

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS  
ACT, 1972**

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### **THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972**

**(Act No. 8 of 1974)<sup>1</sup>**

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<sup>1</sup> For Statement of Objects and Reasons see R.H.P. Extra., dated 12.12.1972, p.

(Received the assent of the President of India on the 2<sup>nd</sup> February, 1974, and was published in R.H.P. Extra., dated the 21<sup>st</sup> February, 1974 at p. 171-210).

**An Act to unify, amend and consolidate the law relating to tenancies of agricultural lands and to provide for certain measures of land reforms in Himachal Pradesh.**

*Amended, repealed or otherwise affected by,-*

- (i) H. P. Ord. No. 4 of 1974, published in R. H. P. Extra., dt. the 28<sup>th</sup> February, 1974, p. 217-223 (Lapsed).
- (ii) H. P. Ord. No. 2 of 1975, published in R. H. P. Extra., dt. the 26<sup>th</sup> August, 1975, p. 1013-1020 replaced by H.P. Act No. 15 of 1976<sup>1</sup>, published in R. H. P. Extra., dt. the 28<sup>th</sup> April, 1976 at p. 1160-1167.
- (iii) H. P. Act No. 6 of 1988<sup>2</sup>, assented to by the President on 25<sup>th</sup> March, 1988 and published in R. H. P. Extra., dt. the 14<sup>th</sup> April, 1988 at p. 554-556 (Effective w.e.f. the commencement of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 but sections 3 and 4, in far as it amends clause (g) and the second proviso to clause (i) of sub-section (2), sub-section (3) and sub-section (4) of section 118 of the said Act, shall come into force at once.
- (iv) H.P. Act No. 6 of 1995<sup>3</sup>, assented to by the President on 22<sup>nd</sup> March, 1995 and published both in Hindi and English in R. H. P. Extra., dt. the 4<sup>th</sup> April, 1995 at p. 1545-1552
- (v) H. P. Act No. 9 of 1997<sup>4</sup>, assented to by the President on 18<sup>th</sup> April, 1997 and published both in Hindi R. H. P. Extra., dt. 19<sup>th</sup> April, 1997 at p. 1381-1383 and in English at pages 1677-1679 effective w.e.f. 28.12.1996.
- (vi) H. P. Act No. 10 of 2007<sup>5</sup>, assented to by the President on 14<sup>th</sup> April, 2007 and published both in Hindi and English in R. H. P. Extra., dt. 5<sup>th</sup> May, 2007 at p. 1171 -1172.
- (vii) H. P. Act No. 34 of 2012<sup>6</sup>, assented to by the President on 24<sup>th</sup> November, 2012 and published in Hindi and English in R. H. P.

<sup>1</sup> The Ord. and the Act replacing it shall be deemed to have come into force from the date of commencement of the principal Act [See Sec (3)].

<sup>2</sup> For Statement of Objects and Reasons see R.H.P. Extra., dated 28.3.1987, 542.

<sup>3</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 7.9.1994, p. 2424-2429.

<sup>4</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 25.3.1997, p. 1006 & 1010.

<sup>5</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 27.12.2006, p 9215 & 9218.

<sup>6</sup> Passed in Hindi by the Himachal Pradesh Vidhan Sabha . For Statement of Objects and Reasons see R.H.P. dated 20.4.2010 P. 332 & 337.

dated. 21<sup>st</sup> December, 2012 at pages 5600-5602.

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third 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 Tenancy and Land Reforms Act, 1972.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

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

(1) “agricultural labourer” means a person whose principal means of livelihood is manual labour on land;

(2) “agriculturist” means a <sup>1</sup>[landowner] who cultivates land personally in an estate situated in Himachal Pradesh;

(3) “arrear of rent” means rent which remains unpaid after the date on which it becomes payable;

<sup>2</sup>[(3-A) ‘bank’ has the same meaning as assigned to it in the Himachal Pradesh Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1972.]

(4) “to cultivate personally” with its grammatical variations and cognate expression means-

(i) by one’s own account ;

(ii) by one’s own labour;

(iii) by the labour of any member of one’s family ; or

(iv) under the personal supervision of one-self or any member of one’s family by hired labour or by servant on wages payable in cash.

<sup>3</sup>[\* \* \* \*]

*Explanation.*-In the case of a joint family the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family.

(5) “family” means husband, his wife and their children, including step or adopted children, and includes his parents, grand parents, brothers and unmarried, widowed, separated and divorced sisters ;

<sup>1</sup>. Subs. for the words “person” vide Act 9 of 1997.

<sup>2</sup>. Added by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>. *Explanation I*, and figure “*IP*” assigned to *Explanation II*, del. by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

- (6) “improvement” with reference to a tenancy means any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

*Explanation I.*-It includes among other things-

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection of land from floods or from erosion;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy ; and
- (e) the renewal or construction of any of the foregoing works or such alteration therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

but it does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry.

*Explanation II.*-A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement.

*Explanation III.*-A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landowner's property;

(7) “land” means 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,
- (c) ghasnies,
- (d) banjar land, and
- (e) private forests ;

(8) “landless person” means a person who, holding no land for agricultural purposes, whether as an owner, or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the



land personally ;

- (9) "kismi tenant" means a tenant who is recorded as a tenant of any kind, i.e., 'madd' or 'kisam' in the record-of-rights of the estate in which the tenancy is situate;
- (10) "landowner" means a person defined as such in 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 shall include the predecessor or successor in interest of the landowner ;
- (11) "land revenue" means land revenue assessed under any law for the time being in force or assessable 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 ;
- (12) "member of the Armed Forces" means a person in the service of the Armed Forces of the Union or in the service of an organisation raised by the Central Government or the State Government for the defence or security of the country and declared by a notification as Armed Forces for the purpose of this Act ;
- (13) "orchard" means a compact area of land, having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose;
- (14) "allied pursuits" means dairy farming, poultry farming, breeding of livestock, grazing (other than the pasturage of one's own agricultural cattle) and such other pursuits as may be prescribed ;
- (15) "rent" means whatever is payable to landowner in money or kind by a tenant on account of the use or occupation of land held by him; but shall not include the rendering any personal service or labour ;
- (16) "Revenue Officer" or "Revenue Court" in any provision of this Act, means a Revenue Officer or Revenue Court having authority under this Act to discharge the functions of a Revenue Officer or Revenue Court, as the case may be, under that provision;
- (17) "tenant" means a person who holds land under a landowner, and is, or but for a contract to the contrary would be liable to pay rent for that land to that landowner, and includes-
- (i) a sub-tenant <sup>1</sup>[ \* \* \* \*]; and
- (ii) the predecessors or successors in interest of a tenant or a sub-tenant, as the case may be; but it does not include-

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<sup>1</sup> The words "recorded as such in the revenue record" del. by H.P. Ord. No. 2 of 1975, sec. 2, replaced by H.P. Act No. 15 of 1976.

- (a) a<sup>1</sup>[mere] mortgagee of the rights of landowner, or
- (b) a person to whom a holding has been transferred or an estate or holding has been let in farm 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, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear; or
- (c) <sup>2</sup>[ \* \* \* \* ]
- (18) “tenancy” means a parcel of land held by a tenant of a land owner under one lease or one set of conditions;
- <sup>3</sup>[(18-A). “village artisan” means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and articles or things used for agriculture purposes or purposes ancillary thereto and also a person who normally earns his livelihood by practicing a craft either by his own labour or by the help of the labour of the members of his family in the rural area and whose annual house hold income does not exceed the income limit fixed for the persons living below poverty line; and].
- (19) “agricultural year”, “estate”, “holding”, “legal practitioner”, “pay”, “rates and cesses”, “village cess” and “village officer” have the meanings respectively assigned to these terms in 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.

## CHAPTER II

### RIGHT OF OCCUPANCY

#### 3. Tenant having right of occupancy.-A tenant-

- (a) who at the commencement of this Act has for a period of not less than twelve years been occupying land paying no rent therefor beyond the amount of land revenue thereof and the rates and cesses for the time being chargeable thereon; or
- (b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land; or
- (c) who has broken upland for cultivation ;
- has a right of occupancy in the land so occupied or in the land so

<sup>1</sup> Added by *ibid*.

<sup>2</sup> Clause (c) reading “a person who takes from the State Government a lease of unoccupied land for the purpose of sub-letting it” del. by H.P. No. 15 of 1976.

<sup>3</sup> Clause (18-A) *ins vide* Act No. 34 of 2012.

broken up for cultivation.

**4. Right of occupancy in land taken in exchange.-** If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landowner, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

**5. Establishment of right of occupancy on grounds other than those expressly stated in the Act.-** Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

**6. Right of occupancy not to be acquired by joint owner in land held in joint ownership. -** In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

**7. Continuance of the existing occupancy rights.-** Notwithstanding anything contained in the foregoing sections of this Chapter, a tenant who, immediately before the commencement of this Act, has a right of occupancy in any land under any law relating to tenancy lands, applicable anywhere in Himachal Pradesh shall, when this Act comes into force, be held to have, for all intents and purposes of this Act, a right of occupancy in that land.

