

THE HIMACHAL PRADESH TRANSFER OF LAND (REGULATION) ACT, 1968

AGREEMENT OF SECTIONS

Sections

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THE HIMACHAL PRADESH TRANSFER OF LAND (REGULATION) ACT, 1968

(Act No. 15 of 1969)¹

[Received the assent of the President of India on the 15th May, 1969, and was published in R.H.P., dated the 28th June, 1969 at pages 526-528.]

Amended, repealed or otherwise affected by, —

(i) A.O. 1973, published in R.H.P. Extra, dated the 20th January, 1973 at pages 91-112.

An Act to regulate the transfer of land in the [State of Himachal Pradesh] in the interest of persons belonging to the Scheduled Tribes and for matters Connected therewith.

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

1. Short title, extent and commencement. — (1) This Act may be called, the Himachal Pradesh Transfer of Land (Regulation) Act, 1968.

(2) It extends to such area² of the [State of Himachal Pradesh] as from time to time, be notified in the Official Gazette.

(3) It shall come into force at once.

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

(a) "Commissioner" means the Commissioner appointed under the Land Revenue Act in force in Himachal Pradesh;

(b) "Co-operative Land Mortgage Bank" means a Co-operative Land Mortgage Bank registered as such under the Punjab Co-operative Land Mortgage Banks Act, 1957 (26 of 1957) as in force in the ²[State of Himachal Pradesh];

(c) "[Co-operative Society]" means a co-operative Society registered as such under the Himachal Pradesh Co-operative Societies Act, 1968 ;]

(d) "Deputy Commissioner" in relation to any district, means the Deputy Commissioner of that district;

(e) "Financial Commissioner" means the Financial Commissioner of Himachal Pradesh;

(f) "Land" means a portion of the earth's surface, whether or not under water, and includes all things attached to, or permanently fastened to anything attached to such portion but does not include minerals, natural gas, petroleum, timber, trees, growing crops and grass;

(g) "Prescribed" means prescribed by rules made under this Act;

(h) "Scheduled Tribes" shall have the same meaning as assigned to it in clause (25) of Article 366 of the Constitution;

(i) ⁵[State Government] means the Government of Himachal Pradesh

3. Regulation of transfer of land. — (1) No person belonging to an Scheduled Tribe transfer his interest in any land by way of

1. For Statement of Objects and Reasons, See R.H.P. Extra, dated the 30th November, 1969, P. 1166.

2. Subs. for "Union Territory of Himachal Pradesh", — vide A.O. 1973.

3. The Act extended to Lahaul and Spiti and Kinnaur Districts and Pangi and Bharmour Sub-Tehsil of Chamba District by Not. No. 22-3/69-Wel. Sectt. dated the 11th September, 1969, *repra.* at page 119.

4. The definition of "Co-operative Society" subs. by *ibid*.

1. The definition of "State Government" subs. by *ibid*.

sale, mortgage lease, gift or otherwise to any person not belonging to such tribe except with the previous permission in writing of the Deputy Commissioner:¹

Provided that nothing in this sub-section shall apply to any transfer—

(a) by way of lease of a building on rent;

(b) by way of mortgage, for securing loan, to any Co-operative Land Mortgage Bank or to any Co-operative Society, all or a majority of the members of which are persons belonging to any Scheduled Tribe;

(c) by acquisition by the State Government under the Land Acquisition Act, 1894. (1 of 1894).

(2) Every transfer of interest in land made in contravention of the provisions of sub-section (1) shall be void.

4. Application for permission for transfer of land.—(1) Any person belonging to any Scheduled Tribe who desires to make a transfer of his interest of any land to a person not belonging to such tribe, may make an application to the Deputy Commissioner for the grant of permission for such transfer.

(2) Every application under sub-section (1) shall be made in the prescribed form and shall contain the prescribed particulars and shall be accompanied by such fees as may be prescribed.

(3) On receipt of any such application for the grant of permission, Deputy Commissioner may, after making such inquiry as he thinks fit, order, either grant or refuse permission to transfer the land:

Provided that where permission is refused, the Deputy Commissioner shall record in writing the reasons for such refusal.

(4) Before granting or refusing permission under this section, the Deputy Commissioner shall have regard to the following matters, namely:—

(a) the financial position of the applicant;

(b) the age and physical condition of the applicant;

(c) the purpose for which the transfer is proposed to be made; and

(d) such other relevant matters as the Deputy Commissioner may think fit in the circumstances of the case.

