

The Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Rules, 1971

HIMACHAL PRADESH

India

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Rule

THE-HIMACHAL-PRADESH-PUBLIC-PREMISES-AND-LAND-EVICTION of 1971

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The Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Rules, 1971 Published Vide Notification No. 1-12/71-LSG. Dated 10th March, 1972 Local Self Government Department No. 1-12/71-LSG. - In exercise of the powers conferred by section 17 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971 (Act No. 22 of 1971) the Governor, Himachal Pradesh, is pleased to make the following rules entitled as the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Rules, 1971, the same having been previously published in Himachal Pradesh Rajpatra (Extraordinary issue), dated 13th December, 1971:-

1. Short title.

- These rules may be called the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Rules, 1971.

2. Definitions.

(1) In these rules-(a) 'Act' means the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971; (b) 'Form' means a form appended to these rules. (2) Words and expressions used but not defined in these rules shall have the meaning, if any, assigned to them in the Act.

3. Form of notices and orders.

- A notice or order under the Act, shall be in one of the appropriate forms [(A, B, C, D, E & F)] [Inserted by Notification No. 1-12/71-L.S.G. dated 7.1.1974, published in R.H.P. Extra dated 11.1.1974. P. 31-32.] appended to these rules.

4. Manner of service of notices and orders.

(1)Where the person on whom a notice under sub-section (1) of section 4, or sub-section (1) section 6 of the Act is to be served cannot be found, a copy of such notice shall, in addition to any other manner of service specified in the Act, be affixed in a conspicuous part of the last known place of business of such person or be delivered to some adult member of his family.(2)The Collector may also proclaim the contents of any notice in the locality by beat of drum.

5. Holding of enquiries.

(1)Where any person on whom a notice or order under this Act has been served desires to be heard through his representative, he should authorise such representative, in writing.(2)The Collector shall record the summary of the evidence tendered before him. The summary of such evidence and any relevant documents filed before him shall form part of the records of the proceedings.

6. Manner of taking possession of public premises.

- If any obstruction is offered or is in the opinion of the Collector likely to be offered to the possession of any public premises under the Act, the Collector or any other officer duly authorised by him in this behalf may obtain necessary police assistance.(2)Where any public premises of which possession is to be taken under the Act, is found locked, the Collector or any other officer duly authorised by him in this behalf may either seal the premises or in the presence of two witnesses break open the locks or open or cause to be opened any door, gate or other barrier, and enter the premises:Provided that-(1)no entry shall be made into or possession taken of a public premises before sunrise or after sunset;(2)where any public premises is forced open, an inventory of the articles found in the premises shall be prepared in the presence of two witnesses.

7. Assessment of damages.

- In assessing damages for unauthorised use and occupation of any public premises, the Collector shall take into consideration the following matters, namely:-(a)the purpose and the period for which the public premises were in unauthorised occupation;(b)the nature, size and standard of the accommodation available in such premises;(c)the rent that would have been realised if the premises been let on rent for the period of unauthorised occupation to a private person;(d)any damage done to the premises during the period of unauthorised occupation;(e)any other matter relevant for the purpose of assessing the damages.

8. Procedure in appeals.

(1) An appeal preferred under section 9 of the Act, shall be in writing, shall set forth concisely the grounds of objections to the order appealed against, and shall be accompanied by a copy of such order. (2) On receipt of the appeal and after calling for and pursuing the record of the proceedings before the Collector, the appellate officer shall appoint time and place for the hearing of the appeal and shall give notice thereof to the Collector against whose orders the appeal is preferred and to the appellant.

9. Repeal and savings.

- Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable are hereby repealed: Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules. Form 'A' [(See rule 31)] [Inserted by Notification No. 1-12/71-L.S.G. dated 7.1.1974 published in R.H.P. Extra dated 11.1.1974. P. 31-32.] Form of notice under sub-section (1) of section 4 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971. To Shri/Shrimati/Kumari..... Whereas, I the undersigned, am of opinion, on the grounds specified below, that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises:- Grounds Now, therefore, in pursuance of sub-section (1) of section 4 of the Act, I hereby call upon you to show cause on or before the* why such an order of eviction should not be made.