**8. Right of occupancy not to be acquired by mere lapse of time.-** No tenant shall acquire a right of occupancy by mere lapse of time.

### CHAPTER III

#### RENTS

##### Rents Generally

**9. Respective rights of landowner and tenant to produce.-**(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landowner.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce-

- (a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;
- (b) the landowner shall be entitled to be present at, and take part in the division of the produce, which shall be made at the threshing floor; and
- (c) when the produce has been divided the landowner shall be entitled to the possession of his share thereof.

**10. Commutation of rent payable in kind.**-(1) Where a tenant pays for a tenancy rent in kind or on the estimated value of portion of the crop or at rates varying with or fixed with reference to the nature of the crops grown or partly in one of those ways and partly in another the tenant may apply to have the rent commuted to a money rent.

(2) The application shall be made to the Collector or to any other officer especially authorised in this behalf by the State Government.

**11. Disposal of application.**- (1) On the receipt of the application under section 10 the officer may determine the sum to be paid as money-rent and may order that the tenants shall in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined as rent :

Provided that the sum determined as money-rent shall in no case exceed the maximum limit for rent laid down in section 20.

(2) In determining the rent the Revenue Officer shall have regard to-

- (a) the average money-rent payable by tenants for lands of a similar description and with similar advantages in the vicinity;
- (b) the average value of the rent actually received by the landowner during the preceding ten years or during any shorter period for which evidence may be available; and
- (c) the charges, if any, incurred by the landowner in respect of irrigation under the system of rent in kind.

(3) The order shall be in writing, and shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

12.<sup>1</sup>[\* \* \* \*]

**13. Collection of rents of undivided property.**- When two or more persons are landowners of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

## PRODUCE RENTS

**14. Presumption with respect to produce removed before division or appraisal.**- Where rent is taken by division or appraisal of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisal thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as the fullest crop of the same description on similar land in the neighborhood for that harvest.

**15. Appointment of referee for division or appraisal.**-If either the landowner or the tenant neglects to attend, either personally, or by agent at the proper time for making the division or appraisal of the produce, or if

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<sup>1</sup> Del. by H.P. Ord. No. 2 of 1975, sec. 3, replaced by H.P. Act No. 15 of 1976.

there is a dispute about the division or appraisal, a Revenue Officer may on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

**16. Appointment of assessors and procedure of referee.**-(1) When a Revenue Officer appoints referee under the last foregoing section, he may give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisal.

(2) The referee so appointed shall make the division or appraisal in accordance with any instructions which he may have received from the Revenue Officer under the last foregoing sub-section.

(3) Before making the division or appraisal the referee shall give notice to the landowner and the tenant of the time and place at which the division or appraisal will be made, but, if either the landowner or the tenant fails to attend either personally or by agent, the referee may proceed ex-parte.

(4) For the purpose of making the division or appraisal, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

**17. Procedure after division or appraisal.**-(1) The result of the division or appraisal shall be recorded and signed by the referee, and the record shall be submitted to the Revenue Officer.

(2) The Revenue Officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisal.

(3) The Revenue Officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be realised from the applicant before appointment of the referee subject to adjustment at the close of the proceedings.

**18. Reduction of rents.**-The rent payable by a tenant may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

**19. Time for reduction to take effect.**-(1) Unless the court decreeing a reduction of rent otherwise directs, the reduction shall take effect from the commencement of the agricultural year next following the date of the decree.

(2) A court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

## MAXIMUM RENTS

**20. Maximum limit for rent.**-(1) Notwithstanding anything contained in the Act or in any agreement or usage or any decree or order of a court the maximum rent payable by the tenant for any land held by him shall

not exceed one-fourth of the crop of such land or of the value of such produce. The value of the crop or rent shall when necessary, be determined by the Collector in accordance with the rules, which may be framed by the Financial Commissioner:

Provided that ghas, bhusa shall not be included in the produce.

(2) No landowner shall have the right to enhance the rent payable merely on the grounds that it is less than the limit prescribed in sub-section (1).

<sup>1</sup>[(3) It shall be an offence for a landowner to collect rent more than the maximum rent prescribed under sub-section (1) and he shall, on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.]

### ADJUSTMENT OF RENTS

#### **21. Adjustment of rents expressed in terms of the land revenue.-**

(1) Where the rent of a tenancy in the whole or a share of the land revenue thereof, with or without an addition in money or kind, and the land revenue of the holding in which the tenancy is situate, is altered, a Revenue Officer having authority under the Punjab Land Revenue Act, 1887, (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954, (6 of 1954) to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate, shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with the land revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue Officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.

(3) The sum or sums determined under the forgoing sub-sections, together with any addition previously payable other than the addition referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates and cesses chargeable thereon under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

### ALTERATION OF RENT ON ALTERATION OF AREA

#### **22. Alteration of rent on alteration of area.-**(1) Every tenant shall-

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him,

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<sup>1</sup> Added by H.P. Ord. No. 2 of 1975, sec. 4, replaced by H.P. Act No. 15 of 1976.

unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy was lost by diluvion or otherwise without any reduction of the rent being made; and

- (b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following among other matters, namely:-

- (a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy ;
- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landowner ; and
- (c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

### **REMISSION**

**23. Remission of rent by Court decreeing arrears.**-Notwithstanding anything contained in the foregoing section of this Chapter, if it appears to a court making a decree for an arrear of rent that the area of tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may allow such remission from the rent payable by the tenant as may appear to it to be just.

**24. Remission and suspension of rent consequent on like treatment of land revenue.**-(1) Wherever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue Officer may, if the rent be payable in cash or be payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land.

When the payment of the rent of any land has been suspended under this sub-section it shall remain under suspension, until the Collector orders the revenue of that land to be realised.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

<sup>1</sup>[(5) It shall be an offence for a landowner to collect from a tenant any rent of which payment has been remitted or is under suspension, and he shall on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.]

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land revenue has been released, compounded for or redeemed, in any case in which, if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue Officer, be remitted, or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue.

<sup>2</sup>[\* \* \* \* \*]

**25. Duty of landowner to furnish receipt for rent received from tenant.**-(1) Every landowner shall give or cause to be given a valid receipt to the tenant, in the form prescribed, for the rent received by him or on his behalf.

(2) Any landowner who fails to give or cause to be given such receipt shall on conviction by any magistrate be punishable with fine which may extend to <sup>3</sup>[from rupees five hundred to rupees two thousand].

## DEPOSITS

**26. Power to deposit rent in certain cases with the Revenue Officer.**-In either of the following cases, namely: -

(a) when a landowner refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant

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<sup>1</sup>Subs. for the original sub-section, by H.P. Ord. No. 2 of 1975, sec. 5, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Del. by H.P. Ord. No. 2 of 1975, sec. 5, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup>Subs. for the words "one hundred rupees" by Ord. No. 2 of 1975 sec. 6, replaced by H.P. Act No. 15 of 1976.



- (b) when a tenant is in doubt as to the persons entitled to receive rent payable in money

the tenant may apply to a Revenue Officer for leave to deposit the rent in his office, and the Revenue Officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the applicant and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

**27. Effect of depositing rent.**-(1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landowner in respect of rent due.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the State Government or against any officer of the State Government in respect of anything done by a Revenue Officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

#### **RECOVERY OF RENT FROM ATTACHED PRODUCE**

**28. Recovery of rent from attached produce.**-(1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landowner may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of-

- (a) any rent which has fallen due to him in respect of the tenancy, within the year immediately proceeding the application and
- (b) the rent which will be falling due after the harvesting of the produce and is chargeable against it .

(2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landowner should not be granted, and, if he finds the landowner's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in a suit between the landowner and the tenant.

#### **LEASES FOR PERIOD EXCEEDING TERMS OF ASSESSMENT OF LAND REVENUE**

**29. Treatment of leases for period exceeding or equal to term of assessment of land revenue.**-(1) Where a lease has been granted, or an

agreement has been entered into by a landowner in respect of any land assessed to land revenue fixing for a period exceeding the terms for which the land revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable.-

- (a) at the option of the landowner if the land revenue of the land has been enhanced and the person, to whom the lease has been granted or with whom the agreement has been entered into, refuses to pay such rent or other sum as a Revenue Court, on the suit of the landowner, determines to be fair and equitable and where the relation of landowner and tenant exists between the grantor and grantee of the lease, or between the person who entered into the agreement; and
- (b) at the option of the tenant if the land revenue of the land has been reduced and the landowner refuses to accept such rent as a Revenue Court, on the suit of the tenant determines to be fair and equitable.

