

The Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973

HIMACHAL PRADESH

India

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Rule

THE-HIMACHAL-PRADESH-HOLDINGS-CONSOLIDATION-AND-PREVENTION-OF FRAGMENTATION) RULES, 1973

- Published on 26 March 1973
- Commenced on 26 March 1973
- [This is the version of this document from 26 March 1973.]
- [Note: The original publication document is not available and this content could not be verified.]

The Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973The Rules published in Rajpatra, Himachal Pradesh extra-ordinary, dated the 26th March, 1973, vide Revenue Department Notification No.9-5/71-Revenue-A, dated the 6th February, 1973.Government of Himachal PradeshRevenue Department

1. Short title.

- These rules may be called the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973.

2. Extent and commencement.

- They shall come into force in the areas in which the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, other than section 1 is made applicable.

3. Definitions.

(1)In these rules unless there is anything repugnant in the subject or context,-(a)"Act" means the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971; (20 of 1971).(b)"Committee" means a village committee specially appointed by the consolidation officer in respect of any estate or group of estates for consolidation of holdings; and(c)"section" means a section of the said Act.(2)All other words and expressions used in these rules and defined in the act,

shall have the meanings assigned to them in the Act.

4. Mode of publication.

- Any matter required to be published, or of which public notice is to be given, under the Act, shall be published by exhibiting copies thereof in the estate or estates concerned in Hindi or in English as may be deemed proper and shall also, so far as possible, be announced in such estate or estates by beat of drum.

5. Matters pertaining to cancellation of declaration made under section 14.

- Without prejudice to the generality of the power of the State Government to cancel the declaration mentioned in section 14, it may cancel the same on one or more of the following grounds, namely, that-(a)the area is under a development scheme of such a nature which, when completed, would render the consolidation inequitable to a section of the peasantry;(b)the area has suffered from some calamity from which it will take some time to recover;(c)the village is so much torn up by factions as to make any consolidation work very difficult;(d)cultivation in any village is scattered coupled with interspersal of uncultivated patches and consolidation of holdings is likely to serve no useful purpose; and(e)the tract is liable to very quick and violent changes due to fluvial action of any river or due to quick erosion of soil.

6. Consequences of cancellation of declaration made under section 14.

- On cancellation of the notification under section 14, the following consequences shall ensue as from the date of cancellation, namely:-(a)the area shall become subject to the normal revenue administration of the district; and(b)matters which may have been referred to arbitration under sub-section (4) of section 21 shall be transferred to the Court of competent jurisdiction, who shall dispose them of in accordance with the normal law and procedure.

7. Procedure and proceedings relating to the examination of revenue records.

(1)The Assistant Consolidation Officer or the Consolidation Officer shall in taking action under section 17, direct the Inspector (Kanungo) to make a field to field partial of the village and submit a report to him showing,-(a)the total number of plots in the village;(b)the number of plots which have changed their shapes by division and accertion;(c)the number of fields and their area created as a result of extension of cultivation;(d)the number of fields and their area which have remained out of cultivation for more than four years and the reasons therefor;(e)a list of mistakes detected by him in-(i)the map,(ii)the khasra in respect of area and possession, and(iii)the last jamabandi as a result of checking and test thereof in accordance with the provisions of the Himachal Pradesh Land Records Manual; and(f)the number and particulars of scattered trees and wells standing in the different plots.(2)On receipt of the report of the Inspector (Kanungo) mentioned in sub-rule (1), the Assistant Consolidation Officer or the Consolidation Officer shall check it by making a field to field

