

GOVERNMENT OF HIMACHAL  
PRADESH  
REVENUE DEPARTMENT



Compendium of Rules, Instructions and  
Clarifications relating to Section 118 of  
the H.P. Tenancy & Land Reforms Act,  
1972.

## **FOREWORD**

Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 provides for restriction on transfer of land in favour of a person who is not an agriculturist of the State. This Section and rules thereunder have been amended from time to time to further the basic intention behind its enactment of protecting the interests of local inhabitants while ensuring that the development of the State is not hampered. A number of instructions and clarifications have been issued to assist in decisions by the field staff on the various queries which arise in relation to interpretation of various definitions and provisions.

This compendium attempts to bring together all the relevant provisions, Rules, instructions and clarifications in order to be of assistance to both officials and the general public.

Dated: .

DEEPAK SANAN,  
Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

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**Extract of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972(as amended upto 2012)**

**118. Transfer of land to non-agriculturists barred.**- (1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this Chapter, no transfer of land (including transfer by a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.

**Explanation.-** For the purpose of this sub-section, the expression “transfer of land” shall not include,-

- (i) transfer by way of inheritance;
  - (ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
  - (iii) transfer by way of lease of land or building in a municipal area; but shall include-
    - (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and
    - (b) an authorization made by the owner by way of special or general power of attorney or by an agreement with the intention to put non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.
- (2) Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour of.-
- (a) a landless labourer, or
  - (b) a landless person belonging to a scheduled caste or a scheduled tribe;  
or
  - (c) a village artisan; or
  - (d) a land less person carrying on an allied pursuit; or

(dd) a person who, on commencement of this Act worked and continues to work for gain in an estate situated in Himachal Pradesh; for the construction of a dwelling house, shop, or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed:-

- a. in case of dwelling house - 500 square metres; and
- b. in the case of shop or commercial establishment – 300 square metres:

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State;

(e) the State Government or Central Government, or a Government Company as defined in section 617 of the Companies Act,1956 or a Company incorporated under the Companies Act, 1956 for which land acquired through the State Government under the Land Acquisition Act,1894, or a statutory body or Corporation or Board established by or under a statute and owned and controlled by the State or Central Government;

(f) a person who has become non-agriculturist on account of-

- (i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894; or
- (ii) vestment of his land in the tenants under this Act; or ;

(g) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh State Housing and Urban Development Authority, established under the Himachal Pradesh Housing and Urban Development Authority Act,2004, or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act,1977 or from any other statutory Corporation set up for framing and execution of house

accommodation schemes in the State under any State or Central enactment, or

(h) a non-agriculturist with the permission of the State Government for the purposes that may be prescribed:

Provided that that a person who is non-agriculturist but purchases land either under clause (dd) or clause (g) or with the permission granted under clause (h) of this sub-section shall, irrespective of such purchase of land, continue to non-agriculturist for the purposes of this Act:

Provided further that a non-agriculturist who purchases land under clause (dd) or in whose case permission to purchase land is granted under clause (h) of this sub-section shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one year, as may be allowed by the State Government for reasons to be recorded in writing, to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the State Government, the said use for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances;

(3) No Registrar or the Sub-Registrar appointed under the Indian Registration Act, 1908 (16 of 1908), shall register any document pertaining to a transfer of land, which is in contravention of sub-section (1):

Provided that the Registrar or the Sub-Registrar may register any transfer-

- (i) Where the lease is made in relation to a part or whole of a building;  
or
- (ii) Where the mortgage is made for procuring the loans for construction or improvements over the land either from the Government or from any other financial institution constituted or established under any

law for the time being in force or recognized by the State Government.

(3-A) Where-

(a) the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, before whom any document pertaining to transfer of land is presented for registration comes to know or has reason to believe that the transfer of land is in contravention of sub-section (1);

(b) a Revenue Officer either on an application made to him or on receipt of any information from any source comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1); such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference or where the Revenue Officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or, is not in contravention of sub-section (1) and he shall, within six months from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

(3-B). the person aggrieved by the findings recorded by the Collector that a particular transfer of land is in contravention of the provisions of sub-section (1), may within a period of 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional commissioner may allow for reasons to be recorded in writing file an appeal to the



Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard of the case from the Collector reverse, alter or confirm the order made by the collector and the order made by the Divisional Commissioner shall be final and conclusive.

(3-C). (a) The Financial commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely effects any person unless such person has been given a reasonable opportunity of being heard;

(3-D) Where the Collector of the District under sub-section (3A), in case an appeal is not made within the prescribed period or the Divisional Commissioner in appeal under sub-section (3-B) or the Financial Commissioner in revision, under sub-section (3C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void abinitio and the land involved in such transfer together with structures, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances; and

(4) It shall be lawful for the State Government to make use of the land which is vested or may be vested in it under sub-section (2) or sub-section (3D) for such purposes as it may deem fit to do so.

***Explanation-I.*** For the purpose of this section, the expression “land” shall include-

- (i) land recorded as “Gair-mumkin”, “Gair-mumkin makan” or any other Gair-mumkin land, by whatever name called in the revenue records, and

- (ii) land which is a site of a building in a town or a village and is occupied or left out not for agricultural purposes or purposes subservient to agriculture, but shall not include a built up area in a municipal area;

***Explanation-II.-*** For the purpose of this section the expression “municipal area” means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.