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of and assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

#### CHAPTER IV

#### LEASE, RELINQUISHMENT AND EJECTMENTLEASE

**30. Leases.**-(1) A landowner who-

- (a) is a minor, or unmarried woman, if married, divorced or separated from husband or a widow; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity; or
- (c) is a serving member of the Armed Forces; or
- (d) is temporarily prevented by some sufficient cause beyond his control from cultivating land ;

may lease land owned by him for such period during which his inability or disability to cultivate it personally lasts :

<sup>1</sup>[Provided that in case of land-owner covered by clause (d) above, lease shall be allowed by the Revenue Officer for a term not exceeding five years through a registered lease deed, which may subsequently be renewed for a period equivalent to the term for which it was allowed initially, in case his inability or disability to cultivate it personally subsists:]

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<sup>1</sup> First Proviso subs. vide Act No. 34 of 2012.

Provided further that where such inability or disability ceases, the landowner shall be entitled to apply to get back the possession of the land from the lessee within one year from such cessation in the manner provided hereafter:

Provided further that in case the landowners mentioned in this sub-section, except those who are incapable of cultivating land by reason of any physical or mental infirmity, fail to make an application for the resumption of the land within one year of the cessation of such disability or inability their lessees shall be entitled to avail of the benefit accruing to them under the provisions of Chapter X of this Act.

(2) Any landowner referred to in sub-section (1) may by giving, in writing to his lessee or to his lessee's agent, a notice of his intention to resume the lease immediately after the harvest of the crop then current.

(3) The landowner may, instead of, or in addition to giving the notice in the manner mentioned in sub-section (2), apply to a Revenue Officer, to cause the notice to be served on the lessee and the Revenue Officer on receiving the cost of service from the landowner, shall cause notice to be served as soon as may be.

(4) If the lessee fails to vacate his possession as aforesaid in accordance with the notice, the Revenue Officer may, on application by the landowner, put the landowner in possession of the area under the lease immediately after the harvesting is over and the Revenue Officer may at the cost of the tenant, for this purpose, use such force as may be necessary.

<sup>1</sup>[\* \* \* \* \*]

<sup>2</sup>**[31. Relinquishment.**-No relinquishment of a tenancy shall be made by a tenant in favour of landowner. However, if a tenant wants to make a voluntary surrender of his tenancy land, the same shall be in favour of the State Government. The State Government shall have right to induct any suitable tenant or landless agricultural labourer to the relinquished land in the manner to be prescribed.]

32 and 33 <sup>3</sup>[\* \* \* \* \*]

## EJECTMENT

**34. Grounds of ejectment of tenants.**-(1) A tenant other than occupancy tenant shall not be liable to ejectment from his tenancy except on anyone or more of the following grounds, namely,-

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he holds it ;
- (b) that he, where rent is payable in kind, has failed without sufficient cause to cultivate or arrange for cultivation of the land comprised in his tenancy in the manner or to the extent customary in the

<sup>1</sup> Del. by H.P. Ord. No. 2 of 1975, sec. 7, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup>Subs. for the original sec. by Ord. ibid, Sec. 8.

<sup>3</sup>Sections 32 and 33 del. by Ord. ibid, sec. 9.

locality in which the land is situate;

- (c) that he sublets the holding or part thereof for profit without the consent of the landowner :

Provided that a member of the Armed Forces, an unmarried woman, or if married, divorced or separated from husband of a widow, a minor, a person suffering from physical or mental disability because of which he cannot cultivate the land himself, a person prosecuting studies in a recognised institution and a person under detention or imprisonment shall not be liable to ejection because he sublets the holding or a part thereof without the consent of the landowner;

- <sup>1</sup>[(d) that he holds his tenancy, from a person who created such tenancy within a period of six months before he became a member of the Armed Forces or while he was serving in the Armed Forces. and wants to cultivate it himself on his ceasing to be a member of the Armed Forces ;

- (dd) that he holds his tenancy on the land comprising the share of a member of the Armed Forces covered by clause (d) of sub-section (8) of section 104 and who wants to cultivate it himself on his ceasing to be a member of the Armed Forces :

Provided that such person or member of Armed Forces referred to in clauses (d) and (dd) above, as the case may be, shall be entitled to eject a tenant from such land upto a maximum of five acres, in the prescribed manner:

Provided further that a tenant so ejected shall be restored to possession of the land if the landowner after ejecting him does not within one year cultivate it personally:

Provided also that if a tenant holding land from persons mentioned in clauses (d) and (dd) of this sub-section is also a member of the Armed Forces, the provision of first proviso shall not apply and the tenancy shall remain and the ejection from tenancy shall only be On the grounds given in clauses (a) to (c) of this sub-section.]

- (e) that the tenant has failed to pay rent within a period of six months after it falls due :

Provided that no tenant shall be ejected under this clause unless he has been afforded an opportunity to pay the arrears of rent within a further period of six months from the date of the decree, or order directing his ejection, and he had failed to pay such arrears during that period.

(2)Notwithstanding anything contained in sub-section (1) the Revenue Officer may, if the tenant gives notice to the landowner for payment at the threshing floor of the rent payable in kind and the landowner fails to make arrangements for its collection within a fortnight of the receipt of the notice,

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<sup>1</sup> Subs. for the original cl. (d) by H.P. Ord. No. 2 of 1975, sec. 10, replaced by H.P. Act No. 15 of 1976.

appoint an agent to collect the rent at the threshing floor on behalf of the landowner at his expense.

(3) On collection of the rent in kind under sub-section (2) the agent shall give a notice as prescribed to the landowner, and if the landowner fails to collect such rent within thirty days from the date of the notice, the Revenue Officer shall dispose of or cause to be disposed of such rent by auction in the prescribed manner and deposit the sale proceeds in the Government treasury as revenue deposits.

**35. Certain mortgagees to be deemed as tenants under the Act.**-(1) If land comprising the tenancy of a tenant is mortgaged to him with possession by the landowner, and such land is subsequently redeemed by the landowner, the tenant shall, notwithstanding such redemption or any other law for the time being in force, be deemed to be the tenant of the landowner in respect of such land on the same terms and conditions on which it was held by him immediately before the execution of the mortgage as if the mortgage had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the manner prescribed, on the same terms and conditions on which it was held by him immediately before the execution of the mortgage, on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of this Act.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in a prescribed manner.

**36. Tenant's right to water.**-Save in proportion to a reduction in the tenancy, if any, a landowner shall not be competent to curtail or terminate the supply of canal, kuhl or use of well water enjoyed by a tenant immediately before the commencement of this Act, and a breach of this provision shall constitute a cognizable offence punishable with fine which may extend to one hundred rupees and shall be triable by a Naya Panchayat competent to hear criminal cases.

### PROCEDURE ON EJECTMENT

**37. Restriction on ejectment.**-A tenant shall not be ejected otherwise than in execution of decree for ejectment, except, when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied:

Provided that in respect of any arrears of rent due prior to the commencement of this Act, the tenant shall not be liable to ejectment if he pays the arrears of rent within a period of one year from the commencement of this Act:

Provided further that a tenant in occupation of a dwelling house building on a site belonging to the landowner shall not be ejected from such dwelling house or the court-yard immediately appurtenant thereto and

necessary for his enjoyment.

**38. Application to Revenue Officer for ejectment.**-In any such case as is mentioned in the last foregoing section the landowner may apply to a Revenue Officer for the ejectment of the tenant.

**39. Ejectment for failure to satisfy decree for arrear of rent.**-(1) On receiving the application in any such case as is mentioned in section 38, the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from the receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid, the Revenue Officer, shall subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

#### GENERAL PROVISIONS RESPECTING EJECTMENT

**40. Time for ejectment.**-A decree or order for the ejectment of a tenant shall ordinarily be executed immediately after the crop is harvested unless the Court making the decree, or, where the order is made under section 39 the officer making the order, otherwise directs.

**41. Relief against forfeiture.**-(1) If in a suit for the ejectment of a tenant on any of the grounds mentioned in section 34, it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landowner therefor, the Court may, instead of making decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The court may from time to time, for special reasons, extend a period fixed by it under sub-section. (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

**42. Rights of ejected tenants in respect of crops and land prepared for sowing.**- (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed reasonable time to harvest them.

(2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant may, on the application of the landowner, determine any dispute arising in consequence of the provisions of sub-section (1) between the landowner and the tenant or between the landowner and any person entitled to harvest the crops of the tenant, and may in its or his discretion-

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and

equitable; or

- (b) determine the value of the tenant's uncut and un-gathered crops, and, on payment thereof by the landowner to the Court or Revenue Officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy but has not sown or planted crops on that land, he shall be entitled to receive from the landowner before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land and the Court or Revenue Officer before which or whom the proceedings are pending shall on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

### RELIEF FOR WRONGFUL DISPOSSESSION

**43. Relief for wrongful dispossession or ejectment.**-If a tenant has been dispossessed without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 39, he may, within one year from the date of his dispossession or ejectment, make an application for recovery of possession or for compensation, or for both.