partial. He shall try to effect during the course of his checking as may reconciliations between tenure-holders (which shall be reduced to writing) as possible, and shall then prepare a report on his findings.(3)The report submitted by the Inspector (Kanungo) as amended by the Assistant Consolidation Officer or the Consolidation Officer shall be forwarded to the State Government accompanied with the opinion of the Assistant Consolidation Officer, giving reasons therefor as to whether revision of maps and records is necessary in that village and a statement showing the number of errors in maps, khasras and jamabandis he has been able to correct by mutual agreements.(4)On receipt of the report under sub-rule (3); the State Government shall publish a notification regarding revision of records and thereupon a revised map and a field book and the records of rights shall be prepared for the village or villages concerned in accordance with the provision of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, and rules framed thereunder as if a notification had been issued in respect thereof under the said Act and rules.(5)Where the Assistant Consolidation Officer or the Consolidation Officer is of the opinion that a revision of maps and records is not necessary and only corrections are required to be made in revenue records he shall proceed to correct the entries in the revenue records in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, and the rules framed thereunder.

8. Determination of revenue or rent of the plot under section 20(1)(a)(v).

- The rent or revenue of a plot if it is a part of large holding mentioned in section 20(1)(a)(v) shall be calculated in accordance with the following formula:-

$$R = \frac{R_1 \times R_2 R_3}{R_1 + R_2 + R_3}$$

R is the rent or revenue of the plot as the case may be; R 1 is the rental value of the plot; R 2 is the rent or revenue of the holdings to which the plot belongs; and R 3 is the rental value of holding. If the plot constitutes a separate holding, assessed to rent or revenue payable in cash the said rent or revenue as the case may be, shall be entered in the statement.

9. List of tenure holders under section 20(1)(b).

- The list of tenure-holders mentioned in section 20(1)(b) shall contain the following additional particulars:- (1)the number of masonry wells belonging to tenure-holders and an estimated value of each; (2)the number of trees and their estimated value standing on the holding of the tenure-holder; and (3)the proportionate value of trees standing on the boundaries of the holdings.

10. Disposal of objections under sub-section (2) of section 21.

- The Consolidation Officer on receipt of report from the Assistant Consolidation Officer on the objections under section 21(2) may, except as provided in sub-section (4) of section 21 reject or accept the objection and order corrections and additions to be made in the statement: Provided, however, that before giving his decision the Consolidation Officer shall consult the committee in regard to the objection and the recommendations of the Assistant Consolidation Officer.

11. Preparation of scheme of Consolidation.

- The Consolidation Officer shall after publication of declaration under sub-section (1) of section 14, publication of statement under sub-section (2) of section 20 and decision of objections if any, under section 21, visit each of the estates concerned after giving reasonable notice of his forthcoming visit to the land-owners and tenants thereof and shall appoint a village committee consisting of not less than 5 and not more than 15 members from among the landowners and tenants of the estate or estates concerned who must be-(1) permanent residents of the village; and (2) 21 years or more in age and preferably literate. The village Lambardar or members of the Gram Panchayat of the village may be one of the members of that committee. Proportionate representation may also be given to the Harijan right holders and landless agrarian labourers of the village. He shall then record the statements of the landowners, tenants and landless agrarian labourers of the estate or estates concerned and shall put up a scheme for the consolidation of holdings in consultation with the village committee mentioned above.

12. Particulars of the scheme.

(1) Every such scheme of consolidation shall contain the following particulars:- (i) a statement of classification of land for the purpose of consolidation and the exchange ratio for conversion of one class into another; (ii) a statement of valuation of lands, trees, etc. to be exchanged showing the compensation to be given to or received by the holders concerned; (iii) a brief statement as to the action, if any, taken in pursuance of section 26 and 27 of the act, and (iv) such other particulars as may be considered expedient by the Settlement Officer (Consolidation) in this behalf. (2) The scheme of consolidation in respect of the area for which a notification has been issued under section 14 shall include the holdings of all tenants whether they be occupancy or non-occupancy tenants.

13. Draft scheme of consolidation to be explained to the persons affected thereby.

- The draft scheme of consolidation shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose. If any right-holder desires to have a copy of the proposed scheme of consolidation, it shall be supplied to him or her, as the case may be, on payment of the prescribed fee i.e. one rupee for the first 200 words or less and fifty paise for every additional 100 words or fraction thereof: Provided that a copy of consolidation scheme may be supplied on request to the Gram Panchayat concerned free of cost.