**Extract of Section 5 of Act No.6 of 1988**

**5. Savings.-** Notwithstanding anything contained in this Act, any transfer of land, situate within the territorial jurisdiction of municipal corporation, municipal committee or a notified area committee, for any of the purposes, i.e. for the construction of a dwelling house, a shop or a commercial establishment or office or industrial unit, made before the day on which the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act,1987 is published in the Official Gazette after its assent, shall be deemed always to have been made in accordance with the law as if sub-section (2) of section 118 of the principal Act had not been amended by section 4 of this Act.

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**Extract of Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975(as amended upto 2012)**

***38-A. Purpose for which land is transferable under section 118(2)(h).-***

(1) Where a non-agriculturist intends to acquire land in his name by way of sale, gift, will, exchange, lease or mortgage with possession, he shall apply for permission under clause (h) of sub-section (2) of section 118 of the Act, in Form LR-XIV duly supported with the documents specified, to the Collector in whose jurisdiction the land is situated.

[(2) (a) On receipt of the application, complete in all respect under sub-rule (1), the Collector shall examine the same and if he is of the opinion that the application should be accepted, he shall recommend the same to the State Government for consideration within a period of 30 days from the date of receipt. The Collector shall ensure that all relevant information and documents, specified in Form LR-XIV, are available and in order before making recommendation. If documents are not in order, he shall return the application to the person concerned with a specific order:

Provided that if there is any objection or shortcoming in the application Form LR-XIV, the Collector shall convey such objection(s) or shortcoming(s) at one time only, to avoid unnecessary delay].

(b) On receipt of the recommendations made by the Collector under clause (a) of this sub-rule, the State Government shall consider the application and allow or [reject the application within [30 days]:

(c) The applicant shall be informed of every order passed by the State Government under clause (b) of this sub-rule; and

(d) Any applicant, whose application has been rejected, may, within 60 days of the date of order of rejection, apply to the State Government to review the order and the Government may, after making such further inquiry as it may think fit, pass such order as it considers necessary:

Provided that the State Government may entertain the review application after the expiry of the said period of 60 days, if it is satisfied that the applicant was prevented by sufficient cause from filing the review application in time.

[(3) The permission under sub-rule 2 may be granted for any of the following purposes and subject to the following scales, eligibility and other conditions:-

Purpose	Area	Conditions on transferor (s)	Eligibility of transferee (s)	Other conditions
(a) For agriculture	An area not exceeding 4	Shall not become	That the person is qualified to	As per proforma for

or horticulture purpose or for both purposes	acres only in rural area.	landless/ houseless.	undertake such activity, to be certified by concerned department as per criteria laid down by that department.	Essentiality Certificate and Check list separately notified.
(b) For building residential house.	Upto 500 square metres but not less than 150 square metres.	Shall not become landless/ houseless.	<p>1.(a) A person who on the commencement of this Act worked and continues to work for gain in an estate situated in HP.</p> <p>(b) A person working in the State for more than 30 years recommended by concerned local body for grant of permission.</p> <p>(c) Employees possessing certificate of being bonafide Himachali.</p> <p>2. Padma Award/ Gallantry Award Winners</p> <p>3. Other eminent persons in the spheres of health, education, culture, research, public service, sports and business to be recommended by a committee consisting of three Principal Secretaries headed by the Principal Secretary (Revenue).</p>	Recommendations of Deputy Commissioner.

(c) Built up building or part thereof for residential purpose	Upto 500 square metres.	Seller to be registered with the Town and Country Planning Department in areas where Town and Country Planning Department has not already issued NOC/approval for construction of building to the seller.	Any citizen of India including an OCI and legal entity registered in India under any law for the time being in force.	Recommendations of Deputy Commissioner.
(d) For construction of shop.	Upto 300 square metres but not less than 150 square metres.	Shall not become landless/houseless.	(a) A person who on the commencement of this Act worked and continues to work for gain in an estate situated in H.P. (b) A person working in the State for more than 30 years recommended by concerned local body for grant of permission.	Recommendations of Deputy Commissioner.
(e) For industrial/religious/tourism/apartment/hydel project/BT/I	Such area as may be certified by the Department concerned.	Shall not become landless/houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per	As per proforma for Essentiality Certificate and Check list separately notified.

T project, purpose			criteria laid down by that department.	
(f) For socially useful activities i.e. old age home, gausadan, health related activities, orphanages, education related or related to creation sports facilities, etc.	Such area as may be certified by the department concerned.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As above
(g) Public use facilities normally undertaken for profit i.e. shopping malls, office complex, garage, cold storages, service stations, petrol pumps etc. and any other activity not covered above.	Such area as may be certified by the Department under whose control the activity falls.	Shall not become landless/ houseless.	That the person is qualified to undertake such activity, to be certified by concerned department as per criteria laid down by that department.	As above.

Provided that the permission granted under this rule shall be valid for a period of one year from the date of issue of the orders of the State Government granting such permission:

Provided further that the State Government may for reasons to be recorded in writing, extend the said period.

[“FORM LR-XIV”  
(See Sub-Rule (1) of Rule 38-A)  
APPLICATION FOR PERMISSION REQUIRED UNDER SUB RULE (1) OF  
RULES 38-A OF THE HIMACHAL PRADESH TENANCY AND LAND  
REFORMS RULES, 1975.

