

The Himachal Pradesh Tenancy And Land Reforms Rules, 1975

HIMACHAL PRADESH

India

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Rule

THE-HIMACHAL-PRADESH-TENANCY-AND-LAND-REFORMS-RULES- of 1975

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The Himachal Pradesh Tenancy And Land Reforms Rules, 1975 Published vide Notification Simla-171002, the 3rd October, 1975. Revenue Department No. 10-5/73-Revenue-A. - Whereas the draft Himachal Pradesh Tenancy and Land Reforms Rules, 1975, were published as required by section 123 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) in the Rajpatra Himachal Pradesh Extraordinary, dated the 11th September, 1975, under the notification of even number dated the 9th September, 1975, of the Government of Himachal Pradesh, Revenue Department for inviting the objections and suggestions from all persons likely to be affected thereby within a period of 15 days from the date of publication of the draft rules in the Rajpatra.

2. And whereas, the Government have considered the objections and suggestions received on the said draft rules within the prescribed period of 15 days.

Now, therefore, in exercise of the powers conferred by sections 89, 103, 117 and 122 of the said Act, the Governor, Himachal Pradesh, hereby makes the following rules namely :-

1. Short title, extent and commencement.

(1) These rules may be called the Himachal Pradesh Tenancy and Land Reforms Rules, 1975. (2) They extend to the whole of Himachal Pradesh. (3) They shall come into force at once.

2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context, -(a)"Act" means the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974);(b)"estate" has the same meaning as has been assigned to it in the Punjab Land Revenue Act, 1887 (17 of 1887), or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as the case may be;(c)"form" means a form appended to these rules;(d)"section" means section of the Act; and(e)all other words and expressions used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

Part II – Procedure For Revenue Officers For The Purposes Of Chapters II To VIII Of The Act

3. Statements and pleadings and verification of applications.

(1)The Statements and pleadings made by or on behalf of parties to a revenue proceedings, whether oral or written, shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as far as possible to simple and concise narrative of the facts which the party by whom or on whose behalf the statement of pleading is made believes to be material to the case, and which he either admits or believes that he be able to prove.(2)Every written application or statement filed by a party to a revenue proceeding shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

4. Proceeding not to abate on death or marriage of party.

- The death of one of the parties to a revenue proceeding, or, in proceeding to which a female is a party, her marriage shall not cause the proceeding to abate. And the Revenue Officer before whom the proceeding is held shall have power to make the successor-in-interest of the deceased person or of the married female a party thereto.

5. Procedure for fixing for dates for hearing etc.

- In fixing dates for the hearing of parties and their witnesses in adjourning proceedings, and dismissing applications for default or for other sufficient reason, a Revenue Officer shall, so far as the nature of the case requires or permits be guided by principals of the procedure for the time being in force in Revenue Courts.

6. Expenses of witnesses.

(1)A Revenue Officer may at his discretion award to a witness attending on summons, a sum on account of his expenses not exceeding the sum to which the witness would have been entitled for a like attendance in a Civil Court.(2)The sum so awarded shall be costs in the proceeding.

7. Record of other proceedings under the Act.

- In proceedings before a Revenue Officer under the Act, the Revenue Officer shall make with his own hand a brief memorandum of the statement of parties and witnesses at the time when such statement is made.

8. Contents of orders.

- In every proceeding in which an order is passed on merits after inquiry, the Revenue Officer making the order shall also record a brief statement of the reasons on which it is founded.

9. Apportionment of cost and recovery thereof.

(1) In proceedings in which costs have been incurred the final order shall apportion the costs between the parties to the proceedings. (2) Costs thus apportioned shall be recoverable by the Revenue Officer by attachment and sale of the movable property of the person liable for the same in the manner prescribed in section 70 of the Punjab Land Revenue Act, 1887 (17 of 1887), or section 76 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), as the case may be.

10. Execution of order of ejectment etc.

(1) Orders of ejectment from, and delivery of possession of immovable property shall be enforced in the manner provided in the Code of Civil Procedure for the time being in force in respect of the execution of decree whereby a Civil Court had adjudged ejectment from, or delivery or possession of such property. (2) And in the enforcing of these orders a Revenue Officer shall have all the powers in the matter of resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-rule. (1).

10A. [Devolution of tenancy right. [Inserted vide Notification published in R.H.P., Extraordinary, dated 10-12-1988, pp. 2239-2240.]

- No entry showing a person to be a tenant by succession under section 45 or otherwise shall be made in the record, except through a mutation.]

Part III – Temporary Disability Under Clause (D) Of Section 30 And Relinquishment Of Tenancy Under Section 31

11. Temporary disability for the purpose of section 30.

- For the purpose of clause (d) of sub-section (1) of section 30 a land-owner who is -(a) temporarily an (idiot) or a lunatic; or (b) a person incapable of cultivating by reason of blindness or other physical infirmity; or (c) pursuing studies in recognised institution and does not exceed 25 years in age and

whose father or mother, as the case may be, either suffers from any of the disqualifications mentioned in clause (a) or (b) of the said sub-section or has died; or (d) under detention or imprisonment, shall be treated as temporarily disabled.

12. Relinquishment of land under section 31.

(1) If a non-occupancy tenant wants to make a voluntary surrender of his tenancy land in favour of the Government under section 31, he shall apply to the Collector in Form LRI. On receipt of the application, the Collector shall record the statement of the tenant and after having satisfied himself of the fact of voluntarily relinquishing, pass order that the tenant has voluntarily surrendered his tenancy land in favour of the Government. Thereafter, the Collector shall cause the taking over of the possession of the land through the Tehsildar concerned in favour of the Government. (2) On having taken over the possession of the tenancy land under sub-rule (1), the Collector shall cause the necessary entry to be made in the Land Records substituting the right of the Government on the relinquished tenancy in place of the tenant and shall take possession of the land on behalf of the State Government. (3) The Collector shall sub-let the land to the landless agricultural labourers or to those tenants whose land holding shall fall short of one acre as a result of resumption of tenancy land by the landowners under sub-section (1) of section 104.

Part IV – Acquisition Of Proprietary Rights By Occupancy Tenants

13. Attestation of mutation.

- As soon as may be, after the appointed day, the Assistant Collector of the 2nd Grade of the tehsil or Sub-tehsil, as the case may be, will attest the mutations of proprietary rights of the tenancy land in favour of the occupancy tenants after making a summary enquiry.

14. Preparation of Statement under section 96.

(1) Soon after the mutations have been attested, the Patwari shall prepare a statement estate wise in Form LR2 and submit the same to the Land Reforms Officer concerned. On receipt of the statement the Land Reforms Officer shall issue notice in Form LR3 to the landowners and the tenants who have acquired proprietary rights, asking them to be present before him on the date and place to be mentioned in the notice. (2) The occupancy tenants who have acquired ownership rights or the landowner concerned may file objections, if any, to the Land Reforms Officer regarding the amount proposed to be paid within 15 days of the receipt of the notice.

15. Determination of amount and apportionment thereof.

- In case there are objections regarding the proposed amount the Land Reforms Officer will give a hearing to the parties and will determine the amount payable to the landowners and apportion the

amount among the landowners where there are more than one according to their respective shares.

16. Manner of service of notices.

- Notices under Chapter IX of the Act shall be served in the manner prescribed in section 71 of the Act for the mode of service of summons.

17. Form of manner of appeals.

(1)An appeal under section 100 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal shall be accompanied by a certified copy of the order appealed against.(2)An appeal shall be made on -(a)one rupee court-fee stamp paper, when made to the Collector; and(b)two rupees court-fee stamp paper, when made to the Commissioner.

18. Stamp duty on application for revision.

- An application for revision to the Financial Commissioner shall be made on a court-fee stamp of four rupees and shall be accompanied by a certified copy of the order sought to be revised.

19. Application to be free of stamp duty.

- All applications under Chapter IX of the Act shall be on judicial papers and no stamp duty except as expressly provided in rules 17 and 18 shall be chargeable.

20. Maintenance of register of amount.

- A register of the amount received from the tenant for payment to the landowners shall be maintained in Form LR-IV in the office of the Land Reforms Officer concerned to ensure timely recovery of dues of the landowners from the tenants and its payment to the landowners. In case of amount payable to the State Government the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-Treasury, as the case may be, under the relevant Head of Account.

Part V – Acquisition Of Proprietary Rights By Non-Occupancy Tenants

21. Application for resumption of land by the landowner under section 104.

(1)A landowner who intends to resume land for his personal cultivation under section 104 shall himself or through an authorised person submit an application in Form LRV in duplicate to the Land Reforms Officer in whose jurisdiction the land is situated. In filling up the Form the landowner shall be assisted by the Patwari concerned.(2)The period for submission of application under

sub-rule (1) above is :- (i) for the landowners other than those mentioned in sub-section (8) of section 104 [Upto thirty first December, 1975]; [Substituted and deemed to have been substituted w.e.f. the date of coming into force of the Principal rules, by Notification No. 10-5-73 Revenue, A.A., dated 15th December, 1975, published in R.H.P., Extraordinary, dated the 18th December, 1975, pp. 1917.](ii) for the minors within 6 months from the date of attainment of majority; (iii) for members of Armed Forces mentioned in clauses (c) and (d) of sub-section [(8)] [Substituted vide Notification published in R.H.P., Extraordinary, dated 10-12-1988, pp. 2239-2240.] [of section 104 within 3 years] [Substituted vide Notification published in R.H.P., Extraordinary, dated 10-12-1988, pp. 2239-2240.] from the date on which they cease to be the members of the Armed Forces.

22. Manner of selection of land for resumption.

- The Land Reforms Officer shall issue receipt of the Form LRV received by him under sub-rule (1) to the landowner in Form LRV I. If the land of the landowner is with more than one tenant from whom he intends to resume land under the provisions of section 104, he shall select the land for resumption from the tenant holding the largest area of tenancy land and then from the tenants who hold lesser tenancy land in descending order. The landowners who hold the tenancy land jointly, they shall resume the land with respect to their shares keeping in view the principles of consolidation of holdings.

23. Conversion ratio for the purpose of section 104(1)(iv).

- In case the landowner intends to reserve both classes of land i.e., irrigated and unirrigated the conversion ratio for such reservation shall be 1 : 2 : Provided that the total area should not exceed 3 acres when better class of land is converted into the inferior class.

