

Himachal Pradesh Ceiling On Land Holdings Act, 1972

19 of 1973

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Declaration As To Giving Effect To Certain Directive Principles Of State Policy
3. Definitions

CHAPTER 2 :-CEILING ON LAND HOLDINGS, ACQUISITION AND DISPOSAL OF SURPLUS AREA

4. Permissible Area
5. Exemptions
6. Ceiling Of Land
- 6A. Change In Use Of Land Under Tea Estates
7. Certain Transfers Not To Affect The Surplus Area
- 7A. Bar To Transfer Of Land Under Tea Estates
8. Selection Of Permissible Area
9. Declaration Supported By Affidavits To Be Furnished By Certain Land Owners And Tenants
10. Submission Of Statement To Collector
11. Vesting Of Surplus Area In The State Government
12. Power To Take Possession Of Surplus Area
13. Power To Separate Shares Of Land-Owners
14. Principles For Determination And Payment Of Amount
15. Disposal Of Surplus Area
- 15A. Utilization Of Land For Development Of The State
16. Bar Of Future Acquisition Of Land In Excess Of Permissible Area
17. Future Acquisition Of Land By Inheritance Or Otherwise In Excess Of Permissible Area Or Increase In Such Area As A Result Of Operation Of This Act
- 17A. Treatment Of Certain Transfers And Change Of Use Of Lands Exempted Under Section 5
18. Bar Of Jurisdiction
19. Mode Of Recovery Of Amount Of Penalty
20. Appeal And Revision
21. Officers Holding Enquiries To Have Powers Of Civil Courts
22. Penalty For Making False Statement
23. Procedure
24. Certain Officers To Be Public Servants

- 25. Protection Of Action Taken Under This Act
- 26. Power To Make Rules
- 27. Power To Remove Difficulties
- 28. Repeal And Saving

Himachal Pradesh Ceiling On Land Holdings Act, 1972

19 of 1973

(Received the assent of the Governor on the 10th July, 1973, and was published in R.H.P. Extra., dated the 28th July, 1973 at p. 1203-1213) An Act to consolidate and amend the laws relating to ceiling on landholdings in the State of Himachal Pradesh. Amended, repealed or otherwise affected by,- (i) H.P. Ordinance No. 4 of 1973, published in R.H.P. Extra., dated the 3rd October, 1973 at p. 1525-1529 (repealed and replaced by H.P. Act. No. 1 of 1974) (ii) H.P. Act. No. 1 of 1974 2 published in R.H.P. Extra., dated the 22nd January, 1974 at p. 41-43. (iii) H.P. Act No. 8 of 1974 published in R.H.P. Extra, dated the 21st February, 1974 at p. 171-210. (iv) H.P. Act No. 11 of 1987 3 , assented to by the Governor on 8-5-1987, published in R.H.P. Extra., dated 8-5-1987 at p. 779-81, effective w.e.f. 26-7-1973 i. e. the day on which the Principal Act, came into force. (v) H.P. Act No. 7 of 2000 4 , published in R.H.P. Extra, dated 11-4-2000 at p. 843- 850, sections 2, 3 and 4 effective w.e.f. 28-7-1973. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Himachal Pradesh Ceiling on Land Holdings Act, 1972.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall come into force at once.

2. Declaration As To Giving Effect To Certain Directive Principles Of State Policy :-

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

- (a) "adult" means a person who is not a minor;
- (b) "appointed day" means the 24th day of January, 1971;
- (c) "banjar land" means land which has remained uncultivated for a continuous period of not less than two years immediately preceding the appointed day and includes culturable waste land recorded as banjar in the revenue records;
- (d) "Collector" means the Collector of a District or any other officer 5 not below the rank of an Assistant Collector of the First Grade empowered in this
- (e) "family" means husband, wife and their minor children or any one or more of them;
- (ee) "handicapped person" means a crippled, or physically or medically deficient person whose annual income from all sources does not exceed rupees seven thousand and five hundred and who, on account of injury, disease or congenital deformity is substantially prevented from or is incapable of leading a normal life or earning full wages for the work in which he is employed or obtaining or keeping employment or undertaking work on his own, of a kind in view of that injury, disease or deformity which work would have suited his age, experience and qualifications;

Explanation.-For the purposes of this clause, a person who has incurred physical disablement to the extent of fifty per cent or more shall be deemed to be substantially incapable or disabled person;

