



The Himachal Pradesh Tenancy and Land Reforms Act, 1972

Act 8 of 1974

Keyword(s):

Agricultural Laborer, Agriculturist, Arrear of Rent, Bank, To Cultivate Personally, Family, Improvement, Land, Landless Person, Kismi Tenant, Landowner, Land Revenue, Member of the Armed Forces, Orchard, Allied Pursuits, Rent, Revenue Officer, Tenant

Amendments appended: 6 of 1988, 6 of 1995, 9 of 1997

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**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)

[Received the assent of the President of India on the 2nd February, 1974, and
was published in R.H.P. Extra., dt. the 21st February, 1974 at
p. 171—210]

Amended, repealed or otherwise affected by,—

- (i) H. P. Ord. No. 4 of 1974, published in R. H. P. Extra., dt. the 28th February, 1974, p. 217—223 (Lapsed).
- (ii) H. P. Ord. No. 2 of 1975, published in R. H. P. Extra., dt. the 26th August, 1975, p. 1013—1020 (replaced by H.P. Act No. 15 of 1976).
- (iii) H. P. Act No. 15 of 1976,¹ published in R. H. P. Extra., dt. the 28th April, 1976 at p. 1160—1167.

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

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 ;

¹The 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)].

- (2) "agriculturist" means a person 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 ;
- ¹[(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.

²[* * * * *]

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, grandparents, brothers and unmarried, widowed, separated and divorced sisters ;
- (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 ;

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

²Explanation I, and figure "II" assigned to Explanation II, del. by H. P. Ord. No. 2 of 1975, sec. 2, replaced by H. P. Act No. 15 of 1976.

- (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 'kizam' 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 ¹[* * * *] ; 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—
- (a) a ²[mere] mortgagee of the rights of landowner, or

¹The 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.

²Added by *ibid.*

(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) [* * * *]

(18) "tenancy" means a parcel of land held by a tenant of a landowner under one lease or one set of conditions ; 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 up land for cultivation ;
has a right of occupancy in the land so occupied or in the land so 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

¹Cl. (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.

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 specially 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. ¹[* * * *]

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 neighbourhood 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 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.

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

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 appraisalment.

(2) The referee so appointed shall make the division or appraisalment 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 appraisalment the referee shall give notice to the landowner and the tenant of the time and place at which the division or appraisalment 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 appraisalment, 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 appraisalment.—(1) The result of the division or appraisalment 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 appraisalment.

(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).

¹(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.

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

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, 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.

¹(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.

²[* * * * *]

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.

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

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

(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 ¹[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 ;
- (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

¹Subs for the words "one hundred rupees" by Ord. No. 2 of 1975 sec. 6, replaced by H. P. Act No. 15 of 1976.

- (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 EJECTMENT

LEASE

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 :

Provided that in case of landowner covered by clause (d) above, the lease shall be subject to the permission of the Collector :

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.

¹[* * * * *]

[²31. 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 ³[* * * * *]

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

²Subs. for the original sec. by Ord. *ibid*, Sec. 8.

³Sections 32 and 33 del. by Ord. *ibid*, sec. 9.

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 any one 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 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 or 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 ejectment because he sublets the holding or a part thereof without the consent of the landowner ;

¹(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 subsection (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 :

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

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, 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 ejection 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 ejection 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 ejection 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 ejection 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 ejection 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 ungathered crops, and, on payment thereof by the landowner to the Court or Revenue Officer, forthwith eject the tenant.

(3) When a tenant for whose ejection 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 ejection 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 ejection until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION

43. Relief for wrongful dispossession or ejection.—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 ejection, 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 ejectment.—A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, 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 ejectment.

49. Liability to pay compensation for improvements to tenant on ejectment 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 or 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 ejectment from the land or any part thereof.

(2) If rent has been paid for land by division or appraisement 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 ejectment 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 ejectment 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 ejectment 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 unirrigated 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 ejection shall not be invalidated by reason of the omission, but the Court or Revenue Officer which decreed or who ordered the ejection may, on application made by the tenant within one year from the date of ejection, 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 a 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) 1[*****]

(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.

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

(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.

(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 ejection 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 ¹[****]; and
- (j) 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.

¹The 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.

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.

(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 ejection 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 ejection 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 therey, 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 or 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 as 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 on 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 the 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 books, 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 ;
- (f) 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 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

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

- (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 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

July, 1986, and in exercise of the powers conferred by sub-section (1) of section 3 of the Himachal Pradesh Takniki Shiksha Board Act, 1986 (Act No. 14 of 1986), the Governor of Himachal Pradesh is pleased to appoint the Principal or his nominee not below the rank of the Professor, Technical Teachers Training Institute, Chandigarh, Sector-26 as a nominated member.