24. Procedure for dealing with applications for resumption.

(1) On the receipt of the application under rule 21, the Land Reforms Officer shall issue a 10 days notice in Form LRV II to the parties asking them to be present before him on the date and place (within patwar circle) to be mentioned in the notice. On the date so fixed the Land Reforms Officer will hear the parties and if the selection of the land made by the landowner under rule 22 is mutually agreed upon by the parties, the Land Reforms Officer shall pass an order about the extinguishment of the rights of the tenant in such land. He shall further order that the possession of the land be given to the landowner from the date to be specified in the order. At the same time regarding the remaining land of such tenant or tenants the Land Reforms Officer shall confer proprietary rights on such tenant or tenants, as the case may be. (2) Where the selection of land made by the landowner under rule 22 is not mutually agreed upon between the parties, the Land Reforms Officer, shall ask the tenant to exercise the right of selection of land, in writing within one month from the date of issue of notice under sub-rule (1). On receipt of the choice of the tenant within the said period of one month the Land Reforms Officer shall hear the parties, and after having satisfied himself that the landowner is entitled to resume land under the provision of section 104 of the Act, shall pass orders regarding the land chosen to be retained by the tenant and also in respect of the land to be resumed by the landowner for personal cultivation, within two months from the date of receipt of Form LRV

under sub rule (1) of rule 21. He shall further order the extinguishment of right of tenancy on the land resumed by the landowner and for handing over the possession of land to the landowner by the tenant or tenants, as the case may be after the crop is harvested. Regarding the remaining land of the tenant or tenants, the Land Reforms Officer shall confer proprietary rights of such land upon the tenant or tenants, and determine the amount payable by the tenant to the landowner in respect of that land.(3)Where part of the fields are involved in selection of land for resumption and to be left with the tenant, the tatima shajras will be prepared by the Patwari and checked by the Field Kanungo. The Revenue Officer will also check 25% of the tatima shajras.(4)While determining the amount payable by the tenant or tenants, as the case may be, to the landowner for extinguishment of his rights in land mentioned in subrule (2), the Land Reforms Officer shall follow the provisions of sub-section (5) of section 104.

25. Mutation.

- The order of the Land Reforms Officer passed under rule 24 shall be given effect to by way of mutation on the expiry of the period of limitation prescribed for appeal and revision in section 114. There will be two mutations in each case, one for extinguishment of tenancy rights and the other for extinguishment of ownership rights of land in question. The mutation fee chargeable on these mutations will be the same as that for giving effect to a decree of a Civil Court.

26. Disposal of land vested in State Government under sub-section (2) of section 104.

(1)In case the landowner fails to bring under personal cultivation the land reserved by him under clauses (i) and (ii) of sub-section (1) of section 104 within one year from taking over the possession of the land, the Patwari shall make a report to the Land Reforms Officer of such failure. On receipt of such a report, the Land Reforms Officer shall issue a notice to the landowner to show cause within fourteen days from the receipt of the notice as to why the land shall not vest in the State Government. On hearing the landowner, if the Land Reforms Officer comes to the conclusion that the landowner has failed to cultivate the land without sufficient cause then he shall pass an order in writing under sub-section (2) of section 104 that such land vest in the State Government. The Land Reforms Officer may also order payment of amount to the landowner at rates prescribed in sub-section (2) of section 104. He shall also take possession of the land on behalf of the State Government and shall cause to make entry in the revenue records to this effect.(2)On vestment of the land in the State Government under sub-rule (1), the Land Reforms Officer shall summon the tenant from whom the landowner resumed the land for personal cultivation and shall give him an option and the first choice to acquire the proprietary rights of the land on payment of the amount at the rate prescribed in sub-section (2) of section 104.(3)In case the tenant agrees to acquire ownership rights of the land under sub-rule (2) he shall be asked to pay the amount in lump sum or in such number of six monthly instalments not exceeding ten during the period not exceeding five years from the date of order of the Land Reforms Officer. The Land Reforms Officer shall at the same time pass an order for the delivery of possession of the land to such a person on payment of 1st instalment of the amount who acquires the proprietary rights under this sub-rule.(4)In case the tenant does not exercise option under sub-rule (2) then the land will be allotted in the following

order of preference on payment of 96 times the annual land revenue plus rates and cesses chargeable thereon :-(a)to landless agricultural labourers;(b)to village artisans; and(c)to members of scheduled castes and scheduled tribes.

27. Procedure for conferment of proprietary rights on tenants covered by sub-section (3) of section 104.

- All rights, title and interest in the tenancy land of landowners who have already under their personal cultivation 3 acres unirrigated or 1½ acres irrigated land shall vest in the non-occupancy tenants with effect from the commencement of these rules. Similarly, the proprietary rights of tenancy land of the non-occupancy tenants on Government land shall also vest in the tenants from the commencement of these rules.

28. [Attestation of mutations. [Rule 28 substituted vide Notification No. 1-8/68-Revenue I, dated 27th/31st May, 1976 and again substituted vide Notification No. 10-5/73-Revenue-B dated 27-11-1981, published in R.H.P., Extraordinary, dated 19-12-1981, pp. 1052-1053.]

(1)The Patwari shall enter the mutation of ownership in the mutation Register in favour of the non-occupancy tenants on whom proprietary rights under rule 27 vested and the Revenue Officer will attest the mutation in the presence of the parties.(2)Where a part of a field number is vested in tenants, tatima shajra of such part will be prepared on the body of the mutation sheets.]

29. Determination of disputes under sub-section (4) of section 104.

- If there is a dispute regarding the entries of the land records the Land Reforms Officer, in his capacity as an Assistant Collector of the First Grade, shall decide the dispute under sub-section (4) of section 104 in accordance with the relevant provisions of the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as the case may be. The disputes of such cases will be determined on a summary inquiry on the files. Where a tenancy is in a part of a field number, tatima shajras of that part will be prepared.

30. Manner of determination of the amount.

- Immediately after the attestation of the mutation in favour of the tenants the Patwari of the circle shall prepare a statement, in Form LRVIII showing the non-occupancy tenants who have acquired proprietary rights as a result of the mutation under rule 28 estate-wise and forward the same to the Land (Reforms) Officer concerned. On receipt of the statement, the Land Reforms Officer shall issue 15 days notice in Form LR IX to the landowners and the tenants concerned to be present before him on the date and place mentioned in the notice. The Land (Reforms) Officer shall hear the parties on the fixed date. In case there are objections from any side, the Land Reforms Officer shall, after a summary inquiry, pass order regarding the determination of the amount, apportionment of the same among the interested landowners.

31. Maintenance of register of the amount.

- As soon as the Land Reforms Officer gives his decision regarding the determination of the amount under rule 30, entry to that effect shall be made in a Register to be maintained in Form LRIV in his office tehsil-wise. The entries of recoveries of the amount in lump sum or instalments, as the case may be, from the tenants and payment thereof to the landowners shall be made in this register at the proper time. This register will be checked and verified by the Land Reforms Officer every month.

32. Payment of amount.

(1)The amount shall be deposited by the tenant with the Land Reforms Officer in lump sum or in such number of instalments as may be determined by the Land Reforms Officer under [sub-section (5) of section 104.] [Substituted for the figure '4' vide Notification No. 10-5/75-III Revenue B, dated 3-1-1984, published in R.H.P., Extraordinary, dated 21-1-1984, p. 85.] The Land Reforms Officer will pay the same to the landowner whose rights, title and interests are extinguished. In case there are more than one landowners the amount shall be paid in accordance with their respective shares. In case of amount payable to the State Government, the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-treasury, as the case may be, under relevant Head of Account.(2)Where there is a dispute between the various claimants the amount determined by the Land Reforms Officer and deposited by the tenants shall be kept in the deposit in the Treasury/Sub-Treasury pending adjudication of the case by the competent court or officer, as the case may be.(3)The amount deposited by the tenant shall be paid to the landowner by means of cash payments against receipts.(4)In case the tenants fail to pay the instalments according to the time fixed by the Land Reforms Officer in his order, the landowner shall make an application to the Land Reforms Officer for recovery of the amount due as arrear of land revenue.

33. Declaration under clause (d) of sub-section (8) of section 104.

(1)The declaration required to be made under clause (d) of sub-section (8) of section 104 shall be furnished in Form LRX by the father of the member of the Armed Forces to the Collector concerned within [2 months] [Substituted and deemed to have been substituted w.e.f. the date of coming into force of the principal rules, by vide Notification No. 10-5/73-Revenue A., dated the 9th/15th October, 1975, published in R.H.P., Extraordinary, dated the 17th October, 1975, p. 1181.] from coming into force of these rules. The declaration shall be supported by an affidavit and a copy of the jamabandi pertaining to the land given in the declaration.(2)The Collector to whom the declaration in Form LRX is furnished under sub-rule (1) shall issue a receipt of the Form in Form LRXI to the person furnishing the declaration, as soon as the declaration is received by him. Thereafter the Collector shall send a copy of the declaration to the Tehsildar who will verify the declaration in the presence of the parties and will direct the Patwari concerned to make entry in the revenue records in the light of the particulars given in the declaration, during the harvest inspection next following the declaration.

34. Procedure.

- The procedure of Land Reforms Officer under this part and Part V of these rules shall be, as far as possible, the procedure prescribed in Part II of these rules for the proceedings before the Revenue Officers.

35. Manner of service of notices.

- Notices under Chapter X of the Act shall be served in the manner prescribed in section 71 of the Act for the Mode of service of summons.

36. Form and manner of appeals.

(1)An appeal under section 114 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal or revision petition shall be accompanied by a certified copy of the order appealed against, or sought to be revised, as the case may be.(2)An appeal or revision petition, as the case may be, shall be made;(a)One rupee court-fee stamp paper, when made to the Collector;(b)two rupees court-fee stamp paper, when made to the Commissioner; and(c)four rupees court-fee stamp paper, when made to the Financial Commissioner.

37. Application to be free of stamp duty.

- All applications under Chapter X of the Act shall be on petition paper and no stamp duty except as expressly provided in rule 36 shall be chargeable.

Part VI – Control On Transfer Of Land

38. Affidavit by a person for acquisition of land.

(1)Where transfer of land by way of sale, gift, exchange, lease or mortgage with possession, of which registration is not compulsory under the Registration Act, 1908 (16 of 1908) in favour of a person, who is not an agriculturist as defined in the Act or comes within the exemptions given in clauses (a) to (g) of sub-section (2) of section 118, such a person intending to secure a transfer of land in his favour shall swear an affidavit before the Revenue Officer, attesting the mutation, to the effect that he is eligible to secure transfer of land in his favour being an agriculturist. The Revenue Officer shall satisfy himself about the contents of an affidavit by the aforementioned person and shall attest a mutation only if that person is found to be an eligible person.(2)Where a transfer of land by way of sale, gift, exchange, lease or mortgage with possession requiring compulsory registration under the Registration Act (16 of 1908) in favour of a person who is not an agriculturist as defined in the Act, such a person intending to acquire land by way of sale, gift, exchange, lease or mortgage with possession, shall file an affidavit along with the registration deed before the sub-Registrar or Registrar, as the case may be, to the effect that such a person is eligible to secure the transfer of land in his favour. The Registrar or the Sub-Registrar, as the case may be, shall satisfy himself by such an

inquiry as he deems fit that such a person is eligible to get the land under the aforesaid sub-section and only then register the document presented to him for registration, otherwise the registration of deed shall be refused.

38A. [Purpose for which land is transferable under section 118(2)(h).] [Rule 38A inserted vide Notification No. 10-5/73-Revenue A, dated 16-1-1976, published in R.H.P., Extraordinary, dated 20-1-1976, pp. 397-400.]