**44. Penalty for wrongful dispossession.**-Whoever dispossesses a tenant without his consent from his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under section 39 shall be punishable by a Revenue Officer not below the rank of Assistant Collector First Grade, with fine which may extend to Rs. 1,000.

## CHAPTER V

### SUCCESSION

**45. Succession to right of tenancy.**-When a tenant in any land dies, the right shall devolve-

- (a) on his male linear descendants, if any, in the male line of descent; and
- (b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
- (c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom; and
- (d) failing such descendants and widow, or widowed mother or, if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives.

## CHAPTER VI

### **IMPROVEMENTS AND COMPENSATION**

**46. Right of tenants to make improvement on land.**-(1) A tenant may at any time apply in writing to the landowner for permission to make improvements at his own expense on the land leased to him.

(2) If, within one month of the receipt of such application, the landowner fails or refuses, without reasonable cause, to grant the required permission to the tenant, the tenant may make an application within a period of two months to the Assistant Collector, Second Grade, for the grant of such permission.

(3) Where an application is made under sub-section (2), such officer after giving the parties an opportunity of being heard, may make such order thereon as he may deem fit.

(4) Where a tenant makes any improvement on the land leased to him, in accordance with an order made under sub-section (3), the tenant shall be deemed to have made such improvement with the permission of the landowner.

**47. Improvements made before the commencement of this Act.** - Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act.

**48. Improvements begun in anticipation of ejection.**-A tenant ejected in execution of a decree, or in pursuance of a notice of ejection, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejection.

**49. Liability to pay compensation for improvements to tenant on ejection or enhancement of his rent.**-Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

**50. Compensation for disturbance of clearing tenants.** - (1) A tenant who has cleared and brought under cultivation waste land shall, if ejected from that land, be entitled to receive from the landowner as compensation for disturbance, in addition to any compensation for improvements a sum to be determined by a Revenue Court of Revenue Officer in accordance with the merits of the case, but not exceeding five year's rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejection from the land or any part thereof.

(2) If rent has been paid for land by division or appraisal of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the



annual rent thereof:

Provided that in any estate of which the assessment has been confirmed on or after the last settlement the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.

### **Procedure in determining compensation**

**51. Determination of compensation by Revenue Courts.**-(1) In every suit by a landowner to eject a tenant, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejection of the tenant it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the landowner pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

**52. Determination of compensation by Revenue Officer.**-When a notice has been served on a tenant under section 39, a tenant may apply to the Revenue Officer having authority to order his ejection under section 39, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue Officer shall determine, the amount, if any, accordingly and stay the ejection of the tenant until the landowner pays to the Revenue Officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landowner from the tenant.

**53. Matter to be regarded in assessment for improvements.**-In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue Officer shall have regard to-

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effect;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landowner in consideration of the improvement; and
- (e) in the case of reclamation, or of the conversion of un irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

**54. Form of compensation.**-(1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the transfer of land or in some other way.

(2) If the parties so agree, the Court or Revenue Officer shall make an

order accordingly.

**55. Relief in case of ejectment before determination of compensation.** -(1) If from any cause the amount of compensation payable to a tenant-

- (a) under this Chapter for improvement or disturbance; or
- (b) under section 42 for the value of uncut or ungathered crops or the preparation of land for sowing ;

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue Officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landowner of such compensation as the Court or Revenue Officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by Revenue Court.

## CHAPTER VII

### JURISDICTION AND PROCEDURE

**56. Revenue Officers.**-(1) There shall be the same classes of Revenue Officers under this Act, as 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, and in the absence of any order of the State Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions “Collector”, “Commissioner” and “Financial Commissioner” have the same meanings in this Act as in 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.

(3) There shall be one or more Commissioners who shall be appointed by the State Government. Subject to the provisions of this Act the jurisdiction of Commissioner shall extend to such areas as the State Government may notify in this behalf in the Official Gazette.

**57. Applications and proceedings cognizable by Revenue Officer.**-(1) The following applications and proceedings shall be disposed of by Revenue Officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:-

#### First Group

- (a) proceedings under section 10 for commutation of rent payable in kind;
- (b) proceedings under section 21 for the adjustment of rents expressed

in terms of the land revenue;

- (c) proceedings relating to the remission and suspension of rents under section 24;
- (d) applications under section 38 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;
- (e) applications under section 43 for recovery of possession or for compensation or for both;
- (f) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

#### **Second Group**

- (g) applications under section 15 with respect to the division or appraisal of produce;
- (h) applications under section 30 for resumption of leased land;
- (i) applications for determination of dispute and compensation under sections 42 and 55 respectively;

#### **Third Group**

- (j) applications under section 26 by tenants to deposit rent;
- (k) <sup>1</sup>[\*\*\*\*\*]
- (2) Except as otherwise provided in this Act or by any rule made by the Financial Commissioner in this behalf,-
  - (a) a Collector or an Assistant Collector of the First Grade may dispose of any of the applications and proceedings mentioned in sub-section (1);
  - (b) an Assistant Collector of the Second Grade, not being a Naib-Tehsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section ; and
  - (c) a Naib-Tehsildar, when invested with the powers of an Assistant Collector of the Second Grade, may dispose of any of the applications mentioned in the third group of that sub-section.

**58. Revenue Courts and suits cognizable by them.**-(1) When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3) or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and, in the absence of any order of the State Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under this Act shall be Revenue Court of the same class having jurisdiction within the same local limits.

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<sup>1</sup> Del. by H.P. Ord. No. 2 of 1975, sec. 11, replaced by H.P. Act No. 15 of 1976.

(3) The following suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any suit might be instituted:-

**First Group**

- (a) suits between landowner and tenant for addition to or abatement of rent under section 22 or for commutation of rent;
- (b) suits under section 29 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue;

**Second Group**

- (c) suits by a tenant to establish a claim to a right of occupancy, or by landowner to prove that a tenant has not such a right;
- (d) suits for ejectment of tenants;
- (e) any other suit between landowner and tenant arising out of the condition on which a tenancy is held;
- (f) suits for sums payable on account of village expenses;
- (g) suits by a co-sharer in an estate or holding for a share of profits thereof or for a settlement of accounts;
- (h) suits for the recovery of over-payments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

**Third Group**

- (i) suits by a landowner for arrears of rent or for the money equivalent of rent<sup>1</sup>[\*\*\* \*\*]; and
- (ii) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force.

**Procedure where revenue matter is raised in Civil Court**

(4) Except as otherwise provided in this Act or by any rule made by the State Government in this behalf-

- (a) a Collector may hear and determine any of the suits mentioned in sub-section (3);
- (b) an Assistant Collector of the First Grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the State Government any of the suits mentioned in the first group; and
- (c) an Assistant Collector of the Second Grade may hear and determine any of the suits mentioned in the third group.

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<sup>1</sup> The words "or for sums recoverable under Section 12" del. by H.P. Ord. No. 2 of 1975, sec. 12, replaced by H.P. Act No. 15 of 1976.

- (5) Notwithstanding anything contained in sub-section (3)-
- (i) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by order VII, rule 10, of the Code of Civil Procedure, 1908 and return the plaint for presentation to the Collector;
  - (ii) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in first group of sub-section (3) of this section and in other cases may send the suit, to an Assistant Collector of the First Grade for decision.

### **Administrative Control**

**59. Superintendence and control of Revenue Officers and Revenue Courts.**-(1) The general superintendence and control over all other Revenue Officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control, all other Revenue Officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers and Revenue Courts in his district.

**60. Power to distribute business and withdraw and transfer cases.**- (1) The Financial Commissioner or a Commissioner or a Collector may by a written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue Officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or a Collector may withdraw any case pending before any Revenue Officer or Revenue Court under his control and either dispose of it himself, or by written order refer it for disposal to any other Revenue Officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue Officer or Revenue Court to exercise any power or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

### **Appeal, Review and Revision**

**61. Appeals.**-Subject to the provisions of this Act and the rules made thereunder an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue Officer or Revenue Court, as follows, namely-

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order or decree is made by a Collector;
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that-

- (i) an appeal from an order or decree made by an Assistant Collector of the First Grade specially empowered by name in that behalf by the State Government in a suit mentioned in the first group of sub-section (3) of section 58 shall lie to the Commissioner and not to the Collector;
- (ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;
- (iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

**62. Limitation for appeals.**-The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say-

- (a) when the appeal lies to the Collector-thirty days;
- (b) when the appeal lies to the Commissioner-sixty days;
- (c) when the appeal lies to the Financial Commissioner-ninety days.

**63. Review by Revenue Officers.**-(1) A Revenue Officer, as such, may either of his own motion or on the application of any party interested, review and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:-

- (a) when a Commissioner or a Collector thinks it necessary to review any order which he has not himself passed, and when the Revenue Officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue Officer or Collector to whose control he is immediately subject;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within that period;
- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purpose of this section the Collector shall be deemed to be the successor in office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

**64. Computation of period limited for appeals and applications for review.-** In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1963 (36 of 1963).