(eee) "houseless person" means a person who owns no house or site to construct a house:

Provided that a person whose father is alive or whose annual income from all sources exceeds Rs. 3,000/- shall not be deemed to be a houseless person;"]

(f) "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 pasture and includes-

- (i) the sites of buildings and other structures on such land,
- (ii) orchards,
- (iii) ghasnies,
- (iv) banjar land, and
- (v) private forests;

(g) "landowner" means a person defined as such in the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1987) 7 , as the case may be, and shall include the predecessor or successor in interest of the landowner;

(h) "landless person" means a person who, holding no land for agri-

cultural purposes, whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally:

[Provided that a person whose father is alive or whose annual income from all sources exceeds Rs. 3,000 shall not be deemed to be a landless person];

(i) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887) 9 , as the case may be;

(j) "minor" means a person who has not completed the age of eighteen years;

(k) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose 10 [but shall not include land under banana or guava gardens or vineyards]; 11

[(l) "other eligible person" means person,-

(i) who, holding for agricultural purpose landless than one acre whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally;

(ii) whose father is not alive; and

(iii) whose annual income from all sources does not exceed Rs. 3,000/-; and shall not include a person who holds a share or a portion of an estate jointly owned or cultivated by two or more persons;]

(m) "permissible area" means the extent of land specified in section 12 of this Act;

(n) "person" means the landowner, 1 [tenant and mortgagee with possession], and includes a company, a family, an association or other body of individuals, whether incorporated or not, and any institution capable of holding property;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "private forest" means a forest which is not the property of the Government or over which the State has no proprietary rights or the whole or any part of the forest produce of which the State is not entitled;

(q) "separate unit" means an adult son or in case of his death, his widow and children, if any 13 [***];

- (r) "surplus area" means the area in excess of the permissible area;
- (s) "tea estate" means an area under tea plantation and includes such other area necessary for purposes subservient to tea plantation as may be prescribed;
- (t) "tenant" means a person who holds land under a landowner, and is, or but for a contract to the contrary, would be, liable to pay rent for that land to that landowner, and includes-
- (i) a sub-tenant 14 [*****]; and
- (ii) the predecessors or successors in interest of a tenant or a sub-tenant, as the case may be, but it does not include-
- (a) a mortgagee of the rights of landowner; or
- (b) a person to whom a holding has been transferred or an estate or holding has been let in farm under the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954) or the Punjab Land Revenue Act, 1887 (17 of 1887)¹⁵, as the case may be, for the recovery of an arrear (c) 17 (xxxxxxx);
- (u) "tenancy" means a parcel of land held by a tenant of a landowner under one lease or one set of conditions; and
- (v) the words and expressions used herein but not defined in this Act shall have the meanings assigned to them in the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954), or the Punjab Land Revenue Act, 1887 (17 of 1887), as the case may be.

CHAPTER 2 CEILING ON LAND HOLDINGS, ACQUISITION AND DISPOSAL OF SURPLUS AREA

4. Permissible Area :-

- (1) The permissible area of a landowner or a tenant or a mortgagee with possession or partly in one capacity or partly in another of person or a family consisting of husband, wife and upto three minor children shall be in respect of-
- (a) land under assured irrigation capable of growing two crops in a year- 10 acres.
- (b) land under assured irrigation capable of growing one crop in a year- 15 acres.
- (c) land of classes other than described in clauses (a) and (b) above including land under orchards-30 acres.
- (2) The permissible area for the purposes of clause (c) of subsection (1) for the districts of Kinnaur and Lahaul and Spiti, Tehsil Pangi and Sub-Tehsil Bharmaur of Chamba district, area of Chhota Bhangal and Bara Bhangal of Baijnath Kanungo Circle of Tehsil Palampur of Kangra district, and area of Dodra Kowar Patwar Circle

of Rohru Tehsil and Pandrabis Pargana of Rampur Tehsil of Shimla district shall be 70 acres.

(3) The permissible area of a family under sub-section (1) shall be increased by one-fifth of the permissible area under sub-sections (1) and (2) for each additional minor member of a family subject to the condition that the aggregate permissible area shall not exceed twice the permissible area of family under sub-sections (1) and (2).