- [(1) Where a non-agriculturist intends to acquire land in his name by way of sale, gift, will, exchange, lease or mortgage with possession, he shall apply for permission under clause (h) of sub-section (2) of section 118 of the Act, in Form LRXIV duly supported with the documents specified, to the Collector in whose jurisdiction the land is situated.(2)(a)On receipt of the application, complete in all respects under sub-rule (1), the Collector shall, after calling for the information from the revenue staff in form LRXV and holding such enquiry as he may deem fit, verify the title of the land in question and if he is of the opinion that the application should be accepted, he shall recommend application within a period of [10 days] [Sub-rules (1) and (2) substituted vide Notification No. Revenue B-A (3)6/96, dated 5-3-1998, published in R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-27.] from the date of its receipt by him to the State Government for its consideration :][Provided that if there is any objection or shortcoming in the application Form LRXIV, the Collector shall convey all such objection(s) or shortcoming(s) at one time only to avoid un-necessary delay:Provided further that in case of transfer of land to Industrial/Tourism units or Hydro electric projects, the documents shown in items II, VI and VII of Part II of Form LRXIV and spot inspection report of the revenue officers/officials in Form LRXV shall not be required".;] [Provisos added vide' vide Notification No. B.A. (3)-6/96, dated 20th May, 1999 R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852](b)On receipt of the recommendations made by the Collector under clause (a) of this sub-rule, the State Government shall consider the application and allow or [reject the application with in 10 days:] [Substituted for the words 'reject the application' vide Notification No. B.A. (3)-6/96, dated 20th May, 1999, R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852.][Provided that in case of Industrial/Tourism units or Hydro electric projects, the permission so granted shall be subject to the fulfilment of other statutory requirements if any;] [Proviso added vide Notification No. B.A. (3)-6/96, dated 20th May, 1999, R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852.](c)The applicant shall be informed of every order passed by the State Government under clause (b) of this sub-rule; and(d)Any applicant, whose application has been rejected, may, within 60 days of the date of order of rejection, apply to the State Government to review the order and the Government may, after making such further inquiry as it may think fit, pass such order as it considers necessary:[Provided that the State Government may entertain the review application after the expiry of the said period of 60 days, if it is satisfied that the applicant was prevented by sufficient cause from filing the review application in time.](3)The permission under sub-rule 2 of tills Rule shall for any one or more of the following purposes in the following scales:-

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|---|--------------------------------|
| (a) for agriculture or horticulture purpose or for both purposes. | An area not exceeding 4 acres. |
| (b) for building a residential house. | 500 square meters. |

- (c) for construction of shop. 300 square meters.
- (d) for industrial unit. Such area as may be certified by the Deptt. of Industries of the State Government.
- (e) for charitable religious or public utility service. Such area as certified by the Collector of the District.
- (f) [for construction of a Hotel, Restaurant, Cafeteria or any such other premises. [Clause (f) inserted Notification No. 10-5/75-III Revenue B, dated 22-12-1987, published in R.H.P., Extraordinary, dated 10-12-1988, pp. 2239-40.] Such area as may be certified by the Deptt. of Tourism of the State Government].
- (g) [For construction of Apartment as defined in the Himachal Pradesh Apartment and Property Regulation Act, 2005. [Clauses (g) and (h) inserted vide Notification No. Revenue B.A. (3)6/96, dated 5th March, 1998, R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-1027 and again clause (g) substituted vide Notification No. Revenue B.A.(3)-5/2000, dated 21st June, 2006, published in H.P., Extraordinary, dated 1-7-2006, p. 2252.] Such area as may be certified by the Department of Housing and the concerned Deputy Commissioner independently.]
- (h) for setting up of hydel projects. area as recommended & approved by the MPP & Power Deptt. of the State.
- (i) [for setting up Bio-Technology Units. [Clauses (i) & (j) inserted vide Notification No. Revenue B.A.(3)-5/2000, dated 21st June, 2006, published in H.P., Extraordinary, dated 1-7-2006, p. 2252.] Such area as may be certified by the Department of Bio-Technology of the State Government and the concerned Deputy Commissioner independently.
- (j) for setting up Information Technology Units. Such area as may be certified by the Department of Information Technology of the State Government and the concerned Deputy Commissioner, independently.]
- [Provided that the permission granted under this rule shall be valid for a period of 180 days, to be counted from the date of issue of the orders of the State Government granting such permission.]
- [First Proviso inserted vide Notification No. 10-5/75-III Revenue B, dated 22-12-1987, published in R.H.P., Extraordinary, dated 10-12-1988, pp. 2239-40][Provided further that the State Government may for reasons to be recorded in writing extend the said period of 180 days.] [Second proviso inserted vide Notification. No. Revenue B.A. (3)6/96 dated 5th March, 1998 R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-1027.]

38B. [Execution of orders for vestment of Land. [Rule 38B inserted vide Notification No. Revenue B.A(3)6/96, dated 5-3-1998, published in R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-27.]

- The District Collector within his jurisdiction shall pass an order regarding vestment of land/buildings together with structures or other attachments, if any, under sub-section (2) or sub-section (3D) of section 118 of the Act, as the case may be, in the State Government, and, -(i) the order of such vestment and delivery of possession of immovable property shall be executed in the same manner as provided in the Code of Civil Procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejectment from or delivery of possession of such property; and (ii) in execution of these orders the Revenue Officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in (i) supra.]

39. Transfer of land in favour of State Government under section 119.

(1) Where an agriculturist intends to transfer his land in favour of the State Government, he shall give a notice of his intention to transfer the land in Form LRXII to the Collector. The decision of the State Government under sub-section (2) of section 119 shall be conveyed to the notice server in Form LRXIII. (2) The price of the land as determined by the Collector and confirmed by the State Government shall be paid to the transferer in cash after withdrawal of the money from the Government Treasury or the Sub-Treasury against the appropriate Head of Account. (3) After payment of the price of the land under sub-rule (2), the Collector shall take over possession of the land on behalf of the State Government and take steps to get the mutation of the land in favour of the State Government, attested.

40. Distribution of land purchased by State Government under rule 39.

- The distribution of the land among the persons mentioned in section 121 shall be made by the Collector. The eligible person shall be required to make an application to the Collector who shall allot the land keeping in view the order of preference mentioned in the aforesaid section.

41. Price of the land for distribution under section 121.

- The price of land for distribution among the persons entitled to get it under section 121 shall not be less than the price paid by the State Government under sub-rule (2) of rule 39. The total price will be recoverable in six monthly instalments not exceeding 20.

42. Repeal and Savings.

(1) The corresponding rules framed under the enactments repealed under section 126 in their application to the respective areas of Himachal Pradesh shall stand repealed from the date of the commencement of these rules. (2) The repeal of the rules referred to in sub-rule (1) shall not affect

their previous operation or anything done thereunder.(3)Notwithstanding the repeal of the rules under sub-rule (1) all suits, applications or other proceedings pending disposal under the Acts mentioned in section 126 shall be disposed of in accordance with the provisions of the rules repealed under sub-rule (1) as if these rules had not been repealed.

Form LRI[See sub-rule (1) of rule 12]Form Of Application For Voluntary Surrender Of Tenancy Land By A Tenant In Favour Of Government Under Sub-Rule (1) Of Rule 12 Schedule

Name, parentage and other particulars of tenant	Name, parentage and other particulars of the landowners	Names of District, Tehsil/ Sub-Tehsil and estate in which the land is situated	Duration of possession as tenant	Particulars of tenancy land		Area in Bighas	Total revenue	Rates and cesses	Rent payable to the landowner
				Khewat No.	Khatauni and field Nos.				
1	2	3	4	5	6	7	8	9	10

ToThe Collector,.....Sir,I hereby voluntarily surrender my tenancy land shown in the Schedule given above in favour of the Government under section 31 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).....Signature of

tenant.Address.....Dated.....

have compared the entries made in this application with the latest jamabandi entries of the estate and have found that the entries of this application tally with the entries of the

Jamabandi.....Signature of Patwari.Circle No. and Name

.....DatedForm LR II[See sub-rule (1) of rule 14]Statement Of

Occupancy Tenants Under Section 96 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972, Pertaining To Village.....Tehsil.....District.....(To Be Prepared By The Patwari)

		Particulars of land held by occupancy tenant		Name with description of occupancy tenant and share in	Name with description of tenant and share in	Field Area in Acres	Total land revenue	Rates and cesses	Total amount	Remarks
Serial No.	Village (Revenue Estate)	Khewat No.	Khatauni No.							

of more than one case of more than one.
(The position before attestation)

1 2 3 4 5 6 7 8 9 10 11 12

.....Signature of Patwari, Circle No. and
Name.....Dated.....I have compared the entries of the statement with the
latest jamabandi entries of the village and have found that the entries of this statement tally with the
entries of the Jamabandi.....Signature of Field Kanungo of the
Circle.Dated.....Note. - The entry in Col. No. 5 will be an exact copy of
ownership column of the Jamabandi and entry of Col. No. 6 will be the exact copy of column of
cultivation of the Jamabandi.Form LR III[See sub-rule (1) of rule 14]Notice Under Rule 14 Of The
Himachal Pradesh Tenancy And Land Reforms Rules, 1975Before the Land Reforms officer
..... District.In the matter of
Shri.....(Landowner).versusShri.....(Occupancy
Tenant),ToAll persons concerned.Whereas Shri/Sarvshri....., s/o....., resident of
....., Tehsil..... District is/are the proprietors of the land per
Khewat/Khatauni No. Khasra Nos. measuring bighas biswas
..... situated in Revenue Estate Tehsil District and Sarvshri
....., sons of was/were the occupancy tenants thereof;And whereas all
rights, title and interests of the land described above have vested in the aforesaid occupancy tenants
free from all encumbrances under section 94 of the Himachal Pradesh Tenancy and Land Reforms
Act, 1972 (Act No. 8 of 1974);And whereas a sum of Rs. is proposed to be allowed as
an amount to be paid by the said Shri/Sarvshri.....tenant/tenants to the said
Shri/Sarvshri landowner/landowners for extinguishment of the rights, title and interests
of the said landowner/landowners in the land described above.Now, therefore, in pursuance of rule
14 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, it is hereby notified for
information of all persons concerned that objections in regard to assessment of the said amount of
Rs. shall be heard by the undersigned on.....(date) at.....(Place). Any person
having any objection to make in the matter may do so on the said date and place.In the event of
your, your legal practitioner or a recognised agent, non-appearances in proceedings will be taken
against you ex-parte.Given under my hand and seal of this office this.....day of.....
20.....Land Reforms Officer,.....districtDated.....Seal.Form LR IV[See
rules 20 and 31]Register Of Conferment Of Proprietary Rights Of Occupancy And Non-Occupancy
Tenants In Tehsil.....District.....

1. Name and address of tenant/tenants.

2. Name and address of landowner/landowners.

3. Particulars of land in respect of which proprietary rights are transferred to the tenant/ tenants.

4. Amount of compensation determined b.-

(a)Land Reforms Officer;(b)Commissioner;(c)Financial Commissioner.

