

# **The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1976**

HIMACHAL PRADESH

India

## **The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1976**

### **Act 15 of 1976**

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The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1976 Act No. 15 of 1976 An Act 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 Twenty-seventh Years 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, 1976. (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.

### **2. Amendment of section 2.**

- In section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (hereinafter referred to as the principal Act), the following amendment shall be carried out namely:- (a) after clause (3) the following new clause "(3A)" shall be inserted namely:- "(3A) 'bank' has the same meaning as assigned to it in the Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act 1972". (b) Explanation 1 occurring below clause (4)(iv) shall be deleted and the figure "II" assigned to explanation II shall be deleted; (c) in clause (17), - (i) in sub-clause (i) the words "recorded as such in the revenue record" shall be deleted; (ii) in para (a) of sub-clause (ii) the word "mere" shall be inserted before the words "mortgagee"; (iii) in para (b) of sub-clause (ii) for 'comma' and the word "or" occurring at the end, "semi-colon" shall be substituted; and (iv) para (c) of sub-clause (ii) shall be deleted.

### **3. Deletion of section 12.**

- Section 12 of the principal Act shall be deleted.

### **1. The Act Passed by the Himachal Pradesh Vidhan Sabha on 26-2-1976.**

**2. Received the assent of the President of India on 20-4-1976 and thereafter published in Rajpatra (Extraordinary) Himachal Pradesh dated 28-4-1976 vide Law Department Notification No. L.L.R.,-D(6) 5/74, dated 28-4-1976.**

### **4.**

After sub-section (2) of section 20 of the principal Act, the following sub-section (3) shall be added, namely:-(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."

### **5.**

In section 24 of the principal Act. -(a)for sub-section (5), the following sub-section shall be substituted, namely:-(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 extent to six months or punishable with fine which may extend to one thousand rupees or with both;"(b)sub-section (7) shall be omitted.

### **6.**

In sub-section (2) of section 25 of the principal Act for the words "one hundred rupees"; the words "from rupees five hundred to rupees two thousand" shall be substituted.

### **7.**

Sub-section (5) of section 30 of the principal Act shall be deleted.

### **8.**

For section 31 of the principal Act, the following section shall be substituted, namely:"31 Relinquishment. - No relinquishment of a tenancy shall be made by a tenant in favour of landowner. However, if a tenant wants to make a voluntary surrender of his tenancy land, the same shall be in favour of the State Government. The State Government shall have right to induct any suitable tenant or landless agricultural labourer to the relinquished land in the manner to be prescribed."

**9.**

Sections 32 and 33 of the principal Act shall be deleted.

**10.**

For clause (d) of sub-section (1) of section 34 of the principal Act, following clauses (d) and (dd) shall be substituted namely:-(d) that he holds his tenancy, from a person who created such tenancy within a period of six months before he became a member of the Armed Forces or while he was serving in the Armed Forces and wants to cultivate, it himself on his ceasing to be a member of the Armed Forces;(dd)that he holds his tenancy on the land comprising the share of a member of the Armed, Forces covered by clause (d), of sub-section (8) of section 104 and who wants to cultivate it himself on his ceasing to be a member of the Armed Forces: Provided that such person or member, of Armed Forces referred to in clauses (d) and (dd) above, as the case may be, shall be entitled to eject a tenant from such land upto a maximum of five acres in the prescribed manner:Provided further that a tenant so ejected shall be restored to possession of the land if the landowner after ejecting him does not within one year cultivate it personally:Provided also that if a tenant holding land from persons mentioned in clauses (d) and (dd) of this sub-section is also a member of the Armed Forces, the provision of first proviso shall not apply and the tenancy shall remain and the ejectment from tenancy shall only be on the grounds given in clauses (a) to (c) of this sub-section."

**11.**

Clause (k) of sub-section (1) of section 57 of the principal Act shall be deleted.

**12.**

In clause (i) in Third Group of sub-section (3) of section 58 of the principal Act the sign comma, words and figures "or for sums recoverable under section 12" shall be omitted.

**13.**

In sub-section (2) of section 39 of the principal Act, for the figure "74" occurring after the word "and" the figure "73" shall be substituted.

**14.**

At the end of section 95 of the principal Act, for the sign the sign shall be substituted and thereafter the following proviso shall be added, namely:-"Provided that if the land is subject to a mortgage with a bank the mortgage debt shall be the first charge on the amount payable by the occupancy tenant."

