

[Authorised English text of the Himachal Pradesh Khanij (Adhikar Nidhan) Adhiniyam, 1983 as required under clause (3) of Article 348 of the Constitution of India]

**THE HIMACHAL PRADESH MINERALS (VESTING OF RIGHTS)
ACT, 1983**

ARRANGEMENT OF SECTIONS

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**THE HIMACHAL PRADESH MINERALS (VESTING OF RIGHTS)
ACT, 1983**

(ACT NO. 17 OF 1987)¹

(Received the assent of the President on the 22nd July, 1987 and was published in Hindi in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 28th July, 1987, pp. 1269-1274 and in English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 13th August, 1987, pp 1389-1392).

An Act to vest the mineral rights in the State Government and to provide for payment of amount to the owners of minerals and for other matters connected therewith.

It is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fourth Year of the Republic of India as follows:-

1. Short title.- This Act may be called the Himachal Pradesh Minerals (Vesting of Rights) Act, 1983.

2. Definitions.- In this Act, unless the context otherwise requires,-

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 19th August, 1983, pp. 777 and 782.

- (a) "Collector" means the Deputy Commissioner of a District and includes any officer appointed by the State Government to discharge all or any of the functions of a Collector under this Act;
- (b) "minerals" means minerals and minor minerals as defined in clauses (a) and (e) respectively of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957);
- (c) "land" means land whether assessed to land revenue or not and includes river beds and the sites of buildings and other structures;
- (d) "person" shall include a local authority and a company or association or body of individuals, whether incorporated or not; and
- (e) "prescribed" means prescribed by rules made under this Act.

3. Vesting of minerals in State Government.- (1) The State Government may, from time to time, by notification acquire the right to any minerals in any land and the right to the minerals specified in the notification shall, from the date of its publication, vest in the State Government.

(2) Notwithstanding anything contained in any law for the time being in force, on the publication of the notification under sub-section (1) the right to the minerals in the land specified in the notification shall vest absolutely in the State Government and the State Government shall subject to the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957) have all the powers necessary for the proper enjoyment or disposal of such right.

(3) The right to the minerals in the land includes the right of access to land for the purpose of prospecting and working mines and for the purposes subsidiary thereto including the sinking of pits and shafts, erection of plants and machinery, construction of roads, stacking of minerals and deposit of refuse, quarrying and obtaining building and road materials, using water and taking timber and any other purpose which the State Government may declare to be subsidiary to mining.

(4) If the State Government has assigned to any person its right over any minerals, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (2) and (3) should be exercised, the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned.

4. Payment of amount.- (1) On the vesting of the right to the minerals in any land under section 3, the person entitled to the right to the minerals immediately before such vesting shall be paid annually, in the manner prescribed, an amount equal to ten per cent of the annual contract money, or of royalty or dead rent whichever is higher, payable to the State

Government on the minerals raised in a year, as the case may be, for a period of ten years with effect from such vesting :

Provided that if no contract or lease is given or the lessee does not raise the minerals for any period, no amount shall be paid for that period and the aforesaid period of ten years shall be deemed to have been extended by that period:

Provided further that payment of the amount shall commence after the expiry of one year from the date of commencement of the period of contract or lease, as the case may be.

Explanation.- If the State Government exploits the minerals itself the royalty or dead rent whichever is higher shall be calculated as if the State Government is the lessee.

(2) The Collector shall announce in the manner prescribed an order specifying the person or persons to whom the amount shall be paid.

(3) If there is any dispute as to the person or persons who are entitled to the payment of amount, the Collector shall by an order decide the dispute and if he finds that more than one person are entitled to the amount he shall apportion the amount amongst such persons.

5. Reference to Court.- (1) Any person who is not satisfied by the order of the Collector under section 4 may, by a written application to the Collector, require that the matter be referred by the Collector for the determination of a principal civil court of original jurisdiction, whether his objection be to the quantum of amount, the persons to whom it is payable or the apportionment of the amount among the persons entitled.

(2) The application shall state the grounds on which the objections to the order of the collector are taken:

Provided that the application shall be made,-

(a) if the person making it was present or was represented before the Collector at the time when he passed his order, within six weeks from the date of the Collector's order ;

(b) in other cases, within six weeks from the date of communication of the Collector's order.

(3) In making the reference, the Collector shall state for the information of the court, in writing under his hand, such particulars as may be prescribed.

(4) The principal civil court of original jurisdiction may decide the matter itself or by a written order direct any civil court subordinate to it to decide the same.

6. Exemption.- Nothing in this Act shall apply to the land or property, owned and possessed by the Central Government or any establishment/ undertaking under its control.

7. Code of Civil Procedure to apply to proceedings before civil courts.- The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall apply to all proceedings before the civil court under the Act.

8. Appeal in proceedings before civil courts.- An appeal shall lie to the principal civil court of original jurisdiction where the matter is decided by a civil court subordinate to it and to the High Court in other cases.

9. Power to make rules.- (1) The State Government may, by notification, make rules for carrying into effect 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 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 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.

10. Power to remove difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the 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 such difficulty.