Schedule

Date..... Signature and Seal of Collector. *This date should be a date not earlier than ten days from the date of issue of the notice. Form 'B' [(See rule 3)] [Inserted by Notification No. 1-12/71-L.S.G. dated 7.1.1974 published in R.H.P. Extra dated 11.1.1974. P. 31-32.] Order under sub-section (1) of section 5 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971. Whereas, I the undersigned, am satisfied for the reasons recorded below that Shri/Shrimati/Kumari..... is/are in unauthorised occupation of the public premises specified in the schedule below. Reasons Now, therefore, in exercise of the powers conferred on me by sub-section (1) of section 5 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971, I hereby order the said Shri/Shrimati/Kumari..... and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within thirty days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above, the said Shri/Shrimati/Kumari..... and all other persons concerned are liable to be evicted from the said premises, if need be by the use of such force as may be necessary.

Schedule 2

Date.....Signature and Seal of the Collector. Form 'C' (See rule 3) Form of notice under sub-section (1) of section 6 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971 To Shri/Shrimati/Kumari.....Whereas on the.....you were evicted from the public premises described in the schedule below which was unauthorisedly occupied by you. Now, therefore, in exercise of the powers conferred on me by sub-section (1) of section 6 of the Act, I hereby give you notice that after fourteen days of the service of this notice on you, any property remaining on the said premises will be liable to be removed or disposed of by public auction. In case you desire to take possession of your property and to remove the same from the said premises, you will be permitted to do so on written authority from the undersigned provided any arrears of rent/damages due from you are paid within the said period of fourteen days.

Schedule 3

Date.....Signature and Seal of the Collector. Form 'D' [(See rule 3)] [Inserted by Notification No. 1-12/71-L.S.G. dated 7.1.1974, published in R.H.P. Extra dated 11.1.1974. P. 31-32.] Order under sub-section (1) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971. To Shri/Shrimati/Kumari.....Whereas you are in occupation of the public premises described in the schedule below:-And, whereas, a sum of Rs.being the arrears of rent from the day of 19.....upto the day of 19..... in respect of said premises is due and payable by you to the Government. Now, therefore, in exercise of the powers conferred on me by sub-section (1) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971, I hereby require you to pay the said sum on or before, the In case the said sum is not paid within the said period, it will be recovered as an arrear of land revenue.

Schedule 4

Date.....Signature and Seal of the Collector. Form 'E' [(See rule 3)] [Inserted by Notification No. 1-12/71-L.S.G. dated 7.1.1974, published in R.H.P. Extra dated 11.1.1974. P. 31-32.] Notice under sub-section (2) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971. To Shri/Shrimati/Kumari.....Whereas, I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the schedule below:-And, whereas, in exercise of the powers conferred on me by sub-section (2) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971, I consider the damages amounting to Rs.....at the rate of Rs.....and.....P.M./P.A. have been caused on account of unauthorised use and occupation of the premises for the period from.....to.....Now, therefore, under the provisions of sub-section (2) of section 7 of the Act, I hereby call upon you to show cause on or before the.....why an order requiring you to pay the said damages should not be made.

Schedule 5

DateSignature and Seal of the Collector. Form 'F' (See rule 3) Form of order under sub-section (2) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act,

1971. To Shri/Shrimati/Kumari.....

I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the schedule below:- And whereas, by a written notice, dated..... you were called upon to show cause on or before, the why an order requiring you to pay damages of Rs..... for unauthorised use and occupation of the said premises, should not be made; [And, whereas, I have considered your objections and or the evidence produced by you.....]

[Strike off portion not required.] And whereas you have not made any objection or produced any evidence before the said date; Now, therefore, in exercise of the powers conferred on me by sub-section (2) of section 7 of the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971, I hereby order you to pay the sum of Rs..... assessed by me as damages on account of your unauthorised occupation of the said premises on or before the..... In the event of your refusal or failure to pay the damages within the said period, the amount will be recovered as an arrear of land revenue.

Schedule 6

Date.....Signature and Seal of the Collector.