## 15.

In the end of sub-section (1) of section 99 of the principal Act, for the sign The sign and the word "and" shall be substituted and thereafter the following words shall be added:-"the composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954."

## 16.

For section 104 of the principal Act, the following section shall be substituted, namely:-"104. Right of tenant other than occupancy tenant to acquire interest of landowner. - (1) Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the commencement of this Act, if the whole of the land of the landowner is under non-occupancy tenants, and if such a landowner has not exercised the right of resumption of tenancy land at any time since January 26, 1955, under any law as in force:-(i) such a landowner shall be entitled to resume before the date to be notified by the State Government in the Official Gazette and in the manner prescribed, either one and a half acres of irrigated land or three acres of un-irrigated land under tenancy from one or more than one tenants for his personal cultivation and the right; title and interest (including contingent interest, if any) of the tenant or tenants, as the case may be, therefrom shall stand extinguished free from all encumbrances created by the tenant or tenants to that extent: Provided that if the tenant has taken loan from the State Government, a cooperative society or a bank for the improvement of tenancy land which the landowner has resumed under clause (i) or (ii) and has used such loan for the improvement of such land, then the landowner shall be liable to repay the outstanding amount of such loan and to the extent actually used for the said purpose and interest thereon to the State Government or to the co-operative society or a bank, as the case may be proportionate to the improved land resumed by him. Provided further that the landowner shall not be entitled to resume from a tenant more than one-half of the tenancy land; (ii) In case the landowner holds less than one and a half acres of irrigated land or three acres of un-irrigated land in his personal cultivation, he shall be entitled to resume tenancy land to make up the land under his personal cultivation to the extent of one and a half acres of irrigated land or three acres of un-irrigated land; as the case may be subject to the other conditions laid down in this section; (iii) The right, title and interest in the rest of the tenancy land of the landowner, who is entitled to resume land under clauses (i) and (ii) shall vest in the tenant free from all encumbrances with effect from the date to be notified by the State Government in the Official Gazette; (iv) In case the land under the tenancy is partly irrigated and partly un-irrigated and the landowner intends to resume land of both these classes, he shall be entitled to do so in the ratio and manner to be prescribed; (v) In the event of any dispute between the landowner and the tenant with regard to the selection of the land of resumption, the first right of selection of land shall be that of the tenant who may exercise this right in the prescribed manner and before the date to be notified by the State Government in this respect in the Official Gazette; (vi) In case the tenant fails to exercise his right of selection of land by the date notified under clause (v), the Land Reforms Officer shall determine his share after giving the parties and opportunity of being heard. In such a case also, the tenant shall be given the first choice to select the land. (2) Where the landowner does not cultivate