**65. Power to call for, examine and revise proceedings of Revenue Officers and Revenue Courts.-** (1) The Financial Commissioner may at any time call for the record of any case pending before or disposed of by any Revenue Officer or Revenue Court subordinate to him.

(2) The Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If in any case in which the Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3), the Financial Commissioner is of opinion that it is inexpedient to interfere, with the proceedings or the order or decree, he shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of the opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may, under the law for the time being in force, interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case and may on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

### **PROCEDURE**

**66. Procedure of Revenue Officer.-**(1) The State Government may take rules consistent with this Act for regulating the procedure of Revenue Officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to cost, and may adapt to proceedings under this Act of all or any of 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, with respect to arbitration.

(4) Subject to the rules under this section, a Revenue Officer may refer any application or case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report, and may decide the case upon the report.

**67. Persons by whom appearances may be made before Revenue Officer as such and not as Revenue Courts.**-(1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Act may be made or done-

(a) by the parties themselves ; or

(b) by their recognised agents or a legal practitioner :

Provided that the employment of a recognised agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is especially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the State Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

**68. Costs.**-(1) A Revenue Officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

**69. Procedure of Revenue Courts.**- (1) The State Government may make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure, 1908, (5 of 1908) shall apply, with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub-section (1), and subject to those



rules when made and to the provisions of this Act-

- (a) the code of Civil Procedure, 1908, (5 of 1908) shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree ; and
- (b) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise as regards the Courts under his control, all the powers of a High Court under the Code.

**70. Power of Revenue Officer or Revenue Courts to summon persons.** -(1) A Revenue Officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit, or other business before him or it as a Revenue Officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent of legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter all the Revenue Officer or Revenue Court may require.

**71. Mode of service of summons.-** (1) A summons issued by a Revenue Officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognised agent, or (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed, or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by pasting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which person having the same interest are so numerous that the personal service on all of them is not reasonably practicable, it may, if the Revenue Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the Officer or Court nominates in this behalf, and by proclamation of the contents thereof for the information of the other persons.

(4) A summons may, if the Revenue Officer or Revenue Court so directs, be served and the persons named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under part III of the

Indian Post Office Act, 1898 (6 of 1898).

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

**72. Mode of service of notice, order or proclamation, or copy thereof.-** A notice, order or proclamation, or Copy of any such document, issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

**73. Additional mode of publishing proclamation.-**When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by a beat of drum or other customary method, and by the pasting of a copy thereof on a conspicuous place in or near the land to which it relate.

**74. Joinder of tenants as parties to proceedings relating to rent.-**  
(1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue Officer or Revenue Court and subject to any rules which the State Government may make in this behalf, be made parties to any proceeding under Chapter III.

(2) But a decree or order shall not be made in any such proceedings unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenant is affected thereby.

**75. Exception of suits under this Act from operation of certain enactments.-**Nothing in section 80 of the Code of Civil Procedure, 1908, (5 of 1908) or similar provision in any laws in force for the administration of local authorities shall be construed to apply to a suit of a class mentioned in section 58 of this Act.

**76. Payment into court of money admitted to be due to a third person.**(1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to

recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

**77. Execution of decrees for arrears of rent.**-A court passing a decree for arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property, of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

**78. Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.**-A tenant shall not, during the continuance of his occupancy be liable to imprisonment on application of his landowner in execution of a decree for an arrear of rent.

**79. Power to refer party to Civil Court.**-(1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require by order in writing, requisition any party to the proceeding, to institute within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to, comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of the first instance or appeal, as the case may be.

**80. Power to, refer to High Court questions as to jurisdiction.**-(1) If the presiding officer of a Civil Court or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Financial Commissioner, or, if he is a District Judge or Financial Commissioner, directly to, the High Court.

(2) On any such reference being made, the High Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the High Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

**81. Power of High Court to, validate proceedings held under mistake as to jurisdiction.**-(1) In either of the following cases, namely:-

(a) if it appears to a Civil Court that a Court under its control has determined as suit of a class mentioned in section 58 which under

the provisions of that section should have been heard and determined by Revenue Court ; or

- (b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court;

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the High Court.

(2) If on perusal of the record it appears to the High Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the High Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the High Court, otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 58 which under the provisions of that section should have been heard and determined by a Revenue Court, the High Court may pass an order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree the High Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the High Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order was required to be registered.

### MISCELLANEOUS

**82. Place of Sitting.-** (1) An Assistant Collector may exercise his power under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

**83. Holidays.-**(1) The Financial Commissioner, with the approval of the State Government, shall publish in the Official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers or Revenue Courts.

(2) A proceeding held before a Revenue Officer or a Revenue Court on a day specified in the list as a day to be observed by the Officer or Court as a holiday shall not be invalid by reason only of its having been held on that day.

**84. Discharge of duties of Collector dying or being disabled.-**When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the State Government in this behalf, shall be deemed to be a Collector under this Act.

**85. Retention of powers by Revenue Officers on transfer.**-When a Revenue Officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that local area, unless the State Government otherwise directs or has otherwise directed.

**86. Conferment of powers of Revenue Officers or Revenue Court.**-(1) The State Government may by notification confer on any person-

- (a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or
- (b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder, and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the State Government may direct and, except as otherwise directed by the State Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub. Section (1), the State Government shall consult the High Court.

(4) If any of the powers of a Collector under section 59, section 60, section 61 or section 63 are conferred on an Assistant Collector, they shall, unless the State Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

**87. Powers exercisable by Financial Commissioner from time to time.**- All powers conferred by this Act on the Financial Commissioner may be exercised by him from time to time as occasion requires.

**88. Bar to legal proceedings.**-No prosecution, suit or other proceedings shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made thereunder.

**89. Powers of the Financial Commissioner and the State Government to make rules.**-(1) The Financial Commissioner may make rules consistent with this Act and any other enactment for the time being in force-

- (a) determining, notwithstanding anything in any record-of rights, the number and amount of the instalments and the times by and at which rent is to be paid;
- (b) for the guidance of Revenue Officers in determining, for the purposes of this Act, the amount of the land revenue and value of crop or rent of any land ;

- (c) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officers or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;
- (d) prescribing forms of such *boods*, entries statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue Offices or Revenue Courts or submitted to any authority ;
- (e) declaring what shall be the language of any of these offices and courts ;
- (j) generally for the guidance of Revenue Officers and other persons in matters connected with the enforcement of this Act ;
- (g) the form and language of applications and notices under Chapters III and IV ; and
- (h) the manner in which those applications and notices are to be signed and attested.

(2) The State Government shall make rules for the purposes of sections 66, 69, and <sup>1</sup>[73] and in respect of other matters to be prescribed by it under the preceding Chapters.

### CHAPTER VIII

#### EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS

**90. Nullity of certain entries in record of rights.**—An entry in any record-of-rights providing—

- (a) that a landowner may prevent a tenant from making, or eject him for making, such improvement on his tenancy as he is entitled to make under this Act ; or
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation. therefor; or
- (c) that a landowner may eject a tenant otherwise than in accordance with the provision of this Act;

shall be void to that extent.

**91. Nullity of certain agreements contrary to the Act.**—(1) Nothing in any agreement made between landowner and a tenant after the passing of this Act shall—

- (a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or

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<sup>1</sup> Subs. for the figure '74' by H.P. Ord. No. 2 of 1975 sec. 13, replaced by H.P. Act No. 15 of 1976.

suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 3 or section 4 or section 5 ; or

- (b) take away or limit the right of a tenant as determined by this Act for conferment and vestment of proprietary rights or to make improvements and claim compensation therefor, or where compensation for disturbance can be claimed under this Act, to claim such compensation ; or
- (c) entitle a landowner to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent not exceeding one-third of the produce in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of his landowner, and to the benefit of which the tenant is not otherwise entitled.

## CHAPTER IX

### ACQUISITION OF PROPRIETARY RIGHTS BY OCCUPANCY TENANTS

**92. Definitions.**-In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) “appointed day” means-
  - (i) in relation to any person who at the commencement of this Act, is, or is deemed to be, an occupancy tenant, the date of such commencement ; and
  - (ii) in relation to any other person who, after the commencement of this Act, obtains a right of occupancy in respect of any land the date on which he obtains such right of occupancy;
- (b) “occupancy tenant” means a tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant in the revenue records, and includes a kismi tenant and a tenant who, after such commencement obtains a right of occupancy in respect of the land held by him whether by agreement with the landowner or through a Court of competent jurisdiction or otherwise, and includes also the predecessors and successors in interest of an occupancy tenant.