14. Reservation of land for common purpose.

- In the matter of assigning land for any common purpose, the Consolidation Officer shall be guided by the requirements of the land-holders. The criterion shall be that the residents are provided with a reasonable area for their common purposes and healthy recreation, i.e., the village roads, drains are so provided as to secure good sanitation and in such matters the Consolidation Officer shall take the persons affected into confidence and as far as possible, this part of the scheme shall be based on

unanimous opinion of the members of the Committee.

15. Re-partition.

- The Consolidation Officer shall, after obtaining the advice of the committee, carry out re-partition in accordance with the scheme of consolidation of the holdings confirmed under section 29 and shall prepare the following re-partition papers:-(i)a map of the village showing all the existing field numbers, recognised roads and irrigation channels and areas assigned for public purposes, such as burial grounds, places for disposal in red lines or other markings;(ii)another similar village map exhibiting the position emerging as a result of re-partition;(iii)a statement showing the names of the owners of holdings with particulars of field numbers, shares, class of land, tenure area, assessment and encumbrances, if any, after getting the record-of-rights up-to-date;(iv)a statement showing the names of owners of holdings with particulars of all different rights possessed by each individual;(v)a statement showing the compensation payable by or to an owner in order to adjust difference in the value of land exchanged under section 38 of the Act or due to the existence of wells, trees etc. under sub-section (4) of section 26;(vi)a statement showing the names of occupants or holders to whom the new Consolidation holdings are allotted with particulars of field numbers, shares, class of land, tenure area, assessment and encumbrances, if any; and(vii)such other papers as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

16. Matters to be kept in view in preparing re-partition papers.

- The following shall also be kept in view in preparing the re-partition papers mentioned in the preceding rule: -(i)in allotting land to a tenure-holder, consideration shall be made of-(a)the improvement affected by him in his holding,(b)the situation of any grove held by him; and-(c)the situation of the land held by him as sub-tenant of any other tenure-holder;(ii)where a tenure-holder has to be allotted land in more than one block, he shall except for special reasons, be allotted land on the boundary of the two blocks so as to form a single chak;(iii)where a tenure-holder holds land in more than one village he shall, so far as it is possible, be allotted land on the boundary of the villages so as to form a single chak.

17. Re-partition papers to be explained to the persons affected thereby.

- The contents of the statement mentioned in term (iv) to (vii) of rule 15 shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose.

18. Procedure for eviction and entering into possession.

- The Consolidation Officer shall serve a notice on that person or persons liable to eviction under sub-section (2) of section 32 requiring him with in 15 days of the receipt of the notice to vacate the land. If such notice is not complied with within the time specified therein, the Consolidation Officer may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954

or the Punjab Land Revenue Act, 1887 as the case may be, for the purpose of putting in physical possession of the holdings the person entitled thereto.

19. Deposit of compensation.

- The amount of compensation payable by an owner/tenant under section 23 shall be deposited by him in the nearest Government treasury and a copy of the receipt obtained by him in taken of credit shall be produced by him before the Consolidation Officer.

20. Re-distribution of assessment.

- After re-partition has been confirmed and appeal against him if any, has been finally decided, the Collector of the district shall take necessary steps for the redistribution of the assessment of the estate concerned, in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be.

21. Transfer of encumbrance.

- In transferring a lease, mortgage, debt, or other encumbrances under sub-section (2) of section 36, the Consolidation Officer shall -(i)if the new holding is of the same market value as the original one, transfer to the former the entire encumbrance attaching to the latter, and(ii)if the new holding is of a substantially greater market value than the original one, transfer to the former holding the encumbrance attaching to the latter subject in the case of a lease, to the and condition that the lessee shall pay to the owner such reasonable rent in addition to the rent already payable under the lease as may be fixed by the Consolidation Officer and in the case of any other encumbrance, subject to such reasonable reduction in the area or in the rate of interest as may be fixed by the Consolidation Officer having regard to the substantially better security provided by the owner of the new holding.