[R.H.P. Extra Dated 7-1-1988 p. 24]

शिमला-171002, 6 अक्तूबर, 1987

संख्या 5-26/83 एस0 टी0 बी0 (टी0 ई0)-बोल-II.-हिमाचल प्रदेश तकनीकी शिक्षा बोर्ड ने 17-2-1987 को हुई अपनी बैठक में यह निर्णय लिया है कि श्री एन0 आर0 पाठक, निदेशक शिक्षा, हिमाचल प्रदेश को, तकनीकी शिक्षा बोर्ड अधिनियम, 1986 (1986 का 14) की धारा 4 की उप-धारा (1) के खण्ड (XVI) के अनुसरण में सदस्य के रूप में सहयोजित किया जाए।

अतः हिमाचल प्रदेश के राज्यपाल अधिसूचित करते हैं कि श्री एन0 आर0 पाठक, निदेशक शिक्षा, हिमाचल प्रदेश, तकनीकी शिक्षा बोर्ड के सहयोजित सदस्य होंगे।

[R.H.P. Extra., dated 27-4-1988, p. 613].

[Authoritative English text of the Government notification No. 5-26/83-STV (TE) Vol. II dated 17-6-1988, issued in Hindi and published in R.H.P. Extra., dated 16-7-1988, p. 1479-1480.]

Shimla-2, the 17th June, 1987

No. 5-26/83 STV (TE) Vol. II.—In supersession of this department notification of even number, dated 17-8-1987, and in exercise of the powers conferred by sub-section (1) of section 23 of the Himachal Pradesh Takniki Shiksha Board Act, 1986 (Act No. 14 of 1986), the Governor, Himachal Pradesh, is pleased to appoint Shri T.R. Sharma I.A.S. Chairman of the Board of School Education, Himachal Pradesh, as the Chairman Himachal Pradesh Takniki Shiksha Board.

[R.H.P. Extra dated 16-7-1988 p. 1480].

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS (AMENDMENT) ACT, 1987

(Act No. 6 of 1988)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title, extent and commencement.
2. Amendment of section 104.
3. Amendment of section 113.
4. Substitution of section 118.
5. Savings.

(Received the assent of the President of India on the 25th March 1988 and was published in R.H.P.Extra., dated 14th April, 1988 at page 554-556)

1. [For Statement of Objects and Reasons see R.H.P. Extra., dated 28-3-1987, p. 542]

An Act further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 3 of 1974).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-eighth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1987.

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

(3) It shall be deemed to have come into force from the date of commencement of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, (8 of 1974) but section 3 and section 4, in so 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.

2. *Amendment of section 104.*—In the Himachal Pradesh Tenancy and Land Reforms Act, 1972, (8 of 1974) (hereinafter referred to as the principal Act) in section 104, at the end of sub-section (9) for the sign “.”, the sign “:” shall be substituted and thereafter the following proviso shall be added, namely :—

“Provided that nothing contained in this section shall apply to such land which is either owned by or is vested in the Government under any law, whether before or after the commencement of this Act, and is leased out to any person.”

3. *Amendment of section 113.*—For the existing first proviso to sub-section (1) of section 113 of the principal Act, the following proviso shall be substituted, namely :—

“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.”

4. *Substitution of section 118.*—In the principal Act, for section 118, the following section shall be substituted, namely :—

“118. (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, exchange, lease, mortgage with possession or creation of a tenancy shall be valid in favour of a person who is not an agriculturist.

(2) Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour of—

(a) a landless labourer; or

(b) a landless person belonging to a scheduled caste or a scheduled tribe; or

- (c) a village artisan; or
- (d) a landless person carrying on an allied pursuit; or
- (e) the State Government; or
- (f) a co-operative society or a bank; or
- (g) a person who has become non-agriculturist on account of the acquisition of his land for any public purpose under the Land Acquisition Act, 1894 (1 of 1894); or
- (h) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh State Housing Board, established under the Himachal Pradesh Housing Board Act, 1972 (10 of 1972), or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 (12 of 1977) or from any other statutory corporation set up under any State or Central enactment; or
- (i) a non-agriculturist with the permission of State Government for the purpose that may be prescribed:

Provided that a person who is a non-agriculturist but purchases land with the permission of the State Government under clause (i) of this sub-section shall, irrespective of such permission, continue to be a non-agriculturist for the purposes of this Act:

Provided further that a non-agriculturist in whose case permission to purchase land is granted by the State Government, 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 granted by the State Government, to be counted from the day on which the deed covering the sale of the land is registered and if he fails to do so, the land so purchased by him shall vest in the State Government free from all encumbrances.

