल प्रदेश सरकार।

प्रेषक:

अतिरिक्त मुख्य सचिव एवं वित्तायुक्त (राजस्व)  
हिमाचल प्रदेश सरकार

प्रेषित:

समस्त उपायुक्त,  
हिमाचल प्रदेश।

दिनांक : शिमला-2, 23-11-2015

विषय:-

Regarding allotment of 3/2 biswas in Rural/Urban areas of State of houseless persons/families.

महोदय,

उपरोक्त विषय पर आपका ध्यान इस विभाग के पत्र संख्या रैव.बी.एफ.(1)1 / 2006-I दिनांक 22 जनवरी, 2014 के द्वारा जारी शहरी/ग्रामीण क्षेत्रों में 2/3 बिस्वा भूमि आबंटन सम्बन्धी निर्देशों की ओर आकर्षित करते हुये यह कहने का निर्देश हुआ है कि उक्त निर्देशों के अन्तर्गत भूमि का आबंटन पूर्व में बनी भू-आबंटन सम्बन्धी स्कीमों: 1. H.P. Utilization of Surplus Areas Scheme, 1974, 2. H.P. Village Common Land Vesting and Utilization Scheme, 1975, 3. Special Scheme for grant of Nautor Land to landless persons, 1975 and 4. H.P. Nautor Rules, 1968 के अनुसार किया जाना है। उक्त स्कीमों के तहत जारी इस विभाग के पत्र संख्या रैव.बी.एफ.(7)1 / 1994, दिनांक 15 नवम्बर, 1995 में शर्त लगाई गई है कि भूमि का आबंटन सड़क से 100 मीटर की दूरी पर ही किया जायेगा।

सरकार के ध्यान में आया है कि उक्त सड़क से 100 मीटर की दूरी वाली लगाई गई शर्त भूमिहीनों तथा समाज के कमजोर वर्गों के लिए भूमि आबंटन में बाधा बन रही है क्योंकि वर्तमान में सरकार के पास आबंटन के लिए भूमि कम है।

अतः उक्त के दृष्टिगत सरकार ने निर्णय लिया है कि जहां सड़क से 100 मीटर की दूरी पर आबंटन हेतु और भूमि उपलब्ध नहीं है वहां उक्त शर्त में छूट दी जाये।

**मामले में व्यक्तिगत ध्यान अपेक्षित है।**

भवदीय,

(राकेश मैहता)

उप सचिव (राजस्व),

हि0 प्र0 सरकार।

दूरभाष: 0177-2622498

23 / 11 / 2015

पृष्ठांकन संख्या: यथोपरि

दिनांक शिमला-02

प्रतिलिपि मण्डलायुक्त शिमला/मण्डी/कांगड़ा को इस आष्य से प्रेषित है कि वह मण्डल से सम्बन्धित जिलों में उक्त पत्र की पालना सुनिश्चित करें।

(राकेश मैहता)

उप सचिव (राजस्व)

हि0 प्र0 सरकार।

दूरभाष: 0177-2621895

No. Rev. B.F. (1)1/2006-II  
Government of Himachal Pradesh  
'Revenue Department'

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From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated: Shimla-2, the 14-03-2016

Subject:- Regarding allotment of 3/2 biswa in Rural/Urban area of State to houseless persons/families.

Sir,

In continuation of this department letter No. Rev.B.F.(1)1/2006-I dated 22<sup>nd</sup> January, 2014, and subsequent letter of even number dated 09.02.2015, on the subject cited above, I am directed to say that during the meeting of various welfare boards, it has been brought to the notice of Government that applications for allotment of 3/2 biswas of land in rural/urban areas, to houseless persons are not being processed as expeditiously as should be. Resultantly, the applications are piling up day by day.

You are, therefore, requested to expedite the disposal of applications for allotment of 3/2 biswas land in rural/urban areas.