(4) Every adult son 18 [of a person] shall be treated as a separate unit and he shall be entitled to the land upto the extent permissible to a family under sub-sections (1) and (2) subject to the condition that the aggregate land of the family and that of the separate units put together shall not exceed twice the area permissible under the said sub-sections:

Provided that where the separate unit owns any land, the same shall be taken into account for calculating the permissible area for that unit.

(5) [If a person holds land of two or more categories described in clauses (a), (b) and (c) of sub-section (1) and sub-section (2) of this section then the permissible area shall be determined on the following basis:-

(i) in the areas mentioned in sub-section (2) of this section, one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1) and seven acres of land mentioned in clause (c) of sub-section (1);

which is deemed to have come into force w.e.f. the date of commencement of the principal Act i.e. 19 of 1973 (ii) in the areas other than the areas mentioned in sub-section (2) of this section, one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1), and three acres of land mentioned in clause (c) of sub-section (1):

Provided that on the basis of ratio prescribed in clauses (i) and (ii), the permissible area shall be converted into the category of land mentioned in sub-section (2) and in clause (c) of sub-section (1) as the case may be, and the total area so converted shall not exceed 70 acres in case of clause (i) and 30 acres in case of clause (ii)].

(6) Where a person is a member of the family, the land held by such person together with the land held by all the members of the family shall be taken into account for the purpose of calculating the permissible area.

5. Exemptions :-

The provisions of this Act shall not apply to-

(a) lands owned by the State Government or the Central Government;

(b) lands belonging to registered Co-operative Farming Societies;

Provided that the share of a member of such society, together with his other land, if any, does not exceed the permissible area;

(c) 20 [lands belonging to Land Mortgage Banks, the State and Central Cooperative Banks and any other Banks.

Explanation.-For the purpose of this clause `any other Banks means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), as Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), and a "corresponding new bank" as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), the Agricultural Refinance Corporation, and Agro-Industries Corporation, the Agricultural Finance Corporation Ltd., a company incorporated under the Companies Act, 1956 (1 of 1956), and any other financial institution notified by the State Government in this behalf;]

(d) lands belonging to or vested in local authorities;

Explanation: For the purpose of this sub-clause "local authority" means a Nagar Panchayat, Municipal Council, Municipal Corporation, Gram Panchayat, Panchayat Samiti, Zila Parishad, Board, Corporation, University or other statutory bodies constituted under any law made by the State Government or the Central Government.

(d) lands belonging to or vested in local authorities;

[(e) & (f) XXXXXXXXXXXXXXXXXXXX]

(g) tea estates.

[(h) land as is notified by the State Government being land which is held or to be acquired in any manner, by an industrial undertaking for a bonafide industrial use, or by a hydel project for a bonafide project use. In considering whether such land is so held or to be acquired the State Government shall have regard to the extent and location of the land, if any, already held by the industrial undertaking or the hydel project including any land which it may already hold for industrial or project use and its genuine requirement for future expansion.

Provided that if the State Government in the case of land notified

under this clause is satisfied that the land has not been actually acquired or has not been actually put to use by the industrial undertaking or the hydel project within a period of two years (or such extended period not exceeding five years as the State Government may decide) from the date of notification issued under this clause, the State Government may, after making such inquiry as it thinks fit, by order published in the prescribed manner, direct that the land or any part thereof specified in the order shall, with effect from such date as is mentioned in the order, cease to be exempted land.

6. Ceiling Of Land :-

Notwithstanding anything to the contrary contained in any law, custom, usage or agreement, no person shall be entitled to hold whether as a landowner or a tenant or a mortgagee with possession or partly in one capacity and partly in another, the land within the State of Himachal Pradesh exceeding the permissible area on or after the appointed day.

6A. Change In Use Of Land Under Tea Estates :- Notwithstanding the provisions of clause (g) of section 5 of this Act where whole or any part of the land which is comprised in a tea estate, and irrespective of its being in excess of the permissible area prescribed under section 4 is identified to be exempted by the collector under section 10 of this Act, is put without the permission of the State Government to any other use than raising or maintenance of tea plantation or a purpose subservient to tea plantation, the provisions contained in this Act shall apply to such land so put to another use and it shall be treated as surplus area and shall be deemed to have been acquired by the State Government for a public purpose on payment of amount determined under section 14 and all rights, title and interest (including the contingent interest, if any) recognised by any law, custom or usage for the time being in force of all persons in such area shall stand extinguished and such right, title and interest shall vest in the State Government free from all encumbrances.