.....  
PART-I

1. Name of the applicant \_\_\_\_\_ Son/Daughter/Wife/ of \_\_\_\_\_  
resident of village \_\_\_\_\_ Tehsil \_\_\_\_\_  
District \_\_\_\_\_.
2. Permanent address  
Village/Town \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_  
State \_\_\_\_\_.
3. Present occupation and address \_\_\_\_\_
4. Purpose for which the land is required \_\_\_\_\_ -
5. Particulars of the land applied for:
  - i) District.
  - ii) Tehsil.
  - iii) Number of estate (Hadbast) with name of Estate.
  - iv) Khata/Khatoni/Khasra Numbers alongwith total No. of Kitas with area and classification of land.
6. Particulars of the land holder from whom land is intended to be transferred  
Name \_\_\_\_\_ son/daughter/wife of \_\_\_\_\_  
resident of village \_\_\_\_\_ Tehsil \_\_\_\_\_  
District \_\_\_\_\_.
7. Whether the applicant applied previously for such permission if so, give the following particulars:-
  - (a) Date of application, if known.
  - (b) Whether permission granted or refused (the date of order the State Government.)
  - (c) Particulars of land permitted to be transferred previously:-
    - i) District.
    - ii) Tehsil.
    - iii) Name of Estate with Hadbast number.
    - iv) Khasra number with area and classification.
8. Any other information which the applicant consider to be relevant.  
I solemnly affirm and declare:-  
That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.

Signature of the Applicant.  
Address

Dated:  
Remarks of the Collector.

Signature of the Collector  
District \_\_\_\_\_  
Dated \_\_\_\_\_

PART-II  
(DOCUMENTS TO BE ENCLOSED WITH THE APPLICATION FOR  
PERMISSION)

- [I] Latest copy of Jamabandi and tatima shajra.
- [II] Copy of agreement entered into by the transferor and transferee.
- [III] Affidavit of the transferor stating that he, after the proposed transfer, will not become landless, and if so he will not claim any benefit/land under any scheme prepared for the benefit of landless persons in the State.
- [IV].- No objection of all the co-sharers/tenants of the land proposed to be transferred in case of a joint holding where a particular Khasra No. or part thereof is proposed to be transferred in the form of affidavit stating that he/she has no objection in case land is transferred to proposed transferee. This affidavit will not be required in any case of transfer of a share in an entire joint holding.
- [V] In case of application under (b) (c) or (d) of sub-rule (3) of rule 38-A, proof of being an eligible applicant:-
- (i) for 3 (b) 1. (a) & (b) and 3 (c).- Certificate may be issued by a Naib-Tehsildar/Tehsildar/SDM/ ADM/ADC/DC having jurisdiction over the area.
  - (ii) For 3 (b) 1.(c). In addition to (i) above, a Certificate from the department concerned.
  - (iii) For 3(b) 2. Attested copy of Award/certificate.
  - (iv) For 3 (b) 3. Recommendations of committee headed by the Principal Secretary (Revenue), Govt. of H.P. for which applicant has to apply to the Principal Secretary (Revenue), Govt. of H.P.
  - (v) In case of any other applicant, Essentiality Certificate from the concerned department.
  - (vi) In case of non-agriculturist seeking to sell any land or building purchased after obtaining permission under section 118, proof of utilization for the purpose for which permission was obtained



from relevant department or local body concerned within the period allowed for utilization.]

**NOTIFICATION FOR ISSUANCE OF ESSENTIALITY CERTIFICATES**

Government of Himachal Pradesh  
Revenue Department

No.Rev.B.A.(3)-5/2000-I. Dated: Shimla-2, the 23.12. 2011.

**NOTIFICATION**

In exercise of the powers conferred by sub-rule (3) of rule 38-A of the Himachal Pradesh Tenancy and Land Reforms Rules, 2011, the Governor, Himachal Pradesh proposes to notify the proforma for Essentiality Certificate and Check list as annexed herewith at Annexure "A" and "B" respectively.

By Order

Principal Secretary (Revenue)  
to the Government of H.P.

Endst.No.Rev.B.A.(3)-5/2000-I. Dated:Shimla-2, the 23.12.2011.

1. Administrative Secretaries to the Government of H.P.
2. All the Divisional Commissioners in H.P.
3. All the Head of Departments in H.P.
4. All the Deputy Commissioners in H.P.
5. All the Sub-Divisional Officer(Civil) in H.P.
6. The A.L.R-cum-Under Secretary(Law)to the Government of H.P.
7. All Tehsildars/Naib Tehsildars posted in sub-tehsils, in H.P.
8. Clerk of Court to the F.C.(Appeal), Govt. of H.P. Shimla-2.
9. The Controller, Printing and Stationary, H.P. Government Press, Shimla-5 for publication in the H.P. Government Gazette (Extraordinary). Five copies of the gazette may kindly be sent to this Department for record.

Deputy Secretary(Revenue)to the  
Government of Himachal Pradesh.

Annexure "A".

**Proforma for issuance of Essentiality certificate**

Government of Himachal Pradesh  
Department of \_\_\_\_\_

No. \_\_\_\_\_ Dated: \_\_\_\_\_ Place \_\_\_\_\_

**ESSENTIALITY CERTIFICATE**

This is to certify that land measuring \_\_\_\_\_ bighas as detailed below situated in Mohal/Mauza \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ is required by M/s \_\_\_\_\_ (complete address) for the purpose of \_\_\_\_\_.

Location of Proposed land	Khasra Nos.	Area
<b>1</b>	<b>2</b>	<b>3</b>

- (i) This land is recommended for transfer after ascertaining the eligibility of transferee as per the criteria laid down by the department.
- (ii) This land is recommended for transfer in favour of party as the same is essentially required for the aforesaid purpose. The aforesaid activities can not be run in a lesser area.
- (iii) This land is recommended for transfer after obtaining all NOCs from all relevant departments/authorities and after ensuring adherence to any guidelines of the department, under Rule 38-A of the HP Tenancy and Land Reforms Rules.