In addition to above, it has also come to the notice of the Government that in some cases such landless/houseless persons have already occupied the government land for construction of their residential houses/sheds, especially by the persons belonging to Balmiki Community. In cases where such persons are eligible for allotment as per criteria laid down under the Scheme, the land which is already under their occupation may be allotted to them upto the prescribed limit, subject to other norms applicable to the land.

The instructions be implemented in letter and spirit and the receipt of the communication may kindly be acknowledged.

Yours faithfully,

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the

14-03-2016

Copy forwarded to:

1. The Principal Secretary (Rural Development) to the Govt. of H.P.
2. The Principal Secretary (Planning) to the Govt. of H.P.
3. The Secretary (Urban Development) to the Govt. of H.P.
4. The Director, Rural Development Department, Shimla-9.
5. The Director, Land Records, Himachal Pradesh, Shimla-9.
6. COC to the F.C. (Appeals), H.P.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

संख्या : रैव0.बी0एफ.(1)1 / 2006-IV

राजस्व विभाग

हिमाचल प्रदेश सरकार।

प्रेषक:

अतिरिक्त मुख्य सचिव एवं वित्तायुक्त (राजस्व)

हिमाचल प्रदेश सरकार

प्रेषित:

उपायुक्त,

बिलासपुर, जिला बिलासपुर,

हिमाचल प्रदेश।

दिनांक : शिमला-2, 28-05-2016

विषय:- Regarding allotment of 3/2 biswas in Rural/Urban areas of State of houseless persons/families.

महोदय,

उपरोक्त विषय पर आपके कार्यालय के पत्र संख्या: बीएलएस-एलआरसी-1(16)/2008-1-68252, दिनांक 18-02-2016 के संदर्भ में यह कहने का निर्देश हुआ है कि उक्त स्कीम के अन्तर्गत पात्र व्यक्तियों को भूमि सम्बन्धित राजस्व गांव में ही आबंटित की जाये और यदि सम्बन्धित राजस्व गांव में भूमि उपलब्ध नहीं है तो निम्न वरीयता के आधार पर भूमि आबंटन किया जाये:-

- i. सम्बन्धित पटवार वृत्त में, यदि सम्बन्धित राजस्व गांव में भूमि उपलब्ध नहीं है।
- ii. सम्बन्धित कानूनगो वृत्त में, यदि सम्बन्धित पटवार वृत्त में भूमि उपलब्ध नहीं है।
- iii. सम्बन्धित उप तहसील क्षेत्र में, यदि सम्बन्धित कानूनगो वृत्त में भूमि उपलब्ध नहीं है।
- iv. सम्बन्धित तहसील क्षेत्र में, यदि सम्बन्धित उप तहसील क्षेत्र में भूमि उपलब्ध नहीं है।

इसके अतिरिक्त उपरोक्त क्षेत्रों में यदि अलग-अलग जगह भूमि उपलब्ध नहीं है तो पात्र आवेदकों को एक स्थान पर भी भूमि आबंटित की जा सकती है। जहां पर आबंटन के लिए गैर-वन भूमि उपलब्ध नहीं है, वहां पर वन भूमि को आबंटन हेतु वन विभाग से अनुमति ली जाये।

**मामले में व्यक्तिगत ध्यान अपेक्षित है।**

भवदीय,

(राकेश मैहता)

उप सचिव (राजस्व),

हिमाचल प्रदेश सरकार।

दूरभाष: 0177-2622498

पृष्ठांकन संख्या: यथोपरि

दिनांक शिमला-02

28/05/2016

प्रतिलिपि समस्त मण्डलायुक्त/समस्त उपायुक्त को इस आष्य से प्रेषित है कि वह मण्डल से सम्बन्धित जिलों में उक्त पत्र की पालना सुनिश्चित करें।

(राकेश मैहता)

उप सचिव (राजस्व)

हि0 प्र0 सरकार।

FFE-B-F-(10)-2/2018  
 Government of Himachal Pradesh  
 Department of Forests.