5. Compensation whether payable in instalments or lump sum, number and nature of instalments if payable in instalments.

6. Amount of compensation received from the tenant/tenant & in instalments with dates.

1. 2 3 4 5 6 7 8 9 10

7. Amount of compensation paid to the landowner/landowners in instalments.

1. 2 3 4 5 6 7 8 9 10

8. Remarks.

Note. - Entries in column Nos. 6 and 7 shall be initialed by the land Reforms Officer. Form LRV[See sub-rule (1) of rule 21]Application For Resumption Of Land Under Rule 21 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975ToThe Land Reforms Officer,.....Sir,As required under sub-rule (1) of rule 21 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975,1 furnish below the particulars of land held by me and of land which I want to resume for personal cultivation:-

Land owned by the applicant showing Khasra No., area in acre and class of land					
Serial No.	Tehsil/District	Name of Revenue Estate	Khasra No.	Area in Acres	Names of tenants
1	2	3	4	5	6
Particulars of land of the applicant to	Particulars of tenancy land which	Tenancy land left with tenant/tenants			

held by the tenant/tenants the applicant shown in col. 11 showing particulars of the land intended to be resumed for personal cultivation

Khasra No.	Class of land	Area in areas	Names of the tenants holding land	Khasra No.	Class of land	Area in acres	Class of land	Khasra No.	Area in acres	Remarks
7	8	9	10	11	12	13	14	15	16	17

I solemnly affirm that the particulars of land given above are correct to the best of my knowledge and belief. I have satisfied myself that I am eligible to resume land under the provisions of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).....Signature of the landowner. Name and full address.....Dated.....Verification By The Patwari Certified that I have verified the entries of the statement and these are correct in accordance with the entries of Land Records and that the landowner is eligible to resume land for his personal cultivation under the provisions of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).....Signature of the Patwari. Name and Circle No.....Dated.....Note. - In case of reservation of Part of Khasra number the tatima shajra verified by the Field Kanungo will also be filed with the application. Form LRVI (See rule 22) Receipt Under Rule 22 To Be Issued To The Landowner About Receipt Of Form Lrv Regarding Reservation Of Land By The Land Reforms Officer Received statement of reservation of land for personal cultivation from Shri.....s/o (landowner) resident of..... Tehsil. District today the20, personally/ through his authorised agent. Land Reforms Officer.....district Dated.....Form LRVII (See rule 24) Notice Under Sub-Rule (1) Of Rule 24 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975 Before the Land Reforms Officer district. In the matter of Shri..... (landowner): Versus Shri (tenant): To All persons concerned. Whereas Shri/Sarvshri Sons of Shri..... resident of....., Tehsil..... District, is/are the proprietors of the land comprising Khewat Khatauni No., Khasra Nos, Measuring.....bighas.....biswas.....situated in Revenue Estate.....Tehsil....., District and Shri./Sarvshri son of Shri.....residents of village are the non-occupancy tenants of the said land. And whereas the said landowner has submitted statement under rule of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, in respect of reservation of land for personal cultivation. Now, therefore, it is hereby notified for the information of all concerned that the objections in regard to the reservation of land by the said Shri/Sarvshri shall be heard by the undersigned on at All concerned are, therefore, required to

appear before the undersigned on the said date. Given under my hand and seal of this office this.....day of 20. Dated Seal. Land Reforms Officer, district. Form LRVIII (See rule 30) Statement Of Land Held By Non-Occupancy Tenants To Be Prepared By The Patwari Under Section 104(3) Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972

Serial No.	Name of estate	Khewat No.	Khatauni No.	Particulars of the landowners	Particulars of tenants	Total area of Khatauni	Land Revenue assessed	Rates and cesses	Total amount payable to the landowner	Remarks
1	2	3	4	5	6	7	8	9	10	11

Note. - 1. Col. No. 5 will be the exact copy of ownership col. of the latest Jamabandi and col. No. 6 will be the exact copy of col. of cultivation of latest Jamabandi.

2. The Kanungo should verify the entries of the statement and certify that the entries have been compared by him with the latest Jamabandi and have been found to be correct.

3. In case the entries of tenancy exist in the Khasra Girdawari and not yet incorporated in the latest Jamabandi the Kanungo will certify that the entries are correct according to Khasra Girdawari.

4. The statement will be made owner-wise.

.....Signature of the Patwari. Circle No. and Name.....Dated.....Signature of the Field Kanungo. Circle No. and Name.....Dated.....Form LRIX (See rule 30) Notice Under Rule 30 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975 Before the Land Reforms Officer District. In the matter of Shri.....(Landowner) Versus Shri.....(Tenant) To All persons concerned. Whereas Shri/Sarvshri.....sons of Shri.....resident of.....Tehsil....., District.....is/are the proprietors of the land per Khewat Khatauni No. Khasra Nos measuring, bighas biswas.....situated in Revenue Estate....., Tehsil..... District.....and Shri/Sarvshri.....sons of..... is/are non-occupancy tenant/tenants thereof; And whereas all rights, title and interest of the land described above have vested in the aforesaid non-occupancy tenant/tenants free from all encumbrances as under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) with effect from And whereas a sum of Rs. is proposed to be allowed as amount to be paid by Shri/Sarvshri..... tenant/tenants to the said Shri/Sarvshri..... landowner/landowners for extinguishment of the rights, title and interest of the said landowner/landowners in the land described above. Now, therefore, in pursuance of rule 30 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975,

it is hereby notified for information of all persons concerned that objection in regard to assessment of the said amount of Rs.shall be heard by the undersigned on.....at.....Any persons having any objection to make in the matter may do so on the said date and place.Given under my hand and seal of this office on this.....day of.....20.Dated.....Seal.Land Reforms Officer,.....district.Form LRX[See sub-rule (1) of rule 33]Form Of Declaration Under Clause (D) Of Sub-Section (8) Of Section 104 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972 (ACT NO. 8 OF 1974)I.....s/o.....resident of.....Tehsil/Sub-Tehsil District..... hereby declare the tenancy land given below as the inheritable share of my sons Shri/ Sarvshri.....on his date/their date of joining the Armed Forces;

Particulars of land declared as inheritable share of themember/members of the Armed Forces shown in Column 2								
Name, parentage and particulars of the person furnishing thedeclaration	Name of the son/ sons who is/are member/members of theArmed Forces	Date of joining the Army	Name of the tenant on the land, his parentage and otherparticulars	Name of Village Tehsil/Sub-Tehsil in which the land issituated	Khatauni No.	Khasra No.	Area in Acres	R
1	2	3	4	5	6	7	8	9

In case of parts of the field, the Tatima Shajra thereof should be attached with this declaration.AffidavitI solemnly affirm that the particulars given by me in the above declaration are true to the best of my knowledge and belief and that nothing has been concealed.Dated.....Signature of landowner.Resident of Village.....Tehsil/Sub-Tehsil.....District.....AttestationCert that the above declaration was made on solemn.....affirmation before me this.....day of.....20.... at..... in..... District.....by Shri resident of Village, Tehsil/Sub-Tehsil, DistrictDated.....Magistrate 1st Class/OathCommissioner at.....Certified further that the above affidavit has been read out to Shris/o Shri....., resident of village..... Tehsil/Sub-Tehsil District the deponent who seems perfectly to understand the same at the time of its making.DatedMagistrate 1st Class/OathCommissioner at.....Form LRXI[See sub-rule (2) of rule 33]Receipt Under Sub-Rule (2) Of Rule 33 To Be Issued In Favour Of The Father Of A Serving Soldier About Receipt Of Form LRX Regarding Declaration Of Inherited Share Of The Serving Soldier In The Tenancy

Land Received declaration under clause (d) of sub-section (8) of section 104 in Form LRX from Shri.....s/o(landowner), resident of.....Tehsil....., District.....today the.....20. Signature of Collector, District.....Dated20 Form LRXII [See sub-rule (1) of rule 39] Notice To The Collector Under Sub-Section (1) Of Section 119 Of The Himachal Pradesh Tenancy And Land Reforms Act, 1972 (Act No. 8 Of 1974) To The Collector,.....District. Sir, I intend to transfer my land comprising Khewat Khatauni No.....Khasra Nos. measuring..... bighas. biswas situated in village..... Tehsil District of which the copies of Jamabandi and tatima shajra are enclosed, in favour of the State Government. I am willing to transfer the said land for Rs. Kindly convey me the Government decision in the matter. Yours faithfully, Signature and Address of the applicant. Form LRXIII [See sub-rule (I) of rule 39] Form Of Intimation By The Collector Of The Decision, Of The State Government Under Sub-Rule (1) Of Rule 39 Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975 From The Collector,.....District. To Shri.....No....., dated.....Memorandum: With reference to your application dated.....under sub-rule (1) of rule 27 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, for transfer of land in favour of the State Government has, the State Governments agreed to purchase the land mentioned in your application for Rs..... /has refused to purchase the said land.....Signature of Collector,..... district. [Form LRXIV] [Form LRXIV substituted vide Notification No. Revenue B-A(3)6/96, dated 5-3-1998, published in R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-27.] [See sub-rule (1) of rule 38A] Application For Permission Required Under Sub-Rule (1) Of Rule 38A Of The Himachal Pradesh Tenancy And Land Reforms Rules, 1975

Part 1 – 1. Name of the applicant,
Son/Daughter/Wife of resident of Village
Tehsil....., District.....

2. Permanent address Village/ Town..... Tehsil..... District.....State.....

3. Present occupation and address.....:

4. Purpose for which the land is required.

5. Particulars of the land applied for:

(i) District. (ii) Tehsil. (iii) Number of estate (Hadbast) with name of Estate. (iv) Khata/Khatoni/Khasra Numbers along with total No. of Kitas with area and classification of land.....

6. Particulars of the land holder from whom land is intended to be transferred. Name son/daughter/wife of....., resident of Village.. Tehsil., District

7. whether the applicant applied previously for such permission if so, give the following particulars:-

(a)Date of application, if known.(b)Whether permission granted or refused (the date of order of the State Government).(c)Particulars of land permitted to be transferred previously:-(i)District(ii)Tehsil(iii)Name of Estate with Hadbast number(iv)Khasra number with area and classification.

8. Any other information which the applicant considers to be relevant.

I solemnly affirm and declare:-That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.Signature of the Applicant.Address.....Dated:Remarks of the Collector.Signature of the CollectorDistrict.....Dated.....