**93. Appointment of Land Reforms Officers.**-(1) As soon as may be after the commencement of this Act, the State Government shall appoint Land Reforms Officers, who shall be Revenue Officers of the rank of Assistant Collector of the First Grade, to carry out the purposes of this Chapter and Chapter X.

(2) The officers appointed under sub-section (1) shall have the powers of Civil Court under the Civil Procedure Code, 1908, 5 of 1908 for the purpose of administering oaths, taking evidence and of enforcing the

attendance of witnesses and compelling the production of documents and material objects.

(3) The officers appointed under sub-section (1) shall be guided by such instructions consistent with the provisions of this Act, as the State Government may from time to time issue.

**94. Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landowners.**-Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the appointed day all rights, title and interest (including the contingent interest, if any), recognised by any law, custom or usage for the time being in force, and including the share in the shamlat with respect to the land concerned, of the landowner in the land held under him by an occupancy tenant, shall be extinguished and such rights, title and interest shall be deemed to vest in the occupancy tenant free from all encumbrances, if any, created by the land owner.

**95. Amount payable to the landowner.**-The occupancy tenant shall be liable to pay to the landowner, whose rights have been extinguished under section 94, an amount equal to forty-eight times the land revenue and rates and cesses chargeable in respect of the land the proprietary rights of which vested in him under the said section.

<sup>1</sup>[Provided that if the land is subject to a mortgage with a bank the mortgage debt shall be the first charge on the amount payable by the occupancy tenant.]

**96. Determination of compensation payable to landowner.**-(1) The Land Reforms Officer shall cause to be prepared a statement of occupancy tenants, in a prescribed form giving amount payable therein estatewise, on receipt of the same from the Patwari, and he shall cause a notice to be served, in the prescribed form, to the landowner whose rights have been extinguished under section 94 and to the occupancy tenant concerned, stating therein the area of land vested and the amount proposed therefor, immediately after the appointed day in the manner prescribed.

(2) On receipt of the notice, the affected person and in case of his death, his legal representative may prefer his objections, if any, with regard to the amount so proposed within a period of sixty days from the service of the notice:

Provided that the Land Reforms Officer may entertain the objections after the expiry of the said period of sixty days, if he is satisfied that the affected person was prevented by sufficient cause from filing the objections within the prescribed time.

(3) The Land Reforms Officer, after giving the parties concerned an opportunity of being heard and making such inquiry as may be necessary, shall determine the amount payable by the occupancy tenant to the landowner in accordance with the provisions of the last preceding section, and also

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<sup>1</sup>. Added by H.P. Ord. No. 2 of 1975, sec. 14, replaced by H.P. Act No. 15 of 1976.



apportion the amount thereof amongst the persons entitled, if there be more than one person.

(4) Where the amount is payable to a minor or to a person having a limited interest, the Land Reforms Officer may make such arrangements as may be equitable having regard to the interest of the minor, the parties concerned and their reversioners.

**97. Certain mortgages and charges not enforceable against land held by occupancy tenants.**-Notwithstanding anything to the contrary contained in any contract, or in any law, custom or usage for the time being in force, no claim or liability whether under any decree or order of a Civil Court or otherwise, enforceable against a landowner for any money which is charged on, or is secured by mortgage of, any land held under him by an occupancy tenant shall be enforceable against the land and every such claim or liability shall be deemed to be charged on the amount payable to the landowner in respect of such land.

**98. Payment of amount.**-(1) The amount determined under the foregoing provisions of this Chapter shall either be paid in cash or be deposited with the Land Reforms Officer by the occupancy tenant within a period of three months of the date of the determination of the amount.

(2) In case the amount is not so paid or deposited within the aforesaid period, there shall be paid by the occupancy tenant on the amount an interest at the rate of 3 per centum per annum after the expiry of ninety days from the date of determination of compensation:

Provided that the Land Reforms Officer may, on the application of the tenant to be made within the aforesaid period, having regard to the amount or for other reasons and after recording his reasons for so doing, allow the occupancy tenant to pay the amount in such half yearly instalments, not exceeding in any case six, as he thinks fit.

(3) Where the occupancy tenant makes a default in the payment of the amount such amount due may be recovered in the same manner as an arrear of land revenue.

**99. Chapter not to apply to evacuee property.**-(1) Nothing in this Chapter shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (31 of 1950) <sup>1</sup>[and the composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the, Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954.]

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Chapter shall apply to-

- (a) a person who, after the appointed day, obtains right of occupancy from the Central Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954);

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<sup>1</sup>. Added by H.P. Ord. No. 2 of 1975, sec. 15, replaced by H.P. Act No. 15 of 1976.

- (b) an occupancy tenant of landowner who is an evacuee as defined in clause (d) of section 2 of the Administration of Evacuee Property Act, 1950 (31 of 1950) ;

**100. Appeal and revisions.**-(1) Any person aggrieved by an order made by the Land Reforms Officer may, within thirty days from the date of the order, prefer an appeal to the Collector in such form and manner as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Collector may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) With respect to all matters dealt with under this Chapter, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Land Reforms Officer, or the Collector or the Commissioner as provided in section 65 of this Act.

**101. Bar of jurisdiction.**-Save as otherwise expressly provided in this Chapter, every order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Chapter, shall be called in question by any Court or before any officer or authority.

**102. Bar to legal proceedings.**-No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Chapter or of any rules made thereunder.

**103. Power to make rules.**-(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the form of notice and the manner in which notices may be served under this Chapter ;
- (b) the manner in which inquiries may be held under this Chapter;
- (c) the manner in which amount may be determined and paid;
- (d) the manner in which appeals and applications for revisions may be filed ;
- (e) any other matter which has to be, or may be prescribed.

## CHAPTER X

### ACQUISITION OR PROPRIETARY RIGHTS BY TENANTS OTHER THAN OCCUPANCY TENANTS

<sup>1</sup>[104. **Right of tenant other than occupancy tenant to acquire interests of landowner.**- (1) Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the commencement of this Act, if the whole of the land of the landowner is under non-occupancy tenants, and if such a landowner has not exercised the right of resumption of tenancy land at any time since January 26, 1955, under any law as in force:-

- (i) such a landowner shall be entitled to resume before the date to be notified by the State Government in the official Gazette and in the manner prescribed, either one and a half acres of irrigated land or three acres of un-irrigated land under tenancy from one or more than one tenants for his personal cultivation and the right, title and interest (including contingent interest, if any) of the tenant or tenants, as the case may be, therefrom shall stand extinguished free from all encumbrances created by the tenant or tenants to that extent :

Provided that if the tenant has taken loan from the State Government, a co-operative society or a bank for the improvement of tenancy land which the landowner has resumed under clause (i) or clause (ii) and has used such loan for the improvement of such land, then the landowner shall be liable to repay the outstanding amount of such loan and to the extent actually used for the said purpose and interest thereon to the State Government or to the Co-operative Society or a bank, as the case may be, proportionate to the improved land resumed by him :

Provided further that the landowner shall not be entitled to resume from a tenant more than one half of the tenancy land;

- (ii) in case the landowner holds less than one and a half acres of irrigated land or three acres of un-irrigated land in his personal cultivation, he shall be entitled to resume tenancy land only to make up the land under his personal cultivation to the extent of one and a half acres of irrigated land, or three acres of un-irrigated land, as the case may be, subject to the other conditions laid down in this section;
- (iii) the right, title and interest in the rest of the tenancy land of the landowner, who is entitled to resume land under clauses (i) and (ii) shall vest in the tenant free from an encumbrances with effect from the date to be notified by the State Government in the Official Gazette ;
- (iv) in case the land under the tenancy is partly irrigated and partly

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<sup>1</sup>.Subs. for the original section by H.P. Ord. No. 2 of 1975, sec. 16, replaced by H.P. Act No. 15 of 1976.

un-irrigated and the landowner intends to resume land of both these classes, he shall be entitled to do so in the ratio and manner to be prescribed ;

- (v) in the event of any dispute between the landowner and the tenant with regard to the selection of land for resumption, the first right of selection of the land shall be that of the tenant who may exercise this right in the prescribed manner and before the date to be notified by the State Government in this respect in the Official Gazette;
- (vi) in case the tenant fails to exercise his right of selection of land by the date notified under clause (v), the Land Reforms Officer shall determine his share after giving the parties an opportunity of being heard. In such a case also, the tenant shall be given the first choice to select the land.

(2) Where the landowner does not cultivate the land resumed under sub-section (1) personally, within one year from taking possession thereof, then such land shall vest in the State Government on payment of an amount at the rate of ninety-six times the land revenue plus rates and cesses and such land shall be disposed of by the State Government in such manner as may be prescribed. In such an event the first right to get such land shall be that of the tenant from whom the land was resumed by the landowner.

(3) All rights, title and interest (including a contingent interest, if any) of a landowner other than a landowner entitled to resume land under sub-section (1), shall be extinguished and all such rights, title and interest shall with effect from the date to be notified by the State Government in the Official Gazette vest in the tenant free from all encumbrances:

Provided that if a tenancy is created after the commencement of this Act, the provision of this sub-section shall apply immediately after the creation of such tenancy.