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From

Addl. Chief Secretary (Forests) to the  
 Government of Himachal Pradesh.

To

Addl. Chief Secretary (Revenue) to the  
 Government of Himachal Pradesh.

Dated: Shimla-2, the 20-08-2018

Subject:- Regarding allotment of 3/2 biswas in Rural/Urban areas of State of houseless persons/families.

Sir,

I am directed to refer to your letter No. Rev. B.F.(2)2/2018 dated 4<sup>th</sup> August, 2015 on the subject cited above and to inform you that as per policy guidelines for recommendations of cases under Forest (Conservation) Act, 1980 framed by the State Government. "Only Govt. owned/Govt. approved projects, including Govt. approved private projects in case of hospitals and health institutions should be entertained for diversion of RFs, DPFS and UPFs." Also forest land can not be diverted to private Individual/Firm or Organization (including Society), Charitable trusts, etc. not owned by the Govt. It is also provided in the Policy Guidelines that the GoI normally does not consider diversion of Forest land for rehabilitation of people and construction of residential houses.

Hence proposal to relax the provision of FCA, 1980 for the allotment of 3/2-biswas land, for construction of houses is not tenable.

Yours faithfully,  
 (Sat Pal Dhiman)  
 Joint Secretary (Forests) to the  
 Government of Himachal Pradesh.

Encls. As above Dated the 20-08-2018  
 Copy is forwarded to PCCF for information pl.

(Sat Pal Dhiman)  
 Deputy Secretary (Forests) to the  
 Government of Himachal Pradesh.

No. Rev. B.F. (1)1/2006-IV-loose  
Government of Himachal Pradesh  
Revenue Department.

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All the Deputy Commissioners,  
in Himachal Pradesh.
3. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All the Sub-Divisional Officer (Civil),  
Himachal Pradesh.
5. All Tehsildars/Naib Tehsildars,  
in Himachal Pradesh.

Dated: Shimla-171002, the 04-12-2018.

Subject:- Regarding allotment of 3/2 biswa in Rural/Urban area of State to houseless persons/families.

Sir,

In continuation of this department letter No. Rev. B.F(1)1/2006-I dated 22<sup>nd</sup> January, 2014, and subsequent letter of even number dated 23.11.2015 and 14.03.2016, on the subject cited above, I am directed to say that it has been brought to the notice of Government that widows whose deceased husbands fall in the definition of 'Landless' as per policy guidelines for allotment of 2/3 biswa of land circulated vide letter No. Rev. B.F. (1)1/2006-I dated 22-01-2014 and family income is also less than Rs. 50,000-00/- are not being considered eligible for allotment on the consideration that such widows have share in the parental landed property. The Government after reconsideration of the matter has decided that a widow whose husband was landless should be considered eligible for allotment of 3/2 biswa land if her family income is less than Rs. 50,000-00/- without paying any consideration to their right on parental property.

The instructions may be implemented in letter and spirit and the receipt of the communication may kindly be acknowledged.

Yours faithfully,

(Manisha Nanda)

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the 04-12-2018

Copy forwarded to:

1. The Addl. Chief Secretary (Planning) to the Govt. of H.P.
2. The Principal Secretary (Rural Development) to the Govt. of H.P.
3. The Principal Secretary (Urban Development) to the Govt. of H.P.

4. The Deputy Commissioner Kangra at Dharamshala, w.r.t. his letter No. 1979/LRB-3/2 Biswa-Ins dated 26-09-2018 for information.
5. The Director, Rural Development Department, Shimla-9.
6. The Director, Land Records, H.P Shimla-9.
7. COC to the F.C. (Appeals), H.P.

(Manisha Nanda)

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. Rev. B.F. (1)1/2006-IV-Loose  
Government of Himachal Pradesh  
'Revenue Department'

...

