

# THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 1971

(Act No. 20 of 1971)

## THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 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, Janighar, 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 works or tube wells 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 *taraf* 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 1st day of November, 1956 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 expressions—

(a) not defined in this Act but defined in the Himachal Pradesh Land Revenue Act, 1954, or (6 of 1954).

(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 Governments 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.**—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 recognised 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 or 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 consolidation operations, the duty of maintaining the maps, field book and preparing in 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 1st 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 thereunder, shall stand transferred to the Settlement Officer (Consolidation), and thereupon 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 thereunder.

**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 thereunder, 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 therefrom.

(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 land-lord 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 1st 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 schemes or
- (c) a written acknowledgement 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 contained 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 claim 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 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 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 the 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 1st 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 1st 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 thereunder, 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 holding 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 realised 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 therefrom 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 its 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 encumbrancer, 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 encumbrancer, 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 encumbrancer 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), Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 the Punjab Land Revenue Act, 1877 (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 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, to 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.

(3) Whoever contravenes the provisions of sub-section (2) shall be liable to pay an amount which may extend upto 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 obeyance 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 sub-section (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 any 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 wilfully 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; and
- (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 section.

(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 section 175 and 176 of the Indian Penal Code. (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 section 193 and 228 and for the purposes of section 196 of the Indian Penal Code. (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 —

- (1) Director of Consolidation;
- (2) Settlement Officer (Consolidation);
- (3) Consolidation Officer;
- (4) Assistant Consolidation Officer; and
- (5) 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 thereunder.

**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. Powers 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 of 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 thereunder.

**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) appoint 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 Limitations 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 or 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 Acts shall be deemed to have made, issued, done, taken or commenced in the exercise of powers conferred by or under this Act.