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

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

- (i) where the lease is made in relation to a part or whole of a building; or
- (ii) where the mortgage is made for procuring the loans for construction or improvements over the land either from the Government or from any other financial institution constituted or established under any law for the time being in force or recognised by the State Government.

(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 (3) for such purposes as it may deem fit to do so.

Explanation.—For the purpose of this section, the expression “land” shall include—

- (i) land, the classification of which has changed or has been caused to be changed to “Gair-numkin”, “Gair-mumkin Makan” or any other Gair-mumkin land by whatever name called, during the past five years countable from the date of entry in the revenue records to this effect;
- (ii) land recorded as “Gair-mumkin”, “Gair-mumkin Makan” or any other Gair-mumkin land, by whatever name called in the revenue records, except constructed area which is not subservient to agriculture; and
- (iii) 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.”

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

RULES

UNDER

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS ACT, 1972

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS RULES, 1975

AMENDMENT OF RULES

[*Authoritative English text of Government notification No. 10-5/75-III Rev.B, dated 22-12-87 issued in Hindi and published in R.H.P., Extra, dated 10-9-88 P. 2238-2239.*]

REVENUE DEPARTMENT

NOTIFICATION

Shimla, 2, the 22nd December, 1987

No.10-5/75-III.Rev.B.—Whereas the draft amendment rules entitled as the Himachal Pradesh Tenancy and Land Reforms (Amendment) Rules, 1987, further to amend the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, were published, as required under section 123 of

2. Dulehar (on Una-Garhshankar Road) District Una.
3. Bathu (on Una-Santokhgarh, Fahlwal Nurpur Bedi Road).
4. Besdehra (on Kalshera-Besdehra Road) District Una.
5. Beetan (on Beetan-Singha Road) District Una.

(R.H.P. Extra., dated 29-7-1995, p. 3180).

(Issued and published in Hindi in R. H. P. Extra., dated 18-10-95, p. 4165).

Shimla-171002, the 11th October, 1995

No. EXN-F(10)2/83-II.—In exercise of the powers conferred by sub-section (1) of section 22 of the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968), section 14-B of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955) and sub-section (1) of section 5 of the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1991 (Act No. 10 of 1991), the Governor, Himachal Pradesh is pleased to order the establishment of barrier at Dhangu-Majra Road in Kangra district.

(R.H.P. Extra., dated 18-10-1995, p. 4166).

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS (AMENDMENT) ACT, 1994

(ACT NO. 6 OF 1995)

ARRANGEMENT OF SECTIONS

SECTIONS :

1. Short title.
2. Amendment of section 118.
3. Insertion of section 121-A.

(Received the assent of the President of India on 22nd March, 1995 and was published in Hindi and English in R. H. P. Extra., dated 4-4-1995, p. 1545-1548 and 1549-1552).

An Act further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India, as follows:—

1. Short title.—This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1994.

1. 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.

2. **Amendment of section 118.**—In section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974) (hereinafter referred to as the principal Act,—

(i) for sub-sections (1) and (2), the following shall be substituted, namely,—

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

Explanation.—For the purpose of this sub-section, the expression “transfer of land” shall 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 labourer; or
- (b) a landless person belonging to a scheduled caste or a scheduled tribe; or
- (c) a village artisan; or
- (d) a landless person carrying on an allied agricultural pursuit; or
- (e) the State Government or Central Government, or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a statutory body or a Corporation or a Board established by or under a statute and owned and controlled by the state or Central Government; or
- (f) a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the Land Acquisition Act, 1894 (1 of 1894); or
- (g) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built

up house or shop, from the Himachal Pradesh State Housing Board established under the Himachal Pradesh Housing Board Act, 1972 (10 of 1972), or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 (12 of 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 purchases land either under 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 this Act :

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

- (ii) in sub-section (3) the words, brackets and figure “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” shall be omitted ;
- (iii) after sub-section (3), the following sub-sections (3A), (3B), (3C) and (3D) shall be added, namely:—

“(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 reasons 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 reasons 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 90 days 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 a period of 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector and after making such enquiry as he thinks fit either personally or through an officer working under him reverse, alter or confirm the order made by the Collector.

(3C) The person aggrieved by the decision of the Divisional Commissioner in appeal under sub-section (3B), may, within a period of 30 days from the date of such decision or such longer period as the Financial Commissioner may allow for reasons to be recorded in writing, file an appeal to the Financial Commissioner who may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case and after making such enquiry as he may think fit, reverse, alter or confirm the order made by the Divisional Commissioner and the order made by the Financial Commissioner shall be final and conclusive.

