

THE HIMACHAL PRADESH LAND DEVELOPMENT ACT, 1973
ARRANGEMENT OF SECTIONS

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THE HIMACHAL PRADESH LAND DEVELOPMENT ACT, 1973

(ACT NO. 14 OF 1973)¹

(Received the assent of the Governor, Himachal Pradesh, on the 9th June, 1973 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 4th July, 1973, pp. 1152-1161).

An Act to provide for the preparation and execution of land development schemes, the reclamation of waste land and the control of private forests and grass land 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:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Land Development Act, 1973.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification² in the Official Gazette, appoint in this behalf.

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

(a) "committee" means the District Land Development Committee constituted for the District under section 3;

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1. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 3rd May, 1973, p. 672.
 2. The Act came into force from the 1st September, 1973, vide Notification No. 6-21/69-Agr. Sectt., dated the 1st September, 1973, published in the Rajpatra, Himachal Pradesh, dated 22nd September, 1973, p. 1466.

- (b) “owner” in relation to any land means a person having a proprietary right in the land and includes--
 - (i) a usufructuary mortgagee of such right, and
 - (ii) a tenant of the land as hereinafter defined;
- (c) “prescribed” means prescribed by rules made under this Act;
- (d) “reclamation” includes cultivation, afforestation and any other improvement of land;
- (e) “State Government” means the Government of Himachal Pradesh; and
- (f) “tenant” includes a usufructuary mortgagee of the rights of a tenant.

CHAPTER II

DISTRICT LAND DEVELOPMENT COMMITTEE AND LAND DEVELOPMENT SCHEMES

3. Constitution of the District Land Development Committees.-

(1) As soon as may be after the commencement of this Act, the State Government may, by notification in the Official Gazette, constitute a District Land Development Committee for each district consisting of the following members, namely:-

- (a) the Deputy Commissioner of the district concerned who shall be the chairman of the committee;
- (b) two official members who shall be persons of experience in agriculture or irrigation engineering or forestry; and
- (c) two non-official members.

(2) The term of office of the members of the committee shall, unless extended by an order of the State Government notified in the Official Gazette, be five years from the date of notification under sub-section (1):

Provided that the term of office of a member chosen to fill a casual vacancy shall be the unexpired period of the term of the person in whose place he has been appointed.

(3) A member may, at any time by notice in writing to the Chairman, resign his office.

(4) The State Government may, by notification, remove any member of the committee-

- (a) if he refuses to act or becomes, in the opinion of the State Government, incapable of acting or has been declared a bankrupt or an insolvent or has been convicted of any such offence or subjugated by a criminal court to any such order as implies, in the opinion of the State Government, a defect of character which unfits him to be a member;

- (b) if he has been declared by notification to be disqualified for employment or has been dismissed from the public service and the reason for disqualification or dismissal is such as implies, in the opinion of the State Government, a defect of character which unfits him to be a member;
- (c) if he has without reasonable cause in the opinion of the State Government, and without permission of the committee absented himself from more than ten consecutive meetings of the committee;
- (d) if, in the opinion of the State Government, he has flagrantly abused his position as a member of the committee; or
- (e) if, being a legal practitioner, he acts or appears in any legal proceedings on behalf of any person against the committee or on behalf of or against the Government where in the opinion of the State Government such action or appearance is contrary to the interests of the committee:

Provided that before the State Government notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned, and he shall be given an opportunity to tender an explanation in writing.

(5) No act done by the committee shall be questioned on the ground merely of the existence of any vacancy, or any defect in the constitution of the committee.

(6) If there is a difference of opinion among the members of the committee regarding any question, the decision of the majority of members present and voting shall prevail, and in case of equality of votes the chairman shall have a casting vote.

4. Matters for which Land Development Schemes may provide.-

(1) The committee may prepare land development schemes providing for one or more of the following matters, namely:-

- (i) preservation and improvement of soil by levelling, terracing and embankment of fields;
- (ii) prevention of soil erosion;
- (iii) improvement of water supply by utilisation of water in rivers, rivulets or springs, tube-wells, boring or construction of wells, conservation of rain water by constructing dams, or by use of power or any other means;
- (iv) improvement in the methods of cultivation;
- (v) introduction of dry farming methods;
- (vi) supply of seed, improved implements of agriculture, manure and fertilizers;
- (vii) development of horticulture and planting of fruit trees;

- (viii) reclamation of land lying waste through water logging, accumulation of sand, growth of jungle, soil erosion, or any other cause;
- (ix) cultivation of land lying uncultivated owing to the negligence or incapacity or absence of the owner;
- (x) regulation or prohibition of grazing and browsing;
- (xi) control and maintenance of tree-growth;
- (xii) regulation or prohibition of firing of vegetation;
- (xiii) planting or sowing of trees, shrubs and grasses for the purpose of afforesting uncultivable land or providing shelter-beds against wind or sand or for any other purpose;
- (xiv) protection from locusts and other pests;
- (xv) making, improvement and maintenance of village paths and roads; and
- (xvi) any other matter which may be prescribed.