Authority concerned.

Endst. No. \_\_\_\_\_ Dated: \_\_\_\_\_ Place \_\_\_\_\_

Copy to:-

1. The applicant.
2. The Principal Secretary (Revenue) to the Government of H.P. Shimla-2.
3. The Principal Secretary (Concerned Department).
4. The Deputy Commissioner, \_\_\_\_\_
5. The Labour Commissioner

Authority concerned.

**CHECK LIST FOR ESSENTIALITY CERTIFICATE**

1. Preliminary Project Report.  
(A brief description of proposed activities may be accepted as Preliminary Project Report)
2. Copy Jamabandi & Tatima (latest).
3. NOC from Town & Country Planning Department/concerned Deptt.  
(NOC from Town & Country Planning Department may be taken where the area is covered by a notification under Town and Country Planning Act. In other cases affidavit that the applicant will abide by the regulations applicable in the nearest area notified under the TCP Act may be taken as sufficient for issue of EC. Such NOC will be not be required, for Agriculture/Horticulture purpose. )
4. NOC from Forest Department, IPH Department, Electricity Board.  
(NOC from the IPH department may be taken in all cases where the water supply is proposed to be taken from an existing scheme or a bore well is proposed to be sunk in an area where as per notification by the IPH department their prior permission is required. In all other cases an affidavit may be taken that the applicant will arrange his own water supply and there is no restriction of IPH Department in this regard to issue EC. NOC will also not be required in all cases where State Level Single Window Clearance Authority, clearance has been obtained.  
The NOC of Forest Department should only be procured in cases where the land proposed to be transferred attracts, the provisions of Forest Conservation Act, 1980 or the law laid down by the Hon'ble Supreme Court India in this behalf with regard to compact wooded block above five hectares of private land.  
NOC of HPSEBL need not be obtained in cases where the project has been approved/cleared by the State Level Single Window Clearance Authority or the requirement is below 100 KW.)
5. Site plan showing contours/constructions, roads, existing trees & distance of existing tress from construction and approximate distance of land in question from some prominent station.
6. NOC from the local body (urban or rural as the case may be) stating therein that the infra structure and service provisions needs of the proposal have been considered and are not objected to.
7. Any other documents which the department may deem fit to ascertain the eligibility of applicant and suitability of land proposed to be transferred.

**Instructions to process the applications under section 118 of the H.P. Tenancy and Land Reforms Act, 1972.**

No.Rev.B.A.(3)-5/2000-I  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries,  
Government of Himachal Pradesh.
2. All the Head of Departments,  
in Himachal Pradesh.

Dated:Shimla-2, the 2<sup>nd</sup> August, 2011.

Subject:- Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

I am directed to say this Department has notified amendments in the H. P. Tenancy and Land Reforms Rules, 1975 vide notification No.Rev.B.A.(3)-5/2000-I dated 29.7.2011 which have been published in H.P. Rajpatra on 30.7.2011, for inviting suggestion/objections from the general public. The copies of notification have been circulated to all the Administrative Secretaries and HODs.

As per amendments proposed in Sub-Rule (3) of Rule 38-A of the said rules, for the purpose of clause (a) and clauses (e) to (g), cases will be considered for permission only on the basis of Essentiality Certificate on the proforma notified vide this Department notification of even number dated 2<sup>nd</sup> August, 2011. This may be issued by the department concerned after ascertaining the eligibility of transferee and obtaining all the documents shown in the Check list attached to said proforma. Copy of notification dated 2<sup>nd</sup> August, 2011 is enclosed herewith.

You are, therefore, requested to lay down the necessary criteria to ascertain the qualification/eligibility of transferee as per requirement of amendment in proposed in sub-rule (3) of rule 38- A of the said Rules and this department may be informed accordingly. Early action in the matter will be highly appreciated.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.A.(3)-5/2000-I  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Principal Secretary (Town and Country Planning),  
Government of Himachal Pradesh.

Dated:Shimla-2, the 2<sup>nd</sup> August, 2011.

Subject:- Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam,

I am directed to say this Department has notified amendments in the H. P. Tenancy and Land Reforms Rules, 1975 vide notification No.Rev.B.A.(3)-5/2000-I dated 29.7.2011 which have been published in H.P. Rajpatra on 30.7.2011, for inviting suggestion/objections from the general public. The copies of notification have been circulated to all the Administrative Secretaries and HODs.

As per amendments proposed in Sub-Rule (3) of Rule 38-A of the said rules, for the purpose of clause (c), the transferor is required to be registered with the Town and Country Planning Department. Under the said clause it has been proposed that in case a person intends to sell built up flat/slab to non-agriculturist even in areas where Town and Country Planning Act, 1973 are not applicable, such person will have to first register with your department. For developers covered by provisions of H.P. Apartment and Property Regulation Act, 2005 the registration under the said Act will satisfy the requirement of Rule 38-A. In all other cases, a simple system of registration at the district level officers of the department may be evolved that specifies both a reasonable fee for such registration and a simple procedure for being entitled to such registration. It is requested that this may kindly be done expeditiously since a large number of cases in this category are expected.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated:Shimla-2, 2<sup>nd</sup> August, 2011.

