

The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1987

HIMACHAL PRADESH

India

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Act 6 of 1988

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The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1987 Act No. 6 of 1988 (As Assented To By The President On 25th March, 1988) 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 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, 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 (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; 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 live Himachal Pradesh Housing Board Act, 1972, or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 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 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-mumkin", "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.