(2) Every scheme prepared under sub-section (1) shall contain the following particulars, namely:-

- (i) the objects of the scheme;
- (ii) details of the area to be covered by the scheme;
- (iii) the work or kind of work to be carried out under the scheme;
- (iv) the agency or agencies through which the work shall be carried out;
- (v) the approximate estimated cost of the scheme;
- (vi) the duties and obligations, financial or other, of the Government as well as of the owner of the area concerned and the manner in which an owner may discharge a part or whole of his duties and financial obligations in the form of labour; and
- (vii) any other particulars which may be prescribed.

5. Inquiry into and sanctioning of schemes.- (1) The State Government may, after the committee has prepared the scheme under section 4,-

- (a) appoint an Inquiry Officer, and
- (b) cause the scheme to be published in the manner prescribed inviting suggestions from persons affected by it and from the Gram Panchayat, if any, of the area to which the scheme relates within such time and in such manner as may be prescribed.

(2) The State Government may, after considering the record of the inquiry and the report of the Inquiry Officer and after consulting the

committee concerned, either sanction the scheme with or without modification or reject it.

6. Publication of schemes.- Every scheme sanctioned under section 5 shall be published by the Deputy Commissioner in the prescribed manner and shall come into force on such date as may be specified by him.

7. Power to make regulations.-The committee may, by notification in the Official Gazette, make regulations for the purpose of carrying out the objects of the scheme or in respect of any matter supplementary or incidental thereto, and any regulations so made shall be published by the committee in the manner prescribed.

8. Power to make grant or advance loan.- (1) The Deputy Commissioner may grant or advance a loan to any person for carrying out any work under any scheme on such terms and conditions as may be prescribed.

(2) The amount of loan or any instalment thereof or interest thereon which may be due but not repaid in accordance with the terms and conditions of the loan may, without prejudice to any other remedy provided by law, be recovered as arrears of land revenue.

9. Penalty.- (1) In making any scheme or any regulation under section 7 the committee may provide that the contravention of such provision of the scheme or of such regulations as may be specified by it shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

(2) No person shall be prosecuted for any contravention specified in sub-section (1) except on complaint in writing by the Deputy Commissioner or any other officer authorised by the State Government in this behalf.

10. Works to be carried out by Government at owner's expense.- (1) Where under the scheme any work is to be carried out on any land at the expense of the owner or owners thereof, and such owner, or any one of such owners, is willing to carry out the work, he may give notice to that effect in writing to the Deputy Commissioner within sixty days of the coming into force of the scheme.

(2) On receipt of such notice the Deputy Commissioner shall furnish the owner with full details of the work and fix the date before which the owner shall carry out the work.

(3) If the owner fails to carry out the work to the satisfaction of the Deputy Commissioner before the date fixed by him or if the owner at any time informs the Deputy Commissioner in writing of his inability to do so, the Deputy Commissioner may get the work carried out by the Gram Panchayat or such other agency as he thinks fit and the expenses incurred in carrying out the work may be recovered from the owner as arrears of land revenue.

(4) Where any work is carried out in pursuance of this section by one or more of several owners, the other owners shall be liable to contribute towards the expenses incurred by him or them such amount as the committee may determine.

11. Contribution by owners of other land benefiting by work.-

Where under the scheme any work is carried out by the owner or by the Deputy Commissioner at the expense of the owner and the work is in the opinion of the committee likely to benefit any other land in the area covered by the scheme, the owners of such land shall be liable to contribute towards the expenses of carrying out the work, such amount as the committee may determine:

Provided that the State Government may remit the whole or any part of the contribution so payable in respect of any work carried out on land belonging to the Government.

12. Recovery of contributions.- The amount of contribution determined by the committee under sub-section (4) of section 10 or section 11 shall be paid by the persons concerned within such time as may be specified by the committee and in default of such payment, shall be recovered from those persons as arrears of land revenue and paid to the persons entitled to the contribution.