Part II – (Documents To Be Enclosed With The Application For Permission)

(I)Latest copy of Jamabandi and tatima shajra.(II)Certificate of permanent residence issued by the Tehsildar or the Magistrate of the area concerned.(III)Copy of agreement arrived at by the transferer and the transferee.(IV)Affidavit of the transferer stating that he, after the proposed transfer, will not become landless, and if so he will not claim any benefit/land under any scheme prepared for the benefit of the landless persons in the State.(V)Affidavit of the transferee:-(i)stating that he has not earlier acquired any land for the same purpose either in his own name or in the name of his family, with the permission of the State Government under clause (h) of sub-section (2) of section 118.(ii)stating that the land to be transferred is fit to be used for the purpose for which it is being transferred.(iii)undertaking that he will use the land, proposed to be transferred, for the same purpose for which it is sought to be transferred.(VI)No objection in the form of affidavit from the co-sharers of the land proposed to be transferred.(VII)No objection certificate:-(i)where land to be transferred is abutting the State or the National Highways, from the Public Works Department:(ii)where the land to be transferred is located in an area where the provisions of Himachal Pradesh Town and Country Planning Act, 1977 are applicable, from the Town and Country Planning authority concerned:(iii)where the land to be transferred is located in a Municipal area from the Municipality concerned:Provided that where such establishment unit or project requires more land for its expansion the application shall also be accompanied by the utilization certificate of the land already held by it.(VIII)In case officers/employees of the Government and public undertakings/autonomous bodies, a copy of permission of the employer.(IX)In case of commercial establishments, tourism units, industrial and hydel projects in addition to the documents specified

against items I to VII, the following documents shall be enclosed:-(a)Essentiality certificate from Industries Department in case of industrial unit is to be set-up.(b)Essentiality certificate from Tourism Department in case of tourism unit is to be set-up.(c)Essentiality certificate from Department of MPP & Power of the Government of Himachal Pradesh, in case of setting up of hydel projects.(d)Essentiality certificate from concerned Deputy Commissioner in case land is proposed to be purchased for the purpose of Charitable/Religious/Public utility.(X)In case of Sick Units,-Where the Industrial unit/Hydel project/Tourism unit turns sick/non-functional and the land of such unit is proposed further to be transferred to another entrepreneur either directly or through any Himachal Pradesh State Financial Institution/Himachal Pradesh State Industrial Development Corporation, the following documents shall be enclosed:-(a)[latest copy of jamabandi and tatima shajra in case of sub-division of Khasra number (s); [Sub-items (a) and (d) deleted and sub-items (b) and (c) renumbered as (a) and (b) and note and the end added vide Notification No. B.A. (3)-6/96 dated 20th May, 1999, R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852.](b)the agreement arrived at between the two parties, in case the unit is proposed to be transferred directly.][Note. - Items II, VI and VII shall not be applicable in case of Industrial/Tourism units or Hydro electric projects.] [Note inserted vide Notification No. B.A. (3)-6/96 dated 20th May, 1999, R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852.][Form LRXV] [Form LRXV added vide substituted rules (1) and (2) substituted vide Notification No. Revenue B-A(3)6/96, dated 5-3-1998, published in R.H.P., Extraordinary, dated 17-3-1998, pp. 1022-27.][See sub-rule(2) (a) of rule 38A](To Be Filled Up By The Revenue Officials/ Officers After The Spot Inspections)

Sl. No.	Point regarding	Remarks
1	Whether land is free from all encumbrances?	
2	Whether the seller is dependent on agriculture.If so the area of land remaining with him after the land asproposed is transferred/sold. In either case, the source ofincome alongwith annual income of the transferer?	
3	Whether land proposed to be transferred/soldhas been acquired by the seller under any of the landless/Nautorschemes/tenancy law?	
4	Whether there is no public path/religiousplace, cremation ground/ graveyard, source of water, power line,on the land proposed to be sold/ purchased?	
5	Whether there are trees on the land to bepurchased/sold. If so, the number of trees alongwithclassification of trees?	
6	Whether the proposed land is abutting theGovernment land. If so whether the demarcation has been done bythe competent authority?	
7	Whether land falls under the provision ofceiling surplus law?	
8	Whether there are any structures standing onland which is proposed to be purchased/sold?	
9	Whether the land proposed to be purchased fallsunder the jurisdiction of Town and Country Planning Department.If so the permission so obtained from that Department?	
10		

Whether the land proposed to be purchased is adjoining to any National Highway or any road of the H.P. P.W.D. If so, permission obtained from that Department?

- 11 In case the land proposed to be sold is owned by more than one person, the share of the seller be made clear.

Designation/Signatures Dated: of the Revenue Official/officer who had made spot inspection Recommendation of the Collector Dated Signature of the Collector. [Note. - This Form shall not be applicable in case of Industrial/Tourism units or Hydro electric projects.] [Note inserted vide Notification No. B.A. (3)-6/96 dated 20th May, 1999, R.H.P., Extraordinary, dated 1-6-1999, pp. 1851-1852.] Appendix II Notification And Instructions Issued Under The Act

1.

No. 10-32/72-Revenue-B Government of Himachal Pradesh Revenue Department..... From The Under Secretary (Revenue) to the Government of Himachal Pradesh To All the Deputy Commissioners, in Himachal Pradesh. Shimla-171002, dated the 7th May, 1976. Subject: Interpretation of section 104 of the H.P. Tenancy and Land Reforms Act, 1972-Clarification. Sir, I am directed to say that it has been brought to the notice of the Government that some Revenue Officers are not attesting mutations of ownership in favour of the non-occupancy Tenants of Temples under section 104 of the Himachal Pradesh Tenancy Land Reforms Act 1972. It is hereby clarified that such lands are not exempted from the purview of section 104 of the Act *ibid* and the mutations in favour of such tenants have to be attested. It is further clarified that such religious institutions and Temples in the capacity of landowners are entitled to resume land under the said section. Jai Hind. Yours faithfully, Under Secretary (Revenue) to the Government of Himachal Pradesh. Shimla-171002, dated the 7th May, 1976. Copy forwarded for information to Sh. Narotam Dass, Village and Post Office Karsog, Tehsil Karsog Distt. Mandi H.P. with reference to his application dated 27-4-1976. Under Secretary (Revenue) to the Government of Himachal Pradesh.

2.

No. 10-32/72-Revenue-B Government of Himachal Pradesh Revenue Department..... From Shri P.K. Mattoo, Secretary (Revenue) to the Government of Himachal Pradesh. To The Divisional Commissioner, Himachal Pradesh, Shimla-171002. Shimla-171002, dated the 5th November, 1976. Sub: Implementation of Himachal Pradesh Tenancy and Land Reforms Act, 1972 Felling of trees by the tenants and grant of lease of Government land. Sir, I am directed to refer to your letter No. 123-1/73-Commer dated the 2nd June, 1976 on the subject mentioned above and to say that there is no bar for imposing condition for not felling the trees by the tenants in respect of whom proprietary rights have been transferred under the Act. In this connection I am to state that an amendment to the Himachal Pradesh Tenancy and Land Reforms Act, 1972 has been proposed and will be issued as soon as possible, in the meantime, it is requested that necessary instructions may kindly be issued to all concerned to keep strict watch on the felling of trees by the tenants.

2. As regards the lease of land, for any purpose other than the agriculture purpose or subservient to such purposes and for orchards, ghasnies, only fall under the definition of the term 'Tenancy' as defined under section 2 (18) of the said Act. Any other lease such as for establishment of an industry or construction of a shop or residential house is not covered thereunder.

3. So far as the tenancies on government land for agricultural purposes are concerned, it may kindly be noted that no tenancies should be created/granted for agricultural purposes or for purposes subservient to agriculture or pasture in future.

4. The above instructions may kindly be brought home to each and every officer concerned in the districts. The receipt of this letter may also kindly be acknowledged.

Jai Hind.Yours faithfully,Under Secretary (Revenue) to theGovernment of Himachal Pradesh.Shimla-171002, dated the 5 November, 1976.Copy forwarded to All Deputy Commissioners in Himachal Pradesh for information and strict compliance of the instructions in question, this also disposes of Deputy Commissioner Kullu's D.O. letter No. 1570/DRA dated the 14th/23rd July, 1976 to the address of the Financial Commissioner Himachal Pradesh.Under Secretary (Revenue) to theGovernment of Himachal Pradesh.

3.

No.10-32/72-Revenue-BGovernment of Himachal PradeshRevenue Department.....FromShri H.S .Dubey,Secretary (Revenue) to the Government of Himachal Pradesh.ToThe Divisional Commissioner,Himachal Pradesh, Shimla-2.Shimla-171002, dated the 22nd March, 1977.Subject: Implementation of H.P. Tenancy and Land Reforms Act, 1972-Felling of trees by the tenants and grant of lease of Government land.Sir,I am directed to refer to this Deptt. letter of even number dated the 5.11.1976 on the subject cited above and to say that para 2 of the aforesaid letter may kindly be substituted as under:-

2. As regards the lease of Government, land for any purpose other than the agricultural purpose or for purpose subservient to agriculture or for pasture, it may be added that as confirmed by the Law Deptt. In case Government lands are leased out for construction of buildings, setting up of camps or industries etc., such leases will not create tenancies within the meaning of the expression "tenancy" as given in section 2(18) of the H.P. Tenancy and Land Reforms Act, 1972. it is further clarified that the expression "land" used in section 2(18) ibid, shall mean the land falling within the definition of "land"

given in section 2(7) of the aforesaid Act, therefore, the lessees to whom Government , lands are leased out for the purpose of setting up of industries construction of buildings, etc., shall not be entitled to acquire proprietary rights of the land under Chapter X of the Act.

Jai Hind.Yours faithfully,Under Secretary (Revenue) to theGovernment of Himachal Pradesh.Shimla-171002, dated the 7th May, 1976.Copy forwarded to All Deputy Commissioners in Himachal Pradesh for information and necessary action, in continuation of this Deptt. endt. of even number dated the 5th November, 1976.Deputy Secretary (Revenue) to theGovernment of Himachal Pradesh.

4.

No.Rev.2F(5)-2/77Government of Himachal Pradesh.Revenue Department.....FromSh. R.K .Dharmani,Under Secretary to the Government, of Himachal Pradesh.(1)The Divisional Commissioner, Himachal Pradesh, Shimla.(2)All the Deputy Commissioners, in Himachal Pradesh.(3)All the Sub-Divisional Officers (civil) in Himachal Pradesh.(4)All the Land Reforms Officers (Tehsildars) in Himachal Pradesh.Shimla-171002, dated the 31-8-1978.Subject:- Resumption of land by landowners under section 104 of the Himachal Pradesh Tenancy and land reforms Act, 1972-Clarification regarding.Sir,On the matter of resumption of land by the landowners from the non-occupancy tenancy and Land Reforms Act, 1972 a point has arisen whether for the purpose of resumption, uncultivated account. The matter has been examined and the point is clarified as follows:-Section 104 lays down that owners can resume land for personal cultivation upto three acres of unirrigated or 1 ½ acres of irrigated land from the non-occupancy tenants. The use of the expression irrigated land and un-irrigated land read with cultivated land is to be taken into account for computing the existing land held by the land owners for working out his entitlement for resumption of 3 acres of un-irrigated and 1½ acres of irrigated land and not the uncultivable land. In other words the sphere of choice is fortified to the cultivated land only. However, out of the cultivated land the first choice for selection of the tenants as the law provides.Please acknowledge receipt.Yours faithfully,Sd/-Ram Krishan Dharmani,Under Secretary (Revenue) to theGovernment of Himachal Pradesh.