7. Certain Transfers Not To Affect The Surplus Area :-

(1) Except in the case of land acquired by the Union Government or the State Government under any law for the time being in force or by a tenant under the Pepsu Tenancy and Agricultural Lands Act,

1955 (13 of 1955), or the Punjab Security of Land Tenures Act, 1953 (10 of 1953), or 25 [the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974), no transfer by a person holding land in excess of the permissible area except a bonafide transfer after the appointed day shall affect the right of the State Government to the surplus area to which it would be entitled but for such transfers.

(2) The Collector shall determine whether a transfer is bonafide or not and his decision shall be final:

Provided that the burden of proving the transfer to be bonafide one shall be on the transfer or;

Provided further that if a person transfers any land in contravention of the provisions of this section, in case of vestment in the State, the land left with him after such transfer will be taken into account first and the transferred land will be taken into account only for making up of deficiency of land to be vested.

7A. Bar To Transfer Of Land Under Tea Estates :-

(1) Notwithstanding any thing to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, and the provisions contained in clause (g) of section 5 of this Act on transfer of whole or part of the land under a tea estate and identified to be exempted under section 10 of this Act, shall be made by way of sale, gift, exchange, lease, mortgage with possession or creation of any tenancy or otherwise except with the permission of the State Government.

(2) No Registrar or the Sub-Registrar appointed under the Indian Registration Act, 1908, (16 of 1908) shall register any document pertaining to the transfer of land which is in contravention of the provisions of sub-section (1) and such transfer shall be void ab-initio and the land involved in such transfer shall together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances and such land shall be treated as surplus area under the provisions of this Act.

8. Selection Of Permissible Area :-

(1) Every person, who on the appointed day or at any time thereafter holds the land exceeding the permissible area, shall furnish to the Collector particulars of all his lands and that of the separate unit within a prescribed period and in the prescribed form and manner and stating therein the selection of land not exceeding

in the aggregate the permissible area which he desires to retain:
Provided that such person shall state in the return any transfer or other disposition of land made by him after the appointed day.

(2) If the whole or a part of the land selected under sub-section (1) is under tenants, the land-owner shall not be entitled to eject the tenants there from except on the grounds given in the tenancy laws for the time being in force in the State of Himachal Pradesh.

Explanation I.-Where the person is a member of the family, he shall include in his declaration particulars of land held by him and also of land, if any, held by other members of the family.

Explanation II.-In calculating the extent of land owned or held by a person, the share of such person in undivided family, registered farming co-operative society or a company shall be taken into account.

(3) In making a selection of his permissible area under sub-section (1), the landowner may also select land for a separate unit: Provided that the land selected for the separate unit, after adding the land owned on or after the appointed day by such unit, shall not exceed the permissible area.

9. Declaration Supported By Affidavits To Be Furnished By Certain Land Owners And Tenants :-

(1) Every person required to furnish a return under section 8 whose land is situated in more than one patwar circle shall furnish to the Collector within a prescribed period a declaration supported by an affidavit in respect of the land owned or held by him in such form and manner as may be prescribed.

(2) If a person fails to select the permissible area in accordance with the provisions of section 8, the Collector may, after collecting the information in such manner as he may deem fit, by order select the permissible area of such person:

Provided that no such order shall be made without giving the person concerned an opportunity of being heard.

10. Submission Of Statement To Collector :-

(1) On the basis of the information given in the return under section 8 or the declaration furnished under sub-section (1) of section 9 which shall be duly verified through such agency as may be prescribed or the information obtained by the Collector under sub-section (2) of section 9, the Collector shall prepare a draft statement in the manner prescribed showing among other

particulars the total area of land owned or held by such a person, the specific parcels of land which a person may retain by way of permissible area or exemption from ceiling and also the surplus area.

(2) The draft statement shall be published in the office of the Collector and a copy thereof shall be served upon the person or persons concerned in the form and manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Collector and after affording the objectors an opportunity of being heard, the Collector shall pass such order as he may deem fit.

(3) A draft statement shall be made final in terms of the order of Collector or the order, if any, passed in appeal, revision or review, as the case may be.