(3D) 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 appeal under sub-section 3(C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void *ab initio* 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

(iv) in sub-section (4),—

(a) for the brackets and figure “(3)”, the figure, brackets and letter “(3D)”, shall be substituted; and

(b) for the explanation, the following shall be substituted, namely:—

Explanation.—For the purpose of this section, the expression “land” shall include—

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

(ii) land which is a site of a building in a town or a village and is occupied or left out not for agricultural purposes or purposes subservient to agriculture.

3. Insertion of section 121-A.—After section 121 of the principal Act, the following new section 121-A shall be added, namely:—

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.

AUTHORITATIVE ENGLISH TEXT

THE HIMACHAL PRADESH TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 1995

(ACT NO. 7 OF 1995)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title.
2. Amendment of sections 2, 48, 50, 52 and 64.
3. Substitution of section 42.
4. Amendment of section 43.
5. Amendment of section 44.
6. Substitution of section 45.
7. Amendment of section 46.
8. Amendment of section 87.

(Received the assent of the Governor on 25th May, 1995 and was published in Hindi and English in R. H. P. Extra, dated 27th May, 1995 at pages 2237-2238 and 2239-2240).

An Act further to amend the Himachal Pradesh Town and Country Planning Act, 1977 (Act No. 12 of 1977).

BE it enacted by the Himachal Pradesh Legislative Assembly in the Forty-sixth Year of the Republic of India as follows:—

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R. H. P. Extra dated 29-1-1955, p. 1373 & 1376.

AUTHORITATIVE ENGLISH TEXT**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
(AMENDMENT) ACT, 1997****ARRANGEMENT OF SECTIONS**

Sections:

1. Short title and commencement..
2. Amendment of section 2.
3. Amendment of section 118.

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
(AMENDMENT) ACT, 1997****(ACT NO. 9 OF 1997)¹**

(Received the assent of the President of India on 18th April, 1997 and was published in Hindi in R.H.P. Extra., dated 19th April, 1997 at pages 1381-1383 and in English in R.H.P. Extra., dated May, 1997 at pages 1677-1679)

An Act further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974);

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-eighth Year of Republic of India, as follows:-

1.Short title and commencement.-This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1997.

(2) It shall and shall be deemed to have come into force on the 28th Day of December, 1996.

2.Amendment of section 2 .- In section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974)(hereinafter called the principal Act), in clause (2), for the word "person", the word "landowner" shall be substituted.

3.Amendment of section 118.-In section 118 of the principal Act-

(i) in sub-section (1), for the Explanation, the following shall be substituted, namely:-

"Explanation -For the purpose of this sub-section, the expression "transfer of land" shall not include-

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 25.3.1997, pages 1006 and 1010.

- (i) transfer by way of inheritance;
- (ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
- (iii) transfer by way of lease of land or building in a municipal area;

but shall include:

- (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and
- (b) an 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.”;

(ii) in sub-section (2)-

(a) after clause (d), the following clause (dd) shall be inserted, namely:-

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

- (i) in case of dwelling house -500 square metres; and
- (ii) in the case of a shop or commercial establishment -300 square metres;

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

(b) in clause (e), before the words “or a statutory body” the words “or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894” shall be inserted;

(c) for clause (f), the following clause shall be substituted, namely:-

- “(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”;

(d) in the first proviso, for words, brackets and alphabet “clause(g)”, the words, brackets and alphabets “clause (dd) or clause (g)” shall be substituted;

(e) in the second proviso after the word, “non-agriculturist” the words, brackets and alphabets “who purchases land under clause (dd) or” shall be added;

(iii) in sub-section(3-B), the words "and after making such enquiry as he thinks fit either personally or through an officer working under him" shall be omitted and at the end, the words "and the order made by the Divisional Commissioner shall be final and conclusive" shall be added;

(iv) for sub-section (3-C), the following sub-section shall be substituted, namely:-

"(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.";

(v) in sub-section (3-D), for the word "appeal", the word "revision" shall be substituted.

(vi) after sub-section (4), the existing Explanation shall be numbered as Explanation-I and at the end the words "but shall not include a built up area in the municipal area" shall be added; and

(vii) after Explanation-I, so numbered, the following Explanation-II, shall be added, namely:

"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."

4. Repeal of Ordinance No. 4 of 1996 and savings.- (1) The Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1996 (4 of 1996) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the repealed Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the Act, as if the provisions of the Act were in force at the time when such thing was done or such action was taken.