5.

No.Rev.2F(5)2/77-II-Government of Himachal PradeshRevenue DepartmentFromThe Secretary (Revenue) to the Government of Himachal Pradesh.To

1. All the Deputy Commissioners in H.P.

2. All the Sub-Divisional Officers(Civil)

3. All the Tehsildars in Himachal Pradesh.

Dated.....Shimla-2, the 10th June, 1983. Subject:- Scope of section 118 of the H.P. Tenancy & Land Reforms Act, 1972 a clarification. Sir, I am directed to say that it has been brought to the notice of the Government that in some districts the sale deed or other documents purporting to transfer the land with built up houses to non-agriculturists are being refused registration by the Sub-Registrars on the plea that the subject-matter of these documents fall within the purview of section 118 and therefore cannot be registered. In this behalf I am to draw your attention to the definition of expression "Land" as given under sub-section (7) of section 2 of the Himachal Pradesh Tenancy & Land Reforms Act, 1972. This sub section reads as under: "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 pastures and includes, -(a) the sites of buildings and other structures on such land, (b) orchards, (c) ghats, (d) banjar land, and (e) private forests; . It will be seen that the "Land which is not occupied as the site of any building in a town or village has, inter alia, been made as land for the purposes of the Act. In other words, the land which is so occupied i.e., occupied as a site of a building in a town or village and is not occupied or has not been let for agricultural purposes or for purposes subservient to agriculture has been clearly excluded from the scope of the Act. Therefore a sale deed purporting the sale of a house fulfilling these conditions cannot be refused to be registered, since they are outside the scope of section 118, irrespective of the fact as to what the house was constructed prior to or after the enforcement of the H.P. Tenancy & Land Reforms Act. Kindly acknowledge receipt. Yours faithfully, Under Secretary (Revenue) to the Government of Himachal Pradesh. Shimla-171002, dated the 10th May, 83. Copy forwarded to:-

1. The Divisional Commissioner, Shimla.

2. The Divisional Commissioner, Kangra, Division Kangra, at Dharamshala, Himachal Pradesh.

3. The Director of Land Records, Himachal Pradesh, Shimla

4. The Director, Consolidation of Holdings, H.P. Shimla. - 171002.

5. The Settlement Officer, Kangra. - Dharamshala/Shimla & Kinnaur

6. The Clerk of Court to the Financial Commissioner, H.P. for information.

Under Secretary (Revenue) to the Government of Himachal Pradesh.

6.

No. Rev. 2E (5) 2/77-II Classification of Definition of an Agriculturist Government of Himachal

Pradesh Department of Revenue.....From The Financial Commissioner-Cum-Secretary (Revenue) to the Government of Himachal Pradesh, Shimla-171002. To. All the Deputy Commissioners in Himachal Pradesh. b. All the Sub-Divisional officers (Civil) in Himachal Pradesh. c. All the Tehsildars in H.P. d. All the Naib Tehsildars in H.P. Shimla-171002, dated: the 30th September, 1988. Subject: Clarification of definition of an agriculturist. Sir, I am directed to say that it has been brought to the notice of the Government that some Registrars/Sub-Registrars are not entertaining the registration deeds evidencing sale of land in favour of married women, although their parent(s) happen(s) to be agriculturists within the meaning of section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

2. The expression "agriculturist" has been defined under sub-section (2) of section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, as under:-

"Agriculturist" means a person who cultivates land personally in an estate situated in Himachal Pradesh.

3. This definition has further been elaborated under sub-section (4) and (5) of this section which are also reproduced hereunder:-

"To cultivate personally" with its grammatical 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; (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. (v) "family" means husband, his wife and their children including step or adopted children and include his parents, grand parents, brothers and un-married, widowed and divorced sisters. (3) The Act nowhere provides that the status of a child as an agriculturist shall change after he/she attains majority. This way it is clear that a daughter/son whose father owns land in H.P. and cultivates "personally" is an agriculturist alright, since she/he is also one of the "children" of an agriculturist. I am therefore to say that the sale deed in such cases should not be refused. The same holds good in respect of mutations also in such cases. Yours faithfully, Deputy Secretary (Revenue I) to the Government of Himachal Pradesh. Copy forwarded to:-

1. The Divisional Commissioner Shimla/Mandi/Dharamshala.

2. The Settlement Officer, Kangra at Dharamshala/Shimla and Kinnaurs Districts at Shimla-171006.

3. The C.O.C. to the F.C. (Appeals) Government of H.P.

Deputy Secretary (Revenue I) to the Government of Himachal Pradesh.

7.

No.Rev.2 F (9)4/91Government Of Himachal PradeshDepartment Of ReenueFromThe Financial Commissioner-cum-Secretary (Revenue) to the Government of Himachal Pradesh.To

1. All the Divisional Commissioners, in Himachal Pradesh.

2. The Director of Land Records, Himachal Pradesh.

3. All the Deputy Commissioners, in Himachal Pradesh

4. The Settlement Officer, Kangra Division at Dharamshala/Shimla and Kinnaur Districts at Shimla.-171006.

5. The Settlement Officer (Consolidation) Hamirpur, H.P.

6. The Settlement Officer (Consolidation) Bilasapur, District Bilasapur, H.P.

7. The C.O.C. to Financial Commissioner (Appeals) H.P. Government Shimla 171002, dated the 15th December, 1992.

Subject:- Procedure of recording tenancy in the revenue record.Sir,It has been noticed that the Patwaris generally record a person who cultivates or is in possession of any land as 'tenant' (Gair maurosi in pencil during crop inspection without ascertaining the relationship of landlord and tenant. The Revenue Officer also, without going into facts of the case, attests such entry and the person is recorded as tenant (Gair maurosi) in the khasra girdawari or revenue record. Recording a tenant in such a summary manner adversely affects the right of a landlord. As soon as a person is entered as tenant (Gair maurosi), he becomes the owner of the land under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. Thus, due to wrong action on the part of a patwari or a Revenue Officer, the landlord is deprived of his valuable properties. Besides, this also leads to un-necessary criminal and civil litigation.

2. Under Para 8.15 of the Himachal Pradesh Land Records Manual, 1992, the status of a landowner or tenant cannot be altered except. -

(a)by agreement of all the parties interested.

3. Again under rule 10A of the Himachal Pradesh tenancy and Land Reforms Rules, 1975, no entry showing the person to be a tenant by succession under section 45 or otherwise will be made in the record except through mutation.

4. Under rule 29 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, if there is a dispute regarding the entries of land records, the Land Reforms Officer in his capacity as an Assistant Collector of the First Grade shall decide the dispute under sub section (4) of section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 in accordance with the relevant procedure of Himachal Pradesh Land Revenue Act, 1954.

5. In view of above provisions of the law, it is not desirable in the interest of justice to empower a patwari or a Revenue Officer or an Inspecting Officer to make entry of tenancy in the revenue record in a summary manner without following proper law and procedure.

6. It has been decided that notwithstanding anything contained in Himachal Pradesh Government Revenue Department letter No. 10-5/73-II, dated 4-9-1980 and clauses (f) and (g) of para 9.9 of Himachal Pradesh Land Records Manual neither the patwari nor an Inspecting Officer shall record any person as tenant during crop inspection. Tenancy shall only be recorded by the orders of a Revenue Officer not below the rank of Assistant Collector First Grade as per procedure prescribed below:-

The applicant shall apply to Assistant collector First Grade. After inquiry Assistant collector, 1st Grade shall pass an order to record tenancy in revenue record only with the consent of the interested parties on the basis of their written agreement, provided that the creation of tenancy is not in contravention of the provisions of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1968 or any other law. The entry of tenancy shall be made by way of mutation on the basis of the order of Assistant Collector First Grade.

7. These instructions shall also apply during the settlement and consolidation operations.

Yours faithfully, (I.S. Chandel) Joint Secretary (Revenue) to the Government of Himachal Pradesh
Shimla-171002.

8.

No.Rev.D(F)6-9/91 Government Of Himachal Pradesh Department Of Revenue From The Financial Commissioner-cum-Secretary (Revenue) to the Government of Himachal Pradesh. To

- 1. All the Divisional Commissioners, in Himachal Pradesh.**
- 2. All the Deputy Commissioners, in Himachal Pradesh**
- 3. The Settlement Officer, Kinnaur and Shimla Districts at Shimla/Kangra Districts at Dharamshala(HP).**
- 4. The Director of Land Records, Himachal Pradesh, Shimla.**
- 5. The Director, Consolidation of Holdings, Himachal Pradesh, Shimla.**

Subject:- Bar of transfer of ownership rights by an owner who acquires land under section 104 of the H.P. Tenancy and Land Reforms Act, 1972. Sir, I am directed to state that it has come to the notice of the Government that the bar of 10 years on transfer of land vested in a tenant under section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, is being taken from the date of attestation of mutation of conferment of proprietary rights by the Revenue Officers on a tenant. This is not a correct interpretation of the law. The period of 10 years is to be computed from the date of coming into force of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 i.e., 3-10-1975 as laid down under rule 27 of the Rules *ibid*. If the entry of tenancy exists prior to the coming into force of these Rules in the revenue records and from the date the person is recorded as tenant thereafter in revenue records as laid down under proviso to sub section (3) of section 104 of the Act *ibid*.

2. It has been held by the Himachal Pradesh High Court in case titled "Daulat Ram v. State of Himachal Pradesh, (SLC 1979 pages 215-222) that once a person is entered as a tenant in the revenue records then notwithstanding any agreement etc., to the contrary the person so entered shall become the owner by virtue of the provision of sub-section (3) of Section 104 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. The conferment of proprietary rights under the Act is automatic from the date of publication of the H.P. Tenancy and Land Reforms Rules, 1975 in the Official Gazette and the vestment of ownership shall be free from all encumbrances. These rules came into force with effect from the 3rd October, 1975. Therefore, the provision of law does not leave any room for doubt that a person who is entered as a tenant is to become the owner of land with effect from the date of entry in the revenue records on payment of compensation as prescribed under the Act.

3. From the law as explained above, it is clarified that in respect of old tenancies recorded in revenue records prior to the rules *ibid*, the date of coming into force of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 i.e., 3-10-1975 shall be taken as the date from which 10 years are to be computed for the purpose of section 113 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. In respect of those tenancies which are created and recorded in revenue records after 3-10-1975, the date of entry of tenancy in revenue records shall be computed for the purpose of section 113 of the Act *ibid*. It may please be noted that the date of attestation of mutations shall not be taken into consideration for computing 10 years.

4. You are accordingly requested to adhere to these instructions meticulously, in future.

5. These instructions may be brought to the notice of all the Revenue Officers in your respective jurisdiction for guidance and entries made contrary to these instructions in the revenue records be corrected accordingly.