22. Putting the encumbrancer in possession.

- If the lessee, mortgagee or other encumbrancer appears to the Consolidation Officer to be entitled to possession of holding under section 36, the Consolidation Officer shall issue a notice to the owner to show cause with in fifteen days of the receipt of notice why the lessee, mortgagee or other encumbrancer, as the case may be, should not be put in possession of such holding. If the owner fails to show cause, or of the Consolidation Officer is satisfied that the cause shown by the owner is not adequate, he shall put the lessee, mortgagee or other encumbrancer, as the case may be, into possession of the holdings and the record of rights in respect of the holding shall be corrected accordingly.

23. Assessment, collection, refund, etc. of cost of consolidation.

(1)The cost of consolidation proceedings shall be assessed (village-wise) at Rs. 5 per acre or portion of an acre of land, other than gair mumkin, ban sarkar and banjar qadim land, if the wattbandi is

carried out by the persons whose holdings are affected and at Rs 7.50 per acre if the wattbandi is carried out by or on behalf of the Consolidation Officer, at the option or default of the persons whose holdings are affected.(2)The cost of consolidation shall be payable by the persons whose ,holdings are affected by the scheme of consolidations except that the case of evacuee land, it shall be payable by an allottee in respect of land, which has been allotted to him on a quas-permanent basis and the custodian in the case of un-allotted lands.(3)The cost of consolidation shall be collected in two half-yearly instalments along with the land revenue demand for Kharif and Rabi harvests (except when the Government directs otherwise by written order to collect this in more than two half-yearly instalments in hard and deserving cases) After a notification under section 14(1) of the Act the patwaris shall prepare in Form C.H.I., a list of assesseees from whom the cost of consolidation is to be recovered. This list will be arranged lambardari-wise.(4)All entries in the list mentioned in sub-rule (3) above shall be checked by the Girdawar Kanungo and read over and explained to the persons, whose holdings are affected by the scheme of consolidation. The Assistant Consolidation Officer shall check the entries in the list and the list duly signed on every page by the Patwari Girdawar Kanungo and the Assistant Consolidation Officer in taken of its correctness shall be forwarded to the Consolidation Officer, who after countersigning it, shall return it to the Patwari after the Was l Baq Nawis has noted the consolidated demand in a register in such form as may be prescribed by the Government from time to time. The Patwari shall copy out the list lambardari-wise and deliver the relevant papers to the Lambardars concerned for collection.(5)Before the second instalment falls due the village Patwari shall immediately after the preparation of preliminary record of the village particularly the Naqsha Haqdar-war draw up the list of second instalment of cost of consolidation incorporating the changes of any, in the first list of the cost of consolidation payable by the persons, whose holdings are affected by the scheme of consolidation. This list shall also be prepared, checked and authenticated and deposited as laid down in sub-rule (4) above.(6)The excess cost of consolidation recovered from a person, whose holdings are affected by the scheme of consolidation, shall be refunded under orders of the Settlement Officer to whom an application may be made for the purpose through the Patwar of the village who shall forward it through the proper channel after verification and report. The refund however, shall be prepared in the office of the Settlement Officer and sent to the applicant through the Girdawar Kanungo, who shall obtain a receipt for it and return it to the Settlement Officer for record.(7)The demand on account of cost of consolidation will be due as soon as the list is in the hands of the Lambardars or other persons entrusted with the collection and must be paid into treasury not later than the dates of depositing the land revenue of the estate concerned After this the cost of consolidation if remained un-recovered then it shall be recovered as arrears of land revenue(8)The allowance to the Lambardars or other persons collecting the cost of consolidation shall be two per cent of the amount collected Unless otherwise expressly ordered by the Government, Lambardar or other person concerned while depositing the cost of consolidation into the treasury, shall be entitled to retain the allowance due to him and deposit the balance into the treasury. The allowance will be conditional on the demand being paid in full for each estate by the date fixed in sub-rule (7) The Collector of the district may deduct any sum out if the allowance for delay in payment of the demand into the treasury. In case full amount recovered is deposited in the treasury by the Lambardar or other person without retaining the allowance due to him the Collector of the district may refund such amount of allowance to the person concerned to which he is entitled. The Collector may also recover, as arrears of land revenue the amount of allowance withheld in