13. Power to carry out work and recover expenses from owners.-

Notwithstanding anything contained in the scheme, the committee may direct that the work to be carried out or remaining to be carried out on any land by the owners thereof shall be carried out by the Deputy Commissioner and that the whole or any specified part of the expenses of carrying out the work shall be recovered as arrears of land revenue from the owners of the land in such proportion at such times, and in such instalments as the committee may fix having regard to the amount to be recovered and the nature and extent of the rights of the owners in the land.

14. Statement and map showing details of work.- (1) On the completion of any work under the scheme, Deputy Commissioner shall prepare-

- (a) a statement in such form, and containing such particulars, as may be prescribed, and
- (b) a map showing the location and other material details of the work.

(2) Every statement and map so prepared shall, on approval by the committee, form part of the settlement record, or as the case may be, the record of rights of the estates specified in the statement and the said record shall wherever necessary be corrected in accordance with the statement.

15. Repairs and renewals of work.- If any person shown in a statement prepared under section 14 as liable to maintain and keep in repair the work, fails to effect such repairs or renewals, or to do so within such time, as the Deputy Commissioner may, by order specify, the Deputy

Commissioner may get the repairs or renewals done by Gram Panchayat or such other agency as he thinks fit, and the expenses incurred by him in so doing shall be recovered from the said person as arrears of land revenue.

16. Rights of entry etc..-(1) Any member, officer, subordinate or workman of the committee or any other person authorised by the Deputy Commissioner in this behalf may, after giving such notice, as may be prescribed to the owner in possession of any land, enter upon and survey the land, or do any act, or carry out any work in or on the land for the purpose of preparing, inquiring into or executing any land development scheme under the provisions of this chapter.

(2) Every such member, officer, subordinate, workman or person shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. Appeals.- Any person aggrieved by,-

- (a) a determination of the committee under sub-section (4) of section 10 or section 11; or
- (b) making of any entry or the failure to make an entry, in a statement prepared under section 14; or
- (c) the order of the Deputy Commissioner under section 15;

may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority, and notwithstanding anything contained in any law to the contrary, the decision of such authority, and where no appeal is preferred, the determination, order or statement aforesaid shall be final and shall not be called in question in any court.

18. Power of control.- The State Government may from time to time call for any report or give any direction to the committee and the committee shall submit such report and carry out such direction.

CHAPTER III

RECLAMATION OF WASTE LAND

19. Definitions.- In this chapter-

- (a) “date of taking possession” means the date on which temporary, possession of the land is taken on behalf of the Government under section 20;
- (b) “waste land” means any land lying waste through water logging, accumulation of sand, growth of jungle, soil erosion or any other cause, or lying uncultivated for not less than three consecutive years.

20. Order for taking possession of waste land.- (1) If the committee is satisfied that for purposes of executing any scheme of reclamation of waste land sanctioned under section 5, it is necessary that temporary possession of any waste land should be taken, it may, by order in writing, direct the Deputy Commissioner to take temporary possession of

such land on behalf of the Government on such date as may be specified in that order.

(2) The order shall be made in such form and brought to the notice of the owner of the land in such manner as may be prescribed.

(3) On the date specified in the order, the Deputy Commissioner or any officer authorised by him shall enter upon and take possession of the land on behalf of the Government.

21. Arrangement for reclamation.- When the possession of the land has been taken the Deputy Commissioner may, with the approval of the committee arrange for its reclamation-

- (a) by retaining it under his management for such period as he thinks fit; or
- (b) by settling it for such period and on such terms as may be fixed by the committee with the person who, on the date of taking possession, was in lawful possession of the land, or was entitled to such possession, or, if such person is dead, with his successor-in-interest; or
- (c) by a combination of the methods aforesaid:

Provided that the total period for which the land is retained or settled under this section shall not exceed ten years.

22. Claim for arrears of rent not to be enforced against Government etc.- No claim of the landlord to any arrears of rent accrued or due in respect of the land for the period prior to the date of taking possession shall thereafter be enforced by any court, whether in execution of a decree or otherwise, against the Government or against any person holding the land under the Government or by the issue of any process against the land.

23. Determination of possession on completion.- (1) When the reclamation of the land is in the opinion of the Deputy Commissioner complete and, in any case before the expiry of the period of ten years from the date of taking possession, the Deputy Commissioner shall, after making an inquiry in the prescribed manner and by order in writing,-

- (a) declare that possession of the land shall be restored on such date as may be specified in the order to the owner, who on the date of taking possession, was in lawful possession of the land, or was entitled to such possession or if he is dead to his successor-in interest;
- (b) determine the person to whom possession is to be so restored;
- (c) where such person is a tenant, determine the rent payable on account of the use or occupation of the land; and
- (d) where the land or any part thereof has been afforested, regulate the cutting of trees on such land.