Please acknowledge receipt. Yours faithfully, Joint Secretary (Revenue) to the Government of Himachal Pradesh, Shimla. Shimla-171002, dated the 28-12-1993. Copy to:-(1) Revenue 'B' Section (2) Inspector Registration-cum-Stamp Auditor (Stamp Cell) for information and necessary action. Joint Secretary (Revenue) to the Government of Himachal Pradesh, Shimla.

9.

Government Of India Ministry Of Home Affairs New Delhi, the 10th June, 1999 S.K. CHATTOPADHYAY JOINT SECRETARY TEL. NO. 3383075 Dear Shri Goswami, I am writing to you in connection with a request from His Holiness, Bureau of Dalai Lama for extension of lease of land compromised in Khasra No. 193, 186, 690, 691, 692, 694 and 695 (old) belonging to the Municipal Committee, Dharamsala which was allotted to the Bureau of Dalai Lama by Municipal Committee, Dharamsala in the year 1979 on lease for period of twenty years. The lease of the said land is said to have expired on 31st March, 1999. The office of the Bureau of Dalai Lama has been taking up the matter with Municipal authorities for extension of the lease of the said land but the Municipal Authorities have not acceded to the request and have passed a resolution that the land be got vacated.

2. I may invite your kind attention to condition No. 2 of the lease deed (copy enclosed) executed on 1st April, 1979 between the Municipal Committee Dharamsala and the Council for Home and Rehabilitation Affairs of His

Holiness the Dalai Lama which reads as under.-

"On the expiry of the 20 years period, the increase in the rent shall not be more than the increase in price index applicable at that time."

3. It is obvious from the above that the lease of the land in question is extendable beyond 20 years period and the above clause is manifestation of this intention. As you are aware that the conditions under which His Holiness the Dalai Lama and other Tibetan refugees were given political asylum by India in 1959, have not changed there is also no distinct possibility in the near future of these refugees going back to their homeland. Moreover, even from the humanitarian angle these refugees cannot be left in lurch at this critical juncture. Government of India is committed to their rehabilitation as it was in the year 1959 and it has to provide all facilities/infrastructure for their resettlement/ rehabilitation. The task of rehabilitation of these refugees has been and is being accomplished by the Government of India with the active co-operation of the State Governments. The whole issue is therefore to be reviewed against this background and it is in this context that the lease for the land in question needs to be extended for another period of twenty years or till return of these refugees to their homeland.

May I, therefore, request you to kindly look into the matter personally and issue suitable instructions to the district authorities for extending the lease. A line in confirmation will be highly appreciated. With best regards, Yours sincerely, (S.K. Chattopadhyay) Shri A.K. Goswami, Chief Secretary, Government of Himachal Pradesh, Shimla. Copy to:-

- 1. Deputy Commissioner, Dharamsala, Himachal Pradesh.**
- 2. Shri Tashi Wangdi, Minister of Home, Department Of Home, Bureau of H.H. the Dalai Lama, Dharamsala, Himachal Pradesh.**
- 3. Bureau of H.H. the Dalai Lama, I.O. Ring Road, Lajpat Nagar IV, New Delhi.**

10.

No. Rev. B.F.(5)-7/2001 Government of Himachal Pradesh Department of Revenue From F.C. cum-Secretary (Revenue) to the Government of Himachal Pradesh. To All the Deputy Commissioners In Himachal Pradesh. Shimla-171002, dated the 30th April, 2002 Subject:- Clarification regarding definition of Agriculturist under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972. Sir, I am directed to say that the cases are being referred to the Government for

seeking clarification regarding definition of Agriculturist that, whether a non-Himachali/non-agriculturist who married a Himachali agriculturist female can also be considered as agriculturists under section 118 of the H.P. Tenancy and Land Reforms Act, 1972 and permission to purchase land in the State of Himachal Pradesh as required under section 118 of the Act *ibid* is required for such non-Himachali/non-agriculturist or not. In this regard, it is clarified that section 118 of the H.P. Tenancy and Land Reforms Act, 1972 bars any transfer of land by way of exchange, lease, mortgage with possession or creation of tenancy in favour of a person who is not an agriculturist. Under section 2(2) agriculturist is a person who cultivates land personally in an estate situated in Himachal Pradesh and in terms of section 2(4)(iii) "to cultivate personally" also includes by the labour of any member of the family, in terms of section 2(5) family "means husband, his wife, and their children including step or adopted children etc." The word "land owner" as defined in section 2(10) means a person defined as such in H.P. Land Revenue Act, 1984 and shall include the predecessor or successor in interest of the land owner. From the combined reading of sub-sections (2), (4) (5) and (10) of section 2 of the Act *ibid* it is clear that a husband who is successor in interest of his wife and being member of the family also falls in the expression "to cultivate personally" is an agriculturist for the purpose of section 118 of the Act in question and no permission as required by the said section is necessary. However, it is also clarified that above clarification can not have uniform application in all cases because every land owner may not be an agriculturist. As such, every case is to be examined separately depending upon the nature and facts of the case and the aforesaid clarification will be approachable only when the land owner in that case owns an agricultural land and cultivates the same personally within the meaning of section 2(4)(iii) of the Act *ibid*. Yours faithfully, Sd/-Under Secretary (Revenue) to the Government of Himachal Pradesh Shimla-171002, dated the 30th April, 2002, Copy forwarded to the

1. Commissioner (Revenue), H.P. Shimla. - 171002, for information.

2. Copy forwarded to the Deputy Commissioner, Shimla District, Shimla.-1 with reference to his letter No. SML-HRM21/98-Hidayte-31 dated 2nd January, 2002 for information and necessary action.

3. Copy to Guard file.

Sd/-Under Secretary (Revenue) to the Government of Himachal Pradesh

11.

No. Rev. B.A. (4)6/2004-Loose Government of Himachal Pradesh Department of Revenue From F.C.-cum-secretary (Revenue) to the Government of Himachal Pradesh. To

1. The Divisional Commissioners Shimla/Mandi/Kangra at Dharamshala, H.P.

2. All the Deputy Commissioners in Himachal Pradesh.

3. The Settlement Officer, Shimla/Kangra at Dharamshala, HP

4. All SDO (Civil), in Himachal Pradesh.

5. All Tehsildars/Naib Tehsildars in Himachal Pradesh. Shimla-171002, dated the 21-4-2006

Subject: Clarification regarding implementation of notification issued by the Forest Department in the year of 1952. Sir, I am directed to say that issue regarding applicability of provisions of notification issued in the year 1952, by the Forest Department, under Indian Forest Act, 1927, was under consideration of the Government and a Committee under the Chairmanship of Chaudhary Dhani IAS (Retd.) was constituted by the Government to examine the implications arising out of notification issued by the Forest Department on 25-2-1952 and subsequent notifications and interim direction/order issued by the Hon'ble Supreme Court dated 12-12-1996 on WP (Civil) No. 202 of 1995 in case Shri T.N. Godaverman Thirumulkpad v. Union of India. The recommendations of the said Committee were also examined by a Sub-Committee constituted under the Chairmanship of the Director, Land Record in which the representatives of the Forest Department and Revenue Department were associated as members. Thereafter, the matter has been examined at length at Government level in consultation with the Law Department and it has been concluded /decided that notification issued in the year 1952 by the Forest Department under the provision of Indian Forest Act, 1927 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 as the land vested under these statutes was belonging to the people before vestment and has to be utilized by the Government for the benefit of weaker section of the society as per schemes framed under these statutes to achieve the objective being the enactment of aforesaid enactments. However, if any land, which was vested in the State Government under the aforesaid enactments, was recorded as forest land in the revenue record before vestment then even after vestment such land shall continue to be treated as Forest land and the provisions of Indian Forest Act 1927 and the Forest (Conservation) Act, 1980 are applicable on such land and such land can be utilized for non-forest purpose only with the prior approval of the Central Government. Further, the forest law shall also apply to surplus area if any which has been demarcated by the Forest Department in consultation with the Revenue department in terms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974. In view of above decision, you are request to direct the field agencies that despite the notification issued in the year 1952 by the Forest Department, the provisions of Indian Forest Act, 1929 and Forest Conservation Act, 1980 will not apply to the lands vested in the State Government under the provisions of the H.P. Ceiling on Land Holdings Act, 1972 and H.P. Village Common Lands Vesting and Utilization Act, 1974 and H.P., Village Common Lands Vesting and Utilization Act, 1974 unless any land which vested in the state Government under the aforesaid enactments was recorded as forest land in the revenue record before vestment or any land which has been demarcated by the Forest Department in consultation with the Revenue Department in norms of clause 8 of the H.P. Utilization of Surplus Area Scheme, 1974. Yours faithfully, Sd/-Deputy

Secretary (Revenue) to the Government of Himachal Pradesh Copy forwarded for information and necessary action to:

1. The Principal Secretary (Forest) to the Government of Himachal Pradesh, Shimla.-171002.

2. The Principal Chief Conservator of Forest, H.P.

3. The Director, Land Records, H.P. Shimla.-9.

4. The ALR-cum-Under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-171002.

5. The COC to the Financial Commissioner (Appeals) to the Government of H.P. Shimla.-171002.

Sd/-Deputy Secretary (Revenue) to the Government of Himachal Pradesh

12.

Authoritative English text of this department order No.Rev.B.F.(10)199/2003, dated 8th May, 2006 as required under clause (3) of Article 348 of the Constitution of India.) Government of Himachal Pradesh Revenue Department No.Rev.B.F.(10)199/2003.Shimla-171002, the 8-5-2006. Order Whereas, it has come to the notice of the Government that the Tibetan refugees are in possession/use of private lands without title in the State of Himachal Pradesh particularly in and around Dharamshala. Most of these cases pertain to lands under utilization by institutions, trusts and societies promoted by Tibetan refugees for setting up of schools, nunneries, hospitals, monasteries etc. and certain cases pertain to lands in possession of individual Tibetans being used for residential and business activities etc., Since, the Tibetan refugee are in possession/use of such lands without title, as such, in certain cases even proceedings under sub-section (3D) of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 are under adjudication in the courts. And Whereas, proposals in this behalf have been received from His Holiness Dalai Lama and also from the aforesaid welfare Tibetan refugees. And Whereas, for such rehabilitation resettlement of the Tibetan refugees the matter has been examined in the light of policy guidelines of Government of India. As the Government of India, Ministry of Home Affairs vide its communication, dated 10-6-1999 has clearly observed that from humanitarian angle the Tibetan refugees can not be left in lurch, at this critical juncture and Government of India is committed their to their rehabilitation as it was in the year 1959, and it has to provide all facilities/infrastructure for their resettlement/rehabilitation and the Government of India has further observed that the task of rehabilitation is to be accomplished by the Government of India with the active cooperation of State Government. The aforementioned communication also emphasises on the need of giving the lease of land to the Tibetan refugees till return of these refugees to their home land and by extending the

lease from time to time. Now Therefore, in exercise of the powers conferred by sub-section (4) of section 2118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, the Governor of Himachal Pradesh is pleased to order that the land, which is vested or may be vested in the State Government under sub-section (2) or sub section (3D) of section 118 of the Act *ibid*, may be granted on long-term lease basis on nominal lease money to the Tibetan Refugees, Societies Institutions and Trusts promoted by Tibetan Refugees for the welfare of Tibetan community on following terms and condition:-

