

# **The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1994**

HIMACHAL PRADESH

India

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### **Act 6 of 1995**

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The Himachal Pradesh Tenancy And Land Reforms (Amendment) Act, 1994 Act No. 6 of 1995 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P., Extraordinary, dated 7-9-1994, p. 2424 & 2429. (Received the assent of the President of India on 22nd March, 1995 and was published in Hindi and English in R.H.P., Extraordinary, dated 4-4-1995, p. 1545-1548 and 1549-1552). 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-fifth Year of the Republic of India, as follows:-

### **1. Short title.**

- This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1994.

### **2. Amendment of section 118.**

- In section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974) (hereinafter referred to as the principal Act,-(i)for sub-sections (1) and (2), the following shall be substituted, namely:-"(1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this Chapter, no transfer of land (including transfer by a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, Will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist. Explanation. - For the purpose of this sub-section, the expression "transfer of land" 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

nonagriculturist 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.(2)Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour of:-(a)a landless labourer; or(b)a landless person belonging to a scheduled caste or a scheduled tribe; or(c)a village artisan; or(d)a landless person carrying on an allied agricultural pursuit; or(e)the State Government or Central Government, or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a statutory body or a Corporation or a Board established by or under a statute and owned and controlled by the State or Central Government; or(f)a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the land Acquisition Act, 1894(1 of 1894); or(g)a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh State Housing Board established under the Himachal Pradesh Housing Board Act, 1972 (10 of 1972), & from the Development Authority constituted under the Himachal Pradesh Town and Country Planning' Act, 1977 (12 of 1977) or from any other statutory Corporation set-up for framing and execution of house accommodation schemes in the State under any State or Central enactment;(h)a non-agriculturist with the permission of the State Government for the purposes that may be prescribed:Provided that a person who is non-agriculturist but purchases land either under clause (g) or with the permission granted under clause (h) of this sub-section shall, irrespective of such purchase of land, continue to be a non-agriculturist for the purpose of this Act:Provided further that a non-agriculturist in whose case permission to purchase land is granted under clause (h) of this sub-section, shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one year, as may be allowed by the State Government for reasons to be recorded in writing to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the State Government, the said user for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances." ;(ii)in sub-section (3) the words, brackets and figure "and such transfer shall be void ab-initio and the land involved in such transfer if made in contravention of sub-section (1), shall together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances" shall be omitted;(iii)after sub-section (3), the following sub-sections (3A), (3B), (3C) and (3D) shall be added, namely:-(3A) Where:-(a)the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, (16 of 1908) before whom any document pertaining to transfer of land is presented for registration, comes to know or has reasons to believe that the transfer of land is in contravention of sub-section (1); or(b) a Revenue officer either on an application made to him or on receipt of any information from any source, comes to know or has reasons to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1);such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference, or where the Revenue Officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of, being, heard and holding an enquiry , determine whether the transfer of land is or is not in contravention of sub-section (1) and he shall,

within 90 days from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing, record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.(3B)The person aggrieved by the findings recorded by the Collector, that a particular transfer of land is in contravention of the provisions of sub-section (1), may within, a period of 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and if necessary, after sending for the records of the case from the Collector and after making such enquiry as he thinks fit either personally or through an officer, working under him reverse, alter or confirm the order made by the Collector.(3C)The person aggrieved by the decision of the Divisional Commissioner in appeal under sub-section (3B), may, within a period of 30 days from the date of such decision or such longer period as the Financial Commissioner may allow for reasons to be recorded in writing, file an appeal to the Financial Commissioner who may, after giving the parties, an opportunity of being heard and, if necessary, after sending for the records of the case and after making such enquiry as he may think fit, reverse, alter or confirm the order made by the Divisional Commissioner and the order made by the Financial Commissioner shall be final and conclusive.(3D)Where the Collector of the; District under sub-section, (3A), in case an appeal is not made within the prescribed period, or the Divisional Commissioner in appeal under sub-section (3B), or the Financial Commissioner in appeal under sub-section 3(C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall, be void ab initio and the land involved in such transfer together with structures, buildings or other attachments, if any, shall in the prescribed manner vest in the State Government free from all encumbrances."; and(iv)in sub-section (4),-(a)for the brackets and figure "(3)", the figure, brackets and letter "(3D)", shall be substituted; and(b)for the Explanation, the following shall be substituted, namely:-"Explanation. - For the purpose of this section, the expression "land" shall include-(i)land recorded as "Gair-mumkin", "Gair-mumkin Makan" or any other Gair-mumkin land, by whatever name called in the revenue records; and(ii)land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture.".

### **3. Insertion of section 121A.**

- After section 121 of the principal Act, the following new section 121A shall be added, namely:-"121A. Bar of Jurisdiction. - Save as otherwise, expressly provided in this Chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any civil court or before any other authority."