11. Vesting Of Surplus Area In The State Government :-

The surplus area of a person shall, on the date on which possession thereof is taken by or on behalf of the State Government, be deemed to have been acquired by the State Government for a public purpose on payment of amount hereafter provided and all rights, title, and interests (including the contingent interest, if any), recognised by any law, custom or usage for the time being in force, of all persons in such area shall stand extinguished and such rights, title and interests shall vest in the State Government free from any encumbrance :

Provided that where any land within the permissible area of the mortgagor is mortgaged with possession and falls within the surplus area of the mortgagee, only the mortgagee rights shall be deemed to have been acquired by the State Government and the same shall vest in it.

12. Power To Take Possession Of Surplus Area :-

(1) The Collector may by order in writing, at any time after an area becomes surplus, direct the person in possession of such area to deliver possession thereof within ten days of the service of the order on him, to such person as may be specified in the order.

(2) If the person in possession of surplus area refuses or fails without reasonable cause to comply with the order made under sub-section (1), the Collector may take possession of the surplus area and may for that purpose use such force as may be necessary.

13. Power To Separate Shares Of Land-Owners :-

(1) Where a land owner owns land jointly with other land-owners and his share of such land or part thereof has been, or is to be, declared as surplus area, the officer competent to declare such area, or where such area has been declared, the officer, competent to utilize it, may on his own motion, after summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or part thereof in the land owned by him jointly with other land-owners.

(2) Where, after the declaration of the surplus area of any person and before the utilization thereof, his land has been subjected to the process of consolidation, the officers referred to in sub-section (1) shall be competent to separate the surplus area of such person out of the area of land obtained by him after consolidation.

14. Principles For Determination And Payment Of Amount :-

(1) Where any surplus area has vested in the State Government under section 11, the Collector shall determine the amount payable therefor in accordance with the principles hereinafter set out, that is to say-

(i) for the land upto ten acres, ninety-five times the land revenue (including rates and cesses);

(ii) 27 [for the land in excess of 10 acres and below 30 acres, seventy-five times the land revenue (including rates and cesses);] and

(iii) for the remaining land, forty-five times the land revenue (including rates and cesses); payable for such land :

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then the adjoining estate or estates, as the case may be:

Provided further that the waste land shall be treated as banjar land for the purpose of assessment of land revenue and determination of an amount.

(2) For the purpose of sub-section (1), the Collector shall prepare a statement of the 27 Subs. by H.P. Act No. 1 of 1974, Sec. 5, which is deemed to have come into force w.e.f. the date of commencement of the principal Act i.e. H. P. Act No. 19 of 1973. amount in such form and manner as may be prescribed and shall after following the prescribed procedure apportion the amount

amongst the persons having interests in the land.

(3) Wherein the surplus area of any person mortgagee rights have vested in the State Government, the amount payable to the mortgagee shall be mortgage money due to the mortgagee, or the amount payable under this section, whichever is less.

(4) Where on the land there is any building structure or tube-well or crop, the owner thereof shall, in addition to the amount payable in respect of the land, be entitled to be paid by the State Government an amount therefor which shall be 50% of the market price of such building structure or tubewell. The landowner shall be entitled to harvest the crop standing on the surplus area.

(5) The amount shall be payable either in lump sum or in six monthly instalments not exceeding ten in the manner prescribed.

15. Disposal Of Surplus Area :-

(1) The surplus area which has vested in the State Government under section 11 shall be at the disposal of the State Government.

[(2) The State Government may, by notification in the Official Gazette, frame a scheme for utilising the surplus area vested in the State Government by allotment-

(a) to a landless person [a victim of natural calamities] 29 or any other eligible person;

Explanation.- For the purposes of this section, the expression "natural calamities" shall mean and include calamities caused by floods, earthquakes, land-slides, avalanches, snow-storms, hail storms, fire, excessive rains, cloud burst, wind storms and lightening.

(b) for allotment of a site to a handicapped or houseless person for the construction of a house; and the allottee shall pay amount-

(i) for the land allotted to him, at the rate of ninety-five times the land revenue plus rates and cesses, thereof; and

(ii) for building, structure or tube-well if any at 50% of the market price of such building, structure or tube-well :

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue, the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then on the adjoining estate or estates, as the case may be :

Provided further that the waste land shall be treated as `banjar land for the purposes of assessment of land revenue and determination of the amount.]