- 1. Lands will be leased out in favour of His Holiness the Dalai Lamas Central Tibetan Relief Committee Dharamshala which is a Registered Charitable Society, only for the purpose of rehabilitation and resettlement of Tibetan refugees as a special welfare measure keeping in view the Government of India's policy guidelines regarding resettlement/rehabilitation of Tibetan refugees.**
- 2. Only those privately owned lands will be leased out for rehabilitation and resettlement of Tibetan refugees which are in possession/use of institutions, Societies and Trusts promoted by Tibetan refugees in furtherance of the rehabilitation and welfare of the Tibetan refugees and in possession/use of individual Tibetan refugees being used as residential/business premises for their shelter and livelihood and which are so vested or may be vested with the State Government under section 118(3D) of the Himachal Pradesh Tenancy and Land Reforms Act.**
- 3. Such lands will be leased out to the Central, Tibetan Relief Committee for a period of fifty years or till the return of these refugees to their home lands whichever is earlier. Sub-lease in favour of Societies/Trusts/Institutions promoted by Tibetan refugees for their welfare, livelihood and shelter and also to individual Tibetan refugees for his shelter and livelihood will be allowed, with the prior written approval of the Government H.P. on merit of each case, for a period of 33 years, which can be further renewed up to a total lease period of 50 years.**
- 4. Ten per cent. (10%) amount of the market value of land at the time of entering into lease deed shall be charged as one time lumpsum lease money and thereafter token lease money/rent of rupees one per annum will be charged from the Central Tibetan Relief Committee. Usual stamp duty on lease deed will be payable by the lessee.**

5. Leased land shall be used only for rehabilitation and resettlement as a welfare measure and in the even of any violation of lease deed; such lands shall revert to State Government free from all encumbrances.

6. This decision of grant of lease is only a one time measure, as special case and will be applicable only in such cases where transactions, in violation of law, have taken place prior to 31-12-2005 and vestment order is/has been passed under section 118(3D) of the Act ibid.

The Governor, Himachal Pradesh, is further pleased to order that the cases under adjudication under section 118(3D) of the Himachal Pradesh Tenancy and Land Reforms Act, after their final disposal may be processed accordingly on the application for grant of lease of such lands by His Holiness the Dalai Lama's Central Tibetan Relief Committee, if any, for consideration of lease at the Government level and also for permission under section 118 ibid if any, required. By order (Subhash Negi) F.C.-cum-Secretary (Revenue) to the Government of Himachal Pradesh. Shimla-171002, dated 8-5-2006. Copy forwarded to:-

1. The Deputy Commission, Kangra at Dharamshala, H.P. for information and necessary action.

2. The Secretary, His Holiness the Dalai Lama's Tibetan Relief Committee, Gangchen Kyishong, Dharamshala, Distt. Kangra, H.P. for information and necessary action.

3. The Private Secretary to His Holiness the Dalai Lama, Mcleodganj, Dharamshala, District Kangra for information.

4. The ALR-cum-under Secretary (Law-opinion) to the Government of Himachal Pradesh, Shimla-171002.

Deputy Secretary (Revenue) to the Government of Himachal Pradesh.

13.

No. Rev. B.A (4)8-2004-1 Government of Himachal Pradesh Department of Revenue From A.C.S.-cum. F.C. (Revenue) to the Government of Himachal Pradesh. Shimla-171002, dated the 19-5-2007 Subject: Request for relaxation of matter of 'NAKABIL' land classified in the revenue record prior to the 1980 in Mauza Jarja, Tehsil Nahan, H.P. Sir, I am directed to refer to your letter No. TCP-F(10-)-1/2007, dated 28th March, 2007, on the subject cited above and to say that the matter regarding applicability of provisions of Forest Conservation Act, 1980 on the land classified as 'NAKABIL' and 'NAKABIL JANGALJJHADI' has been examined in consultation with

the law Department. As per Law Department the expression 'Forest Land' has not been defined either in the Indian Forest Act, 1927 or the Forest (Conservation) Act, 1980 but the controversy is no longer re-integra the Hon'ble Supreme Court itself has defined the term 'forest land' in its various judgment. The Hon'ble Supreme Court in its judgment reported in AIR 1997 SC 1228, in case T.N. Godaverman Thirumulkpad v. Union of India has held that the term 'forest land' occurring in section 2 will not only include 'forest' as understood in dictionary sense, but also any area recorded as forest in government record irrespective of ownership. In another case, titled as Samatha v. State of Andhra Pradesh reported in AIR 1997 SC 3297 a view has been taken that 'forest' bears extended meaning of tract of land covered with trees, shrubs vegetation and under-growth intermingled with trees with pastures, be it natural growth or man made forestation. Hence, from the perusal of the meaning assigned to the word 'forest' by the Hon'ble Supreme Court it is clear that the land classified as 'Nakabil' and 'Nakabil Jangal Jhadi' can not be treated as forest land thus, planning permission can be given on such land. However, if there are trees, shrubs vegetation and undergrowth intermingled with trees with pasture, be it natural growth or man made forestation then, it will attract the provisions of Forest Conservation Act, 1980 in terms of law established laid down by the Hon'ble Supreme Court. You are, therefore, requested to direct the concerned accordingly. Yours faithfully, Sd/-Secretary (Revenue) to the Government of Himachal Pradesh Shimla-171002, dated the 19-5-2007 Regd/Copy forwarded to:-

- 1. The Principal Secretary (Forests) to the Government of Himachal Pradesh, Shimla.-171002.**
- 2. The Divisional Commissioner, Shimla/Mandi/Kangra at Dharamashala, H.P.**
- 3. All the Deputy Commissioners in H.P.**
- 4. The Director, Land Records, H.P. Shimla.**
- 5. The Director, Consolidation of Holdings, H.P. Shimla.**
- 6. The Settlement officer, Shimla/Kangra at Dharamshsala, H.P.**

They are requested to direct the field revenue agencies accordingly and to acknowledge the receipt of this communication. Sd/-Secretary (Revenue) to the Government of Himachal Pradesh.

14.

la[;k% jSo&,Q 1/4 10 1/2 & 62 @ 81 fge kpy izns'k ljdkj jktLo foHk kxizs"kd% fork;qDr ,oa lfpo jktLofgekpy izns'k ljdkjAizsf"kr% mik;qDr]lksyu] ftyk lksyu] fge kpy izns'kAfnukad f'keyk&171002 20 vxLr] 2007fo"k;%& dksfjUt gksVy gVxsUVl ctj;k dqo js.kq dksfju }kjk gksVy@jSLVksjsUV bdkbZ LFkkfir djus gsrq Hkwfe e; fufeZr bdkbZ dz; djus dh vuqefr iznku djus ckjsAegksn;]mijksDr fo"k; ij eq>s vkids dk;kZy; i= la[;k lksyu&9&84 1/4 is'kh 1/2 @ 80 @ 740 fnukad 16&2&1980 tksfd e.Myk;qDr] f'keyk dks lEcksf/kr gS }kjk izkIr mDr vkosfndk ds vkosnu izdj.k ds lUnHkZ esa ;g dgus dk funsZ'k gqv k gS

fd izns'k ljdkj us fgekpy izns'k VsusUlh ,.M yS.M fJQkseZt ,DV] 1972 dh /kkjk 118 dh mi&/kkjk 2 ds [k.M ,p rFkk fgekpy izns'k VsusUlh ,.M yS.M fJQkseZt :Yt] 1975 ds fu;e 39 , ds mi&fu;e 3 ds [k.M ,Q ds vUrxZr HkkfDr;ksa dk iz;ksx djrs gq, vkosfndk ds i{k esa [kljk la[k% 469@33@1] 37@3 476@39@1 o 471@38@1 fdrk &4 jdok rknknh 1&13 oh?kk o ml ij fufeZr bZdkbZ fLFkr ekStk cMksx] rglhy o ftuyk lksyu fgekpy izns'k esa fuEufyf[kr HkkrrksZa ij gksVy@jsLVksjsaV bdkbZ LFkkfir djus gsrq Hkwfe o ml fufeZr bZdkbZ dz; djus dh vuqefr iznku dh tkrh gS%&

1.

- ;g vuqefr bl i= ds tkjh gksus ls 160 fnu rd ekU;@oS/k gksxhA

2.

-Hkwfe dk iz;ksx mlh iz;kstu ds fy, 2 o"kkZsa dh vof/k ds vUnj fd;k tk;sxk ftl iz;kstu ds fy, vuqefr nh xbZ gSA ;fn Hkwfe dk iz;ksx mlh iz;kstu ds fy;s fu/kkZfjr vof/k ds vUnj ugha fd;k x;k rks mDr Hkwfe lHkh izdkj ls HkkjeqDr gks dj ljdkj esa fufgr gks tk;sxhA

3.

- tekoUnh dh fVli.kh [k.M esa yky L;kgh ls bUnzkt fd;k tk, fd dszrk Hkfo"; esa ljdkj ls fd;k Hkh izdkj ls Hkwfe vkcaVu@yht@vuqnku ds fy, d`"kd dh ifjHkk"kk esa ugha vk,xkA

4.

- bl Lohd`fr ds vUrxZr dz; dh Hkwfe dh dszrk d`"kd dgykus dk vf/kdkjh ugha gksxk vkSj ,slk vd`"kd O;fDr vd`"kd gh jgsxkA

5.

- fodz; dh tkus okyh izLrkfor Hkwfe dh orZeku cktkj dh ij LVSEi 'kqYd ds vfrfjDr jkf'k eqo 2]oo]ooo nks yk[k :i;s dszrk ls crkSj tqekZuk olwy dh tk,xhA

6.

- bl foHkkx ds i=% la[k% jSo&ch&,Q 10&187@2003 fnukad 29&120&2003 }kjk tkjh fn'kk funsZ'k ds vuqlkj vko';d izek.k i= fu/kkZfjr nks o"kksZa dh le; vof/k ds Hkhrj bl foHkkx dks miyC/k djokuk lqfuf'pr djsaAHkonh;]mi lfpo jktLofgekpy izns'k ljdkjAizfrfyi fuEufyf[kr ds lwpukFkZ izsf"kr gS%&

1.

- dqo js.kq dksfju] xkao] Mkd?kj o rglhy ,oa ftyk lksyu] fgekpy izns'k dks lwpukFkZ izsf"kr gSA

2.

- vk;qDr] ukxfjdr mM~M;u ,oa i;ZVu] fgekpy izns'k f'keyk dks muds }kjk tkjh vfu;ok;Zrk izek.k i=
la;k 8&127@90 Vho,lo,eo 5910 fnukad 31-1-1992 ds lUnHkZ esaAmi lfpo jktLofgekpy izns'k
ljdkjA_____