(4) Whenever a dispute arises whether a person cultivating the land of a landowner, is a tenant or not, the burden of proving that such a person is not a tenant of the landowner shall be on the latter.

(5) The landowner whose rights, title and interest are extinguished under this section, shall be entitled to receive an amount at the rate of ninety-six times the land revenue plus rates and cesses payable either in lump sum or in such number of instalments not exceeding ten during a period not exceeding five years as may be prescribed:

Provided if the tenant makes a default in the payment of any instalment of the amount the same shall be recoverable as an arrear of land revenue:

Provided further that if the land for which the amount is to be paid under this section is subject to a mortgage debt from a bank, the mortgage debt will be the first charge on the amount payable for such land:

Provided also that the tenant shall not be liable to pay the amount to

the landowner for the acquisition of ownership rights in the tenancy land which is equal in area to that of his tenancy land resumed by the landowner under clauses (i) and (ii) and the extinguishment of rights, title and interest of the tenant in the land resumed by the landowner shall be deemed to be the amount therefor.

(6) Save as otherwise provided in section 114, every decision of the Land Reforms Officer, under this section shall be binding on all persons claiming an interest in a holding notwithstanding the fact that any such person has not appeared or participated in the proceedings before the Land Reforms Officer or any other revenue authority.

(7) The provisions of the foregoing sub-section shall apply to evacuee land as defined in the Administration of Evacuee Property Act, 1950, (31 of 1950), to composite property as defined in the Evacuee Interest (Separation) Act, 1951, (65 of 1951), or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954), with effect from such date as the State Government by notification, in the Official Gazette, specify.

(8) Save as otherwise provided in sub-section (9), nothing contained in sub-sections (1) to (6) shall apply to a tenancy of a landowner owner during the period mentioned for each category of such landowners in sub-section (9) who,-

- (a) is a minor or unmarried woman, or if married, divorced or separated from husband or widow ; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity ; or
- (c) is a serving member of the Armed Forces; or
- (d) is the father of the person who is serving in the Armed Forces, up to the extent of inheritable share of such a member of the Armed Forces on the date of his joining the Armed Forces, to be declared by his father in the prescribed manner.

(9) In the case of landowners mentioned in clauses (a) to (d) of sub-section (8), the provisions of sub-sections (1) to (6) shall not apply:-

- (a) in case of a minor during his minority and in case of other persons mentioned in clauses (a) and (b) of sub-section (8) during their life time ;
- (b) in case of persons mentioned in clauses (c) and (d) of sub-section (8), during the period of their service in the Armed Forces subject to resumption of land by such persons to the extent mentioned in first proviso to clauses (d) and (dd) of sub-section (1) of section 34.]

<sup>1</sup>[Provided that nothing contained in this section shall apply to such land which either owned by or is vested in the Government under any law,

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<sup>1</sup>. Proviso added vide Act No. 6 of 1988.

whether before or after the commencement of this Act, and is leased out to any person.]

**105. Total compensation payable by a tenant.**-The total <sup>1</sup>[amount] payable by a tenant shall be the <sup>2</sup>[amount] determined under foregoing section together with the value of any building on the land and belonging to the land-owner, as assessed by the Land Reforms Officer:

<sup>3</sup>[Provided that the amount so determined shall not exceed 50 %of the market price of such building and structure].

**106. Claims for compensation and determination of such claims.**-  
(1) The Land Reforms Officer, as soon as may be after the determination of the <sup>4</sup>[amount] under this Chapter, shall cause to be published in the prescribed manner in the estate a notice requiring all persons claiming an interest in the total <sup>5</sup>[amount] in respect of the lands of any tenancy to file before him a statement within a period of six months from the date of publication of the notice:

Provided that the Land Reforms Officer may, in suitable cases, extend the period within which such claim may be made.

<sup>6</sup>(2) If the amount payable relates to the land mortgaged with a bank, or other lending institution or agency, then the priority of claiming such amount against mortgage money shall be that of the bank, lending institution or agency, as the case may be].

**107. Reference to Civil Court.**-Where any dispute arises between persons claiming <sup>7</sup>[amount] the Land Reforms Officer shall require them to refer their claims to a competent Civil Court for adjudication.

**108. Disposal of claims by Land Reforms Officer.**-On consideration of the claim filed under section 106 the Land Reforms Officer shall dispose of the claim in accordance with respective shares of the claimants.

**109. Payment of compensation.**-(1) Where there is no dispute between the claimants as to their respective shares in the compensation, the Land Reforms Officer shall make payment to them in accordance with their respective shares.

(2) Where there is a dispute between the claimants as to their

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<sup>1</sup> Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup> Subs. for the words "amount of compensation" by H.P. Act No. 15 of 1976..

<sup>3</sup> Added by H.P. Act No. 15 of 1976..

<sup>4</sup> Subs. for the words "amount of compensation" H.P. Act No. 15 of 1976.

<sup>5</sup> Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>6</sup> Added by ibid (Sec. 18).

<sup>7</sup> Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

respective shares in the <sup>1</sup>[Amount], the Land Reforms Officer shall make payment to them in accordance with the adjudication of the Civil Court under section 107.

**110. Compensation to be deposited in case of minors.**-Where the landowner is a minor the Land Reforms Officer shall cause the <sup>2</sup>[amount] to be deposited with the Collector or in any bank selected in this behalf by the State Government.

**111. Arrears of land revenue to be deducted.**-The arrears of land revenue payable by the landowner for the period before extinguishment of rights, if any, shall be deducted by the Land Reforms Officer from the total <sup>3</sup>[amount] payable to the landowner and credited to the State Government.

**112. Bar of jurisdiction.**-Save as otherwise expressly provided in this Chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any Civil Court or before any other authority.

**113. Bar of transfer of ownership rights.**-No land in respect of which proprietary rights have been acquired under this Chapter shall be transferred by sale, mortgage, gift or otherwise during a period of ten years by a person from the date he acquires proprietary rights:

<sup>4</sup>[Provided that nothing contained in sub-section (1) shall apply to the transfer of land made for a productive purpose with the prior permission of the State Government in a prescribed manner:]

Provided further that nothing in this sub-section shall apply to the land mortgaged with the Co-operative Societies established under the Himachal Pradesh Co-operative Societies Act, 1968, (3 of 1969), or with a <sup>5</sup>[Bank].

(2) Any transfer of land made in contravention of sub-section (1) shall be void and no registering authority shall register any document evidencing such transfer under the Indian Registration Act, 1908.

**114. Appeal and revision.**- (1) Any person aggrieved by an order made by the Land Reforms Officer may, within thirty days from the date of the order, prefer an appeal to the Collector, in such form and manner, as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was pre-

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<sup>1</sup> Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup> Subs. for the word "Compensation" by H.P. Ord. No. 2 of 1975, sec. 17, replaced by H.P. Act No. 15 of 1976.

<sup>3</sup> Subs. for the words "amount of compensation" by *ibid*.

<sup>4</sup> Proviso Subs. vide Act No. 6 of 1988

<sup>5</sup> Subs. for the words "Land Mortgage Bank or with new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970" by H.P. Ord. No. 2 of 1975, sec. 21, replaced by H.P. Act No. 15 of 1976.

vented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Collector may, within sixty from the date of the order, prefer an appeal to the Commissioner, in form and manner, as may be prescribed:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) With respect to all matters dealt with under this Chapter, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Land Reforms Officer, or the Collector or the Commissioner as provided in section 65 of this Act.

**115. Bar of jurisdiction.-** Save as otherwise expressly provided in this Chapter, every order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Chapter, shall be called in question by any Court or before any officer or authority.

**116. Bar to legal proceedings.-**No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Chapter or of any rules made thereunder.

**117. Power to make rules.-**The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

## CHAPTER XI

### CONTROL ON TRANSFER OF LAND

<sup>1</sup>[**118. Transfer of land to non-agriculturists barred.**<sup>2</sup>[(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 sales in execution of 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.]

<sup>3</sup>[*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;

<sup>1</sup> . Section 118 subs. vide Act No. 6 of 1988.

<sup>2</sup> Sub-sections (1) and (2) substituted vide Act No. 6 of 1995.

<sup>3</sup> Explanation subs. vide Act No. 9 of 1997



but shall not 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 authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a 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 laborer ;or
- (b) a landless person belonging to a scheduled caste or scheduled tribe; or
- (c) a village artisan ; or
- (d) a landless person carrying on an allied pursuit ;or
- <sup>1</sup>(dd) a person who, on commencement of this Act, worked and continues to work for gain in a 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—
  - (i) in case of a dwelling house—500 square Meters ; and
  - (ii) in the case of a shop or commercial establishment—300square meters:

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,<sup>2</sup>[ or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894 ] or a statutory body or a corporation or a board established by or under a statute and owned and controlled by the State of Central Government ; or
- <sup>3</sup>[(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]

<sup>1</sup> Clause (dd) ins. vide Act No. 9 of 1997.