[(2-A) For making the allotment of the surplus land under sub-section (2), the first preference among landless persons shall be given to the members of Scheduled Castes and Scheduled Tribes].

(3) Any scheme framed by the State Government under sub-section (2) may provide for the terms and conditions on which the land comprised in surplus area is to be allotted.

(4) The State Government may, by notification in the Official Gazette, add to, amend, vary or revoke any scheme made under this section.

15A. Utilization Of Land For Development Of The State :- Notwithstanding 32 Sec. 15A added vide H.P. Act No. 11 of 1987 vide Sec. 4. anything contained in section 15 of the Act, the State Government may utilise any area of the land vested in it under this Act 33 [by transfer by way of lease or exchange to any person] or by transfer to any Department of the Government in the interest of the development of the State, if the State Government is satisfied that there are sufficient persons to do so:

Provided that when land is not used by a person for the purpose for which it has been leased, the lease shall stand terminated free from all encumbrances and the Government shall re-enter in the demised premises, and the lease money, if paid to the Government, shall be forfeited and no person shall be entitled to any compensation for any improvement made and for any building constructed thereon.

16. Bar Of Future Acquisition Of Land In Excess Of Permissible Area :-

Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of this Act, no person whether as landowner or tenant or a mortgagee with possession shall acquire or possess by transfer, exchange, mortgage, lease, agreement or settlement any land, which, with or without the land already owned or held by him, shall in the aggregate exceed the permissible area.

17. Future Acquisition Of Land By Inheritance Or Otherwise In Excess Of Permissible Area Or Increase In Such Area As A Result Of Operation Of This Act :-

(1) Subject to the provisions of section 15, if after the commencement of this Act, any person, whether as landowner or

tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir of any land, or any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands already owned or held by him, exceeds in the aggregate the permissible area or any person whose land exceeds the permissible area as a result of the operation of any provision of this Act, then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situate in more than one patwar circle, he shall also furnish a declaration required by section 9.

(2) If he fails to furnish the return and select his land within the prescribed period, then the Collector may in respect of him obtain the information required to be shown in the return through such agency as he may deem fit and select the land for him in the manner specified in sub-section (1) of section 8.

(3) If such person fails to furnish the declaration, the provisions of 34 [section 9] shall apply.

(4) The excess land of such person shall be at the disposal of the State Government for utilisation as surplus area under section 15 or for such other purpose as the State Government may by notification direct.

Explanation.-In the case of family, the return may be furnished by any adult member of the family and in the case of the sole minor by his guardian : Provided that the Collector shall, before determining the surplus area, give to all the members of the family an opportunity of being heard.

17A. Treatment Of Certain Transfers And Change Of Use Of Lands Exempted Under Section 5 :-

(1) The Collector shall call for, from the revenue officers in his district, the record of transfers of lands made, after the appointed day but before the commencement of the Himachal Pradesh Ceiling on Land Holdings (Amendment) Act, 1999 by way of sale, mortgage, gift or otherwise in respect of any land comprised in any tea estate, whether under a tea plantation or held for other purposes subservient to a tea plantation and exempted under clause (g) of section subservient to a tea plantation and exempted under clause (g) of section 5 of the Act and the rules framed

thereunder, and examine such record for satisfying himself as to the legality or propriety of such transfer.

(2) Where either on examination of the record under sub-section (1) or in consequence of definite information which may come into his possession, and after making such enquiry, as he may deem fit, the collector is satisfied that the transfer of land has been made or land has been put to some other use, as a result of fraud or concealment of facts or is detrimental to the interests of the tea plantation/industry, he shall, at any time within two years following the commencement of the Himachal Pradesh, Ceiling on Land Holdings (Amendment) Act, 1999, declare such transfer or change of use of land as illegal and void: Provided that no order under this sub-section shall be passed by the Collector without affording an opportunity of being heard, in the case of the transfer of land to the parties to such transfer, and in the case of change of land use to the land owner.

(3) Where the change of land use has been declared as illegal under sub-section (2), the Collector shall direct the land owner to restore within such period, not exceeding one year, as may be fixed by him, the user of the land for tea plantation or for the purpose subservient to tea plantation i.e. the purpose on account of which it has been exempted from the provisions of the Act under clause (g) of section 5 of the Act, failing which such land shall be taken into account for the purpose of determining the permissible area under section 4 of the Act.