excess, if any by Lambardars or other persons entrusted with the collection of cost of consolidation while depositing it into the treasury, without fulfilling conditions set out above.(9)A monthly return in such form as may be prescribed by Government from time to time, shall be forwarded by the Collector to the Divisional Commissioner Himachal Pradesh, with a copy of it to the Director, Consolidation of Holdings, by the seventh of the month following that to which it relates. In this return there shall be entered the demand for the harvest, arrears, if any, and payment received during the month.

24. Appointment of and procedure for reference to the Arbitrator.

(1)An arbitrator for any local area for district or as a whole, shall be appointed by the State Government on a reference made by the Director, Consolidation of Holdings. For this purpose, the Director, Consolidation of Holdings shall in variably given a panel of three names with merits of each candidate for consideration of State Governments.(2)All cases meant for arbitration shall be referred to the Arbitrator through the Director, Consolidation of Holdings.(3)The time limit for reference of a dispute to an Arbitrator shall be two months from the date of the last order passed in the case by a competent authority.

25. Appointment of guardians to minors.

- Where any of the land-holders is a minor, the Consolidation Officer may after such enquiries as may be necessary, and by an order in writing appoint a suitable person, whose interest is not adverse to that of the minor, as guardian-ad-litem. Similar action may be taken in case of widows, absentees, soldiers or others, if considered necessary.

26. Reservation of area for common purposes.

(1)The area to be reserved for the common purpose of extension of abadi for proprietors and non-proprietors under section 27 (c) of the Act shall be reserved after scrutinizing the demand of proprietors desirous of building houses and of non-proprietors including harijan families working as agrarian labourers who are in need of a site for house. For the land allotted to proprietors for extension of abadi the land that has to be deducted from their holdings will be indicated in the scheme for the village in case of non proprietors including harijan families, these shall be allotted without payment of compensation and they shall be deemed to be full owners of the plots allotted to them.(2)In an estate or estates where during consolidation proceedings there is no Shamlat Deh land or such land is considered inadequate, land shall be reserved for the village panchayat and for other common purposes, under section 27 (c) of the Act, out of the common pool of the village at a scale prescribed by Government from time to time Proprietary rights in respect of land so reserved, except the area reserved for the extension of abadi of proprietors and non-proprietors shall vest in the proprietary body of estate or estates concerned and it shall be entered in the column of ownership of record-of-rights as Jumla Malkan wa digar Haqdarani Arazi Hasab Rasad Raqba. The management of such land shall be done by the panchayat of the estate or estates concerned on behalf of the village proprietary body and the panchayat shall have the right to utilize the income derived from the land so reserved for the common needs and benefits of the estate or estates

concerned.

27. Form of application and documents which shall accompany it.

- Every application under section 54 shall be signed and verified by the applicant, shall contain the following particulars and shall be accompanied by a certified copy each of the orders, if any, passed under sub-sections (2), (3) and (4) of section 30, a rough plan of the path or paths, if any in dispute and certified copy of the grounds of the last appeal, if any, filed under sub-section (3) or sub-section (4) of section-30-(a)name of the authority to whom application is made,(b)name and description of place of residence, tehsil and district of the applicant;(c)name, description and addresses of the persons, who are likely to be affected if the application accepted.(d)name of the village, tehsil and district in which the land which is subject matter of the application is situated.(e)the date of publication of the repartition shajra under sub-section (1) of section 30 of the Act if it is known to the applicant;(f)whether any objection was lodged with the Consolidation Officer,(g)whether any appeal was preferred under sub-section (3) and under sub-section (4) of section 30 and it so with what result;(h)whether any application was previously filed under section 54 of the Act and, if so with what result.(i)a statement of facts in concise form on which the party applying relies; and(j)relief prayed for.