Copy forwarded to the Director, Town and Country Planning  
Department, Shimla-9 for similar necessary action.

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.F.(10)-287/2011  
Government of Himachal Pradesh  
Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Principal Secretary (Town and Country Planning),  
Government of Himachal Pradesh.

Dated:Shimla-2, the 21<sup>st</sup> July, 2012.

Subject:- Regarding registration of built up structures as per amendments  
carried out in H.P. Tenancy and Land Reforms Rules, 1975.

Sir,

I am directed to say that as per requirement of Rule 38-A (3)(c) of the H. P. Tenancy and Land Reforms Rules, 1975 (amended vide notification No.Rev.B.A.(3)-5/2000-I dated 23.12.2011), built up building or part thereof for residential purpose is to be registered with the Town and Country Planning Department in areas where Town and Country Planning Department has not already issued NOC/approval for construction of building to the seller.

It has been observed that the department is refusing to register the structures which do not fulfill the norms fixed by the Department but were constructed prior to coming into force of the abovesaid rules. However in the case of areas notified in planning areas, prior construction need not conform to the specified norms and is given NOC on this basis. It is appropriate that similar policy should guide NOC for buildings constructed in non planning areas and for which permission under section 118 is being sought.

In this regard, it is therefore, requested that since the preliminary notification for amendment of HP Tenancy and Land Reforms Rules, 1975 was issued on 29.7.2011, such structures/buildings which have been constructed before the aforesaid notification, may kindly be registered granted NOC on similar lines as has been/is being done in case of prior construction in notified planning areas.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated:Shimla-2, 21<sup>st</sup> July, 2012.

Copy forwarded to:-

1. The Director, Town and Country Planning Department, Shimla-9 for similar necessary action.

2. The Town & Country Planner, Division Town Planning Office, Solan, H.P. with reference to registration certificate issued in the name of Sh. Rajesh Kumar (photo copy enclosed), for similar necessary action.
3. Copy for file No.Rev.B.A.(3)-5/2000-II for record.

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



No.Rev.B.A.(3)-5/2000-I  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries,  
Government of Himachal Pradesh.
2. All the Head of Departments,  
in Himachal Pradesh.

Dated:Shimla-2, the

5<sup>th</sup> September, 2011.

Subject:- Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this Department letter of even number dated 2<sup>nd</sup> August, 2011 on the subject cited above, I am directed to say that for issuance of Essentiality Certificate for purposes covered under your department, documents enlisted in Annexure "B" attached to notification of even number dated 2<sup>nd</sup> August, 2011, are required to be procured from the non-agriculturist applying for essentiality certificate.

In this regard, it is clarified that the department is modifying the check list (Annexure "B") as follows:-

1. A brief description of proposed activities may be accepted as Preliminary Project Report.
2. NOC from Town & Country Planning Department may be taken where the area is covered by a notification under Town and Country Planning Act. In other cases affidavit that the applicant will abide by the regulations applicable in the nearest area notified under the TCP Act may be taken as sufficient for issue of EC. Such NOC will be not be required, for Agriculture/Horticulture purpose.
3. NOC from the IPH department may be taken in all cases where the water supply is proposed to be taken from an existing scheme or a bore well is proposed to be sunk in an area where as per notification by the IPH department their prior permission is

required. In all other cases an affidavit may be taken that the applicant will arrange his own water supply and there is no restriction of IPH Department in this regard to issue EC. NOC will also not be required in all cases where State Level Single Window Clearance Authority, clearance has been obtained.

4. NOC of HPSEBL need not be obtained in cases where the project has been approved/cleared by the State Level Single Window Clearance Authority or the requirement is below 100 KW.
5. The condition of NOC for approach road is being deleted.
6. The NOC of Pollution Control Board should only be obtained to the extent that Pollution Control Board has no objection subject to consent to operate being obtained separately if required. However, such NOC will not be required where the land is proposed to be transferred for agricultural/horticulture purpose or where the project has been approved by the State Level Single Window Clearance Authority.
7. The NOC of Forest Department should only be procured in cases where the land proposed to be transferred attracts, the provisions of Forest Conservation Act, 1980 or the law laid down by the Hon'ble Supreme Court India in this behalf with regard to compact wooded block above five hectares of private land.

Yours faithfully,

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst.No. As above. Dated:Shimla-2,

5<sup>th</sup> September, 2011.

Copy forwarded to:

1. The Addl. Chief Secretary (Forests) to the Government of H.P.
2. The Principal Secretary (Environment and Science and Technology) to the Government of Himachal Pradesh.

They are requested to kindly direct the concerned filed agencies accordingly.

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.A.(3)-5/2000-I  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated:Shimla-2, the 22<sup>nd</sup> September, 2011.

Subject:- Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this Department notification of even number dated 29<sup>th</sup> July,2011, I am directed to say that it has been experienced that under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 following types of application are generally made by non-agriculturists:-

7. Application to purchase land for purposes specified in Rules.
8. Permission to sell land/structure by the non-agriculturists acquired with permission u/s 118.
9. Permission by non-agriculturists to purchase land/structure from non-agriculturists selling as in 2 above.
10. Permission to change purpose for which land was purchased with prior permission of the State Government.
11. Permission for extension of period to utilize land purchased with permission of the State Government.
12. Permission for extension of period for registration of sale deed.

While processing the cases under aforesaid situations following guidelines may be adhered to:-

**1. Application to purchase land for purposes specified in Rules.**

These application may be processed in accordance with the Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 as amended in year, 2011 and further instructions issued vide letter No.Rev.B.A.(3)-5/2000-I, dated 5<sup>th</sup> September, 2011.