(4) Where any transfer of land has been declared void under sub-section (2), all rights, title and interest, including the contingent interest, if any, of the land owner and of any other person/transferee in such transferred land, notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage shall stand extinguished and all such rights, title and interests shall vest in and shall stand transferred to the State Government together with structures, buildings or other attachments, if any, free from all encumbrances and the person in possession of such land shall be liable to ejectment under the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1954, and such a person shall be entitled only to such amount in lieu of such land as would have been determined and payable to him under the Act, as if such land was in excess of the permissible area and had vested in the State Government under section 11:

Provided that in exceptional cases of hardship, the Collector, with

the prior approval of the State Government and for reasons to be recorded in writing, may, in lieu of the transfer and vestment of any structure, building or other attachments together with the land thereunder, order the transfer and vestment free from all encumbrances of any other land, equivalent to the land covered under the aforesaid structure, building or attachment thereto, out of the permissible area of such a land owner who has transferred the land.

18. Bar Of Jurisdiction :-

(1) No civil court shall have jurisdiction to-

(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the rights of the State Government to the surplus area under this Act; or

(b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Commissioner or the Collector.

(2) No order of the Financial Commissioner, the Commissioner or the Collector made under or in pursuance of this Act, shall be called in question in any court.

19. Mode Of Recovery Of Amount Of Penalty :-

The amount of other sum payable under this Act and the amount of any penalty imposed under this Act may be recovered as an arrear of land revenue.

20. Appeal And Revision :-

(1) Any person aggrieved by any decision or order of the Collector may within sixty days from the date of the decision or order prefer an appeal to the Commissioner:

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1), may, within ninety days from the date of the order, file a revision petition before the Financial Commissioner so as to challenge the legality or propriety of such order and the Financial Commissioner may pass such order as he may deem fit. The order of the Financial Commissioner shall be final.

(3) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may at any time call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in relation thereto as he may deem fit.

21. Officers Holding Enquiries To Have Powers Of Civil Courts :-

Any officer or authority holding an enquiry or hearing an appeal or a revision under this Chapter shall have the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), relating to-

- (a) proof of facts by affidavits;
- (b) enforcing attendance of any person and his examination on oath;
- (c) production of documents;
- (d) issue of commission; and every such officer or authority shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898)

22. Penalty For Making False Statement :-

(1) If any person fails to furnish a declaration as required by section 9 or during the course of any proceeding under this Chapter makes a declaration or statement or furnishes any information which is false on which he knows or has reasons to believe to be false or which he does not believe to be true, he shall be punishable, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the Collector.

23. Procedure :-

In all enquiries and proceedings under this Act, the Collector and any other officer shall have such powers and follow such procedure as may be prescribed.

24. Certain Officers To Be Public Servants :-

Every officer acting under or in pursuance the provisions of this Act or any rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860)

25. Protection Of Action Taken Under This Act :-

(1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provision contained in this Act or any rules made thereunder.

26. Power To Make Rules :-

(1) The State Government may, by notification, make rules³⁷ for carrying out the purposes of this Act. 37 Rules framed vide Note No. 10-5/73-Rev. A, dated the 22nd Nov., 1973 (Appended)

(2) The power to make any rule under sub-section (1) is subject to the condition of the rules being made after previous publication.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature requires any modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

28. Repeal And Saving :-

(1) The provisions of 38 [the Punjab Security of Land Tenures Act, 1953 (10 of 1953), and the Pepsu Tenancy and Agricultural Lands Act, 1955 (13 of 1955), and the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (44 of 1954)], which are inconsistent with the provisions of this Act are hereby repealed.

(2) The repeal of the enactments referred to in sub-section (1) shall not affect their previous operation.

(3) Subject to the provisions of sub-section (2), anything done or any action taken including any appointment, delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form or scheme framed, date, time and place appointed and other things done under the repealed Acts or law shall

(a) be deemed to have been done or taken under the corresponding provisions, if any, of this Act;

(b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or by other competent authority.

(4) Notwithstanding the repeal of the enactments mentioned in sub-section (1) all suits, applications or other proceedings pending disposal at commencement of this Act, shall be disposed of in accordance with the provisions of the said Acts as if these Acts had not been repealed.