the land resumed under sub-section (1) personally within one year from taking possession thereof, then such land vest in the State Government on payment of an amount at the rate of ninety-six times the land revenue plus rates and cases and such land shall be disposed of by the State Government in such manner as may be prescribed. In such an event the first right to get such land shall be that of the tenant from whom the land was resumed by the landowner.(3)All rights, title and interest (including a contingent interest, if any) of a landowner other than a landowner entitled to resume land under sub-section (1), shall be extinguished and all such rights, title and interest shall with effect from the date to be notified by the State Government in the Official Gazette vest in the tenant free from all encumbrances:Provided that if a tenancy is created after the commencement of this Act, the provision of this sub-section shall apply immediately after the creation of such tenancy.(4)Whenever a dispute arises whether a person cultivating the land of a landowner, is a tenant or not, the burden of proving that such a person is not a tenant of the landowner shall be on the letter.(5)The landowner whose rights, title and interest are extinguished under this section, shall be entitled to receive an amount at the rate of ninety-six times the land revenue plus rates and casses payable either in lumpsum or in such number of instalments not exceeding ten during a period not exceeding five years as may be prescribed.Provided that if the tenant makes a default in the payment of any instalment of the amount the same shall be recoverable as an arrear of land revenue:Provided further that if the land for which the amount is to be paid under this section is subject to a mortgage debt from a bank, the mortgage debt will be the first charge on the amount payable for such land:Provided also that the tenant shall not be liable to pay the amount to the landowner for the acquisition of ownership, rights in the tenancy land which is equal in area to that of his tenancy land resumed by the landowner under clauses (i) and (ii) of sub-section (1) and the extinguished of rights, title and interest of the tenant in the land resumed by the landowner shall be deemed to be the amount therefore.(6)Save as otherwise provided in section 114, every decision of the Land Reforms Officer, under this section shall be binding on all persons claiming an interest in a holding notwithstanding the fact that any such person has not appeared or participated in the proceedings before the Land Reforms Officer or any other revenue authority.(7)The provisions of the foregoing sub-section shall apply to evacuee land as defined in the Administration of Evacuee Property Act, 1950 to composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, with effect from such date as the State Government may, be notification in the Official Gazette, specify.(8)Save as otherwise provided in sub-section (9), nothing contained in sub-sections (1), to (6) shall apply to a tenancy of a landowner during the period mentioned for each category of such landowners in sub-section 9 who,-(a)Is a minor or unmarried woman, or if married divorced or separated from husband or widow, or(b)Is permanently incapable of cultivating land by reason of any physical or mental infirmity; or(c)Is a serving member of the Armed Forces; or(d)Is the father of the person who is serving in the Armed Forces upto the extent of inheritable share of such a member of the Armed Forces on the date of his joining the Armed Forces, to be declared by his father in the prescribed manner.(9)in the case of landowner maintained \*\*\*\*\* **section(8), the provision of sub-section** \*\*\*\*\* (a)in the case of minor during his minority and in the case of other person maintained in clause (a) and (b) of sub-section (8) during their life time.(b)In case of person maintained in clause of (c) and (d) of sub-section (8) during the period of service in the armed force subject to resumption of the land by such person to the extend maintained to the first proviso to clause (d) and (dd) of sub-section (1) of

section.

## 17.

I section 105 of the principal Act. -(a)for the word "compensation" on for the words 'amount of compensation " where the occur the word "amount" shall be substituted;(b)for the sign ":" occurring at the end the sign ":"shall be substituted; and there after the following proviso shall be interested; namely:-"Provided that the amount so determined shall not exceed 50% of the market price of such building and structure."

## 18.

(1)The existing section 106 of the principal Act shall be renumbered as sub-section (1) and for the swords "amount of compensation" or for the words compensation" wherever they occur there in the word "amount" shall be substituted and there after the following sub-section (2) shall be added namely:-(2)If the amount payable relates to the lands mortgaged with the bank or other lending institution of agency then the priority of claming such amounts against mortgaged money shall be that of the bank, lending institution or agency as the case may be."

## 19.

In section 107, 109, 111 of the principal Act for the words " compensation" or for the words " amount of compensation " wherever they occur there in the word "amount" shall be substituted.

## 20.

In second proviso of section 113 of the principal Act for the words for the words brackets and figures "Land mortgaged Bank or with new banks constituted under the banking Companies (Acquisition And transfer of undertakings) Act, 1970" the word "bank" shall be substituted .

## 21.

In second proviso of section 118 of the principal Act,(a)in clause (f) of sub-section (2) for the words brackets and figures "new banks" constituted under the banking Companies (Acquisition And transfer of undertakings) Act, 1970" the word "bank" shall be substituted;(c)after clause (f) the following clause shall be added namely:-(1)a non-agriculturist with in the limits of municipal corporation, municipal committees notified area committees for any one of the purpose i.e., for the construction of a 'dwelling' house a shop or commercial establishment of office or industrial unit subject to condition that transfer to land for such purpose shall not exceed:-(i)in case of dwelling house 500 square meters;(ii)in case of a shop commercial establishment or office-300 square meters;(iii)In case of an industrial units such areas as may be certified by the department of industries of the State of the Government;(iv)a non-agriculturist with permission of the State of the Government for the purpose to be prescribed"

**22.**

In sub-section (4) of section 119 of the principal Act for the sign ",", the sign ":" shall be substituted and there the following proviso shall be added, namely:-"Provided that the vestment of the land in the State of the Government shall not affect the right of a tenant in such land."

**23.**

In section 121 of the principal Act for the existing clause (a) the following clause shall be substituted namely, -"(a) landless agriculture labourers and co-operative farms of such labourers;"

**24.**

The Himachal Pradesh Tenancy and reform (Amendment) Ordinance, 1975 in here by repealed:Provided that anything done or any action taken under the said ordinance shall be deemed to have been done to taken under this Act.