28. Limitation for application under section 54.

- An application under section 54 shall be made within six months of the date of the order against which it is filed:Provided that in computing the period of limitation the time spent in obtaining certified copies of the orders and the grounds of appeal, if any, filed under sub-section (3) or sub-section (4) of section 30 required to accompany the application shall be excluded:Provided further that an application may be admitted after the periods of limitation prescribed it the applicant satisfies the authority competent to take action under section 54 that he had sufficient cause for not making the application within such period.

29. Fees on application.

- The following fees shall be payable in court fee stamps in respect of applications, under section 54:-

(i) on the application	... Rs. 10
(ii) on the copy of the order against which application is made	... Rs. 1.25
certified copy of the grounds of last appeal, if	
(iii) any, filed under sub-section (3) or sub-section (4) of section 30	... Rs. 1.25
(iv) process fee	Rs. 2 upto four respondents and 50 paise, for each additional respondent subject to a maximum of Rs. 5:

Provided that the process fee shall not be payable unless the application is admitted and the respondents are ordered to be summoned.

30. Repeal and savings.

- The Himachal Pradesh Consolidation of Holdings Rules, 1954, as in force in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966 and the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, are hereby repealed: Provided notwithstanding such repeal of the said rules anything done or any action taken in exercise of powers conferred by rules so repealed, shall be deemed to have been done or taken under these rules. Form C.H. 1 Recovery Fard of Consolidation fee of Village.....Hadbast No.....Tehsil.....District.....

SI. No.	Names of persons whose holdings are affected	No. of Khewats Khataunies	Area on which consolidation fee has been assessed in acres	Rate of consolidation fee per acre	Demand	Remarks
1	2	3	4	5	6	7

Notes:

- (i) Column Nos. 2 and 4 .. Names of persons whose holdings are affected, their parentage with details of rights (owners, occupancy tenants, sanjhidars) and area should be entered according to the entries of the last jamabandi, khasra girdawari and mutations of the village.
- (ii) Column No. 3 .. Khewats and Khataunies should be written in respect of each person whose holdings are affected.
- (iii) Column No. 5 Rate of consolidation fee per acre should be entered.
- (iv) Column No. 6 .. The demand of consolidation fee due from the persons whose holdings are affected should be entered in this column. In case there is any change under the orders for mutation etc. after the preparation of the lists, a mention should be made in the remarks column.

Form I Register of Consolidation Fee of

Village.....H.B.....No.....Tehsil.....District.....

Total demand of Consolidation fee _____

Total area Cultivated / uncultivated _____
 Area on which fee assessed _____
 Rate of consolidation fee _____

Amount last date of recovery	Amount last date of recovery		1st Instalment	2nd Instalment	Remarks
	Amount	last date of recovery			
1. Lambardari allowance payable on the total amount recoverable by the Lambardar..	..				
2. Amount actually recovered by the Lambardar	..				
3. Lambardari allowance actually paid	..				
4. Retrenchment of the allowance, if any	..				
Record of Recovery of Consolidation Fee					
Challan No.	Date of deposit	Name of the depositor	Amount deposited	Balance to be recovered	Remarks
1					
Form II Index of Consolidation Fee of Villages of Tehsil.....District					

1.

Serial No.

2. Name of Village

3. Hadbast No.

4. Total demand of fee

5. Monthly recovery of fee

6. April

7. May

8. June

9. July

10. August

11. September

12. October

13. November

14. December

15. January

16. February

17. March

18. Remarks