**2. Permission to sell land/structure by non-agriculturists.**

- (i) In case of application received within a period of 2 years or 3 years (if extension has been granted), the application should have attached a copy of permission letter vide which permission to

purchase was granted and copy of extension letter, if an extension was required and was granted.

- (ii) In case of application received after a period of 2 years or 3 years (if extension has been granted) the application should have attached a Utilization Certificate issued by the concerned department where Essentiality Certificate was required for the initial permission under Rule 38-A and in other cases by the local body concerned or by concerned Naib/Tehsildar/ Tehsildar/SDM/ADM/ ADC/DC.

**3. Permission to purchase land/structure from non-agriculturist.**

In case the proposed purchaser is a non-agriculturist, he has to apply for permission to purchase as per provisions of Rules on form LR-XIV provided that in cases, where the land is proposed to be utilized for the same purpose for which earlier permission was granted, the recommendations of the department concerned will be sufficient in place of an essentiality certificate. However, in case the purpose for which acquisition is being made is different from that for which permission was originally granted then Essentiality Certificate from the concerned Department will be required if the Rules specify an EC for the changed purpose.

**4. Permission to change land use of land purchased with prior permission of the State Government.**

- (i) In case of an application made within a period of 2 years or 3 years (if extension has been granted), it should have attached:-
  - (a) Copy of permission letter vide which permission to purchase was received,
  - (b) Copy of extension letter, if relevant, and
  - (c) Essentiality certificate from the relevant department wherever the new purpose requires such an essentiality certificate under the Rules. In case of other purposes no other document is required.
- (ii) In case of an application made after a period of 2 years or 3 years (if extension has been granted) it should have attached:
  - (i) Utilization Certificate issued by the concerned department where the original purpose required an Essentiality Certificate and in case of other purposes by local body concerned or by the concerned NT/Tehsildar/SDM/ADM/ADC/DC.
  - (ii) Essentiality Certificate in case the Rules specify this requirement for the changed purpose. In other cases no other documents are required.

**5. Permission for extension of period for registration of sale deed.**

The application should have attached a copy of permission letter granted by the Government.

6. **Permission for extension of period to utilize land purchased with permission of the State Government.**

The application should have attached a copy of land transfer deed.

You are, therefore, requested to kindly follow procedure outlined above and ensure that only the documents listed in each situation outlined above are sought for processing the matter for permission of the State Government.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.A.(3)-5/2000-II-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. All the Principal Secretaries,  
to the Govt. of H.P.
2. All the Head of Departments in  
Himachal Pradesh.
3. All the Deputy Commissioners  
in Himachal Pradesh.

Dated:Shimla-2, the 28<sup>th</sup> May, 2012.

Subject:- Regarding permission to get the land transferred by non-agriculturists under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Madam/Sir,

In continuation of this Department letter No.Rev.B.A.(3)-5/2000-I, dated 22<sup>nd</sup> September, 2011, (copy enclosed) on the subject cited above, I am directed to say the essentiality certificates of the department concerned are being obtained under the provisions of Rule 38-A of the H.P. Tenancy and Land Reforms Rules, 1975 for the purpose of acquisition of land by non-agriculturists in the State of H.P. for different purposes. Such Essentiality Certificate is obtained basically to know the exact requirement of area, suitability of land and eligibility of non-agriculturist, to undertake the proposed activity.

There are instances where land has already been put to a particular use either by a non-agriculturist after obtaining approval under section 118 or by an agriculturist after securing such approvals as may have been required and the said property is to be further sold to a non-agriculturist. Existing instructions would appear to make it necessary for the relevant department to issue an Essentiality Certificate in the form given with Rule 38A. It is clarified that in such cases the requirement of essentiality certificate will be met if the Department concerned issues a NOC together with a recommendation that the transferee is eligible to carry out the relevant activity.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.F.(10)-7/2008-II  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners  
in Himachal Pradesh.

Dated:Shimla-2, the 15<sup>th</sup> March, 2012.

Subject:- Instructions regarding utilization or change of land use of land purchased with prior permission of the State Government under the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

Sir,

I am directed to say that transfer of land to non-agriculturist is barred under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 except with the permission of the State Government which is provided for under clause (h) of sub-section (2) of the said section. Further, land purchased with prior permission of the State Government, has to be “used for the purpose for which the permission has been granted within two years” which is extendable by a period “not exceeding one year” (to be counted from the date of registration of the deed).

After having acquired the land, the non agriculturist normally uses the land for the purpose for which the permission has been granted. However in certain cases the non agriculturist seeks permission to sell the land or change the purpose for which land is to be used. While the procedure for such applications has been given vide letter No.Rev.B.A.(3)-5/2000-I, dated 22<sup>nd</sup> September, 2011, there has been some lack of clarity on the cases which will be entertained. In order to clarify matters the following decision has been taken:-

1. Permission shall ordinarily be granted-

- (i) Where the non agriculturist seeks permission to sell the land or change the purpose for which it is to be used within the period prescribed for its use.
- (ii) Where the land has been used for the purpose for which it had been purchased.

- (iii) Where the land is put even to partial use e.g. structures etc. have been raised partially or fully but it has not been fully used for the purpose for which it was allowed to be purchased.