From

The Principal Secretary-cum- F.C. (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/Mandi/Kangra at Dharamshala, H.P.
2. All Deputy Commissioners,  
in Himachal Pradesh.
3. The Settlement Officer,  
Shimla/Kangra at Dharamshala, H.P.
4. All Sub-Divisional Officers (Civil),  
Himachal Pradesh.
5. All Tehsildars/Naib Tehsildars,  
in Himachal Pradesh.

Dated: Shimla-171002, the 12 June, 2020

Subject:-

Regarding allotment of 3/2 biswas in Rural/Urban areas of State to houseless persons/families.

Sir,

In continuation of this Department's letter No. Rev. B.F(1)1/2006-I, 22<sup>nd</sup> January, 2014, No. Rev. B.F(1)1/2006-II dated 09-02-2015, 23-11-2015, 14-03-2016 and No. Rev. B.F.(1)-1/2006-IV-Loose dated 04-12-2018 on the subject cited above, I am directed to say that the Government has decided to enhance the income limit for the eligibility under the aforesaid scheme for allotment of 3/2 biswas of land in Rural/Urban areas of State to houseless persons/families from Rs. 50,000/- (Rupees Fifty Thousand) per annum to Rs. 1,00,000/- (Rupees one lakh) per annum so that more people could be benefited under this scheme. Other terms and conditions of the scheme will remain same.

The instructions may be implemented in letter and spirit and the receipt of the communication may kindly be acknowledged.

Yours faithfully,

(Rakesh Mehta)

Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above.

Dated: Shimla-2, the

June, 2020.

Copy forwarded for information & necessary action to:

1. The Addl. Chief Secretary (Forests) to the Government of Himachal Pradesh.
2. The Principal Secretary (Rural Development) to the Government of Himachal Pradesh.
3. The Principal Secretary (Planning) to the Government of Himachal Pradesh.
4. The Secretary (Urban Development) to the Government of Himachal Pradesh.



5. The Deputy Secretary (GAD) to the Government of Himachal Pradesh w.r.t. his item No. 6, dated 04-06-2020.
6. The Deputy Commissioner Kangra at Dharamshala, w.r.t. his letter No. 2511-Bhu.Su.Sha.3/2 Biswa, dated 15-05-2019.
7. The Director, Rural Development Department, Shimla-9, H.P.
8. The Director, Land Records, H.P. Shimla-9.
9. COC to the F.C. (Appeals), H.P.

(Rakesh Mehta)  
Joint Secretary (Revenue) to the  
Government of Himachal Pradesh.

No. FFE-B-F(2)-9/2022  
 Government of Himachal Pradesh  
 Department of Revenue.

From

Principal Secretary (Forest) to the  
 Government of Himachal Pradesh.

To

The Principal Secretary (Revenue) to the  
 Government of Himachal Pradesh, Shimla-2.

Dated: Shimla-2, 16<sup>th</sup> November, 2022.

Subject: Regarding allotment of 2/3 Biswas in Rural Urban areas of the State to Houseless persons/families.

Sir,

I am directed to refer to your letter No. Rev. B.F. (1)1/2019, dated 03-09-2022 on the subject cited above and to say that as per the Policy Guidelines for recommendation of FCA cases approved by the GoHP on 20-09-2019 "*Forest land should not be diverted to Private individual(s)/Firm(s) or organization(s) including society/charitable trusts etc., not owned by the Govt. it can be considered on case to case basis if it serves public interest or is for public welfare activities like hydel projects, transmission lines, and drinking water projects etc. "As per Para 1.16 of Chapter-1 of Handbook of FCA, 1980. "diversion of forest land for rehabilitation of people is normally not allowed. However, such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribes, Scheduled Castes and other people who may have to be shifted from the core zone of a national part sanctuary or reserve."*

Further, FCA, 1980 being a Central Act, any amendment in the Act can only be done by the Central Government.

Yours faithfully,

-sd-

(C.P. Verma, IAS)

Special Secretary (Forests) to the  
 Government of Himachal Pradesh  
 Phone No. 0177-2620887