

The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1997

HIMACHAL PRADESH

India

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Act 9 of 1997

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The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1997 Act No. 9 of 1997 An Act further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974). Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-eighth Year of Republic of India, as follows-

1. Short title and commencement.

(1) This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1997. (2) It shall and shall be deemed to have come into force, on the 28th day of December, 1996.

2. Amendment of section 2.

- In section 2 of the Himachal Pradesh Tenancy and Land Reform Act, 1972 (hereinafter called the principal Act), in clause (2), for the word "person", the word "landowner" shall be substituted.

3. Amendment of section 118.

- In section 118 of the principal Act-(i) in sub-section (1), for the Explanation, the following shall be substituted, namely:- "Explanation. - For the purpose of this sub-section, the expression "transferor land" shall not include (i) transfer by way of inheritance; (ii) transfer by way of gift made or Will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be; (iii) transfer by way of lease of land or building in a municipal area; but shall include-(a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and (b) an authorisation made by the owner by way of special or general power-of-attorney or by an agreement with the intention to put a non-agriculturist in possession of

the land and allow him to deal with the land in the like manner as if he is a real owner of that land.";(ii)in sub-section (2)-(a)alter clause (d), the following clause (dd) shall be inserted, namely:"(dd) a person who, on commencement of this Act, worked and continues to work for gain in an estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed-(i)in case of a dwelling house 500 square metres; and(ii)in the case of a shop or commercial establishment 300 square metres:Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State;"(b)in clause (e), before the words "or a statutory body" , the words "or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894" shall be inserted;(c)for clause (f) , the following clause shall be substituted, namely: -(f)a person who has become non-agriculturist on account of-(i)acquisition of his land for any public purpose under the Land Acquisition Act, 1894; or(ii)vestment of his land in the tenants under this Act; or"(d)in the first proviso, for word, brackets and alphabet "clause (g)" the words, brackets and alphabets "clause (dd) or clause (g)" shall be substituted;(e)in the second proviso, after the word "non-agriculturist", the words, brackets and alphabets "who purchases land under clause (dd) or" shall be added;(iii)in sub-section (3B), the words "and after making such enquiry as he thinks fit either-personally or through an officer working under him" shall be omitted and at the end, the words "and the order made by the Divisional Commissioner shall be final and conclusive" shall be added;(iv)for sub-section (3C), the following sub-section shall be substituted, namely:-(3C)(a) The Financial Commissioner may either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.(b)No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard."(v)in sub-section (3D), for the word "appeal" appearing for the third time, the word "revision" shall be substituted;-(vi)after sub-section (4), the existing Explanation shall be numbered as Explanation I and at the end, the words "but shall not include a built-up area in the municipal area" shall be added: and(vii)after Explanation I, so numbered, the following Explanation II, shall be added, namely:"Explanation II. - For the purpose of this section the expression "municipal area" means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force."

4. Repeal of Ordinance No. 4 of 1996 and savings.

(1)The Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1996 (4 of 1996) is hereby repealed.(2)Notwithstanding such repeal, anything done or, any action taken under the repealed Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the Act, as if the provisions of the Act were in force at the time when such thing was done as such action was taken.