2. Where the land was not used at all within the prescribed period-

In case this situation has arisen despite bonafide efforts of the person to whom permission has been granted, the time period that has elapsed in obtaining statutory approvals that are essential for putting the land to use for the stated purpose, shall be excluded for calculating the time period stipulated. For this purpose, the concerned department responsible for issuing the essentiality certificate shall ascertain the factual position and pass a speaking order and thereafter forward the proposal to this Department through, the Deputy Commissioner concerned. In cases of residential purpose or shop the Deputy Commissioner, concerned shall ascertain such position and forward the cases to Government with his clear cut recommendations.

Yours faithfully,

Sd/-  
Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst.No. As above. Dated:Shimla-2, the

15<sup>th</sup> March, 2012.

Copy forwarded for information and further necessary action to:-

1. All the Principal Secretaries to the Government of H.P.
2. All the Head of Departments, in H.P.

Sd/-  
Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.



**Clarification regarding name change by Companies/firms**

No.Rev.B.F.(10)-154/2009  
Government of Himachal Pradesh  
Department of Revenue

From

Principal Secretary-cum-F.C. (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Inspector General of Registration SDA Complex, Shimla-9, Himachal Pradesh.
2. All the Deputy Commissioners in Himachal Pradesh.
3. All the Tehsildars/Naib Tehsildars, in Himachal Pradesh.

Dated:Shimla-171002, the 16<sup>th</sup> February, 2012.

Subject:- Instructions for disposal of cases regarding change in name of the Company.

Sir,

I am directed to say that the matter with regard to registration of a transaction for mutation of land in revenue records pursuant to change in name of Company has been under consideration of the department for quite some time.

2. Section 394 of the Companies Act, 1956 deals with the provision for facilitation and amalgamation of two or more Companies. The amalgamation scheme, which is an agreement between the two or more Companies, is presented before the Court which passes appropriate order sanctioning the compromise or arrangement. Under the scheme of amalgamation the whole or any part of the undertaking, the property or liability of any Company concerned in the scheme is to be transferred to the other Company. The amalgamation scheme, sanctioned by the Court, would be an instrument and Stamp Duty is chargeable on such instrument unless the Hon'ble Court, while sanctioning a scheme, has directed under Section 394(2) of the Companies Act, 1956 that on transfer of property on sanction of scheme of amalgamation under Section 391 to 394 no stamp duty shall be payable. Where no such direction has been given by the Court while sanctioning scheme of amalgamation, then on such instrument, stamp duty shall be chargeable.

3. In cases where merely the name of the Company is changed with the approval of the Registrar of Companies in terms of Sections 21 and 23 of the Companies Act, 1956, no transaction/sale of property takes place and only change

in name of the Company is sought to be recorded in the revenue record, no stamp duty is chargeable.

4. For the purpose of this clarification, the change of name of a company will mean that an existing company with name "A" changes its name to "B" which is not the name of a pre-existing company and name "A" ceases to exist consequent to this change. It is also clarified that in case assets are proposed to be transferred to a company or an existing company proposes to change its name to a pre-existing company, then it will constitute transfer/merger and will normally constitute a transaction and will required registration after obtaining permission under the provisions of Section 118 of the HP. Tenancy and Land Reforms Act, 1972.

5. In cases where the name change as per example given in para 4 above is approved by the Registrar of Companies and the change in name has also been given effect to by the Director, Industries, the District Collector concerned will order to effect change in name in revenue record as per procedure laid down in Chapter 8.52 (ii) of "The Himachal Pradesh Land Records Manual" and an entry in remarks column of revenue record i.e. Jamabandi, shall be made with red ink giving therein the old name of Company and reference of order in compliance to which the name is changed.

Yours faithfully,

Sd/-

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst. No. As above. Dated: Shimla-2,

16<sup>th</sup> February, 2012.

Copy forwarded for information and similar necessary action to:-

1. The Settlement Officer, Shimla/Kangra at Dharamshala, H.P.
2. All the Sub-Divisional Magistrates, in Himachal Pradesh.
3. The IRSA-cum-Tehsildar, Stamp Cell, H.P. Sectt. Shimla-2.

Sd/-

Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Clarifications regarding definition of agriculturist:-**

No.Rev.B.A.(3)-1/2010  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

The Deputy Commissioner,  
Shimla, District Shimla, Himachal Pradesh.

Dated: Shimla-2, the 12<sup>th</sup> December, 2011.

Subject:-  
Sir,

Clarification regarding definition of agriculturist.

I am directed to refer to your letter No. SML LRM 21 (Instruction) / 2009, dated 5<sup>th</sup> March, 2011, on the subject cited above and to say that the matter regarding issuance of agriculturist certificate to Himachali female persons whose parents are agriculturist, but who are married to a non-agriculturist, has been examined in detail in consultation with the Law Department.

In this regard, it is clarified that a Himachali female person married to a non-agriculturist whether within or outside Himachal Pradesh where the parents of such a person are covered under the definition of Agriculturist in terms of Section 2 (2) of the Act, is also an agriculturist because she is a landowner within the meaning of Section 2 (10) of the Act being successor-in-interest of her parents who are agriculturists of H.P. However, the successors-in-interest of such a female person married to a non-agriculturist shall not have the status of agriculturist. It is further clarified that persons who have become landless on account of acquisition of their entire land holdings will also be covered under the definition of agriculturist.

You are requested to direct all the Tehsildars/Naib Tehsildars accordingly.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

Endst.No. As above. Dated: Shimla-2, the 12<sup>th</sup> December, 2011.