(2) On the date specified in the said order, possession of land shall be deemed to have been delivered by the Government to the person determined under clause (b) of sub-section (1).

(3) The delivery of possession of the land to the person determined under clause (b) of sub-section (1) shall be final and in full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled, by due process of law, to enforce against the person to whom the possession of the land has been so delivered.

24. Compensation for period of possession.- (1) As soon as may be after the date of taking possession of the land, the Deputy Commissioner shall make an inquiry in the prescribed manner and determine-

- (a) in respect of any land which on the said date was in the occupation of a tenant-
 - (i) the annual rent payable by him, and
 - (ii) the average net annual income, if any, after deducting rent, derived by him during the three years immediately preceding the said date; and
- (b) in respect of any other land, the average net annual income, if any, without deducting any land revenue payable, derived by the owner during the three years immediately preceding the said date.

(2) There shall be payable by the Government as compensation on each anniversary of the date of taking possession until the date referred to in sub-section (2) of section 23,-

- (a) in respect of such land as is referred to in clause (a) of sub-section (1), the amount determined under sub-clause (i) thereof to the landlord and the amount determined under sub-clause (ii) thereof to the tenant; and
- (b) in respect of any other land, the amount determined under clause (b) of sub-section (1) to the owner.

(3) For the purpose of this section "land-lord" means the person under whom the tenant holds land and to whom the tenant is or but for a special contract would be liable to pay rent for that land, and any reference to the owner, land-lord or tenant shall be deemed to include the predecessors and successors-in-interest of the owner, land-lord or tenant.

25. Accounts.- The committee shall maintain, in such form and in accordance with such rules as may be prescribed an account of all receipts and payments by the Government in respect of the land and any owner of or other person having, an interest in the land may, on payment of a fee of fifty-paise, inspect the account.

26. Recovery of net expenditure incurred by Government.- (1) The net expenditure incurred by the Government on the reclamation of the

land under the provisions of this chapter or such part of that expenditure as the State Government may, by general or special order, direct together with interest calculated at the prescribed rates and in the prescribed manner shall be recovered as arrears of land revenue from the person to whom possession of the land is delivered by the Government under sub-section (2) of section 23.

(2) The amount to be recovered under sub-section (1) from any person shall be decided by the committee.

27. Appeals.- Any person aggrieved by an order under section 20, section 23, section 24 or sub-section (2) of section 26 of the committee or the Deputy Commissioner as the case may be, may, within the prescribed time and in the prescribed manner, appeal to the State Government, and the decision of the State Government on such appeal, and where no appeal is preferred the order aforesaid, shall be final and shall not be called in question in any court.

28. Continuance of liability for land revenue, rates and cesses.- The taking and retaining of possession of any land on behalf of the Government under the provisions of this chapter shall not affect the liability of any person for the payment of land revenue, rate or cess in respect of the land for any period whether before or after the date of taking possession.

CHAPTER IV

SUPPLEMENTARY

29. 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 conduct of business by the committee and the procedure to be followed at meetings of the committee;
- (b) the procedure to be followed for the preparation of the schemes;
- (c) the procedure to be followed by Inquiry Officer under section 5;
- (d) the manner of publication under sections 5, 6 and 7;
- (e) the principles on which the amounts of contribution are to be determined by the committee under sub-section (4) of section 10 or section 11;
- (f) the form of the statement under section 14 and the particulars to be stated therein;
- (g) the manner of giving notice under sub-section (1) of section 16;

- (h) the authority to whom appeal may lie and the time and manner of such appeal under section 17;
- (i) the form of notice under section 20 and the manner of its service;
- (j) the manner of inquiry under section 23 and sub-section (1) of section 24;
- (k) the form and method of maintaining accounts under section 25;
- (l) the rate of interest and the method of its calculation under sub-section (1) of section 26;
- (m) the time and manner of appeal under section 27; and
- (n) any other matter which may be prescribed.

(3) Every rule 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 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. Protection of action taken under the Act.- (1) No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided by or under this Act, no suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

31. Repeal and savings.- The Himachal Pradesh Land Development Act, 1954 (12 of 1954), as applicable in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, the Land Improvement Scheme Act, 1963 (23 of 1963), the East Punjab Reclamation of Land Act, 1949 (22 of 1949), the Punjab Reclamation of Land Act, 1959 (21 of 1959) as in force in the areas 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 or proceedings commenced or continued under the Acts hereby repealed shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.