<sup>2</sup> Ins. vide Act No. 9 of 1997.

<sup>3</sup> Clause (f) Subs. vide Act No. 9 of 1997.

- (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 <sup>1</sup>[Himachal Pradesh 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 a person who is non-agriculturist but purchase land either under <sup>2</sup>[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 be a non-agriculturist for the purpose of the Act:

Provided further that a non-agriculturist <sup>3</sup>[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 the 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 user for any other purpose or transfer by way 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 shall register any document pertaining to a transfer of land, which is in contravention to sub-section (1): <sup>4</sup>[XXXXXXXXXXXXX].

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

<sup>1</sup> Subs. for the words, signs and figures, "Himachal Pradesh State Housing Board established under the Himachal Pradesh Housing Board Act, 1972," vide Act No. 10 of 2007 be deemed effective w.e.f 15<sup>th</sup> day of May, 2004.

<sup>2</sup> Subs. for words, brackets and alphabet "clause(g)" vide Act No. 9 of 1997.

<sup>3</sup> Added vide Act No. 9 of 1997.

<sup>4</sup> The words "and such transfer shall be void *ab-initio* and the land involved in such transfer, if made in contravention of sub-section(1), shall together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances" deleted vide Act No. 6 of 1995.

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.

<sup>1</sup>[3A Where—

- (a) the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908 (16 of 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); or
- (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 <sup>2</sup>[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.

**3B** 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 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 and, if necessary, after sending for the records of the case from the Collector <sup>3</sup>[ xxxxxxx ] reverse, alter or confirm the order made by the Collector <sup>4</sup>[ and the order made by the Divisional Commissioner shall be final and conclusive].

<sup>1</sup> New Sub-sections (3A), (3B), (3C) and (3D) added vide Act No. 6 of 1995.

<sup>2</sup> Subs. for the figure and word “90 days” vide Act No. 10 of 2007.

<sup>3</sup> In Sub-section(3-C) the words “ and after making such enquiry as he things fit either personally or through an officer working under him “ omitted vide Act No. 9 of 1997.

<sup>4</sup> Ins. vide Act No. 9 of 1997.

<sup>1</sup>[(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 affects 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(3B), or the Financial Commissioner in <sup>2</sup>[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 <sup>3</sup>[(3D)] for such purposes as it may deem fit to do so.

<sup>4</sup>[*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 let out not for agricultural purposes or purposes subservient to agriculture <sup>5</sup>[but shall not include a built-up area in the municipal area;]

<sup>6</sup>[*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.]

**119. Transfer of land in favour of State Government.**-(1) Where an agriculturist intends to transfer his land in favour of the State Government he shall give a notice of his intention to transfer the land, in the prescribed form

<sup>1</sup> Sub-section (3-C) subs. vide Act No. 9 of 1997.

<sup>2</sup> The word “revision” is subs. for word ‘ appeal’ Act No. 9 of 1997.

<sup>3</sup> Subs. for the brackets and figure “(3)” vide Act No. 6 of 1995.

<sup>4</sup> Explanation Subs. vide Act No. 6 of 1995 and again renumbered at Explanation-I. vide Act No. 9 of 1997.

<sup>5</sup> Added vide Act No. 9 of 1997.

<sup>6</sup> Explanation-II added vide Act No. 9 of 1997.

and manner, to the Collector of the District in which the land or any part thereof is situate, specifying the price at which he is willing to transfer such land. The Collector shall, thereupon hold an inquiry in the manner prescribed, and determine the reasonable price of the land, and shall forward the case to the State Government with his recommendations.

(2) The State Government, on receipt of the recommendations of the Collector under sub-section (1), may decide to purchase the land or refuse to purchase it, and shall communicate its decision within six months from the receipt of recommendations of the Collector, through the Collector, to the notice server or in case the land is owned jointly by more than one person to all of them, in the manner prescribed.

(3) The Collector shall, as soon as may be, after the receipt of the decision of the State Government under sub-section (2), take steps to make payment of the reasonable price, determined by him under sub-section (7) subject to orders of the State Government, to the owner, or owners, as the case may be, in the manner prescribed, or intimate refusal of the State Government to him or them, as the case may be.

(4) Immediately on payment of the reasonable price under this section, all rights, title and interest (including contingent interest, if any) in the land of the owner, or owners, as the case may be, shall be extinguished and shall stand transferred to, and vested in, the State Government free from all encumbrances:

<sup>1</sup>[Provided that the vestment of land in the State Government shall not affect the rights of a tenant in such land.]

**120. Determination of reasonable price for purpose of transfer. -**

(1) Except as otherwise provided in this Chapter, the Collector shall determine the reasonable price for the purpose of transfer of land including structures, wells, embankments constructed, permanent fixtures and trees planted on the land under the provisions of section 119, within a period of three months from the date of receipt of notice, and shall take into consideration the following factors for determining such price-

- (a) the rental value of land used for similar purpose in the locality ;
- (b) the structures, wells, embankments constructed or permanent fixtures affixed to, and trees planted on, the land ;
- (c) the profits from agriculture in respect of similar lands in the locality;
- (d) the price of crops and commodities current in the locality;
- (e) the improvements made in or on the land;
- (f) the land revenue and cesses and other sum payable in respect of the land ; and
- (g) such other factors as may be prescribed.

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<sup>1</sup>. Added by ibid (sec.22)

(2) The reasonable price determined by the Collector under sub-section (1) shall be final when confirmed by the State Government.

**121. Distribution of land transferred in favour of the State Government.**-The State Government shall distribute, the land transferred in its favour under section 119, in such manner and on payment of such reasonable price as may be prescribed, to persons in the following order of preference :

- <sup>1</sup>[(a) landless agricultural labourers and co-operative farms of such labourers;]
- (b) landless persons belonging to scheduled castes and scheduled tribes ;
- (c) artisans;
- (d) landless persons carrying on an allied pursuit ;
- (e) dependents of those who have laid down their lives for the defence of the country. Service for the defence of the country shall mean service in a uniformed force as well as in the capacity of a civilian, provided the death occurred on a front, be it military or civil ;
- (f) service personnel of the Armed Forces and ex-servicemen ;
- (g) agricultural labourers or agriculturists possessing uneconomic land holdings ;
- (h) any other agriculturist of the village in which the land is situated;  
or
- (i) a co-operative farming society.

<sup>2</sup>[**121-A. Bar of jurisdiction.**-Save as otherwise, expressly provided in this chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any civil court or before any other authority.]

**122. Power to make rules.**-The State Government may, by notification Official Gazette, make rules for carrying out the purposes of this Chapter.

## CHAPTER XII

### GENERAL

**123. Rules to be made after previous publication.**-The power to make any rule under this Act is subject to the condition of the rules being made after previous publication.

**124. Laying of the rules before the Legislative Assembly.**-Every

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<sup>1</sup> Subs. for the original Cl. by H.P. Ord. No. 2 of 1975, sec. 23, replaced by H.P. Act No. 15 of 1976.

<sup>2</sup> Section 121-A. ins. vide Act No. 6 of 1995.

rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature requires any modification in the rule or desires 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.

**125. Power to remove difficulties.**-If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette make such provisions or give, such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

**126. Repeals.**-With effect from the commencement of this Act,-

- (a) the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (15 of 1954), the Punjab Tenancy Act, 1887 (16 of 1887), the Pepsu Tenancy and Agricultural Lands Act, 1955 (13 of 1955), the Himachal Pradesh Tenants (Rights and Restoration) Act, 1952 (55 of 1954), the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971 (15 of 1971), the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954 (15 of 1954), the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (8 of 1953), and the Punjab Security of Land Tenures Act, 1953 (10 of 1953), as amended from time to time, are hereby repealed in their application to respective areas of Himachal Pradesh;
- (b) so much of any other law as is inconsistent with the provisions of this Act shall be deemed to be and is hereby repealed ;
- (c) the words “Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953” (15 of 1954), wherever occurring in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), or in any other enactment for the time being in force, shall be substituted by the words “the Himachal Pradesh Tenancy and Land Reforms Act, 1972”.

**127. Savings.**-(1) The repeal of the enactments referred to in clauses (a) and (b) of the last preceding section shall not affect their previous operation.

(2) Subject to the provisions of sub-section (1), anything done or any action taken including any appointment, delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form or scheme framed, date, time and place appointed and other things done, under the repealed Act or law shall-

- (a) be deemed to have been done or taken under the corresponding

provisions, if any, of this Act ;

- (b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or by other competent authority.

(3) Notwithstanding the repeal of the enactments mentioned in section 126, all suits, applications or other proceedings pending disposal at the commencement of this Act, shall be disposed of in accordance with the provisions of the said Acts as if these Acts had not been repealed.

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