5. Ejectment.—(1) If, as a result of transfer of any land in contravention of the provisions of section 3, any person, other than a person belonging to any Scheduled Tribe, is found to be in possession of that land, the Deputy Commissioner or any other officer authorised in writing by the State Government in this behalf, may, without prejudice to the provisions of section 9 serve a notice upon such person requiring him to vacate the land within ninety days from the date of service of the notice and to remove any building, fence or any other structure which may have been raised on such land:

Provided that if there are any crops actually growing on the land at the time of such requisition, such person shall be entitled to retain possession of the land until such crops are harvested.

(2) Every person to whom a requisition is made under sub-section (1) shall be bound to comply with such requisition.

6. Appeal.—(1) Any person aggrieved by an order made under section 4 or section 5 may, within thirty days from the date of communication of the order, prefer an appeal to the Commissioner:

Provided that if there be no Commissioner such appeal shall lie to the Financial Commissioner:

Provided further that the Commissioner, or as the case may be, the Financial Commissioner, 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) On receipt of an appeal under sub-section (1), the Commissioner or the Financial Commissioner, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

7. Finality of orders.—The order made in appeal by the Commissioner or the Financial Commissioner, as the case may be, under section 6 and, subject only to such order, the order made by the Deputy Commissioner under section 4 or section 5, shall be final.

¹[8. (1) Right, title or interest held by persons belonging to Scheduled Tribes in land not to be attached.—No right, title or interest held by a person belonging to a Scheduled Tribe in any land shall be liable to be attached or sold in execution of any decree or order in favour of any person not belonging to a Scheduled Tribe of any court except when the amount due under such decree or order is due to the State Government or to any Co-operative Land Mortgage Bank or Co-operative Society.]

²[(2) Notwithstanding anything to the contrary contained in the Code of Civil Procedure or any other law for the time being in force, any court, vested with the appellate or revisional jurisdiction, may, either on its own motion or on an application moved to it by any person belonging to a Scheduled Tribe, set aside any sale of his property in execution of a decree in favour of a person not belonging to a Scheduled Tribe.]

1. Added by section 27 of Act No. 16 of 1986 (R.H.P. Extraordinary 2-7-1986, page 1163.

2. Added by section 3 of Act No. 16 of 1986.

Explanation.—For the removal of doubts, it is hereby declared that the court shall not refuse to take cognizance of an application, or refuse to exercise the power conferred upon it, under this sub-section, simply for the reason that the applicant or the person to whom the property in question belonged failed to raise the objection to that extent before the court which either passed the decree or passed any order in execution proceedings thereof.

[8-A. Amendment of the Limitation Act, 1963, in its application to proceedings under section 8.—In the Limitation Act, 1963 in its application to the proceedings under section 8, in the Schedule, after the words 'Twelve years' occurring in the second column against article 65, the words, brackets and figure 'but thirty years in case of immovable property belonging to a member of a Scheduled Tribe specified in relation to the State of Himachal Pradesh in the Constitution (Scheduled Tribes) Order, 1950, shall be inserted.]

9. Penalty.—If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of section 3 or section 5, he shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

[10. Power to make rules.—(1) The State Government may make rules for the purpose of carrying out the provisions of this Act.]

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the form of application for the grant of permission under section 4, the particulars it may contain, the fees which should accompany it and the manner of depositing such fees; and
- (b) any other matter which has to be, or may be, prescribed under this Act.

NOTIFICATIONS AND RULES

Under

The Himachal Pradesh Transfer of Land (Regulation) Act, 1968 Areas to which the Act extends

WELFARE DEPARTMENT

Notification³

Shimla-2, the 11th September, 1969

No. 22-3/69-Wel.Sectt.—In exercise of the powers conferred under sub-section (2) of section 1 of the Himachal Pradesh Transfer of Land (Regulation) Act, 1968 the Lieutenant Governor, Himachal Pradesh is pleased to extend the Himachal Pradesh Transfer of Land (Regulation) Act, 1968 to the following areas:—

Serial No.	Name of the District	Area/Areas to which the Act <i>ibid</i> is extended
1	2	3
1.	District Lahaul and Spiti	Whole
2.	District Kinnaur	Whole
3.	District Chamba	Pangi Sub-Tehsil, Bharmour Sub-Tehsil

THE HIMACHAL PRADESH TRANSFER OF LAND (REGULATION) RULES, 1969

Arrangement of Rules

Rules

1. Short title and commencement.
2. Definitions.
3. Application form and fees.
4. Mode of enquiry.
5. Orders of the Deputy Commissioner.

1. Added by section(2) of Act No. 16 of 1986 (RHP) Extra-ordy. 2.7.1986 P-1163

2. The Rules framed in the Not. No. 22-1-1969 wel. Sectt Dated the 6th December 1969 repro. at P. 114.

3. R.H.P. dated the 27th September, 1969, P. 9.