1. Copy forwarded to all the Deputy Commissioners in H.P. for information and similar necessary action.
2. Copy forwarded to Tehsildar, Kotkhai Tehsil Kotkhai, with reference to his letter No.1466 dated 13.10.2011 for compliance.

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

No.Rev.B.A.(3)-1/2010-I-Loose  
Government of Himachal Pradesh  
Department of Revenue

From

The Principal Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

All the Deputy Commissioners,  
in Himachal Pradesh.

Dated:Shimla-2, the 2<sup>nd</sup> July, 2012.

Subject:- Clarification regarding definition of agriculturist.  
Sir,

I am directed to draw your attention towards provisions of clause (f) of Sub-Section (2) of Section 118 of the HP. Tenancy and Land Reforms Act, 1972 which provides that nothing in sub-section (1) of said section, shall be deemed to prohibit the transfer of land in favour of a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the Land Acquisition Act, 1894 or vestment of his land in the tenants under this Act. Further in clause (10) of Section 2 of the H.P. Tenancy and Land Reforms Act, 1972, the term landowner also includes the successors and predecessors of a landowner. Hence, the benefit of aforesaid clause (f) is to be provided to the successors and predecessors of a person whose land has either been acquired by the Government or vested in the tenants under the provisions of H.P. Tenancy and Land Reforms Act, 1972.

In view of above, it is requested that all the Tehsildars/Naib Tehsildars may kindly be directed that in all such cases a certificate may be issued in favour of such person to the effect that he/she has become landless on account of acquisition of land owned by him or his predecessor in interest under the provisions of Land Acquisition Act, 1894 or vestment of land owned by him or his predecessor in interest in tenants under the provisions of H.P. Tenancy and Land Reforms Act, 1972 and is therefore, exempt from the requirement of section 118

about permission to transfer land in their favour. A proforma for issuance of such certificate is enclosed herewith as Annexure "A".

Yours faithfully,  
Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Annexure "A".**

**Certificate for the purpose of Section 118(2)(f) of H.P. Tenancy and Land Reforms Act, 1972.**

It is certified that land bearing Khatta/Khatauni No. \_\_\_\_\_ Khasra  
No. \_\_\_\_\_ area measuring  
\_\_\_\_\_, situated in Mauza/Mohal \_\_\_\_\_ Tehsil  
\_\_\_\_\_ District \_\_\_\_\_, H.P. has been:-

- (iii) Acquired for public purpose under the Land Acquisition Act, 1894,  
or
- (iv) Vested in the tenants under the H.P. Tenancy and Land Reforms  
Act, 1972;

Since on account of such acquisition/vestment Sh./Smt.  
\_\_\_\_\_ son/daughter of Sh. \_\_\_\_\_ resident of Mohal  
\_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ has become  
landless, he/she is exempt from the requirement of Section 118 for permission of  
the State Government for purchase of land by a non- agriculturist as per provisions  
of clause (f) of Sub-Section (2) of Section 118 of the H.P. Tenancy and Land  
Reforms Act, 1972.

Patwari,  
Concerned.

Countersigned by  
Tehsildar/Naib Tehsildar.

No. Rev.B.A. (3)-3/2003-III  
Government of Himachal Pradesh  
Department of Revenue

From

Addl. Chief Secretary (Revenue) to the  
Government of Himachal Pradesh.

To

1. The Divisional Commissioner,  
Shimla/ Mandi /Kangra at Dharamshala, H.P.
2. The Director,  
Land Records, Himachal Pradesh.
3. All the Deputy Commissioners  
in Himachal Pradesh.
4. The Settlement Officer,  
Kangra and Shimla.
5. All the Sub-Divisional Officer(Civil)  
in Himachal Pradesh.
6. All Tehsildars/Naib Tehsildars  
in Himachal Pradesh.

Dated:Shimla-171002, the 30<sup>th</sup> July, 2012.

Sir,

Affidavits are required for various purposes in the Revenue department e.g. for seeking permission under section 118 of the H.P. Tenancy and Land Reforms Act, 1972, registration of sale deeds (for purpose of valuation), for procuring certificates, for attestation of mutations and other similar purposes. It has been decided that henceforth, the purpose of such affidavits will be served if a self attested undertaking/declaration of an applicant alongwith a copy of his photo identity (e.g. voter-i-card, pan card, Government/Institution card, aadhar card or any other valid photo- id, as notified vide this department notification No.Rev.Stamp (F)8-1/2004, dated 20<sup>th</sup> August, 2011 followed by addendum of same number dated 7<sup>th</sup> September, 2011) will be acceptable in place of affidavits for purposes mentioned above.

Yours faithfully,

Sd/-

Deputy Secretary (Revenue) to the  
Government of Himachal Pradesh.

**Action on violation of any provision of Section 118 or Rule 38-A of the Act or Rule, ibid.**

In case any violation of Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 or Rules framed thereunder is found, the District Collector is competent to initiate proceedings against such person under the provisions of sub-Section (3-A) of said section read with rule 38-B of rules framed thereunder, for vestment of land alongwith structure if any thereupon, in the State Government free from all encumbrances.

The Collector of the District, after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or, is not in contravention of sub-section (1) and he shall, within six months from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

Under the provisions of said Sub-Section (3-B), of Section, ibid the person aggrieved by the findings recorded by the Collector may within a period of 30 days from the date of order, can file an appeal to the Divisional Commissioner, to whom such Collector is subordinate. The findings of Divisional Commissioner shall be final and conclusive. However, as per provisions of Sub-Section 3-C of said Section, the Financial commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

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